

MINUTES OF THE COMMISSION FOR HUMAN RIGHTS

August 29, 2014

A regular meeting of the Commission for Human Rights was held on Friday, August 29, 2014. Present at the meeting were Commissioners John B. Susa, Chair, Camille Vella-Wilkinson, Tolulope Kevin Olanoye, Esq., Angelyne E. Cooper, Esq. and Rochelle Bates Lee. Absent were Commissioners Iraida Williams and Alberto Aponte Cardona, Esq. The meeting commenced at 9:30 a.m.

Commissioner Vella-Wilkinson moved to approve the minutes of July 30, 2014, Commissioner Olanoye seconded and the motion carried unanimously.

Status Report of 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 – No aged cases to report.

Outreach Report – Attached

The Director added that the Commission has applied for a \$1,000 grant from EEOC to conduct a joint investigation with EEOC.

STATUS REPORT – COMMISSIONERS

OUTREACH: Commissioner Vella-Wilkinson reported that she has been working on an issue relating to the use of medical marijuana in federal housing. Federal housing prohibits all smoking. This prohibition makes it difficult for those who benefit from medical marijuana to use it. It particularly has an impact on veterans with Post-Traumatic Stress Syndrome (PTSD). Commissioner Vella-Wilkinson is seeking to have smoking rooms in the Rhode Island Compassion Centers, which allow authorized patients to obtain medical marijuana.

Commissioner Meeting -2- August 29, 2014

It was suggested that the Commission conduct further outreach with the NAACP. A past outreach was well attended and the Commissioners said that it would be helpful to refresh training on the Commission's jurisdiction.

Commissioner Lee entered the meeting at 10:20 a.m.

GENERAL STATUS: There was no discussion on general status at

this time.

ROLE OF THE COMMISSIONERS IN COMMISSION-INITIATED CHARGES: Commission Legal Counsel Cynthia Hiatt reviewed the Commission's regulations on Commission-initiated charges and the importance of treating those who bring Commission-initiated charges in the same way as the Commission treats other parties.

COMMISSION POSITION ON THE RIGHT OF IMPRISONED PEOPLE TO MARRY: A member of the public had asked Commissioner Vella-Wilkinson if the Commission could take an official position in support of the right of imprisoned people to marry. Legal Counsel discussed cases which have found that prisoners have a constitutional right to marry, in most circumstances. The Commissioners discussed the issue and agreed to review information on the issue which would be provided by Commissioner Vella-Wilkinson.

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

LITIGATION: Counsel and the Commissioners reviewed pending litigation in which the Commission has a role. Report attached.

LEGISLATION: Counsel and the Commissioners reviewed the final report on legislation enacted in the last General Assembly session relating to the Commission and civil rights.

BFOQ REQUEST: There was no additional discussion at this time.

DISCUSSION OF ETHICS COMMISSION ADVISORY OPINION:

Legal Counsel reported on a recent Ethics Commission Advisory Opinion given to a Commission staff member which provided that the Commission employee would not violate the Code of Ethics if she proceeded at the Commission with a charge against her third-party employer.

HEARING SCHEDULE/STATUS OF HEARING CASES: Commission Counsel discussed with the Commissioners the hearing schedule and status of hearing cases.

At 11:05 a.m., Commissioner Olasanoye left the meeting. He recused himself from any participation or attendance with respect to the cases of Zabala v. Providence School Department et al. and Yangambi v. Providence School Board.

DECISIONS- ZABALA V. PROVIDENCE SCHOOL DEPARTMENT ET

AL: Commissioners Vella-Wilkinson, Cooper and Lee discussed this case. They decided that the Complainant proved ancestral origin discrimination with respect to Respondents Providence School Department and Wobberson Torchon and did not prove that Nkoli Onye or Dr. Tomas Ramirez discriminated against her because of her ancestral origin. Legal Counsel will draft a written decision.

DECISIONS- RELIEF IN THE CASE OF YANGAMBI V. PROVIDENCE SCHOOL BOARD - No discussion at this time. A special meeting will be held on September 8, 2014 for the Commissioners who reviewed that case to discuss the question of relief.

Commissioner Meeting -4- August 29, 2014

The meeting adjourned at 11:35 a.m. The next special meeting of the Commission is September 8, 2014 at 9:00 a.m. The next regular meeting of the Commission is September 26, 2014 at 9:30 a.m.

Respectfully Submitted,

Michael D. Évora
Executive Director

Notes taken by C. Hiatt

**EXECUTIVE DIRECTOR'S
REPORT TO COMMISSIONERS
29 August 2014**

I. BUDGET

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

FY 2014	FY 2014	FY 2014	FY 2015	FY 2015	FY 2015	FY 2015
(Enacted)	(Gov. Rec.)	(Rev.)	(Unconstr.)	(Constr.)		
(Recomm.)	(Enacted)					
S 1,150,785	1,146,066	1,146,066	1,184,229	1,095,286		
1,193,083	1,193,083					
F 308,638	317,367	317,367	303,788	318,035	287,096	
287,096						

T 1,459,423 1,463,433 1,463,433 1,488,017 1,413,321
1,480,179 1,480,179

On June 13, the House passed a budget which included funding for the Commission consistent with the Governor's recommendations for FY14 and FY15 (see above). The Senate passed the budget on June 16 and it was signed by the Governor on June 19.

Betsy and I have been working with our Budget Analyst, Ryan Gardiner, on our FY15 (Revised) and FY16 (Requested) budget submissions. The submissions are due to the Governor on September 17. This year, all state agencies with General Revenue budgets of less than \$1.5 million, such as the Commission, are not required to submit a constrained budget for the next fiscal year.

II. FEDERAL CONTRACTS

EEOC – For federal FY 2012 (beginning October 1, 2011), according to EEOC Project Director Marlene Toribio, we closed 237 co-filed cases.

Our contract with EEOC for FY 2012 was for 235 cases. For federal FY 2013 (beginning October 1, 2012), we closed 201 co-filed cases.

Our contract with EEOC for FY13 was for 199 cases. For federal FY14 (beginning October 1, 2013), we have closed 184 co-filed cases. Our

contract for FY14 was for 244 cases, however, based on our assessment of case production, we requested a downward modification to 230 cases in early August; assuming our request is

approved by EEOC, we must close an additional 46 cases by September 30 to meet our contract.

HUD – For FY12, according to HUD Project Director Angela Lovegrove, we took in 40 new housing charges, 37 of which were co-filed with HUD. Within this same time period, we processed 45 housing charges, 43 of which were co-filed with HUD. For FY13 (July 1, 2012 through June 30, 2013), we took in 51 new housing charges, all of which were co-filed with HUD. Within this same time period, we processed 50 cases, 47 of which were co-filed with HUD. For FY14 (beginning July 1, 2013), we took in 49 new housing charges, 47 of which are co-filed with HUD. Within this same time period, we processed 51 cases, 50 of which were co-filed with HUD (three of these processed cases were post-PC conciliations). For FY15 (beginning July 1, 2014), we have taken in 47 new housing charges, 29 of which are co-filed with HUD. Within this same time period, we have processed seven cases, all of which were co-filed with HUD.

UPDATE ON HUD PARTNERSHIP GRANTS – The first grant, for approximately \$56,000, is for a targeted outreach (including development of training/education materials) to the LGBT community and victims of domestic violence. On March 17, former Investigator Susan Pracht began a nine-month position as Community Liaison Specialist overseeing the implementation of the LGBT/Domestic Violence grant. The LGBT portion of the project is near completion; work on the domestic violence portion of the project has begun.

The second grant, for \$2,650.00, was used to plan and conduct a seminar on mortgage discrimination and predatory lending on April 7 at the Hyatt Regency Hotel in Newport; the event was attended by 32 individuals from RI and MA, including several representatives from HUD.

III. PERSONNEL

No new information.

IV. OUTREACH – Refer to attached report.

V. GENERAL STATUS

●Meetings with staff members – I continue to meet monthly with individual investigative staff members to monitor case production.

●Case Closures – Refer to attached report.

We ended FY 2012 slightly behind the prior fiscal year's case processing rate. In FY 2011, we processed 422 cases; in FY 2012, we processed 411 cases (approx. 3.5% decrease). For FY13, we processed 389 cases (approx. 5% decrease from FY 12). For FY14 (beginning July 1, 2013), we processed 376 cases (decrease of approx. 3% from FY13). For FY15 (beginning July 1, 2014), we have processed 35 cases (compare to 38 cases in this same time period in

FY14).

●Aged Cases – There are no aged cases in the Commission’s inventory for federal FY 2014 (beginning October 1, 2013).

●Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 1998. We ended FY11 with 323 cases in inventory, FY12 with 255 cases, and FY13 with 265 cases. As of 8/28/14, we had a total of 351 cases in inventory; 42 of these cases were pending assignment.

●HUD Proposal: In response to a recent HUD Notice of Funding Availability (NOFA), the Commission will be submitting a proposal for HUD funding for a special one-year project to conduct fair housing education and outreach to immigrant (foreign-born) individuals in Rhode Island.

●Performance Management Initiative – The Governor’s Performance Management Team has noted that the Commission is one of the only state agencies that consistently complies with the Performance Management Directive in a complete/timely manner.

Respectfully submitted,

Michael D. Évora

Executive Director

Attachments

To: Commissioners

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: August 29, 2014

Recent developments are in bold.

Babbitt v. Crescent Park Manor, et al.

The Commission intervened as a party plaintiff in this case. New attorneys entered their appearance for the respondents. Case tried.

Benitez v. Pyramid Case Company, Reynar Vazquez, Mario Meletz, Blanca Cruz and the R.I. Commission for Human Rights

In December 2012, the Commission issued a Decision that found that the Complainant did not prove that the Respondents discriminated against her with respect to ancestral origin discrimination or retaliation. The Complainant's attorney appealed. The Commission filed the administrative record in February 2013. The parties stipulated to dates for filing memoranda and the Complainant's attorney requested more time. The Complainant's attorney plans to request another new stipulation on dates for filing, so the due dates for the memoranda are currently unknown.

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 was filed on April 19, 2012. On June 20, 2012, the appeal was assigned to Judge Daniel Procaccini. On May 9, 2014, Legal Counsel wrote a letter to Judge Procaccini, stating that the Commission was checking to ensure that the Judge had received notice of the assignment to him, as an assignment of an administrative appeal on another Commission case had not been transmitted to the Judge. The parties had previously been informed by the Clerk's Office that the case had been assigned to Judge Procaccini. Judge Procaccini let us know that the case was not assigned to him. He tracked down the assignment; it was assigned to Judge Matos. Because of the confusion surrounding the assignment, on May 21, 2014, the Commission sent Judge Matos a disc with copies of the briefs and an offer of additional materials, if needed.

City of Providence v. RI Commission for Human Rights and Matthieu Yangambi

On November 13, 2013, the City of Providence appealed the Commission's decision in Yangambi v. Providence School Board. On November 19, 2013, the City filed an amended complaint to add the Complainant as a party. On February 14, 2014, the City of Providence filed a Motion to Stay in Superior Court. The Commission filed the administrative record on February 27, 2014. On March 6, 2014,

Associate Justice Matos ordered that the Motion to Stay the hearing on damages was denied. He stated that he would not interfere with an adjudicative agency's hearing on the issues. He granted the respondent additional time to complete training of supervisory personnel.

Sebelius v. Hobby Lobby U.S. Supreme Court (June 30, 2014)

Justice Ginsburg's dissent discusses "the havoc the Court's judgment can introduce".

Mancini v. City of Providence

This is a case of disability discrimination brought in federal court in Rhode Island. Judge Smith has certified a question to the Rhode Island Supreme Court asking whether individuals can be liable under R.I.G.L. Section 28-5-6(7) which provides that it is an unlawful employment practice:

For any person, whether or not an employer, employment agency, labor organization, or employee, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be an unlawful employment practice, or to obstruct or prevent any person from complying with the provisions of this chapter or any order issued pursuant to this chapter, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful employment practice.

The case was docketed with the Rhode Island Supreme Court on March 10, 2014. The Court set dates for submitting 12A statements for an initial conference with one Supreme Court justice. The Commission submitted a Motion to File an Amicus 12A Statement and a short Amicus 12A Statement to inform the court of the number of Commission cases that this question affects (50% of those filed in FY 2013) and to ask that the Court invite members of the bar to submit briefs on the issue. On June 4, 2014, the Rhode Island Supreme Court granted the Commission's Motion to File an Amicus 12A Statement. On July 23, 2014, the Plaintiff filed her 12A Statement.

Medeiros v. R & D Roofing and Roger Pratas

The Commission found for the Complainant in this case. He filed a Petition to Enforce the Commission Order. Respondent Pratas appeared and Judge Carnes continued the matter until 11-13-12 to allow Mr. Pratas to obtain legal counsel. Mr. Pratas has told the Complainant's attorney that he has no assets.

RICHR (Grimes) v. Graul, et al.

A complaint alleging familial discrimination was filed in Kent County Superior Court. The case was removed to federal court by the defendants. The Court denied the respondents' Motion for Summary Judgment without oral argument and granted the Commission's Motion to Amend the Complaint. Defendants' discovery responses were submitted and the Commission's discovery responses were submitted.

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. No further collection efforts to be done at this time.

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. No further collection efforts to be done at this time.

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 was filed against defendants. An offer of \$2500 was made to the plaintiff to settle all of the claims. No further collection efforts to be done at this time.

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. No further collection efforts to be done at this time.

RICHR (Oliveira) v. Furniture Warehouse, et al.

A Petition to Enforce was filed in December 2012. Service has been made on most of the defendants. Plaintiff retrieved her file from her attorney and it will be reviewed for an attempt at collection.

RICHR (Pellerano) v. Kuznetsov

A complaint was filed to enforce the May, 2012 Decision of the Commission. The petition for enforcement was granted. No further collection efforts to be done at this time. Lien placed on the residential property of the defendant.

RICHR v. McElroy

This case was filed in the Providence County Superior Court to enforce a negotiated settlement. No further collection efforts to be done at this time.

RICHR v. POP, et al.

A petition to enforce the decision will be filed in Superior Court. Counsel for the individual defendant agreed to get the ad placed in the newspaper. Respondents' attorney has prepared a draft of the ad.

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

The case is resolved. The Commission will annually monitor City training. Training was completed for 2014.

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

Payment of a settlement was made to the complainant. The respondent has represented that it has complied with the training and posting parts of the Decision and will be sending the Commission confirmation on the training. Fridays has not provided evidence of training.