BEFORE THE STATE OF INDIANA CIVIL RIGHTS COMMISSION

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ORIGINAL

PROCEEDINGS

PUBLIC MEETING OF OCTOBER 23, 2009

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, October 23, 2009 at 10:28 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

APPEARANCES: COMMISSION MEMBERS: 2 David C. Carter, Chairman 3 Charles D. Gidney Barry Baynard 4 John E. Garcia 5 Tehiji G. Crenshaw 6 INDIANA CIVIL RIGHTS COMMISSION By Tony A. Kirkland, Director/Secretary 7 Indiana Government Center North 100 North Senate Avenue, Room N103 8 Indianapolis, Indiana 46204 On behalf of the Commission. 9 10 OTHER COMMISSION STAFF PRESENT: 11 Joshua Brewster Joan T. Essex 12 Robert D. Lange Tawanda Sharp 13 14 OTHERS PRESENT: 15 Brian M. Buffington 16 17 18 19 20 21 22 23

1 10:28 o'clock a.m. October 23, 2009 2 3 CHAIRMAN CARTER: There. See, it's 4 much better without the wooden block. I'd like to call the October meeting of 5 the Indiana Civil Rights Commission to order, and 6 we have a quorum, and we're expecting a fifth 7 8 Commissioner momentarily; awaiting that. 9 have a motion to approve the minutes for -- $\ensuremath{\text{I}}$ 10 believe it's two months --11 COMM. CRENSHAW: So moved. 12 CHAIRMAN CARTER: -- or -- well, in 13 any case, the September minutes. 14 COMM. CRENSHAW: So moved. 15 CHAIRMAN CARTER: Okay. 16 Second? 17 COMM. GARCIA: Second. 18 CHAIRMAN CARTER: All in favor? 19 COMM. GARCIA: Aye. 20 COMM. BAYNARD: Aye. 21 COMM. CRENSHAW: Aye. 22 CHAIRMAN CARTER: Aye. 23 Any opposed?

(No response.)

CHAIRMAN CARTER: All right.

Ms. Essex, the financial report.

MS. ESSEX: Good morning.

CHAIRMAN CARTER: Good morning.

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MS. ESSEX: You have in front of you the August and September financial statements.

On the September statement, you'll notice that the format is a bit different, on the second page in -- or the very first page after the cover. We have switched over to a new accounting system, and the -- most of the entire state is on that system.

This -- if you'll recall, we went to

PeopleSoft some years ago. This is an enhanced

version of PeopleSoft, called ENCOMPASS, and it

allowed the Treasurer of State and the Auditor of

State to join in on the system as well to

hopefully make payments happen, and that's -
much more efficiently.

We are -- go live was the 16th of September, and we are just transitioning now into this new system. Everything seems to be working somewhat -- somewhat well. We do have -- there is a note on the page here that there is a discrepancy in one of our federal accounts with regard to the dollar amount, and the folks at GMIS are working on that to help get that resolved, and we should have that cleared off hopefully by the next statement, or if not, very definitely the statement after that. So, the numbering system's a little bit different, but other than that, you shouldn't see very much of a change.

We are on track this year as far as our spending goes, and I'm sure you're all well aware of some of the announcements that have come out of the Governor's Office regarding revenues not meeting expected levels. We have not heard anything officially as to how that will affect our budgets or if that will increase the amount of reversion that we are expected to return back to the state at the end of the year.

I am expecting those reversion amounts to increase. Right now we're at five percent. We just don't know how much yet. So, I am

anticipating those dollars going up, so we are being very frugal, if you will, on our spending practices. We don't want to get caught at the end of the year and not have money to meet our obligations.

what we can cut back on and we're starting to just question everything that comes up, is this something that we really need to do or is there a way to cut back on expenses that we currently have in the office, so -- we don't spend excessively anyway, so any time we have a cutback, it kind of does affect us pretty drastically, because we don't -- we spend on the things that we need to spend on, so -- so, if there are any questions, I'd be happy to take them.

CHAIRMAN CARTER: Okay. Are -- you said most of the state is now on the same system.

Does that mean previously the State Board of Accounts and the Treasurer's Office were not using the same system?

MS. ESSEX: No, they were not. They

did not switch over to the PeopleSoft system because some of the transactions that they process, modules had not been built in or were not requested in that PeopleSoft system, and in the push to get the entire state on one accounting system, modules were created and that's where the ENCOMPASS system came from.

There are still some of the courts and just a handful of smaller agencies that are not using the ENCOMPASS system, and I'm not sure if they're going to come on at a later date or not, but -- but now it's -- it's set up so that when you send something through, you still have to send the physical invoice over to the Auditor's Office, but now they have notice electronically of that ahead of time, so -- and then it goes through. In the Budget Agency, it says, "Okay. You've got the money to pay this," where before there was no mechanism to do that.

CHAIRMAN CARTER: So, by system, you really mean like electronic process?

MS. ESSEX: It is.

(Comm. Gidney arrived.)

CHAIRMAN CARTER:

It's like that --

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It is. MS. ESSEX:

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Okay.

in that federal account?

CHAIRMAN CARTER: -- rather than

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system.

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saying metric and whatever what we use is called, and there's room for a great many derisive comments, the fact that the various people

> I have a question. COMM. GARCIA:

CHAIRMAN CARTER: Yes.

handling state money are not using the same

COMM. GARCIA: What's the difference

MS. ESSEX: The fed -- the account that I'm looking at that has the asterisk by it here, this -- that is our cooperative agreement accounts, and right now what we think the issue was was that there is a module in this new system that has to be what's called project costing, and this module has to be set up in all of these previous grant funds, and cooperative agreement funds had to be set up in this particular module.

And I was not here during that process, so right now I'm going through the backtracking

process to see if everything was entered in correctly, and my feeling is, is that the dollar amounts were picked at a certain period in time, and as we went forward before we went to go live, those dollar amounts were not updated to reflect the current activity, so maybe payments were made and new money came in that was not entered into the system.

COMM. GARCIA: The difference between August and September isn't a lot, so it's not a lot of money?

MS. ESSEX: No.

COMM. GARCIA: Okay.

MS. ESSEX: No.

CHAIRMAN CARTER: Just a changeover in the numbers with the departments or whatever?

MS. ESSEX: Right. And we know the exact dollar amount and we know that as of the 11th, we had -- this much dollars were in there, and then as of the 17th, there's this much, and we know that we've not made any payments against that particular fund as it's now called.

So, we've isolated the dollar amount. 1 2 know exactly how much it is, we know what we're 3 looking for, so GMIS and the Budget Agency will 4 help us get through this. 5 CHAIRMAN CARTER: Are there any further questions for Ms. Essex? 6 7 (No response.) 8 CHAIRMAN CARTER: Okay. We'll move 9 on to the Old and New Business. Is there any Old 10 or New Business? 11 (No response.) 12 CHAIRMAN CARTER: Hearing none, we'll move to Consent Agreements. In the matters of 13 14 Belt versus Apple American Group doing business 15 as Applebee's and Crist & Dunaway versus 16 Northgate Apartments, I would recommend a motion 17 to accept those Consent Agreements. 18 COMM. BAYNARD: I'll make a motion to 19 accept the Consent Agreements. 20 CHAIRMAN CARTER: And a second? 21 COMM. GARCIA: Second. 22 CHAIRMAN CARTER: All in favor? 23 COMM. GARCIA: Aye.

1	COMM. BAYNARD: Aye.
2	COMM. GIDNEY: Aye.
3	COMM. CRENSHAW: Aye.
4	CHAIRMAN CARTER: Aye.
5	Any opposed?
6	(No response.)
7	CHAIRMAN CARTER: In the Findings of
8	Fact, Conclusions of Law and Order, Anderson
9	versus C. T. Peppers Bar & Grill, may I have a
10	motion to accept those findings?
11	COMM. CRENSHAW: So moved.
12	COMM. GARCIA: Second.
13	CHAIRMAN CARTER: All in favor?
14	COMM. GARCIA: Aye.
15	COMM. BAYNARD: Aye.
16	COMM. CRENSHAW: Aye.
17	COMM. GIDNEY: Aye.
18	CHAIRMAN CARTER: Aye.
19	Any opposed?
20	(No response.)
21	CHAIRMAN CARTER: Thank you.
22	Report by Commissioners on Complainant
23	Appeals. I will begin, especially since the rest

are on another page. In the matter of Buffington 2 versus Janine Smith, CNC Investments, LTD, LLC 3 Palathota, LLC, I recommend that we remand this 4 case for further investigation, particularly for 5 or against -- investigation of evidence for or 6 against Mr. Buffington's credit record and the 7 discrepancies between the advertised rental rate 8 and the subsequent two, I believe, prices for the 9 same living quarters that -- or at least for 10 similar living quarters that were quoted him. 11 May I have a motion to accept that recommendation? 12 13 COMM. GARCIA: So moved. 14 COMM. BAYNARD: Second. 15 CHAIRMAN CARTER: All in favor? 16 COMM. GARCIA: Aye. 17 COMM. BAYNARD: Aye. 18 COMM. CRENSHAW: Aye. 19 COMM. GIDNEY: Aye. 20 CHAIRMAN CARTER: Aye. 21 Any opposed? 22 (No response.) 23 CHAIRMAN CARTER: And also in the

matter of Nimitz verses Barry Bohlander, I 1 recommend that we accept the Director or Deputy 2 Director's finding of no probable cause. May I 3 have a motion to accept that? 4 COMM. BAYNARD: So moved. 5 COMM. CRENSHAW: Second. 6 CHAIRMAN CARTER: Any opposed -- no, 7 all in favor? 8 COMM. GARCIA: Aye. 9 COMM. BAYNARD: Aye. 10 COMM. CRENSHAW: Aye. 11 COMM. GIDNEY: Aye. 12 CHAIRMAN CARTER: Aye. 13 Any opposed? 14 (No response.) 15 CHAIRMAN CARTER: Thank you. 16 Comm. Baynard? 17 COMM. BAYNARD: Yes. In the case of 18 Aldrin versus Menard's, I would recommend to the 19 Commission that we uphold the Director's finding 20 of no probable cause. 21 CHAIRMAN CARTER: And may I have a 22 motion to accept that recommendation? 23

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1	COMM. GARCIA: So moved.
2	COMM. CRENSHAW: Second.
3	CHAIRMAN CARTER: All in favor?
4	COMM. GARCIA: Aye.
5	COMM. BAYNARD: Aye.
6	COMM. CRENSHAW: Aye.
7	COMM. GIDNEY: Aye.
8	CHAIRMAN CARTER: Aye.
9	Any opposed?
10	(No response.)
11	CHAIRMAN CARTER: Comm. Crenshaw?
12	COMM. CRENSHAW: In the case of Perry
13	versus Rexnard Industries, I move to make a
14	motion to accept the Deputy Director's finding of
15	no probable cause.
16	CHAIRMAN CARTER: All right. May I
17	have a motion to accept that recommendation?
18	COMM. BAYNARD: So moved.
19	COMM. GARCIA: Second.
20	. CHAIRMAN CARTER: All in favor?
21	COMM. GARCIA: Aye.
22	COMM. BAYNARD: Aye.
23	COMM. CRENSHAW: Aye.

COMM. GIDNEY: Aye. 1 CHAIRMAN CARTER: Aye. 2 Any opposed? 3 (No response.) 4 CHAIRMAN CARTER: Comm. Garcia? 5 COMM. GARCIA: In the case of Angela 6 McNaughton versus Durbin Bowl & Lounge, I concur 7 with the Deputy Director's finding of no probable 8 9 cause. CHAIRMAN CARTER: All right. May I 10 11 have a motion to accept that? COMM. BAYNARD: So moved. 12 CHAIRMAN CARTER: Second? 13 COMM. CRENSHAW: Second. 14 CHAIRMAN CARTER: All in favor? 15 COMM. GARCIA: Aye. 16 COMM. BAYNARD: Aye. 17 COMM. CRENSHAW: Aye. 18 COMM. GIDNEY: 19 Aye. CHAIRMAN CARTER: Aye. 20 Any opposed? 21 (No response.) 22 23 CHAIRMAN CARTER: Comm. Gidney?

COMM. GIDNEY: Okay. In the case of 1 Thompson verses Bobby Dominy & Remax Connection, 2 I -- my recommendation is that we uphold the 3 Deputy Director's finding of no probable cause. 4 CHAIRMAN CARTER: Okay. And may I 5 have a motion to accept that recommendation? 6 COMM. GARCIA: So moved. 7 CHAIRMAN CARTER: Second? 8 COMM. BAYNARD: Second. 9 CHAIRMAN CARTER: All in favor? 10 COMM. GARCIA: Aye. 11. COMM. BAYNARD: Aye. 12 COMM. CRENSHAW: Aye. 13 COMM. GIDNEY: Aye. 14 CHAIRMAN CARTER: Aye. 15 Any opposed? 16 (No response.) 17 CHAIRMAN CARTER: And do we have word 18 from Steve Ramos? 19 MS. SHARP: No, no report from 20 Comm. Ramos. 21 CHAIRMAN CARTER: Okay. We'll 22 continue that case. 23

Assignment of Appeals to Commissioners.

Well, I'll take -- well, actually, let's see.

Okay. Comm. Gidney, if you would take

Comm. Blackburn's East-Miller versus Donald &

Carla Good.

COMM. GIDNEY: Okay.

CHAIRMAN CARTER: And I will take

Anderson versus Northwest Properties, LLC. And

Comm. Baynard, if you would review Ukpai verses

Quail Run Associates; Kassie Reynolds, Regional

Director of Management; & Melora Wischmeyer,

Property Manager. And Ms. Crenshaw, if you would

survey Walsh and The Austin Group, Inc., we can

move to the Administrative Update.

MR. BREWSTER: If I may, there's -with regard to the Walsh versus The Austin Group,
I would like to make a comment on the record as
there is a public interest involved in this case.
After -- I actually signed off on the notice of
finding. Afterwards, the Complainant contacted
me, and I've spoken to the Director about this as
well.

This was a retaliation case. The initial

case that was filed was a sexual harassment case, which was settled with a settlement agreement. Subsequently she experienced some alleged harassment against her and her family members by the Respondent, and therefore filed a retaliation complaint.

The notice of finding on this retaliation complaint was not in her favor because it could not be determined that she was individually or personally retaliated against by the Respondent. The retaliation seems to have occurred against her daughters and possibly husband.

There, I believe, needs to be further investigation of this complaint to determine if this is something that the Commission would want to intervene in, in the public interest, as is incumbent on the Commission to prevent the retaliation of people who are -- file or are involved in an investigation.

I think there is some evidence that I've received, just from speaking with Ms. Walsh, that the Respondent in this case, Gene Austin, who's the owner of the Austin Group, did take some

1	actions against, like I say, the Complainant's
2	daughters, possibly her husband, and possibly
3	Ms. Walsh herself. So, I would just recommend
4	that this be returned for further investigation.
5	CHAIRMAN CARTER: Okay. So, we undo
6	giving it to Comm. Crenshaw and just give that
7	back?
8	MR. BREWSTER: Right.
9	CHAIRMAN CARTER: All right. May I
10	have a motion to accept that recommendation of to
11	do that?
12	COMM. GARCIA: So moved.
13	COMM. CRENSHAW: Second.
14	CHAIRMAN CARTER: All in favor?
15	COMM. GARCIA: Aye.
16	COMM. BAYNARD: Aye.
17	COMM. CRENSHAW: Aye.
18	COMM. GIDNEY: Aye.
19	CHAIRMAN CARTER: Aye.
20	Any opposed?
21	(No response.)
22	CHAIRMAN CARTER: Okay. So, the case
23	of Walsh versus The Austin Group, Inc., goes back

for further investigation.

Now the Administrative Update.

MR. KIRKLAND: Okay. To kind of bring you guys up to date, we've been very fortunate staying pretty active and busy. One of the things that we did, we had a staff retreat where we acknowledged some of our employees that have been with us five, 15, 20, 25 and 30 and 35 years.

COMM. GARCIA: More.

MR. KIRKLAND: The Judge was acknowledged. The retreat was put on by the Integrity Consultants Richcott. We have books, and I think I made sure that we had enough for you all -- and we're going to make sure everyone on the Commission gets one of these -- "22 Successful Lessons in Baseball," and which was a great team-building exercise, but it also gave you the self-worth on why you're doing what you're doing, and I thought that was very great. I think it's very appropriate for the time that we dealing with as we're facing economic difficulties.

The other thing is that we are going to be having some legislation as it relates to retaliation that was put together going forward here this upcoming session, so Josh and -- Josh has crafted that language. We've got it before the Governor's Office. They seem to be approving it.

Right now we're in the process of looking for a sponsor for this, so hopefully we can zero that in as the case that you all just pull back all forms of retaliation, and just kind of wanted some language that protects individuals as it relates to retaliation. So, hopefully that can get done.

The other thing is that we are currently going through an exercise, what we call -- just in case we get to crunch time and the Governor's coming -- mandate coming down from the Governor's Office that asks all agencies to go through if we had to make the adjustment operating with the bare minimum of staff.

So, we've done that, and we're probably are fine tuning it and put what this does and

currently what the numbers look like, because we meet next Friday, or -- yeah, next Friday -- to go over that to see what that looks like. So, it's sort of -- I guess we're kind of getting ahead of the curve, as Joan mentioned the reversion, but, you know, there's always more that is usually asked of us, so we're trying to stay ahead of that.

And that's pretty much it at this point in time.

CHAIRMAN CARTER: All right. Is there anything further from the Deputy Director?

MR. BREWSTER: No, not at this time.

Thanks.

CHAIRMAN CARTER: All right.

MR. KIRKLAND: Oh, by the way, we did complete both of our contracts, our EEOC and our HUD contracts, and --

CHAIRMAN CARTER: All right.

MR. KIRKLAND: -- we're in the middle of both, and I think we've got a pretty good jump start on our EEOC contract cases right now.

CHAIRMAN CARTER: I've been noticing

a declining number in the monthly roster of cases pending inventory. It keeps going down. That's always nice.

Any questions, comments or anything else on the Director's Report?

(No response.)

CHAIRMAN CARTER: Okay. Additional Announcements. I understand Mr. Buffington has -- would like to address us, and this would be the time.

MR. BUFFINGTON: I am Brian
Buffington, and I wanted to address the
Commission in regards to my appeal hearing
request, and just formally state that Janine
Smith, referred to as the Respondent in the
complaint that I filed, may now be legally known
as Janine Coleman, as per an investigation being
conducted, and that the Commission submit my
appeal request and the evidence contained within
as new evidence on my behalf for the case to be
reviewed as it's remanded back to the
investigator, and if possible, that the
Commission maybe consider appointing the further

investigation to perhaps another investigator, if it's possible.

And that's it, and I appreciate you guys' time. Thank you.

CHAIRMAN CARTER: Thank you.

Are there any other announcements or things?

(No response.)

CHAIRMAN CARTER: I heard on the radio this morning that the bill, federal bill, to add to the roster of possible hate crimes sexual orientation and disability and perhaps other things is headed to the President's desk for signature, I believe. It's been a long time coming and was a favorite of the late Senator Kennedy for a long time.

If you will observe the next meeting dates and stay for signatures, we can adjourn, unless there are -- no further comments. We are adjourned. There.

Thereupon, the proceedings of October 23, 2009 were concluded at 10:49 o'clock a.m.

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, October 23, 2009 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.

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