

ORDER OF THE STATE PERSONNEL BOARD

NESTOR LUJAN,

Complainant,

vs.

DEPARTMENT OF REVENUE, MOTOR VEHICLE BUSINESS GROUP,

Respondent.

The State Personnel Board (the "Board") met in public session on Tuesday, December 17, 2002. During this public session, the Board considered the record on appeal, including but not limited to:

1. Initial Decision of the Administrative Law Judge
2. Respondent's Opening Brief
3. Complainant's Response Brief
4. Respondent's Reply Brief

Upholding the Administrative Law Judge's conclusions of law that the appointing authority's action was arbitrary and capricious and the discipline imposed was unwarranted, the Board voted to adopt the findings of fact and conclusions of law 1 and 2 of the Initial Decision of the Administrative Law Judge.

This order represents the affirmative vote of the following Board members: Ms. Siderius, Mr. Zakhem, and Ms. Lottner. Ms. Garcia and Ms. Salkind were absent.

After a rigorous discussion regarding the award of attorney fees, the Board voted to uphold conclusion of law 3 that Complainant is entitled to an award of attorney fees and costs.

This order represents the affirmative vote of the following Board members: Ms. Siderius and Ms. Lottner. Mr. Zakhem voted in opposition to the motion. Ms. Garcia and Ms. Salkind were absent.

Dated this _____ day of
December, 2002.

Joyce Lottner
Board Chair
State Personnel Board
1120 Lincoln Street, Suite 1420
Denver, CO 80203

NOTICE OF APPEAL

Each party has the following rights:

1. To abide by this 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. (2002), as provided in Section 24-50-125.4(3), C.R.S. (2002).

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 December, 2002, I placed true copies of the foregoing **ORDER OF THE STATE PERSONNEL BOARD**, in the United States mail, postage prepaid, addressed as follows:

Mark A. Schwane
Attorney at Law
Colorado Federation of Public Employees
1580 Logan Street, Suite 310
Denver, CO 80203

And in the interagency mail, addressed as follows:

Joseph Q. Lynch
Assistant Attorney General
Employment Section
1525 Sherman Street, 5th Floor
Denver, CO 80203
