

**AMENDED ORDER OF THE STATE PERSONNEL BOARD**

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RANDY PFAFF,

Complainant,

vs.

DEPARTMENT OF CORRECTIONS,

Respondent.

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This matter is before the Colorado State Personnel Board ("Board") at its regularly scheduled public sessions held on August 16, 2005. 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 on Appeal from the Initial Decision of the Administrative Law Judge
3. Motion to Dismiss or, in the Alternative Motion for Extension of Time; Request for Sanctions
4. Respondent's Response to Complainant's Motion to Dismiss or, in the Alternative Motion for Extension of Time; Request for Sanctions
5. Complainant's Answer Brief on Appeal from the Initial Decision of the Administrative Law Judge
6. Respondent's Reply Brief

Based upon the Board's review and consideration,

IT IS HEREBY ORDERED that the findings of fact and Conclusion of Law No. 1 ("The Corrective Action was not arbitrary, capricious, or contrary to rule or law") in the Initial Decision of the Administrative Law Judge be ADOPTED; and

IT IS FURTHER ORDERED that Conclusions of Law Nos. 2 ("Complainant did not commit the acts upon which discipline was based"), 3 ("Respondent's demotion of Complainant was arbitrary and capricious and contrary to rule or law"), and 4 ("Complainant is entitled to an award of attorney fees and costs incurred in appealing the demotion") be reversed.

Dated this \_\_\_\_\_ day of  
September, 2005, *nunc*  
*pro tunc* August 16, 2005.

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John Zakhem  
Board Chair  
State Personnel Board  
633 17th Street, Suite 1320  
Denver, Colorado 80202-3604

### 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. (2004), as provided in Section 24-50-125.4(3), C.R.S. (2004).

In the event the decision is appealed, pursuant to Section 24-4-106(11)(b), C.R.S. (2004), the party filing the appeal with the Court of Appeals must serve the Board with a copy of the Notice of Appeal at: 633 17th Street, Suite 1320, Denver, Colorado 80202-3604. Such will aide in the timely preparation of the record.

### CERTIFICATE OF MAILING

This is to certify that on the \_\_\_\_\_ day of September, 2005, I placed true copies of the foregoing **AMENDED ORDER OF THE STATE PERSONNEL BOARD**, in the United States mail, postage prepaid, addressed as follows:

Sandra L. Wright, Esquire  
Post Office Box 746298  
Arvada, Colorado 80006-6298

And in the interagency mail to:

Christopher Baumann  
Assistant Attorney General  
Employment Section  
1525 Sherman Street, 5<sup>th</sup> Floor  
Denver, Colorado 80203