



State of Nebraska

EQUAL OPPORTUNITY COMMISSION

NEBRASKA EQUAL OPPORTUNITY COMMISSION MEETING OF JUNE 18, 2021

Commissioner Borchers called the meeting to order via Webex Virtual Meeting Space at 9:30 a.m. on June 18, 2021. It was established, after a roll call, there was a quorum.

I. ROLL CALL

Commissioners Present

Eric Drumheller

Patrick Borchers, Chairperson

Royce Jeffries

Arla Jo Meyer

John Arnold, Vice Chairperson

Kristin Yates

Staff Present

Marna Munn, Executive Director

Ben Watson, Unit Director

II. REVIEW OF RECOMMENDED ORDER FROM PUBLIC HEARING

Jura v. Commodore, LLC et al / NEB – 1-18/19-7-3452-H

A. Emergency Meeting

Director Munn announced the emergency meeting was called and would be conducted in accordance with statute Neb. Rev. Stat. §84-1411 (5) of the Open Meetings Act.

The announcement of the emergency meeting was placed on the Commission website, the State's Public Meeting Calendar and on the agency's Facebook page on Monday, June 17, 2021 afternoon immediately after the Juneteenth Holiday and attendant State Office closures were officially announced. The emergency meeting was conducted electronically as permitted by law.

The nature of the emergency was to review the Amended Recommended Order ("ARO") of the Hearing Officer within the statutory timeframe of 30 days. The ARO was dated and received in the Commission Office via email notification on May 20, 2021 and the Original signed ARO was physically received in the office on May 24, 2021. Those dates made June 18, 2021 the final day from the date electronically received, or the 26th day from receipt of the Original in the Office, to review the ARO before the ARO would become a final order as written.

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B. Procedural History of the Public Hearing

Director Munn presented a procedural history of the Public Hearing proceedings, and the law governing the Commission's authority to review and affirm or modify, in whole or in part, the ARO within thirty (30) calendar days following the issuance of the ARO. The Commissioners acknowledged they had received and reviewed the Amended Recommended Order.

The Commissioners discussed the standard of review for the court in any action taken by the Commission on this matter, as well as the Commission's standard of review in considering the ARO of the Hearing Officer. Director Munn and Unit Director Watson answered questions regarding statutory authority, procedures, and conciliation practices in general, as well as any conciliation efforts made between the Parties during the investigation or after the Commission found reasonable cause.

C. Civil Penalty

The Commissioners discussed the issue of the civil penalty recommended by the Hearing Officer. The Commissioners agreed that the law permits the recommended civil penalty of \$10,000 for a first violation. The discussion included mitigating circumstances, the nature of a civil penalty as opposed to damages awarded to the Complainant, comparable cases where civil penalties were awarded, and where the money from a civil penalty award goes. The Commissioners discussed the idea of a general amount of money versus tying the civil penalty to a specific number relevant to the context of the case.

Commissioner Borchers moved to modify the Amended Recommended Order to reduce the \$10,000 civil penalty to \$495.00, the equivalent of one months rent at the time this cause of action arose.

Commissioner Yates seconded the motion.

Discussion included that Commissioner Drumheller would prefer recommending a higher amount, perhaps 2 months rent. Commissioner Arnold indicated he would prefer recommending a lower amount.

ROLL CALL: Ayes: Commissioners Drumheller, Borchers, Meyer, Yates,
 Nays: Commissioner Arnold
 Abstained: Commissioner Jeffries
 Motion Carried

D. Terms and Conditions

Director Munn raised the issue of the terms and conditions cause of action. She noted that while it was referenced at the beginning of the Hearing Officer's ARO it was not

the ARO. Director Munn further indicated that this is also how the issue has been handled in other current and ongoing Public Hearings as well as in past Public Hearings before the Commission. The Executive Director pointed out that if the Commissioners granted the request to allow 14 additional days to submit attorney's fees request, plus any additional time the Commissioners would need to review those for reasonableness and make a motion regarding them, they would be past the statutory time limit for their review and modification of the ARO.

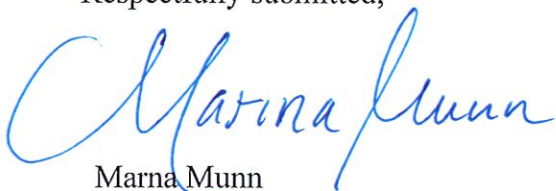
The Commissioners discussed the issue, determining that they would not further consider the Complainant Attorney's requests regarding altering the Hearing Officer's recommendation on damages, or to leave open the opportunity to submit a request for attorney's fees. The Commissioners made no additional motions to modify the Amended Recommended Order on these issues or any other beyond those made earlier in the Meeting.

The Executive Director reminded the Commissioners the next regularly scheduled meeting was set for Friday, July 16, 2021 in Omaha and that the Commission would take up the cases which had been prepared for the cancelled June meeting at that time.

III. ADJOURNMENT

Commissioner Borchers declared the June 18, 2021 adjourned. The Commission meeting ended at 10:48 a.m.

Respectfully submitted,



Marna Munn
Executive Director

7/2/21

Date

The Minutes of the Nebraska Equal Opportunity Commission meeting of *** have been corrected and accepted, and henceforth approved on this date.

Chairperson

Date