

**STATE PERSONNEL BOARD, STATE OF COLORADO**  
Case No. 2011B066

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**ORDER OF THE STATE PERSONNEL BOARD**

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**EDWARD W. GIETL,**  
Complainant,

vs.

**DEPARTMENT OF PUBLIC SAFETY,**  
Respondent.

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This matter is before the Colorado State Personnel Board ("Board") at its regularly scheduled public session held on February 19, 2013. During this public session, the Board considered the record on appeal, including but not limited to:

1. Order Regarding Back Pay Award;
2. Order Reaffirming May 9, 2012 Order Regarding Remedy;
3. Respondent's Appeal Brief;
4. Complainant's Response Brief;
5. Respondent's Reply Brief.

Based upon the Board's review and consideration,

IT IS ORDERED that the findings of fact and conclusions of law in the Administrative Law Judge's May 9, 2012 Order Regarding Back Pay Award are **ADOPTED**.

IT IS HEREBY ORDERED THAT the Administrative Law Judge's September 19, 2012 Order Reaffirming May 9, 2012 Order Regarding Remedy is **VACATED**. The September 19, 2012 Order Reaffirming May 9, 2012 Order Regarding Remedy did not extend the time to appeal the May 9, 2012 Order Regarding Back Pay Award. Any appeal of the May 9, 2012 Order was to be filed within 30 days of that Order. The issues raised in Respondent's appeal were addressed in the May 9, 2012 Order and therefore were not timely appealed to the Board.

IT IS FURTHER ORDERED that pursuant to § 24-50-125.5, C.R.S., and Board Rule 8-38, Complainant is awarded his attorney fees incurred for proceedings before the Board after issuance of the September 19, 2012 Order, because: 1) Respondent's appeal was groundless, as it did not appeal the issues addressed by the ALJ in her September 19, 2012 Order but rather sought untimely to appeal the issues addressed in the May 9, 2012 Order; and 2) Respondent's filing of an untimely appeal was stubbornly litigious, as it justified failing to fully comply with the ALJ's May 9, 2012 Order Regarding Back Pay Award.

Dated this 20<sup>th</sup> day  
of February, 2013.

  
Rich Djokic, Board Chair  
State Personnel Board  
633 17<sup>th</sup> Street, Suite 1320  
Denver, CO 80202-3604

**NOTICE OF APPEAL**

Each party has the following rights:

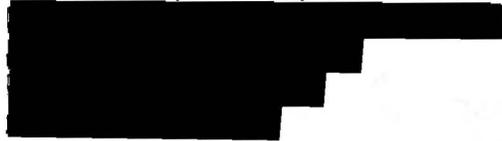
1. To abide by the decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 45 days pursuant to Section 24-4-106(11), C.R.S., as provided in Section 24-50-125.4(3), C.R.S.

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.

**CERTIFICATE OF MAILING**

This is to certify that on the 21<sup>st</sup> day of February, 2013, I electronically served a true copy of the foregoing **ORDER OF THE STATE PERSONNEL BOARD** as follows:

Susan P. Klopman Esq.



Alison Faryl Kyles



Stephanie Lindquist Scoville





Andrea C. Woods