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INDIANA
CIVIL RIGHTS COMMISSION

BEFORE THE STATE OF INDIANA
CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF JULY 20, 2012

ORIGINAL

PROCEEDINGS

in the above-captioned matter, before the Indiana
Civil Rights Commission, David C. Carter,
Chairman, taken before me, Lindy L. Meyer, Jr., a
Notary Public in and for the State of Indiana,
County of Shelby, at the Indiana Government
Center South, Conference Center, Room A, 402 West
Washington Street, Indianapolis, Indiana, on
Friday, July 20, 2012 at 11:04 o'clock a.m.

- - -

William F. Daniels, RPR/CP CM d/b/a
ACCURATE REPORTING OF INDIANA
12922 Brighton Avenue
Carmel, Indiana 46032
(317) 848-0088

1 APPEARANCES:

2 COMMISSION MEMBERS:

3 David C. Carter
4 Steven A. Ramos
5 Barry Baynard
6 Tehiji G. Crenshaw
7 Charles D. Gidney

8 INDIANA CIVIL RIGHTS COMMISSION
9 By Jamal Smith, Director/Secretary
10 & Joshua Brewster, Dep. Director
11 Indiana Government Center North
12 100 North Senate Avenue, Room N103
13 Indianapolis, Indiana 46204
14 On behalf of the Commission.

15 OTHER COMMISSION STAFF PRESENT:

16 Robert D. Lange
17 Pamela Cook
18 Debbie Rincones-Chavez

19 - - -

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21
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1 11:04 o'clock a.m.
2 July 20, 2012

3 CHAIRMAN CARTER: I'll call the
4 July -- what month are we in -- July meeting of
5 the Indiana Civil Rights Commission to order. We
6 do have a quorum, and you have in your packet or
7 have gotten the minutes, presumably, and may I
8 have a motion to accept that, please?

9 COMM. GIDNEY: So moved.

10 COMM. CRENSHAW: Second.

11 CHAIRMAN CARTER: All in favor?

12 COMM. RAMOS: Aye.

13 COMM. CRENSHAW: Aye.

14 COMM. BAYNARD: Aye.

15 COMM. GIDNEY: Aye.

16 CHAIRMAN CARTER: Thank you.

17 The Financial Report, Ms. Cook.

18 MS. COOK: Good morning.

19 CHAIRMAN CARTER: Good morning.

20 MS. COOK: I am pleased to report
21 that we just did get into the reversion of the
22 three percent for this year, with a little bit
23 additional, so we -- in total we've reverted

1 approximately 73,000, which includes the three
2 percent.

3 CHAIRMAN CARTER: Okay.

4 Are there any questions --

5 COMM. GIDNEY: No.

6 CHAIRMAN CARTER: -- about the
7 financial report?

8 (No response.)

9 CHAIRMAN CARTER: I don't know, just
10 for show, may I have a motion to accept the
11 Financial Report?

12 COMM. RAMOS: So moved.

13 COMM. BAYNARD: Second.

14 CHAIRMAN CARTER: All in favor?

15 COMM. RAMOS: Aye.

16 COMM. CRENSHAW: Aye.

17 COMM. BAYNARD: Aye.

18 COMM. GIDNEY: Aye.

19 CHAIRMAN CARTER: There. Thank you.

20 Old Business. Report by Commissioners on
21 Complainant Appeals.

22 Comm. Crenshaw.

23 COMM. CRENSHAW: In the case of

1 Sherry Ogden versus Patriot Municipal Utility,
2 I'd like to make a motion -- I'd like to make a
3 motion to reverse this case to probable cause, on
4 the basis of the company did not handle or either
5 follow proper procedure regarding dismissal of
6 its employee.

7 COMM. BAYNARD: Question.

8 COMM. CRENSHAW: Uh-huh.

9 COMM. BAYNARD: Is this a retaliation
10 case?

11 COMM. CRENSHAW: No, this is a sexual
12 harassment case -- or termination based upon sex.

13 COMM. BAYNARD: I think I may have
14 part 1 or part 2 of this same case.

15 COMM. CRENSHAW: Okay. So, I have
16 part 3 or part --

17 MS. RINCONES-CHAVEZ: Part 3 isn't in
18 this.

19 MR. LANGE: Procedurally speaking, we
20 do have to issue a notice of intention to
21 reverse --

22 COMM. CRENSHAW: Okay.

23 MR. LANGE: And that goes out to the

1 parties, and Respondent gets an opportunity to
2 respond.

3 COMM. CRENSHAW: So, then I make a
4 motion --

5 MR. LANGE: And then they -- to issue
6 a notice that we do intend to reverse.

7 COMM. CRENSHAW: So, I'd like to make
8 a motion --

9 MR. LANGE: That we intend --

10 COMM. CRENSHAW: -- that I intend to
11 reverse --

12 MR. LANGE: -- to issue a notice of
13 intent --

14 COMM. CRENSHAW: -- notice of intent
15 to reverse the decision.

16 CHAIRMAN CARTER: Okay. But we don't
17 vote on that. It would just --

18 MR. LANGE: No, you really don't, you
19 don't need to vote.

20 CHAIRMAN CARTER: Okay. Then I'll
21 move on to my case, Shuqin Gao versus Meijer,
22 Inc. I recommend that we send -- we remand the
23 case for further investigation, because Meijer

1 doesn't seem to have gone through the steps its
2 own policy says it will go through in such a case
3 before firing an employee, and that it seemed to
4 me that they were taking the easy road by not
5 explaining to a person with limited English what
6 their policy was, instead of just assuming that
7 she would know what the policy was.

8 May I have a motion to accept that?

9 COMM. RAMOS: So moved.

10 CHAIRMAN CARTER: -- recommendation?

11 And a second?

12 COMM. CRENSHAW: Second.

13 CHAIRMAN CARTER: All in favor?

14 COMM. RAMOS: Aye.

15 COMM. CRENSHAW: Aye.

16 COMM. BAYNARD: Aye.

17 COMM. GIDNEY: Aye.

18 CHAIRMAN CARTER: Any opposed?

19 (No response.)

20 CHAIRMAN CARTER: Okay. Thank you.

21 Comm. Ramos.

22 COMM. RAMOS: In the case of Janet

23 Clark versus the City of Crawfordsville, I

1 recommend that we uphold the finding of the
2 Director of no probable cause.

3 CHAIRMAN CARTER: Okay. May I have a
4 motion to accept that recommendation?

5 COMM. BAYNARD: So moved.

6 CHAIRMAN CARTER: And a second?

7 COMM. CRENSHAW: Second.

8 CHAIRMAN CARTER: All in favor?

9 COMM. RAMOS: Aye.

10 COMM. CRENSHAW: Aye.

11 COMM. BAYNARD: Aye.

12 COMM. GIDNEY: Aye.

13 CHAIRMAN CARTER: Any opposed?

14 (No response.)

15 CHAIRMAN CARTER: Do we have word
16 from Comm. Garcia?

17 MS. RINCONES-CHAVEZ: No.

18 CHAIRMAN CARTER: Okay. We will
19 continue that case.

20 Or from Comm. Blackburn?

21 MS. RINCONES-CHAVEZ: No.

22 CHAIRMAN CARTER: No; okay. We'll
23 continue that case.

1 Comm. Baynard?

2 COMM. BAYNARD: Yes. In the case of
3 Sherry Ogden versus Patriot Municipal Utility, I
4 would recommend to the Commission that we uphold
5 the Deputy Director's finding of no probable
6 cause.

7 CHAIRMAN CARTER: May I have a motion
8 to accept that recommendation?

9 COMM. RAMOS: So moved.

10 CHAIRMAN CARTER: Second?

11 COMM. CRENSHAW: Second.

12 CHAIRMAN CARTER: All in favor?

13 COMM. RAMOS: Aye.

14 COMM. CRENSHAW: Aye.

15 COMM. BAYNARD: Aye.

16 COMM. GIDNEY: Aye.

17 CHAIRMAN CARTER: Any opposed?

18 (No response.)

19 CHAIRMAN CARTER: Okay. Thank you.

20 New Business. Assignment of new appeals,
21 Comm. Crenshaw, if you would review Connie Brown
22 verses Patterson Logistic Services; I will review
23 Karey Coleman versus Shell Gas Station doing

1 business as Big K; and Comm. Baynard, Anthony
2 McNair versus Richard L. Roudebush VAMC Hospital,
3 and Gina Stacey versus Wellstone Regional
4 Hospital; and Comm. Gidney, if you would review
5 Larry Artrip versus Wallick Construction Company,
6 Wallick Properties Midwest; and Comm. Ramos,
7 Maria Taylor versus Family Development Services,
8 those are two case, both with the same name,
9 different numbers. Thank you.

10 Findings of Fact, Conclusions of Law and
11 Order, there are five cases. May I have a motion
12 to accept those five cases, please?

13 COMM. GIDNEY: So moved.

14 COMM. CRENSHAW: Second.

15 CHAIRMAN CARTER: All in favor?

16 COMM. RAMOS: Aye.

17 COMM. CRENSHAW: Aye.

18 COMM. BAYNARD: Aye.

19 COMM. GIDNEY: Aye.

20 CHAIRMAN CARTER: Any opposed?

21 (No response.)

22 CHAIRMAN CARTER: Thank you.

23 There are no Consent Agreements, which

1 then brings us to the Administrative Update.

2 MR. BREWSTER: Well, just a few
3 things. We did have some coverage in the media
4 recently about a case with probable cause
5 involving a service animal in training that was
6 allegedly denied access to a gas station in
7 Indianapolis. I think it's important that we are
8 getting some coverage on disability issues and
9 the rights of people to have access to places of
10 public accommodation, housing, employment,
11 et cetera, so that was good.

12 Let's see. Of course, we -- as of
13 July 1st, we have now four cultural commissions
14 housed within our agency. The Commission on
15 Hispanic and Latino Affairs, Danny Lopez, the
16 Executive Director, he's actually been over there
17 for probably a year or more now.

18 But in addition to him, we now have -- and
19 this was by statute, House Enrolled Act
20 No. 1002 -- put the Indiana Commission for Women
21 in our office as well as the Indiana Native
22 American Indian Affairs Commission, which
23 currently has no director. I don't believe they

1 actually have a full commission at this point.
2 Indiana Commission on Social Status of Black
3 Males, Mr. James Garrett, Executive Director,
4 is -- they're now housed within our office, so
5 that seems to be going well.

6 COMM. RAMOS: Ms. Garvey is there,
7 too?

8 MR. BREWSTER: Yes, yes, the --
9 Mr. Garrett and Kristin Garvey are both in our
10 office, and they have -- all of our -- we're
11 working to rearrange things to make them
12 comfortable there.

13 (Mr. Smith arrived.)

14 MR. BREWSTER: As far as outreach
15 activities, you kind of have a list of what we
16 did there. In July, this past week, we had the
17 Governor's reception for the Indiana Black Expo,
18 the employment opportunity fair is ongoing. We
19 were also the presenting sponsor at the Statewide
20 Education Conference yesterday, and Jamal, I
21 believe, and some others are over currently at
22 the corporate luncheon.

23 MS. RINCONES-CHAVEZ: He just came

1 in.

2 MR. BREWSTER: Oh, there he is. I
3 guess not; he's in the room.

4 CHAIRMAN CARTER: He hasn't left the
5 building.

6 MR. BREWSTER: Okay. Next month we
7 have some fair housing training in Terre Haute.
8 We also have a CLE here, I think it's actually on
9 the same day as our Commission meeting,
10 August 24th. It will be in this same facility,
11 in one of these rooms, about -- in cooperation
12 with the Department of Education, the civil
13 rights in education. No --

14 Mr. Smith, do you have anything to add on
15 that?

16 MR. SMITH: I'm not sure if you
17 mentioned the cultural commissions.

18 MR. BREWSTER: Yes.

19 MR. SMITH: Outreach. That's it.

20 COMM. RAMOS: Did he say Colts
21 Commission or cultural?

22 MR. BREWSTER: Cultural.

23 MR. SMITH: Cultural. That was that

1 one.

2 MR. LANGE: We won't get the Colts
3 Commission.

4 CHAIRMAN CARTER: If these cases
5 start coming in with service dogs, not just dogs,
6 though, the new -- the 2010 revision of the ADA
7 includes a greater latitude of service animals,
8 including a special section for miniature horses.

9 MR. BREWSTER: Yes. I haven't seen
10 any.

11 (Mr. Smith departed.)

12 CHAIRMAN CARTER: That will
13 complicate life for some people.

14 MR. BREWSTER: I haven't seen any
15 cases on miniature horses yet, though.

16 CHAIRMAN CARTER: I don't know how
17 that got in there or where it is that --

18 MR. BREWSTER: It's the enlarged
19 miniature horse lobby.

20 CHAIRMAN CARTER: It must be. Thank
21 you.

22 MR. LANGE: Not a great difference
23 between a horse -- a miniature horse and a dog.

1 CHAIRMAN CARTER: Not in size.

2 MR. LANGE: No.

3 CHAIRMAN CARTER: But in -- I don't
4 know. I don't know how easy it is to housebreak
5 a horse.

6 MR. LANGE: I don't either.

7 MR. BREWSTER: What about their feet?
8 Do you like put shoes on them, like a normal
9 horse?

10 CHAIRMAN CARTER: Sneakers, so they
11 don't scuff up the floor.

12 (Laughter.)

13 COMM. RAMOS: And they're trained to
14 assist people?

15 CHAIRMAN CARTER: Yeah.

16 MR. LANGE: Yeah, they're trained to
17 be --

18 CHAIRMAN CARTER: There's more to
19 service dogs than just guide dogs for the blind.

20 COMM. RAMOS: Sure.

21 CHAIRMAN CARTER: There are dogs that
22 are trained to recognize the onset of seizure
23 disorder.

1 COMM. RAMOS: Uh-huh.

2 MR. BREWSTER: But I think with that
3 case, it was important to note that that law
4 covers not just service animals that are trained,
5 but service animals that are being trained.

6 CHAIRMAN CARTER: Being trained.

7 MR. BREWSTER: And that includes also
8 employment. There's some -- our own statute
9 requires that employees -- or employers allow
10 employees who are training service animal to have
11 them in the place, even if that employee's not
12 disabled.

13 CHAIRMAN CARTER: Well, yeah, that --
14 there's an interesting wrinkle to the third part
15 of the definition of disability is a person who's
16 perceived as having a disability. If a person is
17 acting in the roll of a person with a disability
18 for training purposes --

19 MR. BREWSTER: Right.

20 CHAIRMAN CARTER: -- that's a kind of
21 perception.

22 MR. BREWSTER: Yeah, I suppose.

23 MR. LANGE: It would be easy to

1 perceive such a person as disabled.

2 CHAIRMAN CARTER: You have to wait
3 for the case -- well, I know when we have taken
4 people out, like public works people in
5 wheelchairs for an awareness thing and making
6 them go up and down the curb cuts that they
7 themselves built.

8 MR. LANGE: Uh-huh.

9 CHAIRMAN CARTER: When they've done
10 it bad, they -- one of the things they all said
11 was that suddenly they realized that people were
12 looking at them and the people didn't know they
13 weren't really required to be in a wheelchair, so
14 they felt different about --

15 MR. LANGE: Being looked at?

16 CHAIRMAN CARTER: -- being in a
17 wheelchair than they thought they would.

18 Okay. Any other questions about the
19 Administrative Update or anything else?

20 (No response.)

21 CHAIRMAN CARTER: Announcements?

22 (No response.)

23 CHAIRMAN CARTER: I would like to

1 announce that I believe this Friday, but in any
2 case, the 26th, which is in six days -- that
3 wouldn't be Friday, would it?

4 MR. LANGE: Thursday.

5 CHAIRMAN CARTER: Thursday is the
6 22nd anniversary of the ADA, speaking of.

7 COMM. RAMOS: Isn't that something?
8 Time flies.

9 CHAIRMAN CARTER: It's '12, and it
10 was signed in '0 --

11 MR. LANGE: It went into effect
12 in '92.

13 CHAIRMAN CARTER: '92.

14 COMM. RAMOS: Are there any events
15 planned?

16 CHAIRMAN CARTER: Well, there are
17 sporadic -- there's nothing that I know of, no
18 official thing, but I think there will probably
19 be a Presidential proclamation and various
20 proclamations around.

21 In Bloomington we're doing the whole week,
22 the whole next week -- we had sent a bunch of
23 students -- a faculty member at IU volunteered

1 his students for doing surveys of businesses, and
2 we sent them out and have a thing, a survey form,
3 that they fill out, and a lot of what they came
4 back with was ambiguous, and so we figured we'd
5 have a week of service to solve the ambiguities.

6 So, we have a new list of the same sites
7 with what was ambiguous about what the students
8 found, and then we have a bunch of people who are
9 going to be going out with someone who knows what
10 they're doing and look and see if indeed -- well,
11 one of the biggest problems is, for instance, the
12 students will say, "well, they're van accessible,
13 and handicap parking doesn't say "van
14 accessible."

15 And we maintain that if the parking space
16 is properly done, if there's an eight-foot access
17 aisle as well as an eight-foot parking space,
18 there's an upright sign with the symbol on it,
19 that the absence of what I have found out is a
20 five-dollar white sign that says "van accessible"
21 is really not that big a crime, you know.

22 It is a proper handicap parking space,
23 properly van accessible, it just doesn't have the

1 sign that says it is, and the people who need it
2 recognize it as such, and so we're not going to
3 penalize them for that. So, we have to see if
4 that's the case when the students have said that
5 it wasn't, because they tend to be letter of the
6 law, which we probably should be in a world that
7 operates that way, but it doesn't.

8 Okay. Anyone else?

9 (No response.)

10 CHAIRMAN CARTER: Otherwise, we are
11 going, going, gone. Adjourned.

12 MR. LANGE: But for signatures.

13 CHAIRMAN CARTER: Except for
14 signatures, and observe the oncoming, onrushing
15 meeting dates.

16 - - -
17 Thereupon, the proceedings of
18 July 20, 2012 were concluded
19 at 11:20 o'clock a.m.
20 - - -

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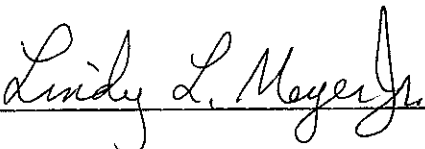
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CERTIFICATE

I, Lindy L. Meyer, Jr., the undersigned Court Reporter and Notary Public residing in the City of Shelbyville, Shelby County, Indiana, do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me on Friday, July 20, 2012 in this matter and transcribed by me.



Lindy L. Meyer, Jr.,
Notary Public in and
for the State of Indiana.

My Commission expires October 27, 2016.

	A		
'12 [1] - 18:9 '92 [2] - 18:12, 18:13	a.m [3] - 1:17, 3:1, 20:17 above-captioned [1] - 1:10 absence [1] - 19:19 accept [6] - 3:8, 4:10, 7:8, 8:4, 9:8, 10:12 access [3] - 11:6, 11:9, 19:16 accessible [4] - 19:12, 19:14, 19:20, 19:23 accommodation [1] - 11:10 ACCURATE [1] - 1:21 Act [1] - 11:19 acting [1] - 16:17 activities [1] - 12:15 ADA [2] - 14:6, 18:6 add [1] - 13:14 addition [1] - 11:18 additional [1] - 3:23 Adjourned [1] - 20:11 Administrative [2] - 11:1, 17:19 Affairs [2] - 11:15, 11:22 agency [1] - 11:14 Agreements [1] - 10:23 aisle [1] - 19:17 allegedly [1] - 11:6 allow [1] - 16:9 ambiguities [1] - 19:5 ambiguous [2] - 19:4, 19:7 American [1] - 11:22 animal [2] - 11:5, 16:10 animals [3] - 14:7, 16:4, 16:5 anniversary [1] - 18:6 announce [1] - 18:1 Announcements [1] - 17:21 Anthony [1] - 10:1 Appeals [1] - 4:21 appeals [1] - 9:20 APPEARANCES [1] - 2:1 arrived [1] - 12:13 Artrip [1] - 10:5 Assignment [1] - 9:20 assist [1] - 15:14 assuming [1] - 7:6 August [1] - 13:10 Avenue [2] - 1:22, 2:8 awareness [1] - 17:5 Aye [24] - 3:12, 3:13, 3:14, 3:15, 4:15, 4:16, 4:17, 4:18, 7:14, 7:15, 7:16, 7:17, 8:9, 8:10, 8:11, 8:12, 9:13, 9:14, 9:15, 9:16, 10:16, 10:17, 10:18, 10:19	Barry [1] - 2:4 based [1] - 5:12 basis [1] - 5:4 Baynard [3] - 2:4, 9:1, 10:1 BAYNARD [12] - 3:14, 4:13, 4:17, 5:7, 5:9, 5:13, 7:16, 8:5, 8:11, 9:2, 9:15, 10:18 BEFORE [1] - 1:1 behalf [1] - 2:9 between [1] - 14:23 Big [1] - 10:1 big [1] - 19:21 biggest [1] - 19:11 bit [1] - 3:22 Black [2] - 12:2, 12:17 Blackburn [1] - 8:20 blind [1] - 15:19 Bloomington [1] - 18:21 BREWSTER [15] - 11:2, 12:8, 12:14, 13:2, 13:6, 13:18, 13:22, 14:9, 14:14, 14:18, 15:7, 16:2, 16:7, 16:19, 16:22 Brewster [1] - 2:7 Brighton [1] - 1:22 brings [1] - 11:1 Brown [1] - 9:21 building [1] - 13:5 built [1] - 17:7 bunch [2] - 18:22, 19:8 business [1] - 10:1 Business [2] - 4:20, 9:20 businesses [1] - 19:1	Center [3] - 1:15, 2:8 CERTIFICATE [1] - 21:1 certify [1] - 21:5 cetera [1] - 11:11 CHAIRMAN [55] - 3:3, 3:11, 3:16, 3:19, 4:3, 4:6, 4:9, 4:14, 4:19, 6:16, 6:20, 7:10, 7:13, 7:18, 7:20, 8:3, 8:6, 8:8, 8:13, 8:15, 8:18, 8:22, 9:7, 9:10, 9:12, 9:17, 9:19, 10:15, 10:20, 10:22, 13:4, 14:4, 14:12, 14:16, 14:20, 15:1, 15:3, 15:10, 15:15, 15:18, 15:21, 16:6, 16:13, 16:20, 17:2, 17:9, 17:16, 17:21, 17:23, 18:5, 18:9, 18:13, 18:16, 20:10, 20:13 Chairman [1] - 1:12 Charles [1] - 2:5 CHAVEZ [4] - 5:17, 8:17, 8:21, 12:23 Chavez [1] - 2:13 City [2] - 7:23, 21:4 civil [1] - 13:12 CIVIL [2] - 1:1, 2:6 Civil [2] - 1:11, 3:5 Clark [1] - 7:23 CLE [1] - 13:8 CM [1] - 1:21 Coleman [1] - 9:23 Colts [2] - 13:20, 14:2 comfortable [1] - 12:12 coming [1] - 14:5 Comm [9] - 4:22, 7:21, 8:16, 8:20, 9:1, 9:21, 10:1, 10:4, 10:6 COMM [58] - 3:9, 3:10, 3:12, 3:13, 3:14, 3:15, 4:5, 4:12, 4:13, 4:15, 4:16, 4:17, 4:18, 4:23, 5:7, 5:8, 5:9, 5:11, 5:13, 5:15, 5:22, 6:3, 6:7, 6:10, 6:14, 7:9, 7:12, 7:14, 7:15, 7:16, 7:17, 7:22, 8:5, 8:7, 8:9, 8:10, 8:11, 8:12, 9:2, 9:9, 9:11, 9:13, 9:14, 9:15, 9:16, 10:13, 10:14, 10:16, 10:17, 10:18, 10:19, 12:6, 13:20, 15:13, 15:20, 16:1, 18:7, 18:14 COMMISSION [4] - 1:1, 2:2, 2:6, 2:11 commission [1] - 12:1 Commission [12] - 1:11, 2:9, 3:5, 9:4, 11:14, 11:20, 11:22, 12:2, 13:9, 13:21, 14:3, 21:15 Commissioners [1] - 4:20 commissions [2] - 11:13,
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