

MINUTES OF THE COMMISSION FOR HUMAN RIGHTS

May 28, 2010

A meeting of the Commission for Human Rights was held in the agency conference room on Friday, May 28, 2010. Present at the meeting were Commissioners Dr. John Susa, Chair, Iraida Williams and Alberto Aponte Cardona Absent were Commissioners Camille Vella-Wilkinson, Nancy Kolman Ventrone, Alton Wiley, Jr. and Rochelle Bates Lee. Dr. Susa called the meeting to order at 12:35 p.m.

A motion was made by Commissioner Williams to approve the minutes of April 30, 2010. The motion to approve was seconded by Commissioner Cardona and carried.

A motion was made by Commissioner Williams to approve the minutes of May 27, 2010. The motion to approve was seconded by Commissioner Cardona and carried.

Status Report: Michael D. Évora, Executive Director

A written report was handed out. All new information is in bold print.

Case Production Report – Attached

Aged Case Report - Attached

Outreach Report - Attached

The Director handed out the Draft Commission Gift Policy which had been revised per the discussion at the last Commission meeting. The Commissioners agreed with Part I and agreed to a revision of wording of Part II. After discussion all Commissioners moved to adopt Option B of part III.

STATUS REPORT - COMMISSIONERS-

GENERAL STATUS: There are three Commissioners terms that are coming up for review in July 2010. Cynthia Hiatt will keep the Commissioners posted.

Commission Meeting -2- May 28, 2010

OUTREACH: Commissioner Williams reported that she and her son did some equal opportunity training at the RHD-RI Group. Commissioner Williams also received an e-mail from the Commission on the Deaf and Hard of Hearing. They requested her to do training on cochlear implants on June 9 or 16, 2010 with the Capitol Police.

STATUS REPORT - LEGAL COUNSEL by Cynthia M. Hiatt and Francis Gaschen

LITIGATION: Report Attached

LEGISLATION: Crucial and important bills were discussed.

REGULATIONS: No report at this time.

HEARING SCHEDULE: Discussed.

DECISIONS: No discussion at this time.

The meeting adjourned at 1:25 p.m. The next regular meeting will be June 25, 2010 at 12:30 P.M.

Respectfully Submitted,

Michael D. Évora

Executive Director

Notes taken by: B. Ross

**EXECUTIVE DIRECTOR'S
REPORT TO COMMISSIONERS
28 MAY 2010**

I. BUDGET

S = State/General Revenue; F = Federal (EEOC/HUD); T = Total

| | FY 2010 (Revised) | FY 2010 (Supp.) | FY 2011 (Request) | FY 2011 (Gov.Rec.) | FY 2011 (H.Finance) |
|----------|------------------------------|----------------------------|------------------------------|-------------------------------|--------------------------------|
| S | 961,874 | 961,874 | 1,052,721 | 1,016,877 | 1,016,877 |
| F | 356,615 | 313,219 | 400,268 | 356,689 | 356,689 |
| T | 1,318,489 | 1,275,093 | 1,452,989 | 1,373,566 | 1,373,566 |

The Commission's Revised FY 2010 and FY 2011 Budget Proposals were submitted to the Budget Office/Governor on October 23, 2009. The FY 2010 Revised Appropriations Bill contains funding for the Commission's full 14.5 FTEs. The Governor is recommending funding for the full 14.5 FTEs for both FY 2010 and FY 2011.

The Commission's FY 2011 budget was heard by House Finance on April 27. I attended the hearing and made a brief presentation regarding the Commission's FY 2009 performance and its current budgetary needs and answered questions from Committee members. House Finance released its proposed FY 2011 budget yesterday; it mirrors the Governor's recommended FY 2011 budget for the Commission.

II. FEDERAL CONTRACTS

EEOC – For federal FY 2010 (beginning October 1, 2009), according to EEOC Project Director Marlene Toribio, we have closed 155 co-filed cases. Our EEOC contract for the fiscal year is for 251 cases (an increase to the FY 2008 funding level following last year’s unilateral 16% contract reduction). We need to close 96 more co-filed cases by September 30 to meet the contract.

HUD – For FY 10, according to HUD Project Director Angela Lovegrove, we have taken in 41 new housing charges, 35 of which are co-filed with HUD. Within this same time period, we have processed 42 housing charges, 36 of which were co-filed with HUD.

III. PERSONNEL

The revised FY 2010 and FY 2011 budget proposals request that the 0.5 Sr. Compliance Officer position recently vacated by Tina Christy remain unfilled in order to meet the Budget Office’s revenue target. Our Budget Analyst has advised that this position may actually be cut from the Commission’s budget. The Governor has recommended funding for all of our 14.5 FTEs for FY 2011. House Finance’s proposed FY 2011 budget is consistent with the Governor’s recommendation of 14.5 FTEs.

Susan Pracht has taken an extended vacation followed by a leave (without pay) to participate in a volunteer internship. She began her leave on March 5 and will return to the office on May 12. Susan

returned to full-time duty on May 12.

IV. OUTREACH – Refer to attached report

V. GENERAL STATUS

•Meetings with staff members – I continue to meet with individual investigative staff members on a monthly basis to monitor case production.

•Case Closures – Refer to attached report.

We are behind last year's case processing rate. For FY 09, we processed 370 cases from July 1 to the end of April; for this fiscal year, we processed 334 in that same time period (approx. 9.8% reduction).

•Aged Cases – Refer to attached report.

•Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 98. We ended FY 09 with approximately 325 cases in inventory. As of 5/14/10, we had a total of 318 cases in inventory; 26 of those cases were pending assignment.

•Commission Gift Policy – In accordance with Dr. Susa's request at April's Commission meeting, Summer Legal Intern John Bogue researched and drafted language to be considered by the

Commissioners in establishing a gift policy for the Commission. The Commissioners discussed the policy at the April Commission meeting and tabled final decisions until Legal Counsels and I could conduct a final review. That has been done and the vetted draft is now up for discussion/decision.

●HUD Review – The Commission is awaiting receipt of HUD’s Performance Assessment based on HUD’s April on-site review.

●EEOC National Conference – The EEOC will hold its annual national conference for FEPAs in Philadelphia from June 9 to June 11. Marlene Colon Toribio, EEOC Project Director, and I are scheduled to attend.

●Computers – A purchase requisition for 15 new computers (towers only; not monitors) has been tentatively approved by Budget Analyst Theo Toe based on an emergency need. We await final word from the Budget Office.

Respectfully submitted,

Michael D. Évora

Executive Director

Attachments

To: Commissioners

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: May 28, 2010

Recent developments are in bold.

Christopher Antonelli Bankruptcy

On November 5, 2008, the Commission entered a Decision on damages in the case of DeAngelis v. Antonelli, et al. Thereafter Mr. Antonelli filed bankruptcy. Mrs. DeAngelis filed a suit in the Bankruptcy Court against Mr. Antonelli to have her award from the Commission non-discharged and the Court decided the issue in her favor. Mr. Antonelli has moved for reconsideration. Summary judgment was entered for the complainant, denying the dischargeability of the Commission Order, by finding that the discriminatory acts of Mr. Antonelli were intentional.

Aquidneck Island v. RICHR, et al.

This suit was brought by the plaintiff against multiple parties, alleging that liens have been placed on its property improperly. All liens were against Norman Cardinale not Aquidneck. Case is moot now.

Atturio et al v. Évora

This is an appeal of a Commission decision that granted in part and denied in part a motion to quash a Commission subpoena. The Superior Court upheld the decision of the Commission. The plaintiffs petitioned the RI Supreme Court to hear the case. In the meantime,

the Petitioner's Motion for a Stay of the Superior Court Order was denied by the Superior Court. The petitioners refiled it in the Supreme Court, and after a hearing before one Justice on April 27, the motion was sent to the full court to be heard on May 6, 2010. The Supreme Court denied the respondents request to have a review of the Superior Court decision upholding the Commission.

Babbitt v. Crescent Park Manor, et al.

The Commission intervened as a party plaintiff in this case. A discovery deposition was held. Defendants' Motion for Summary Judgment was denied. The case will be called for trial shortly. Attorney Gaschen has offered to mediate.

Bagnall v. RICHR and WLWC et al.

The complainant appealed the Commission Decision and Order. The Commission filed the administrative record on April 12, 2006. On April 22, 2008, the complainant's attorney filed his brief. The Commission's Brief was filed on August 27, 2008. The Commission received the respondent's brief on December 5, 2008. The parties plan to move to have the appeal assigned to a judge for decision. The complainant's attorney has informed me that he may file a reply memo.

Dill v. Wal-Mart

The plaintiff in this Superior Court disability discrimination claim has subpoenaed Commission records. Commission Counsel and plaintiff's counsel have agreed to limited production of records by March 31. Interested parties have been notified of the Commission production of records. The respondent filed a Motion to Quash with the Superior Court on March 29. The hearing was scheduled for May 3; it has been rescheduled to July 5. The parties have apparently agreed that the Commission does not need to comply before the hearing on the motion.

Ezersky v. Rite-Way Forms, Inc.

On October 8, 2009, the complainant filed a petition to enforce the Commission Order. The petition was granted on October 23, 2009.

Gaffney v Town of Cumberland et al

The respondent appealed the Commission decision. In November, 2007, Judge Savage remanded the Commission Decision for the Commission to determine how the Commission would evaluate the evidence, given the conclusions reached in her decision. Judge Savage also asked the Commission to re-assess its Order. After numerous efforts to reach a resolution between the parties, and submissions by the parties in the winter and spring of 2009, the case was taken under consideration by the Commission. A decision in the case issued on March 12, 2010. On April 14, 2010, Commission counsel accepted service of respondents' appeal of the Commission decision. The appeal names the Commission as a whole and

Commissioners Susa, Kolman Ventrone and Vella-Wilkinson in their official capacities. Justice Savage, in her 2007 decision, provided that she maintained jurisdiction over any future appeals. The administrative record is being prepared for filing. Commission Counsel has asked the other parties if they want to stipulate on a briefing schedule.

J.J. Gregory and Sons v. RICHR and Brenda Zeigler

The Commission found that J.J. Gregory and Sons discriminated against Brenda Zeigler because of her sex. J.J. Gregory and Sons filed an appeal. Its appeal was amended to include an appeal of the Commission's Decision on Damages and Attorney's Fees. The Commission filed the record on February 14, 2008. Respondent filed its brief on January 5, 2009. The complainant filed her brief on January 29, 2009. The Commission filed its brief on February 9, 2009.

On February 10, 2009, the appeal was assigned to Judge Judith Savage for decision.

Laboy v. Stat Health Services

Counsel is trying to locate respondent's officers in order to ensure compliance with the Commission Decision and Order. One respondent was located in MA. Suit was filed to enforce the Commission Decision; service on the respondent has not been effectuated yet. Attorney Gaschen cannot locate the individual defendant.

Lewis v. Chicago (U.S. Supreme Court May 24, 2010)

The City of Chicago gave a test for firefighter applicants. It then determined that it would select from among those who scored 89 or higher (well-qualified), would not select from those who scored below 65 and would select from the "qualified", those who scored between 65 and 89, only if the particular list were still being used. Sometime after Chicago notified the applicants that this is how it would categorize the test takers, several African-Americans filed suit saying that Chicago's selection of only those who scored 89 or above had an adverse impact on blacks. Chicago argued that the adverse impact suits were untimely because it made the decision on the categories more than 300 days before the plaintiffs filed their charges. The Supreme Court disagreed, saying that an adverse impact claim could be brought within 300 days of the time Chicago used its system to hire firefighter applicants.

MHRH v. RICHR and the Estate of Dr. John Satti

MHRH has appealed the Commission decision that MHRH retaliated against Dr. Satti and discriminated against him on the basis of his age. MHRH filed its Brief on August 7, 2008. On October 21, 2008, the Commission filed the administrative record. On January 14, 2009, the Commission filed its brief. The complainant's brief is pending.

RICHR (Banyaniye) v. Mi Sueno, et al.

A Petition for Enforcement was filed and the defendants served. The case may be settled shortly but in the meantime the respondents were given extra time to respond to the complaint and discovery requests of the Commission. We have reached a settlement which will be reduced to writing.

RICHR (Breault) v. Elmhurst House, et al.

In this Fair Housing Practices Act case, the respondents elected to have the case heard in Superior Court. Suit on behalf of the Breaults was filed against four respondents in Providence Superior Court on January 27, 2009. Discovery was served upon the defendants.

RICHR (Hogan) v. AHA, et al.

Respondents elected to have this FHPA case heard in Superior Court. The Complaint was served and extra time to respond was requested by respondents. The case may be settled.

RICHR (Lovegrove) v. Escolastico

A Rhode Island judgment was obtained and sent to a Florida lawyer for collection. Counsel is waiting for Ms. Lovegrove to forward funds to the Florida counsel to begin Supplementary Proceedings against Mr. Escolastico. Mr. Escolastico's house was to be auctioned in foreclosure March 10, 2010 but postponed and is to be rescheduled.

RICHR (Manfred) v. BD Holding (Facilities Services Mgt, Inc.)

A complaint was filed to enforce the Commission decisions. The

complaint and discovery requests have been served on the respondent. A late entry stipulation was provided to defense counsel. A letter requesting a settlement demand was sent to Ms. Manfred and the figure was given to defense counsel. The Answer was filed.

RICHR (Martin) v. Cardinale, et al.

A complaint alleging a transfer of real estate in violation of the Uniform Fraudulent Transfers Act was filed against Norman Cardinale, et al. Motions for Entry of Default were granted on January 21, 2009.

RICHR (Martin) v. Cardinale, et al.

A complaint alleging a transfer of partnership interests in real estate in violation of the Uniform Fraudulent Transfers Act has been filed against defendants. Discovery was commenced. Motions to compel will be filed.

RICHR (Morin) v. Teofilo Silva, et al.

A complaint for enforcement was filed on 3-24-05. Service of the complaint will be made once respondent can be located.

RICHR (Robinson) v. Geruso, Flagship Management, et al.

After a finding of probable cause, a complaint against six defendants was filed in Superior Court alleging racial discrimination in a failure to rent case. The case was settled and HUD and the press notified.

RICHR will monitor the case for three years. The first report, due March 19, 2010, was received.

RICHR (Wright) v. New Canonchet Cliffs, et al.

The Commission found probable cause and the respondents elected in this housing case that alleges failure to give a reasonable accommodation regarding a support animal (the respondents claimed that the dog was too big for a pet). Suit was filed in Washington County Superior Court. The complaint was sent to counsel for defendants who agreed to accept service. The Answer was filed and discovery will commence shortly.

RICHR (Switzer) v. Principe and TEN SEVENTY EIGHT MAIN

The Commission found probable cause and the respondents elected in this housing case that alleges familial status discrimination. Suit was filed in state court on 1-27-09. Judgment has been entered against Principe. Default judgment motion against Ten Seventy Eight Main was granted on March 10, 2010. Executions against Principe and Ten Seventy Eight have been received and sent to the sheriff for levying upon the real estate of the respondents.

RICHR (Zeigler) v. Laura Sitrin, Finance Dir. of Newport

The case is resolved. The Commission must annually monitor City training. Training was completed for 2009.

Tucker v. Blue Cross

The complainant filed an appeal of the Commission's finding of no probable cause. No action taken since appeal filed in 2004.