

ORDER OF THE STATE PERSONNEL BOARD

BARBARA KIRKMEYER,

Complainant,

vs.

DEPARTMENT OF LOCAL AFFAIRS,

Respondent.

This matter is before the Colorado State Personnel Board ("Board") at its regularly scheduled public session held on June 15, 2010. 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. Complainant's Request for Oral Argument;
3. Objection to Complainant's Request for Oral Argument;
4. Complainant's Opening Brief;
5. Respondent's Answer Brief;
6. Complainant's Reply Brief.

Based upon the Board's review and consideration,

IT IS HEREBY ORDERED that the Request for Oral Argument submitted by counsel for Ms. Kirkmeyer to the Board on May 14, 2010, is **DENIED**.

The Board finds that the Administrative Law Judge in this matter properly framed the issues for hearing and correctly interpreted the Court of Appeals decision in case number 07CA2566. Based on the Court of Appeals decision, that the "contested provision" in the Senior Executive Service (SES) contract could be harmonized with § 24-50-104(5)(c), C.R.S. and the pertinent Board rules, the Board finds that pursuant to the facts in this case, Complainant could compete for a classified position under the Board's reinstatement rule.

THEREFORE, IT IS ORDERED that the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge and the Initial Decision of the Administrative Law Judge are **ADOPTED** and made an Order of the Board.

Dated this 16 day of
June, 2010.


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

In the event the decision is appealed, pursuant to Section 24-4-106(11)(b), C.R.S., the party filing the appeal with the Court of Appeals must serve the State Personnel Board with a copy of the Notice of Appeal at: 633 17th Street, Suite 1320, Denver, Colorado 80202-3604. In addition to serving the State Personnel Board with a copy of the Notice of Appeal, the party filing the appeal with the Court of Appeals must name the State Personnel Board as a party (appellee) to the appeal. Section 24-4-106(11)(d), C.R.S.

CERTIFICATE OF MAILING

This is to certify that on the 17th day of June, 2010, I electronically served true copies of the foregoing **ORDER OF THE STATE PERSONNEL BOARD**, addressed as follows:

Frank & Finger, P.C.



Vincent Morscher



