

MINUTES OF THE COMMISSION FOR HUMAN RIGHTS

January 28, 2011

A meeting of the Commission for Human Rights was held in the agency conference room on Friday, January 28, 2011. Present at the meeting were Commissioners Dr. John Susa, Iraida Williams, Rochelle Bates Lee and Camille Vella-Wilkinson. Absent were Alberto Aponte Cardona, Alton W. Wiley, Jr., Nancy Kolman Ventrone. Dr. Susa, Chair, called the meeting to order at 12:50 p.m.

A motion was made by Commissioner Williams to approve the minutes of December 10, 2010. The motion to approve was seconded by Commissioner Vella-Wilkinson and carried.

Status Report: Michael D. Évora, Executive Director

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

The Director reported that Susan Pracht, Investigator, will be resigning from her position effective February 9, 2011.

Case Production Report – Attached

Aged Case Report - Attached

Outreach Report - Attached

STATUS REPORT - COMMISSIONERS-

GENERAL STATUS: Dr. Susa, Chair, and Commissioner Lee confirmed their interest in reappointment.

Commissioner Meeting -2- January 28, 2011

OUTREACH: Commissioner Vella-Wilkinson reported that she continues to work with RI Affirmative Action Professionals (RIAAP). Commissioner Vella-Wilkinson attended an ADA presentation with regard to playground equipment.

STATUS REPORT - LEGAL COUNSEL by Francis Gaschen

LITIGATION: Report Attached. New information is in bold.

LEGISLATION: Crucial legislation was discussed.

A discussion was held on HUD's requirement that the

agency seek an amendment to the Fair Housing Practices Act to comply with HUD regulations related to assistive animals. The language will be looked into by Legal Counsels.

REGULATIONS: No report at this time.

HEARING SCHEDULE: Discussed

DECISIONS: No discussion at this time.

The meeting adjourned at 1:30 p.m. The next regular meeting will be February 25, 2011 at 12:30 P.M.

Respectfully Submitted,

**Michael D. Évora
Executive Director**

Notes taken by: B. Ross

Commissioners

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: January 28, 2010

Recent developments are in bold.

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. An offer of \$2500 was made by counsel to the plaintiff to settle all of the claims against Cardinale and his companies. The offer was not satisfactory.

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. Trial this year is more than likely.

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. In November, 2010, the complainant filed a stipulation to assign the appeal for a written decision by the Superior Court.

BHDDH (MHRH) v. RICHR and the Estate of Dr. John Satti

BHDDH appealed the Commission decision that BHDDH retaliated against Dr. Satti and discriminated against him on the basis of his age. BHDDH 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; the complainant's attorney has indicated that she is working on it.

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. The complainant's attorney has consulted with Attorney Gaschen. She is working with a collections attorney.

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, the respondents appealed. The administrative record was filed in early July, 2010. Justice Gale assigned the new appeal to Justice Savage, in accordance with her order on the previous appeal. The parties agreed on a briefing schedule; the respondents' brief would be due in January, 2011 and the Commission's brief and the complainant's brief would be due in March, 2011. The respondents requested and received the investigative materials minus the documents which are cleared according to Commission regulations. The respondents moved to obtain production of cleared documents. The Commission objected and filed a memorandum. The motion was heard before Justice Savage on January 21, 2011; she denied the motion. A new briefing schedule was set. The Town's brief is now due February 21. The briefs of the Commission and the Gaffneys are due April 21. The parties have agreed on a proposed order which will be taken for Justice Savage's approval/signature next week.

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, et al.

Counsel is trying to locate respondent's officers to bring a suit to enforce the Commission Decision. Corporate charter revoked and we cannot locate the individual defendant.

Manfredi v. Donna Conway, et al.

The respondents appealed the Commission Decision denying the respondent's motion to dismiss on the grounds of qualified immunity.

Cross-appeal filed by the Civil Prosecutor relating to the Commission's consideration of reconsideration.

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.

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. An offer of \$2500 was made to the plaintiff to settle all of the claims against Cardinale. The offer was not satisfactory.

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. Motions to compel will be filed. An offer of \$2500 was made to the plaintiff to settle all of the claims against Cardinale. The offer was not satisfactory.

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 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. 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. Judgment was entered against both defendants. Two parcels of property were levied upon. Discussions with defense counsel to settle have stopped.

RICHR v. Shear Pleasure

This case was filed in the Providence County Superior Court to enforce a negotiated settlement and the defendant was defaulted. Execution was returned unserved as sheriff could not locate the officer of the defendant.

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.

SUBPOENAS

Attorneys for complainants in two pending court cases subpoenaed records from other files against the same respondents. In one case, compliance involved correspondence with numerous parties to notify them of the subpoena and eventual provision of the charges. In the other case, there were no records that were responsive to the subpoena.

Thompson v. North American Stainless (US Supreme Court January

24, 2011)

This case involved an engaged couple who were employed by the same employer. The woman filed a charge with the EEOC claiming sex discrimination. The man was fired. The US Supreme Court held that the man could file a retaliation claim under Title VII of the Civil Rights Act of 1964 when he alleged that he was fired in retaliation for his fiancée's filing of a sex discrimination claim with EEOC. The Court held that the employer's act was retaliation because a reasonable person would likely be dissuaded from filing a charge with EEOC if they knew that their fiancé would be fired in retaliation for their filing. The Court held that the man who was fired was an "aggrieved" person who could file suit because he fell within the zone of interests sought to be protected under Title VII. The Court decided that it would not decide the precise scope of third party protection – a fiancé who was fired could file, an acquaintance who suffered mild reprisal probably could not. The Court said it would draw the line based on the facts but that firing a close family member of a complainant in reprisal for the filing a charge of discrimination would almost always be unlawful retaliation.