

Annual Report

2010 Fiscal Year

July 1, 2009 through June 30, 2010



Rhode Island Commission for Human Rights

180 Westminster Street Third Floor
Providence, RI 02903-1918

Phone: 401-222-2661

TDD: 401- 222-2664

Fax: 401-222-2616

www.richr.ri.gov

TRANSMITTAL LETTER GOES
HERE (SIGNED BY JOHN SUSAN)

“The practice or policy of discrimination against individuals ... is a matter of state concern. Such discrimination foments domestic strife and unrest, threatens the rights and privileges of the inhabitants of the state, and undermines the foundations of a free democratic state. The denial of equal employment opportunities because of such discrimination and the consequent failure to utilize the productive capacities of individuals to their fullest extent deprive large segments of the population of the state of earnings necessary to maintain decent standards of living, necessitates their resort to public relief, and intensifies group conflicts, thereby resulting in grave injury to the public safety, health, and welfare.

It is hereby declared to be the public policy of this state to foster the employment of all individuals in this state in accordance with their fullest capacities ... and to safeguard their right to obtain and hold employment without such discrimination.

The right of all individuals in this state to equal employment opportunities...is hereby recognized as, and declared to be a civil right.”

From R.I. Public Laws 1949, ch. 2181, by which
the Commission for Human Rights was created and empowered

FY 2010 HIGHLIGHTS

INTAKE

The Commission took in 382 new charges of discrimination, representing an increase of over seven percent from FY 2009. Employment charges made up just over 82% of intake; housing charges accounted for over 12% of intake. Nearly 3.7 percent of intake was in the area of public accommodations and an additional 1.8 percent were charges of disability discrimination unrelated to employment, housing or public accommodations.

Charges of disability discrimination predominated, with 127 new cases taken in, representing over 33% of intake. Charges of age discrimination followed, with 72 new cases taken in, representing nearly 19% of intake. Charges of sex discrimination (including pregnancy discrimination and sexual harassment) closely followed, with 68 new cases taken in, representing nearly 18% of intake. New race cases, at 59, represented over 15% of intake.

INVESTIGATIONS

For the twelfth consecutive year, the Commission processed more cases than it took in (403 vs. 382).

- Probable Cause was found in over ten percent of cases, representing no change from FY 2009
- No Probable Cause was found in 40% of cases, representing a decrease from FY 2009 (42%); a substantial number of these cases resulted from a complainant's failure to pursue his/her charge
- Nearly 15% of cases settled prior to a determination of Probable Cause or No Probable Cause, representing a decrease from FY 2009 (18+%)

ADMINISTRATIVE HEARINGS

The Commission held administrative hearings in five cases throughout the fiscal year. Among the Decision and Orders issued within the year were those in which: 1) a co-worker of an Hispanic male welder was found to have subjected the welder to a hostile and abusive work environment by engaging in acts of harassment and abuse; and 2) a visually-impaired woman was found to have been the victim of disability discrimination by her employer when the employer failed to take steps to reasonably accommodate her impairment and terminated her.

THE COMMISSION AT THE COURTS

The Commission continued to engage in enforcement efforts in Superior Court to ensure compliance with its previously-issued Decision and Orders.

CASELOAD ACCOMPLISHMENTS

- The Commission's "aged" caseload was reduced by 33.3%
- The Commission has realized a dramatic decrease in the time taken to process cases. While the average age of a case at closure in FY 2003 was over three years, the average age of cases closed in FY 2010 was 366 days, a slight increase from FY 2009 (337 days).

OUTREACH

Commission staff members conducted nearly two dozen outreach/education sessions in the community, reaching hundreds of employers, housing providers and individuals and educating them about their rights and responsibilities pursuant to the state's antidiscrimination laws.

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Commissioners and Staff Members

Commissioners:

John B. Susa, Ph.D., Chair
Alberto Aponte Cardona, Esq.
Rochelle Bates Lee
Camille Vella-Wilkinson
Nancy Kolman Ventrone
Alton W. Wiley, Jr., Esq.
Iraida Diaz Williams

Marguerite A. Beaubien, Chair Emeritus
Joaquin F. Gomes, Commissioner Emeritus

Staff:

Michael D. Évora, Esq., Executive Director
Cynthia M. Hiatt, Esq., Legal Counsel
Francis A. Gaschen, Esq., Legal Counsel
Angela V. Lovegrove, HUD Project Director
Marlene Colón Toribio, EEOC Project Director
Glenn Cardozo, Sr. Compliance Officer
Tina M. Christy, Sr. Compliance Officer
Allison G. Cote, Sr. Compliance Officer
VACANT, Sr. Compliance Officer
Stephen W. Strycharz, Investigator
Jason Flanders, Investigator
Susan Chase Pracht, Investigator
Betsy Ross, Chief Clerk
Lynn Cimaglia, Administrative Aide
Zaida Rivera, Administrative Aide

Overview

The Rhode Island Commission for Human Rights (Commission) was created by the Rhode Island General Assembly in 1949 and is one of the oldest state anti-discrimination agencies in the country. In establishing the Commission, the General Assembly declared that “[t]he practice or policy of discrimination against individuals ... is a matter of state concern”, and observed that “... discrimination foments domestic strife and unrest, threatens the rights and privileges of the inhabitants of the state, and undermines the foundations of a free democratic state”. R.I.G.L. § 28-5-2. Through impartial investigation, formal and informal resolution efforts, predetermination conferences and administrative hearings, the Commission seeks to ensure due process for both complainants (charging parties) and respondents, to provide redress for victims of discrimination, and to properly dismiss cases in those instances in which charges of discrimination lack evidentiary support.

The Commission enforces Rhode Island anti-discrimination laws in the areas of employment, housing, public accommodations, credit and delivery of services. The employment and public accommodations statutes prohibit discrimination based on race, color, sex, disability, ancestral origin, religion, sexual orientation, gender identity/expression and age. The housing statute, in addition to prohibiting discrimination on these bases, also prohibits discrimination based on marital status, familial status, status as a victim of domestic abuse, and association with members of a protected class. The credit statute, in addition to prohibiting discrimination on the bases covered by the employment law, also prohibits discrimination based on marital status and familial status. Discrimination in the delivery of services on the basis of disability is prohibited.

The Commission’s major program activities include intake, investigation, conciliation, administrative hearings, enforcement, outreach and education.

The Commission was created and empowered by Title 28, Chapter 5 of the General Laws of Rhode Island (the Fair Employment Practices Act) and has statutory responsibility to enforce the following laws:

- Fair Employment Practices Act (R.I.G.L. § 28-5-1, *et seq.*)
- Fair Housing Practices Act (R.I.G.L. § 34-37-1, *et seq.*)
- Hotels and Public Places Act (R.I.G.L. §11-24-1, *et seq.*)
- Prevention and Suppression of Contagious Diseases—HIV/AIDS Act (R.I.G.L. §§ 23-6.3-11 and 23-6.3-12)
- Civil Rights of People with Disabilities Act (R.I.G.L. § 42-87-1, *et seq.*)
- Equal Rights of Blind and Deaf Persons to Public Facilities Act (R.I.G.L. § 40-9.1-1, *et seq.*)

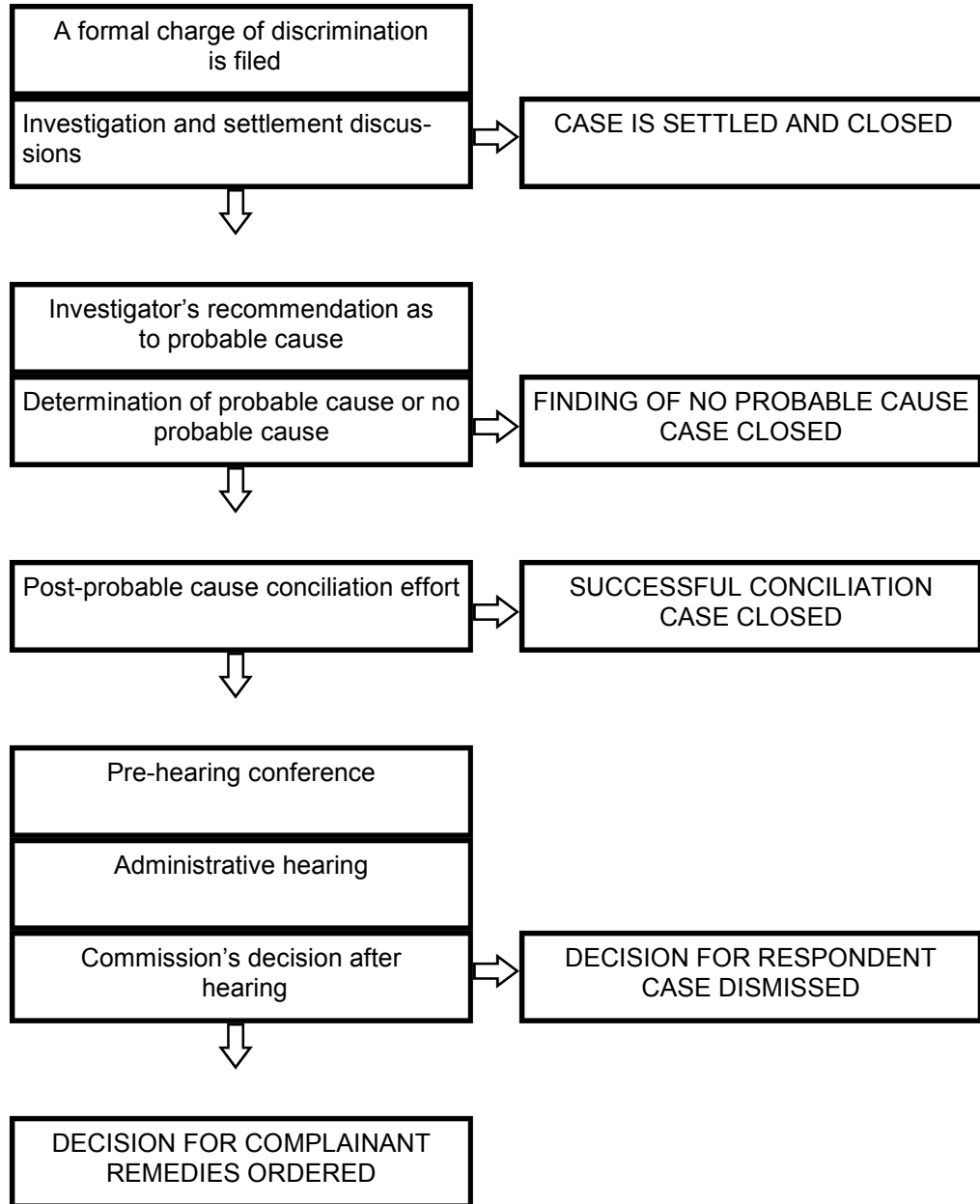
The Commission is overseen by seven Commissioners who are appointed by the Governor with the advice and consent of the Senate. The Commissioners are not compensated for the services they render to the agency.

In addition to enforcing state laws, the Commission has contractual agreements with the Equal Employment Opportunity Commission (EEOC) and U.S. Department of Housing and Urban Development (HUD) to assist in the enforcement of the following federal laws: Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act; and Title VIII of the Federal Fair Housing Law.

Given the agency’s limited resources, keeping the Commission robust and effective has been a task shared by the entire staff, Commissioners, interns and volunteers.

INSERT PROTECTED
CATEGORIES CHART

CHARGE PROCESS SUMMARY



NOTE: Rhode Island law expressly provides that, under certain circumstances, complainants and/or respondents may elect to terminate proceedings before the Commission and have the case heard in Superior Court.

Intake

Inquiries are received and evaluated. If allegations represent a prima facie case and jurisdictional requirements are met, a formal charge of discrimination is filed and forwarded to the respondent.

The intake process usually begins with a telephone call or visit to the Commission. Each year the agency receives thousands of telephone and walk-in inquiries from individuals requesting information or wanting to pursue a charge of discrimination. The majority of these inquiries do not come within the jurisdiction of the Commission and these are referred to other agencies or organizations. In those cases in which the inquiry presents a claim within the Commission's jurisdiction, an intake officer assists the individual in filing a formal charge of discrimination.

The Commission took in a total of 382 cases in the fiscal year, representing a seven percent increase over FY 2009 (356). As in past years, disability-related claims predominated in this year's intake, with a total of 127 new cases (36 based on mental disability and 91 based on physical disability), accounting for over 33% of the annual intake. Age claims followed in number, with a total of 72 new cases, or nearly 19%, with sex-based claims following very closely at 68 and race claims at 59.

Intake by Basis of Discrimination		
TYPE	NUMBER	PERCENT OF TOTAL
Age	72	18.8%
Ancestral Origin	32	8.4%
Color only	0	0.0%
Familial Status	4	1.0%
Gender Identity or Expression	1	0%
Marital Status	0	0%
Mental Disability	36	9.4%
Physical Disabil-	91	23.8%
Race	59	15.4%
Religion	2	0.5%
Retaliation	7	1.8%
Sex	36	9.4%
Sexual Harassment	32	8.4%
Sexual Orienta-	10	2.6%
Status as a Vic-tim of Domestic Abuse	0	0%
TOTAL	382	100%

INTAKE FY 2010

	Employment	Housing	Public Accom.	Ind. with Disab.*	Credit	Totals
Age	71	1	0	NA	0	72
Ancestral Origin	21	10	1	NA	0	32
Color (only)	0	0	0	NA	0	0
Familial Status	NA	4	NA	NA	0	4
Gender Identity or Expression	1	0	0	NA	0	1
Marital Status	NA	0	NA	NA	0	0
Mental Disability	29	7	0	0	0	36
Physical Disability	66	11	7	7	0	91
Race	48	8	3	NA	0	59
Religion	2	0	0	NA	0	2
Retaliation	6	1	0	NA	0	7
Sex**	32	4	0	NA	0	36
Sexual Harassment	32	0	0	NA	0	32
Sexual Orientation	6	1	3	NA	0	10
Status as Victim of Domestic Abuse	NA	0	NA	NA	0	0
Total	314	47	14	7	0	382

*Figures in this column reflect charges filed solely under the Civil Rights of People with Disabilities Act.

**Other than sexual harassment

Investigations

Upon assignment, an investigator conducts an impartial investigation of the allegations and, after analyzing all elements of the case, makes a recommendation to a Preliminary Investigating Commissioner.

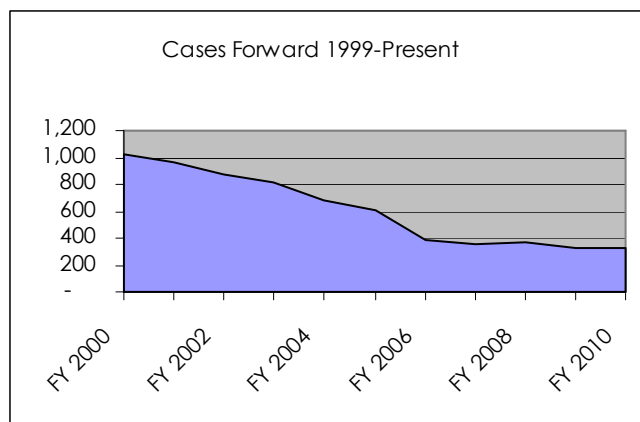
After the intake phase is completed and a formal charge of discrimination is filed, each case is assigned to an investigator. The average time from the filing of a charge to assignment to an investigator was six weeks or less. Most of the Commission's personnel resources are devoted to the investigation process. **Over 17% of case closures in FY 2010 resulted from settlements or conciliations.**

For those cases which do not settle, investigators use a variety of techniques to investigate the case. Often the investigators hold Predetermination Conferences where both complainants and respondents can present evidence to support or refute the allegations. The conferences are held before a Preliminary Investigating Commissioner. A case may involve the collection and analysis of comparative, statistical and/or direct evidence. Investigators may need to travel on-site to collect information and testimony pertinent to the charge. Not all investigations are alike. The individual characteristics of each case will influence an investigator's approach. **In furtherance of the investigative process, the Commission issued dozens of subpoenas in the fiscal year to**

compel the production of documents and witness testimony.

In FY 2010, a determination of "Probable Cause" was rendered in approximately 10% of cases. While the percentage of Probable Cause cases may seem low, it should be noted that many potential Probable Cause cases settle prior to a formal determination as to Cause and some cases in which the complainant requests a right to sue may be Probable Cause cases. **A "No Probable Cause" determination was rendered in approximately 40% of cases;** a significant number of these No Cause findings resulted from the complainant's failure to pursue her/his charge by responding to requests for information.

For the twelfth consecutive year, the Commission processed more cases than it took in (403 vs. 382), resulting in a continued decrease in the number of cases carried forward to the next fiscal year. "Processed" cases include cases in which a determination of Probable Cause is rendered. Although such cases are not yet closed, they are included in the list of case dispositions to provide an accurate view of the Commission's work.



Case Dispositions

TERMS AND DEFINITIONS

Administrative Closures	Includes cases closed for failure to locate/cooperate, no jurisdiction, charges withdrawn without benefits, receiverships, bankruptcies, and rights to sue issued when a respondent elects to have the case heard in Superior Court following a finding of probable cause.
Conciliation	Case settled after a finding of probable cause.
Decision and Order	Commission makes a finding after a hearing before the Commissioners. If the decision is for the complainant, remedies are ordered. If it is for the respondent, the case is dismissed.
Failure to Locate/ Cooperate	Case administratively closed because complainant could not be found or would not cooperate with the Commission.
Negotiated Settlement	Case formally settled prior to a finding.
No Jurisdiction	Case closed because the Commission has no jurisdiction over the matter.
No Probable Cause	Insufficient evidence exists to support the probability that the complainant was a victim of discrimination.
Probable Cause	Sufficient evidence exists to support the probability that the complainant was a victim of discrimination.
Right to Sue	Complainant is issued a Notice enabling her/him to take the case to court, and the Commission closes the case internally.
Withdrawal	Complainant decides not to pursue the case.
Withdrawal with Benefits	Complainant withdraws the case upon receiving a settlement from the respondent.

Status of Probable Cause Cases FY 2010

Probable Cause	41
Respondent's Election to Superior	22
Complainant's Election to Superior Court	1
Joint Elections	1
Other Closure	3
Open as of 6/30/10 [pending administrative hearing or other closure at the	14

Case Dispositions FY 2010

Type of Disposition	Dispositions
Decision and Order	5
Probable Cause	41
No Probable Cause	161
Conciliation	10
Negotiated Settlement	9
Withdrawal with Settlement	51
Right to Sue	85
Administrative Closure	41
Total	403

Administrative Hearings

After a “probable cause” ruling, a Commissioner conducts an administrative hearing during which sworn testimony is taken before a stenographer. A Decision and Order is rendered thereafter.

The administrative hearing process begins after the Preliminary Investigating Commissioner finds probable cause and the parties are unable to conciliate. (The parties have the statutory right, after a finding of probable cause, to elect to have the matter heard and decided in the Superior Court; in cases in which no such election is made, the agency’s administrative hearing process commences.) One Commissioner conducts the hearing with the assistance of Legal Counsel. At the hearing, which is less formal than a court trial, witnesses present sworn testimony and relevant exhibits are accepted. A stenographer makes a record of the entire proceeding. After the parties present all their evidence, at least three Commissioners decide the case and issue an order.

A typical hearing lasts from one to three days. For all parties involved, including the Commission, the administrative hearing can be a costly and time-consuming activity. Despite receiving no reimbursement for services rendered, Commissioners consistently held hearings.

Commission Hearings and Closures FY 2010

Cases in which Hearings were Held	5
Number of Hearing Days	16
Closures of Cases in Hearings	
Total Decision and Orders	5
Decisions for Complainant	3
Mixed Decisions	2
Written decisions on motions (These include motions to dismiss, discovery motions and motions on damages and attorney’s fees.)	15

The following are summaries of the Decision and Orders issued by the Commission in FY 2010:

Edwin Sanchez v. Wayne Carvalho
(September 3, 2009)

The complainant alleged that the respondent harassed him at work because of his ancestral origin, Hispanic. The Commission issued a Decision and Order finding that the respondent discriminated against the complainant by inciting an unlawful employment practice, obstructing an employer from complying with the Fair Employment Practices Act and attempting directly and indirectly to commit an unlawful employment practice.

The complainant and the respondent worked for the same employer. The complainant worked as a welder. He was the only Hispanic employee in the workplace. The Commission found that the respondent treated the complainant differently from other non-Hispanic co-workers. He used derogatory language about the complainant

and used his influence to isolate the complainant from other employees. On an almost daily basis, he called the complainant names such as “lowlife” and “rat”. He once said, in the complainant’s hearing, that Mexicans should all be shot and brought back to the border. The respondent took other steps to disturb and isolate the complainant. While the employer warned the respondent on several occasions to stop the harassment, the respondent continued to harass the complainant until the respondent left the workforce. The Commission found that the respondent subjected the complainant to a hostile and abusive work environment because of the complainant’s ancestral origin.

The Commission found that the respondent’s action caused the complainant great distress, including feeling depressed, headaches and sleeplessness. The Commission ordered the respondent to undergo training and to pay the complainant \$25,000 in compensatory damages, plus statutory interest. In a later decision on attorney’s fees, the Commission also ordered the respondent to pay the complainant’s attorney’s fees of \$2,441.20 plus statutory interest.

Thai-Ping Mays v. JDTK Food Services, LLC and Dennis Rochon (February 24, 2010)

The complainant alleged that the respondents discriminated against her with respect to terms and conditions of employment and termination of employment because of her disability. The Commission issued a Decision and Order which found that the respondents discriminated against the complainant

because of her disability in violation of the Fair Employment Practices Act and the Civil Rights of People with Disabilities Act.

The complainant applied for a job with JDTK Food Services, LLC, a company which provided food services for employees at the Corliss Street Post Office. She has had severe vision impairments since birth. Dennis Rochon was operator of JDTK Food Services, LLC. Mr. Rochon hired the complainant and on the complainant’s first day of work, he asked her to operate the cash register without giving her any specific training on the cash register. The cash register was an older model and the buttons and numbers were faded. The complainant could not distinguish the numbers. Mr. Rochon took over the cash register during the break time rush. When the rush was over, Mr. Rochon asked the complainant if she had a vision impairment. The complainant told him that she was blind in her left eye. The complainant told Mr. Rochon that the numbers on the cash register were fading and she couldn’t make them out. Mr. Rochon said that that was all that he had and that he could not use the complainant. The complainant had experience with other food service positions and had operated a cash register in the past. The complainant asked if she could work on the grill. Mr. Rochon said no, he needed employees to be able to work both jobs. Mr. Rochon gave the complainant \$10 and said that he was sorry.

The complainant had left her prior employment to take the job with the respondents. She was unable to find other employment for three months after the respondents terminated her em-

ployment and that employment was for fewer hours than the hours scheduled at the respondents. The termination upset her and caused her to have low self-esteem and to feel depressed. It made her think that people will look at her differently because of her disability.

The Commission found that the complainant proved that she was a qualified individual who was terminated by the respondents because of her disability. The Commission also found that the respondents denied the complainant a reasonable accommodation and terminated her because of her need for an accommodation. The respondents knew of the complainant's disability and terminated her instead of trying to work out a reasonable accommodation that would allow her to utilize her experience to perform the job. The Commission awarded the complainant \$9,984 in back pay, \$1,200 in compensatory damages for pain and suffering and statutory interest. The Commission ordered that Mr. Rochon and JDTK Food Services, LLC supervisors receive training on state and federal anti-discrimination laws. In a later decision, the Commission ordered the respondents to pay the complainant's attorney's fees of \$2,660 and \$6.10 in costs plus interest.

Commissioner Alberto Aponte Cardona filed a dissenting opinion.

Henry Blaine Gaffney and Charlean S. Gaffney v. Town of Cumberland, Cumberland Zoning Board of Review and Thomas M. Bruce, III, Finance Director (March 12, 2010)

This complicated housing discrimination case was heard at the Commission,

appealed to the Superior Court, remanded to the Commission, decided at the Commission anew and is on appeal to the Superior Court again.

The complainants' allegations were that the respondents had interfered with their rights to own, enjoy and utilize their property free from discrimination due to race and color, in violation of the Fair Housing Practices Act. In deciding the March 2010 decision, the Commission re-analyzed the previous evidence and reviewed the memoranda of the parties, utilizing the directives from the Superior Court decision on the appeal of the previous decision. The Commission found that the complainants did not prove that the Zoning Board of Review had committed an unfair housing practice. The Commission found that the complainants proved that the Town of Cumberland discriminated against them on the basis of race and color by subjecting them to disparate treatment in the Planning Board process. The complainants sought approval of a subdivision of their property. The Commission found that the Planning Board treated the complainants differently than white applicants for property subdivision. The Planning Board gave preliminary approvals for the complainant's subdivision while requiring the complainants to conduct additional tests and provide additional plans. While giving these preliminary approvals, the Planning Board did not have the authority to give the complainants approval given the circumstances of their property, which were apparent from the start. The Planning Board did not direct the complainants to the correct process for getting approvals. The preliminary approval stages were designed to inform appli-

cants if their plans could not be approved so that the applicants would not spend time and money on projects that were not feasible. A Planning Board member testified that the Planning Board did not approve subdivisions under circumstances such as the circumstances of the complainants. A Planning Board staff member testified that other applicants, in similar circumstances, were told that their applications could not be approved and that the Planning Board members in general were very strenuous in saying that they would not waive the regulations in question. The respondents did not offer a reason why the complainants were given approval at a number of preliminary stages and given various conditions to be met to gain approval when the Planning Board could not grant approval of the subdivision under the circumstances. The Commission found that the Planning Board's disparate treatment of the complainants cost them extra time and money.

The Commission ordered that the Planning Board and staff be trained on state and federal fair housing laws and that the Town of Cumberland post the Commission fair housing poster prominently in all town offices that deal with issues relating to housing accommodations. The Commission provided that it would hold a hearing on the proper award of damages.

Livia G. Almeida v. AM Donuts, Inc d/b/a Dunkin' Donuts and Vanessa Silva (June 11, 2010)]

In this employment discrimination case, the complainant alleged that the respondent had discriminated against her because of her mental disability with respect to terms and conditions of

employment and termination. The Commission found that the complainant did not prove discrimination in termination as she testified that the manager terminated her because she did not want the complainant working a second job with a supervisor that the manager did not like. The Commission found that the respondents discriminated against the complainant with respect to terms and conditions of employment, finding, among other things, that the manager cashed the complainant's checks and gave her a reduced amount, saying that the cash register was "short", and that the manager took training tests for the complainant. The manager failed to accommodate the complainant's disability in that she denied the request that the complainant work no night shifts even though she knew that the complainant's disability was exacerbated by night work.

The Commission ordered that the Ms. Silva and the supervisors of AM Donuts, Inc. be trained on state and federal anti-discrimination laws and that AM Donuts, Inc. post the Commission anti-discrimination poster. The Commission provided that it would hold a hearing on the appropriate award of damages.

Paul J. Medeiros v. R & D Roofing, Inc. and Roger Pratas (June 30, 2010)

The complainant alleged that the respondents discriminated against him by terminating him because of his disability. The respondents terminated the complainant within a week of the complainant giving the respondents a Disability Certificate which stated that the complainant would be incapacitated for four weeks because of back pain. The Commission found that the

complainant proved that the respondents perceived him to have a disability and that the respondents terminated him because they perceived him to have a disability.

The Commission ordered that Mr. Pratas and the supervisors of R & D Roofing, Inc. be trained on state and federal anti-discrimination laws and that the respondents post the Commission anti-discrimination poster. The Commission awarded the complainant \$31,241,54 in back pay and statutory interest.

Commissioners John B. Susa and Nancy Kolman Ventrone dissented from the Decision and Order.

The Commission at the Courts

The Commission continues to take steps to enforce Commission Decision and Orders and to pursue litigation in court where statutorily authorized to do so. Following are some highlights from Fiscal Year 2010:

Evora v. Atturio, Colony Personnel, et al.

A Commission-originated charge was brought against a Warwick, RI based employment agency and its two principal officers, alleging employment discrimination based on race, ancestral origin and disability. During the course of the investigation, the Commission investigator sought to obtain documentary information from the respondents, but was refused. The Commission issued a subpoena and the respondents

filed a Motion to Quash the subpoena rather than produce the documents.

A hearing was held before the Commission on the respondents' Motion to Quash, and a decision was entered that, with limited modifications, upheld the subpoena. The respondents thereafter filed an appeal of the Commission decision to the Superior Court. After the filing of memoranda of law and oral argument, the Superior Court, in a written decision, upheld the decision of the Commission, with one slight modification.

Specifically, the Superior Court upheld the right of the Commission to obtain the requested information in employees' personnel files. Even medical information was to be produced, provided that this information was not submitted directly to the respondent from a covered medical provider. The Court went on to hold that the fact that the Commission was obtaining personal information in personnel files did not violate the privacy rights of the individual employees even though they were not parties to the matter before the Commission or the case before the Court, given that the investigative information would not be public.

The respondents petitioned the Supreme Court for issuance of a Writ of Certiorari to review the decision of the Superior Court but the Supreme Court denied the petition. *Atturio v. Evora*, CA No. KC 08-0807, 2009 R.I. Super LEXIS 31 (R.I. Super. Ct. 2009), *cert. denied*, R.I. Supreme Court No. 10-22-M.P. (May 6, 2010)

Christopher Antonelli Bankruptcy

Shortly after the Commission entered a

Fair Housing Overview

Decision for the complainant on damages in the Commission matter of *DeAngelis v. Antonelli, et al.*, the respondent, Mr. Christopher Antonelli, filed a Chapter 7 Petition in Bankruptcy Court. He included the Commission as a creditor on his petition and listed the amount awarded in damages to the complainant as one of his debts. A Commission attorney attended the first meeting of creditors and advised the Trustee of Bankruptcy of certain facts that the Trustee considered sufficient to warrant a continuation of the hearing to examine Mr. Antonelli and to have him produce documents to the court. Counsel for Ms. DeAngelis and Commission counsel appeared before the Trustee in Bankruptcy and the meeting of creditors.

Counsel for complainant DeAngelis filed an independent action in the Bankruptcy Court contesting the dischargeability of the Commission award. Ms. DeAgnelis argued that the respondent had intentionally discriminated against her, and that the respondent's actions were in the nature of an intentional tort. Judge Votolato of the Bankruptcy Court, ruled that the Decision and Order of the Commission set forth sufficient facts for the Bankruptcy Court to find that the actions of the respondent in discriminating against Ms. DeAngelis were intentional, and therefore, the Commission award of damages was not dischargeable in bankruptcy. *In the Matter of Antonelli*, A.P. No. 09-1013, _B.R._ (Bankr. D.R.I., May 19, 2010).

Emotional Support Animals

When first passed, the Federal Fair Housing Act offered no protection against discrimination in housing to persons with mental disabilities. Subsequent passage of the Americans with Disabilities Act, the Rehabilitation Act of 1973 and, finally, the Fair Housing Amendments Act of 1988 afforded persons with disabilities the right to seek a reasonable accommodation to a housing provider's policies when that accommodation would provide them with an equal opportunity to use and enjoy the dwelling. The RI Fair Housing Practices Act tracks federal law.

Individuals with mental disabilities may face particular issues in obtaining acceptable housing; issues that, if not resolved, would result in the denial of an equal opportunity to use and enjoy the housing. One such issue that has risen frequently in fair housing cases, is the acceptance of emotional support animals in no-pet housing.

For some individuals, having an emotional support animal may assist in alleviating the symptoms of their mental disability. Emotional support animals under the Fair Housing Amendments Act of 1988 are distinguished from service animals under the Americans with Disabilities Act, as the former need not have disability-specific training. Emotional support animals are part of a medical plan to treat

mental disabilities.

Under well-settled law, applicants for an accommodation to a housing policy to allow them to keep an emotional support animal must show that they have a disability, make it known that they need a reasonable accommodation and illustrate that the animal is necessary for them to have an equal opportunity to use and enjoy the housing.

An emotional support animal cannot be classified as a “pet” and, therefore, pet policies and regulations are not applicable to them. Pet policies and regulations usually refer to height, weight, breed of the animal, damage deposits, etc.

Commission Workload

The population of Rhode Island in 2010 was 1,069,725. Under guidelines established by the United States Department of Housing and Urban Development (HUD), a state having a population of up to 1,500,000 residents should, on average, receive and process up to 15 fair housing complaints per year. The Commission received and processed 49 complaints in FY 2010, which is equivalent to HUD’s estimated average workload of a state having a population of about 4,500,000 residents.

Civil Prosecutor

In compliance with the Commission’s contract with HUD, an existing staff member will serve as the Civil Prosecutor in housing cases. The responsibility of the Civil Prosecutor will be to present evidence of discrimination, whether in a hearing before the Commission itself, or in the Superior

Court, when the Commission has found probable cause to believe that discrimination has occurred.

Resolution of Fair Housing Complaints

From the time a charge is filed and the investigation commences, the Commission seeks to amicably resolve all pending matters. The goal of settling complaints continues even if a case is filed in Superior Court. Resolutions in the past have ranged from allowing emotional support animals into a unit, providing a letter of recommendation to a new landlord, assisting with the portability of a Section 8 Housing Voucher, making structural modification of a building to insure accessibility, dismissing pending eviction proceedings and, in some cases, the payment of damages. At times, complainants agree to dismiss their charges once shown that the actions of the landlord were not discriminatory.

HOUSING INTAKE/PROCESSING—10 YEAR VIEW				
FY	INTAKE	DUAL FILED*	STATE ONLY	PROCESSED
2010	47	41	6	40
2009	63	55	8	71
2008	59	53	6	43
2007	43	39	4	45
2006	50	40	10	47
2005	32	25	7	33
2004	47	38	6	44
2003	25	21	4	36
2002	27	24	3	31
2001	21	18	3	30

*cases co-filed with the U.S. Department of Housing and Urban Development

Caseload Statistics

AGED CASE REDUCTION

FY 2010 saw a continuing reduction in the number of cases considered “aged” under federal EEOC guidelines. Thanks to the diligent efforts of Commissioners, staff and interns, **the aged caseload was reduced by 33.3% in FY 2010.**

SLIGHT INCREASE IN CASE PROCESSING TIME

In recent years, the Commission has labored to ensure more expeditious processing of cases. The “hands on” role Director Evora has taken in overseeing caseload management, concerted staff efforts and the use of the Commission’s subpoena power to expedite stalled investigations are among the tools used to achieve success in this area. The average age of cases closed in FY 2003 exceeded three years. By FY 2006, that time had been decreased to 423 days. For FY2009, the average age of a case at closure was 337 days. **FY 2010 saw a slight increase in the average age of a case at closure, from 337 to 366 days. The Commission attributes this increase to its inability to fill a 0.5 investigative FTE which has been vacant since August 2009; having one less Investigator has forced more cases to remain backlogged for longer periods of time, thereby leading to an increase in case age.**

SLIGHT DECREASE IN CASE PROCESSING

While the Commission was able, for the twelfth consecutive year, to process more cases than it took in (403 vs. 382), **the agency processed nine percent fewer cases in FY 2010 than it did in FY 2009 (403 vs. 446).** As with the slight increase in case processing time, the Commission attributes this decrease to its inability to fill a 0.5 investigative FTE which has been vacant since August 2009; **having less investigative staff adversely affects the Commission’s ability to process cases.**

The increase in case processing time and decrease in the number of cases processed in FY 2010 underscore the critical need to have all investigative FTEs filled at all times.

Outreach

DATE	TOPIC	LOCATION/ GROUP
7/13/2009	Commission Overview and Interactive Discussion on Discrimination—Part 1	YearUp—Providence
7/14/2009	Commission Overview and Interactive Discussion on Discrimination—Part 2	YearUp—Providence
7/22/2009	Fair Housing and the HUD Consolidated Plan	HUD Consolidated Plan Working Group (coordinated by RI Housing)—Providence
8/05/2009	Commission Overview—Discussion of Sexual Orientation and Gender Identity	PFLAG (Parents and Friends of Lesbians and Gays), Providence Chapter—Met School, Providence
8/10/2009	Commission Overview and Sexual Harassment Education	Federal Hill House—Providence
9/18/2009	Commission Participation	WRNI—“Political Roundtable” segment—1290 AM
9/22/2009	Commission Overview and Sexual Harassment Education	The Beta Group—Lincoln
10/2009	Commission Overview—Interview/Article	Options Magazine—October 2009 Issue
10/03/2009	Commission Overview—Q&A re: Sexual Orientation	RI Gay/Straight Alliance Conference—Moses Brown School, Providence
10/20/2009	Commission Overview	RI Department of Corrections—Cranston
10/27/2009	Fair Housing Overview	Kent/Washington County Realtors—East Greenwich
12/01/2009	Commission Overview and Sexual Harassment Education	East Greenwich Town Hall (employees from various departments)
1/12/2010	Commission Overview & Interactive Discussion on Discrimination—Part 1	YearUp—Providence
1/14/2010	Commission Overview and Interactive Discussion on Discrimination—Part 2	YearUp—Providence
1/28/2010	Commission Overview, Sex Discrimination	“Gender and Law” class at Roger Williams University School of Law—Bristol
2/03/2010	Commission information; internship recruitment	Community Services Opportunities Fair—Brown University, Providence
2/04/2010	Commission Participation	“Political Roundtable” segment-WRNI, 1290 AM
2/18/2010	Fair Housing	Housing Hotline—Newport
2/25/2010	Panel on Compliance with Disability Laws in Employment	RI Business Leadership Network—Johnston
2/25/2010	Sexual Harassment/Sexual Orientation Discrimination	“Gender and Law” class at RWU School of Law—Bristol
3/26/2010	Observation and Commentary/Review of Training	RI Municipal Police Training Academy—CCRI, Lincoln
4/06/2010	Fair Housing	Taubman Center for Public Policy—Brown University, Providence
4/07/2010	Commission Overview, Sexual Harassment (training for new state employees)	State of Rhode Island/Department Of Administration
4/12/2010	Commission Overview and Sexual Harassment Education	Social Work and the Law class—Rhode Island College, Providence
4/22/2010	Fair Housing	Martin Luther King Center—Newport
4/26/2010	Fair Housing	Senior Seminar, Department of Sociology—URI
6/02/2010	Developments in Employment Law	Labor and Employment Committee of RI Bar Association—RI Law Center, Providence

Federal Agreements

U.S. Equal Employment Opportunity Commission

The Commission has been certified by the U.S. Equal Employment Opportunity Commission (EEOC) as a Fair Employment Practices Agency since 1968. Consistent with Section 706 of the Civil Rights Act of 1964, the Commission is authorized to process charges of employment discrimination which fall under federal as well as state jurisdiction (co-filed). Each year, the Commission enters into a work-sharing agreement with EEOC under which the Commission is expected to investigate a predetermined number of cases. EEOC reimburses the Commission at a fixed rate for each case closed in compliance with the guidelines spelled out in the agreement. This year, the Commission met its contractual obligation by closing 217 co-filed cases.

U.S. Department of Housing and Urban Development

The Commission continued its relationship with the U.S. Department of Housing and Urban Development (HUD) as defined under the federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968. The Commission enters into an annual contract with HUD for fixed-rate reimbursement for the processing of housing cases filed under both state and federal law. The Commission processed 48 charges of alleged housing discrimination, 41 of which were co-filed with HUD, and took in 47 charges, 41 of which were co-filed with HUD.

FEDERAL FUNDS RECEIVED, FY 2010		
EEOC*	Case Processing	\$138,050
	Training/ Transportation	\$1,400
HUD*	Case Processing	\$97,848
	Administrative Costs	\$20,000
	Training	\$14,000
TOTAL		\$271, 298

*EEOC's fiscal contract year was October 1, 2009 to September 30, 2010. HUD's contract year was July 1, 2009 to June 30, 2010.

Affirmative Action

The Commission's commitment to affirmative action remains constant. In addition to promoting its internal affirmative action plan, the Commission routinely engages in endeavors geared to enrich and diversify the Rhode Island community. Staff members are available to participate in seminars and conferences that address affirmative action as it relates to the Commission's work.

COMMISSION WORKFORCE PROFILE		
Category	Employees	Percent
Total Employ-	14	100
Women	9	64
Racial/Ethnic Minorities	6	43

Interns

Each year, high school, college, graduate students and recent graduates receive first-hand experience in the Commission's primary functions through the intern program.

Interns assist in investigations, conduct legal research, perform clerical duties and work independently through a structured program. For their work, interns may earn college credits, stipends through work-study grants, and/or receive compensation from the state Government Internship Program.

FALL 2009

Jee Hyun Choi	Brown University
Vincent DeJesus	University of Rhode Island
Christopher Gordon	Providence College
Shealyn Molina	Shea High School
Andrew Stitt	CCRI
Ryan Yablonski	URI

SUMMER 2010

Kaila Baer	Drew University
Amanda Crawford	RWL
Kathy Do	Brown University
Christopher Gerlica	RWL
Anna Jouravieva	Brown University
Andrea Kelly	Providence College
Tu Le	Brown University
Amanda Pereirra	Clasical High School
Joseph Rosner	Brown University
Rob Silva	UMass Dartmouth
Aran Valente	URI

SPRING 2010

Scott Clark	Roger Williams University School of Law (RWL)
Justin Coles	Brown University
Colleen Conway	RWL
Eduardo DeSousa	Rhode Island College
Elena Goldstein	Brown University
Ryan McCray	CCRI
Solmaz Sahaddi	RWL
Kate Sapirstein	Brown University
Yuri Tomikawa	Brown University

Recognitions

From September 26th through 30th 2010, the Scituate and Massachusetts Rotary Clubs co-hosted an Open World Program Delegation from Moldova. The Open World Program is a Congressionally-sponsored program that brings emerging leaders from Russia, Ukraine, and other Eurasian states to the United States to give them first hand exposure to the American system of democracy and free enterprise. The Delegation was composed of mid-and high-level government officials and a professional interpreter. The focus of this visit was on political ethics and ways to deal with political corruption. The Commission hosted the delegation on Monday, September 28th, and provided an overview of our agency, its mission, and its operation.

In November 2009, Commission Investigator Stephen W. Strycharz was elected to a three-year term as President of Local 2884 Amalgamated of AF-SCME Rhode Island Council 94. In this capacity, he represents the interests of union members in 16 state government agencies and one quasi-governmental agency.



O c t o b e r 2 0 0 9 —
Commissioner Camille Vela-Wilkinson was appointed Vice-Chairperson of the Providence Commission to Study Tax Exempt Institutions.



J a n u a r y 2 0 1 0 —
Commissioner Iraidia Williams was named as a Trustee for the RI School for the Deaf and Hard of Hearing. As a Trustee, she will represent the interests of parents of hearing-impaired children.