

# **MINUTES OF THE COMMISSION FOR HUMAN RIGHTS**

**March 25, 2016**

**A meeting of the Commission for Human Rights was held on Friday, March 25, 2016. Present at the meeting were Commissioners John B. Susa, Chair, Angelyne E. Cooper, Esq. and Rochelle Bates Lee. Absent were Commissioners, Tolulope Kevin Olasanoye, Camille Vella-Wilkinson, Alberto Aponte Cardona, Esq., and Iraida Williams. The meeting commenced at 1:10 p.m. Commissioner Lee arrived at 1:15 pm.**

**Commissioner Lee moved for approval of the minutes of February 26, 2016. The motion was seconded by Commissioner Cooper and carried.**

**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 – Attached**

**Outreach Report – Attached**

## **STATUS REPORT – COMMISSIONERS**

**OUTREACH:** No outreach reported at this time.

**GENERAL STATUS:** Dr. Susa and Commissioner Cooper's letters requesting reappointment were sent to the Governor and Commissioner Lee's letter will go out next week.

Commissioner Vella-Wilkinson wants to have a discussion on Commissioner responsibilities at the next meeting.

Commissioner Meeting -2- March 25, 2016

## **STATUS REPORT – LEGAL COUNSEL: Cynthia Hiatt**

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

**LEGISLATION:** The Commissioners discussed the status of pending legislation.

**DECISION: No discussion at this time.**

**HEARING SCHEDULE/STATUS OF HEARING CASES: The hearing schedule was discussed.**

**The meeting adjourned at 1:45 p.m. The next regular meeting of the Commission is April 29, 2016 at 12:00 noon.**

**Respectfully Submitted,**

**Cynthia M. Hiatt      Legal Counsel**

**Notes taken by B. Ross**

**EXECUTIVE DIRECTOR'S  
REPORT TO COMMISSIONERS  
25 March 2016**

**I. BUDGET**

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

	<b>FY 2016</b>	<b>FY 2016</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2017</b>	<b>FY 2017</b>
	<b>(Enacted)</b>	<b>(Rev. Req.)</b>	<b>(Revised)</b>	<b>(Request)</b>	<b>(Constr. Req.)</b>	<b>(Gov. Rec.)</b>
<b>S</b>	<b>1,252,174</b>	<b>1,247,562</b>	<b>1,243,892</b>	<b>1,261,749</b>	<b>1,181,192</b>	<b>1,258,128</b>
<b>F</b>	<b>295,386</b>	<b>310,874</b>	<b>310,874</b>	<b>323,295</b>	<b>323,295</b>	<b>323,295</b>
<b>T</b>	<b>1,548,010</b>	<b>1,558,436</b>	<b>1,554,766</b>	<b>1,585,044</b>	<b>1,504,487</b>	<b>1,581,423</b>

The House and Senate passed the state's FY16 (and FY15 Final) budgets. The particulars for the Commission are noted above.

The Commission's FY16 (Revised Request) and FY17 (Request) budgets were submitted to the Budget Office on September 17, 2015. Details are noted above. Per the Budget Instructions, every state agency was asked to submit a two-tiered budget request for FY17, one assuming regular funding (unconstrained), and one assuming a 7.5% reduction in General Revenue (constrained). The Commission submitted Impact Statements advising the Governor, Budget Office and General Assembly of the impact that implementation of the constrained budget would have on our mission/strategic plan.

At the beginning of February, the Governor submitted her budget recommendations to the General Assembly. Details for the Commission are highlighted above. The Governor did not recommend that the Commission be funded at the constrained request level; her recommendation includes funding for our full current FTEs.

**On March 22, a hearing was held on the Commission's FY16 (Revised) and FY17 (Gov. Rec.) Budgets. Legal Counsel Frank Gaschen attended the hearing in my absence.**

## **II. FEDERAL CONTRACTS**

**EEOC – For federal FY12 (ending September 30, 2012), according to EEOC Project Director Marlene Toribio, we closed 237 co-filed cases.**

**Our contract with EEOC for FY12 was for 235 cases. For federal FY13 (ending September 30, 2013), we closed 201 co-filed cases. Our contract with EEOC for FY13 was for 199 cases. For federal FY14 (ending September 30, 2014), we closed 232 co-filed cases. Our modified contract for FY14 was for 230 cases. For federal FY15 (beginning October 1, 2014), we closed 212 co-filed cases. Our modified contract for federal FY15 was for 210 cases. For federal FY16 (beginning October 1, 2015), we have closed 101 co-filed cases. Our contract with EEOC is not yet known.**

**HUD – For FY14, we took in 49 new housing charges, 47 of which were co-filed with HUD, and we processed 51 cases, 50 of which were co-filed with HUD (three of these processed cases were post-PC conciliations). For FY15, we took in 101 new housing charges, 66 of which were co-filed with HUD. (32 were not eligible for co-filing and**

three were deferred to HUD for investigation.) We processed 94 cases, 65 of which were co-filed with HUD; two of these processed cases were post-PC conciliations. For FY16 (beginning July 1, 2015), we have taken in 54 new housing charges, 50 of which are (or are expected to be) co-filed with HUD. Within this same time period, we have processed 69 cases, 53 of which were co-filed with HUD; 20 of these processed cases were post-PC resolutions and one was a Decision and Order (finding for complainant).

**HUD PARTNERSHIP GRANTS –** Because the LGBT/Domestic Violence Victims projects came in under budget, HUD agreed to permit us to use leftover grant funds to produce a general fair housing brochure, poster and Power Point presentation for use in outreaches going forward, and to conduct five fair housing outreaches throughout the state. A general fair housing poster and brochure were drafted and approved by HUD. HUD approved the final brochure and poster designs. They have been translated into five languages and we have received them for distribution. The requisite outreaches have been completed; the final report has been submitted to HUD for approval and final payment.

**III. PERSONNEL –** The Commission has undertaken a pay equity study to determine the disparity between salaries at the Commission and those of comparable positions in state service. Following the December directive from Commissioners, I met with the Governor's Deputy Chief of Staff and the Director of the Dept. of Administration

on January 7 to discuss the issue of appropriate pay grade increases for all staff. At the request of the DOA Director, I forwarded relevant information/ documentation to him on January 8, to be reviewed and considered by DOA/HR staff. Follow-up meetings were held with the Deputy Director of DOA on February 19 and 26. We have been advised that DOA/HR has completed its independent analysis and await word on next steps.

**IV. OUTREACH – Refer to attached report.**

## **V. GENERAL STATUS**

**&#9679;Meetings with staff members – I continue to meet monthly with individual investigative staff members to monitor case production.**

**&#9679;Case Closures – Refer to attached report.**

**In FY11, we processed 422 cases; in FY12, we processed 411 cases (approx. 3.5% decrease). For FY13, we processed 389 cases (approx. 5% decrease from FY12). For FY14 (beginning July 1, 2013), we processed 376 cases (decrease of approx. 3% from FY13). For FY15, we processed 425 cases, a 13% increase over cases processed in FY14. For FY16 (beginning July 1, 2015), as of the end of February, we have processed 285 cases (compare to 246 cases in this same time period in FY15).**

**&#9679;Aged Cases – (Report attached) There are two aged cases in the Commission’s inventory for federal FY16 (beginning October 1, 2015). Both of these cases involve the same respondent which is in receivership. The Investigator worked with Legal Counsel Frank Gaschen to attempt to obtain information from the attorney handling the receivership. The two aged cases were ruled Probable Cause on 3/18/16.**

**&#9679;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, FY13 with 265 cases, and FY14 with 290 cases. As of 3/17/16, we had a total of 282 cases in inventory; nine of these cases were pending assignment.**

**&#9679;Potential Partnership with Roger Williams University Law School – On October 29, Frank Gaschen, Legal Counsel, and I met with officials from RWU Law School to explore the possibility of RWU Law instituting a Fair Housing Clinic focused on housing testing. We will be following up this initial meeting with HUD to explore funding possibilities.**

**Legal Counsel Frank Gaschen and I met with officials from RWU Law, HUD and Suffolk University School of Law on February 9 to discuss grant/funding opportunities. Frank is following up with RWU Law in anticipation of the release of HUD’s Notices of Funding Availability.**

**Frank Gaschen has scheduled a meeting at Suffolk University School**

of Law for April 14. He will be joined by representatives from RWU Law to discuss Suffolk's testing program.

**&#9679;Records Retention – On December 21, 2015, I submitted Records Retention Schedule Amendment Forms to the Secretary of State/State Archives and Public Records Administration to amend the Commission's Records Retention Policy. The proposed changes are as follows:**

**>Closed case files – current policy requires retaining for ten years after closure (or final decision on appeal); proposed amendment seeks to change the retention period to seven years;**

**>Stayed case files – current policy requires retaining permanently; proposed amendment seeks to change the retention period to seven years after decision/court closure (or end of litigation);**

**>Records related to suits against agency – current policy requires retaining for ten years after end of litigation; proposed amendment seeks to change the retention period to seven years;**

**>Letters of complaint – current policy requires retaining for ten years; proposed amendment seeks to change the retention period to seven years.**

**The amendment request must be approved by the State Archivist, the Attorney General and the Auditor General.**

**&#9679;HUD Onsite/Performance Assessment – HUD conducted an**

onsite visit on March 16 as part of its annual performance assessment process. During the course of the on-site, HUD officials conducted staff interviews and reviewed case files. We continue to await HUD's report/ conclusions.

Respectfully submitted,

**Michael D. Évora**  
**Executive Director**

#### **Attachments**

**To: Commissioners**

**From: Cynthia Hiatt and Frank Gaschen, Legal Counsels**

**Re: Litigation**

**Date: March 25, 2016**

**Recent developments are in bold.**

**Andrade v. Hahn, Smith/Keen LP and Westlo Management, LLC**

**The Commission's Motion to Intervene granted. RICHR Motion to amend the complaint was granted. The deposition of Angie Lovegrove is to be rescheduled. Lots of discovery ongoing; depositions and court appearances.**

**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. On October 17, 2014, Superior Court Associate Justice Matos issued a decision. He upheld the Commission's findings that BDDH discriminated against Dr. Satti because of his age and in retaliation for protected activity. The Commission Decision on Attorney's Fees issued on March 5, 2015. On September 17, 2015, Dr. Satti's counsel reported that the Respondent paid the attorney's fees as required in the Order. On October 15, 2015, Legal Counsel sent the Respondent's Legal Counsel an email asking that they send notice of compliance and/or their plan for compliance with the Commission's Order requiring reporting on hires and terminations, training, development of an anti-discrimination policy and posting of Commission posters. On December 9, 2015, Counsel from the**

**Respondent called and said that they would be reporting to the Commission on the status of compliance with the Order by the end of the month. On February 25, 2016, Counsel emailed current respondent counsel to determine whether the respondent has a plan for compliance.**

### **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. The Commission filed an amended administrative record on April 15, 2015. The Commission received the Respondent's Brief on October 15, 2015. The Commission received the Complainant's Brief on November 12, 2015. The Commission filed its Brief on November 13, 2015. The Respondent moved to file a Reply Brief with a due date of January 22. They sought an extension of time to file their reply brief on or before February 22, 2016. The Complainant objected to the extension. The Court granted the request for an extension and the reply brief was filed on February 22, 2016. The parties met with Judge Patricia Hurst on February 26, 2016 to clear up "housekeeping issues" with respect to the materials that have been filed. She advised that the case materials could not be consolidated. The parties agreed to ensure that the correct materials were filed in both case numbers and have done so. The case had been assigned to Judge Hurst before a motion to assign was filed. An order entered rescinding that assignment. In the next few weeks, the Commission**

**will move to have the case assigned to a justice for a decision on the appeal.**

### **City of Providence v. RI Commission for Human Rights and Hortencia Zabala**

**In November 2014, the City of Providence appealed the Commission's decision in Zabala v. Providence et al. The parties have asked to delay the hearing on damages until the Court decides the appeal and the Hearing Officer has approved that request. The Complainant is now represented by an attorney. The Commission filed the administrative record on July 16, 2015. Commission Counsel asked the parties whether we can stipulate on a briefing schedule, but received no reply. Commission Counsel emailed the attorneys to inform them that the Commission will shortly be filing a motion to assign a briefing schedule and asking for clarification as to the attorneys representing the parties.**

### **Mancini v. City of Providence**

**This is a case of disability discrimination brought in federal court in Rhode Island. Judge Smith certified a question to the Rhode Island Supreme Court asking whether individual employees can be liable under R.I.G.L. Section 28-5-6(7).**

**The Commission Amicus Brief was filed on February 5, 2015. On May 11, 2015, the ACLU and the Rhode Island Association for Justice filed an Amicus brief in support of holding individuals liable under the Fair**

**Employment Practices Act. The Plaintiff's Brief was filed on October 8, 2015. The Office of the Attorney General filed an Amicus Brief in November, 2015, arguing that there is no liability for individuals under the Fair Employment Practices Act. The Defendants' Brief has not yet been filed.**

#### **Medeiros v. R & D Roofing and Roger Pratas**

**The Commission found for the Complainant in this case. Counsel 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.**

**On August 13, 2015, Justice McConnell granted RICHR motion for summary judgment on issue of liability, granted RICHR motion to strike defendants' expert Ted Sarno and his report and denied the defendants' motion for summary judgment. Preparation of Consent Order is ongoing.**

#### **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. File will not be reopened nor collection efforts be made in the interim by either FL or RI.**

**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 now.**

**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. Petition granted. Plaintiff's file to be reviewed for an attempt at collection. Adversary complaint was filed in Bankruptcy Court to contest the dischargeability of judgment of one defendant. Debt was declared to be non-dischargeable. Suit on behalf of complainant to be filed in Superior Court.**

**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 (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**

**The Commission filed a petition to enforce its Order. Friday's filed their answer, corrected the blank poster and will get information relative to training. Business sold. Discussing resolution with respondent's counsel.**