

MINUTES OF THE COMMISSION FOR HUMAN RIGHTS

August 26, 2011

A meeting of the Commission for Human Rights was held in the agency conference room on Friday, August 26, 2011. Present at the meeting were Commissioners Dr. John B. Susa, Iraida Williams, Alberto Aponte Cardona and Camille Vella-Wilkinson. Absent were Commissioner, Nancy Kolman Ventrone, Rochelle Bates Lee and Alton W. Wiley, Jr. Commissioner Susa called the meeting to order at 1:00 p.m.

A motion was made by Commissioner Vella-Wilkinson to approve the minutes of June 26, 2011. 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. The Director reported that Angela Lovegrove, HUD Project Director has had exemplary performance and case processing and would be given a certificate of commendation.

Case Production Report – Attached

Aged Case Report - Attached

Outreach Report - Attached

Commissioner Meeting -2- August 26, 2011

STATUS REPORT - COMMISSIONERS-

GENERAL STATUS: Cynthia Hiatt, Legal Counsel, reported that there has been no progress on the Commissioner re-appointments.

OUTREACH: Commissioner Vella-Wilkinson reported that she attended the “National Night Out” at Oakland Beach on August 2, 2011 and distributed handouts on the Commission.

She also reported that she was nominated to serve on the RI Black Business Association. Commissioner Vella-Wilkinson also reported that she received a fellowship with the RI Women’s Policy Institute to work with women’s issues in government.

Commissioner Ventrone is volunteering with the Red Cross in Jamestown.

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

LITIGATION: Report Attached. New information is in bold.

LEGISLATION: Review of the last legislative session.

REGULATIONS: Cynthia Hiatt reported that HUD asked that the Commission revise its regulations with respect to complainant representation in housing cases.

HEARING SCHEDULE: Discussed

Commissioner Meeting -3- August 26, 2011

DECISIONS: No discussion at this time.

The meeting adjourned at 2:05 p.m. The next regular meeting will be September 30, 2011 at 12:30 p.m.

Respectfully Submitted,

**Michael D. Évora
Executive Director**

Notes taken by: B. Ross

OUTREACH – FY 11

RI COMMISSION FOR HUMAN RIGHTS

DATE TRAINER(S) TOPIC LOCATION/

GROUP NUMBER

ATTENDING

7/13/10 Flanders

Rivera Fair Housing Clarkin Realty, Warwick, RI 8

7/20/10 Gaschen Fair Housing and the LGBT Community: Initiatives and Strategies for Combating Housing Discrimination Based on Sexual Orientation and Gender Identity HUD National Policy Conference, New Orleans, LA 110

7/21/10 Gaschen Same as above Same as above 125

7/28/10 Lovegrove Fair Housing Minority Elder Task Force, East Providence, RI 12

8/12/10 Lovegrove Fair Housing Fall River Deaconess Home School, Fall River, MA 21

9/8/10 Christy Commission Overview and Interactive Discussion on Discrimination Bethany House Nursing Home, Providence, RI

(Staff training) 30

9/15/10 Pracht General

Commission

Information—Recruitment Community Service Opportunities

Fair—Brown University Approx 60 at table; 200-300 at fair

10/18/10 Flanders Fair Housing Hotline, Newport, RI 3

10/20/10 Lovegrove Fair Housing RI Minority Elder Task Force, East Providence, RI 12

10/27/10 Evora

Hiatt

Gaschen Commission Overview and Legal/ Enforcement RI Bar Assoc./ Government Lawyers Committee at RICHR 15

12/7/10 Flanders

Pracht Commission Overview and Interactive Discussion on Discrimination – Pt. 1 YearUp, Providence, RI 40

12/9/10 Flanders

Pracht Commission Overview and Interactive Discussion on Discrimination – Pt. 2 YearUp, Providence, RI 40

12/15/10 Pracht Train the Trainers—Fair Housing Homeownership Connection, Pawtucket, RI 11

1/18/11 Evora Keynote Address: “Battle from Within: Ideological Changes in Civil Rights Practice” Roger Williams Law School, MLK Commemoration 25

1/19/11 Flanders Fair Housing RI Housing Workshop on Impediments to Fair Housing, Warren, RI 8

2/1/11 Flanders Impediments to Fair Housing Johnnycake Center, Peacedale, RI 6

2/11/11 Flanders Fair Housing RI Housing Workshop on Impediments

to Fair Housing, Urban League, Providence, RI 12

2/22/11 Lovegrove Fair Housing East Prov. Landlord Group, East Prov. City Hall 15

3/1/11 Evora

Christy Commission Overview/Sex Discrimination/ Sexual Harassment “Gender and the Law” class, Roger Williams Univ. School of Law, Bristol, RI 20

3/10/11 Christy

Flanders Commission Overview/Disability Discrimination in Employment Ocean State Employer Service Network at RI Dept. of Labor & Training, Cranston, RI 20

4/4/11 Christy Commission Overview/Sexual Harassment “Social Work and the Law” class at RI College 12

4/14/11 Flanders General Commission Information/Overview Feinstein Institute Intern Recruitment Fair, Providence College 35

4/15/11 Gaschen

Evora

Lovegrove

Flanders

Federal, state and local reps “Affirmatively Furthering Fair Housing” Keynote/ Panel Alderman’s Chambers, Providence City Hall 70

4/18/11 Flanders Commission Overview and Employment Discrimination “Employment Law” class at Roger Williams Univ. School of Law, Bristol, RI 18

4/21/11 Flanders Fair Housing Scituate Senior Ctr., Scituate, RI 35

4/26/11 Flanders Fair Housing Glocester Senior Ctr., Glocester, RI 40

4/27/11 Flanders Fair Housing Crossroads Staff, Providence, RI 17

5/11/11 Christy Commission Overview/Sexual Harassment Manafort Bros. Construction Co., Cumberland, RI 20

5/17/11 Hiatt

Gaschen New Developments in Employment Discrimination Law Labor & Employment Committee, RI Bar Assoc., Providence, RI 14

5/25/11 Evora Commission Overview Interview/Recording for cable access show of Pepperbird Magazine (Liberian community)

6/7/11 Evora

Flanders

Christy Commission Overview and Interactive Discussion on Discrimination – Pt. 1 YearUp, Providence, RI 40

6/9/11 Evora

Flanders

Christy Commission Overview and Interactive Discussion on Discrimination – Pt. 2 YearUp, Providence, RI 40

AGED CASE REPORT*

(EEOC FY 2011)

DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED

11/02 158

10/03 85

10/04 26

10/05 14

10/06 8

10/07 4

10/27/10 2 0 2

**(1 = investigation,
1 = hearing/conciliation)**

12/9/10 2 0 2

**(1 = investigation,
1 = hearing/conciliation)**

1/28/11 2 0 2

**(1 = investigation,
1 = hearing/conciliation)**

2/21/11 2 0 2

**(1 = investigation,
1 = hearing/conciliation)**

3/24/11 2 0 2

**(1 = investigation,
1 = hearing/conciliation)**

4/28/11 2 0 2

**(1 = investigation,
1 = hearing/conciliation)**

5/26/11 2 0 2

**(1 = investigation,
1 = hearing/conciliation)**

6/17/11 2 0 2

(1 = investigation,

1 = hearing/conciliation)

7/ /11 0

(= investigation,

= hearing/conciliation)

8/25/11 2 0 2

(1 = investigation,

1 = hearing/conciliation)

9/ /11

0

(= investigation,

= hearing/conciliation)

***Figures reflect open cases filed on or before September 30, 2006**

Aged case load reduced in EEOC FY 2011 by XX%

To: Commissioners

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: August 26, 2011

Recent developments are in bold.

AMICUS BRIEF

The Commission has agreed to consider filing an amicus brief with

the Rhode Island Supreme Court with respect to a case in which the Superior Court granted summary judgment to the employer even though the employer had given inconsistent reasons for the plaintiff's termination and there was evidence that impaired the employer's credibility. The appeal has been filed and the case is scheduled for mediation at the Supreme Court in July.

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. The case has been transferred to Judge Stern before whom the matter will be heard, in early fall.

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. The appeal was assigned to Justice Netti Vogel.

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 Town filed its brief on February 18, 2011. The Commission filed its brief on April 8, 2011. Mrs. Gaffney's attorney decided that he would not file a separate brief; he filed a statement indicating that Mrs. Gaffney supports the arguments made by the Commission. The Town filed its reply brief on May 26. Mrs. Gaffney's counsel wrote Justice Savage to tell her that the case is ready for review.

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. On March 10, 2011, Justice Savage issued a decision upholding the Commission's finding of discrimination. The complainant's attorney has drafted an Order for Justice Savage. He may file a motion for supplemental attorney's fees with the

Commission.

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 the individual defendant cannot be located.

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. This case was dismissed as a result of settlement of the federal case below.

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 (Manfredi) v. Donna Conway, et al.

The Commission filed a complaint in Superior Court alleging violation of Manfredi's rights under the Fair Housing Act. Conway has been served. The respondents moved this case to Federal Court. All cases involving Mr. Manfredi and the NPPHA have been settled after

mediation. Payment to Mr. Manfredi and his counsel in the amount of \$30,000 and a contribution to the Commission of \$5000 for the purchase of equipment to Affirmatively Further Fair Housing efforts by the Commission. Equipment purchased with these donated funds has been ordered.

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 second report, due March 19, 2011, 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. Default Judgments were entered against both defendants. New counsel has filed a motion to remove the defaults, which was granted. Application for Cert was filed. Case was settled for the payment to the Switzers in the amount of \$5000 and a donation in lieu of counsel fees to the Commission in the amount of \$1500 for the purchase of equipment to Affirmatively Further Fair Housing efforts by the Commission. Equipment purchased with these donated funds has been ordered.

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. I am sending a letter requesting training for this year.

T.G.I. Fridays (Carlson Restaurants Worldwide) v. Selvidio and Évora

The respondent has appealed the recent Commission decision and order in favor of Mr. Selvidio. It has also moved for a stay of the Commission Order. No date has been set yet for the hearing.