

**ORDER OF THE STATE PERSONNEL BOARD**

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DAVID RAMIREZ,

Complainant,

vs.

DEPARTMENT OF CORRECTIONS,

Respondent.

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The State Personnel Board (the "Board") met in public session on May 15, 2001. During this public session, the Board considered the record on appeal, including the Amended Initial Decision of the Administrative Law Judge, Opening Brief of Department of Corrections, and Complainant's Responsive Brief, and entered the following orders:

I. Findings of Fact of Initial Decision

The Board voted to adopt the findings of fact in the Amended Initial Decision of the Administrative Law Judge. This order represents the affirmative vote of the following Board members: Melanie Daly, Joyce Lottner, and Linda Siderius. John Zakhem voted in opposition to this motion.

II. Conclusions of Law

The Board also voted to reverse conclusions of law Nos. 2, 3, and 4. The Board found that Respondent's action was not arbitrary, capricious and contrary to rule or law, the discipline imposed was within the range of reasonable alternatives, and Complainant is not entitled to an award of attorney fees and costs. This order represents the affirmative vote of the following Board members: Melanie Daly, Joyce Lottner, Linda Siderius, and John Zakhem.

In addition, the Board voted that, even though it is reversing some conclusions of law, the weight of evidence supports the imposition of discipline, and Complainant did commit sufficient acts to warrant discipline, including, but not limited to, lack of preventative maintenance on a state vehicle, failure to report the inoperability of the state vehicle, and use of personal car for state business. This order represents the affirmative vote of the following Board members: Melanie Daly, Joyce Lottner, Linda Siderius, and John Zakhem.

Dated this \_\_\_\_\_ day of  
May, 2001.

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Melanie Daly  
Acting Board Chair

### NOTICE OF APPEAL

#### Each party has the following rights:

1. To abide by the decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 45 days pursuant to Section 24-4-106(11) C.R.S. (2000), as provided in Section 24-50-125.4(3), C.R.S. (2000).

*In the event the decision is appealed, the Board requests that a copy of the Notice of Appeal filed with the Court of Appeals also be filed with the State Personnel Board at: 1120 Lincoln Street, Suite 1420, Denver, CO 80203. Such will aide in the timely preparation of the record.*

### CERTIFICATE OF MAILING

This is to certify that on the \_\_\_\_\_ day of May, 2001, I placed true copies of the foregoing **ORDER OF THE STATE PERSONNEL BOARD** in the United States mail, postage prepaid, addressed as follows:

Darrell D.B. Damschen  
William S. Finger  
Frank & Finger, P.C.  
29025D Upper Bear Creek Road  
P.O. Box 1477  
Evergreen, CO 80437-1477

and in the interagency mail, addressed as follows:

Coleman M. Connolly  
Assistant Attorney General  
Employment Section  
1525 Sherman Street, 5th Floor  
Denver, CO 80203

