

**COMMONWEALTH OF MASSACHUSETTS**

**SUFFOLK, SS,**

**CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503  
Boston, MA 02108  
(617) 727-2293

**JOSEPH GIBBONS**

Appellant

v.

G2-05-350

**CITY OF WOBURN**

Respondent

Appellant's Attorney:

Brian E. Simoneau  
61 Worcester Road, Suite 200  
Framingham, MA 01701  
508-881-1119  
508-302-0212 (fax)  
Brian@Policelaborlaw.com

Respondent's Attorney:

David Jenkins  
Kopelman & Paige, P.C.  
101 Arch Street  
Boston, MA 02110  
617-556-0007  
Djenkins@k-plaw.com

Commissioner:

Daniel M. Henderson

**PROPOSED DECISION**

Pursuant to the provisions of G.L. c. 31, § 2(b), the Appellant, Joseph M. Gibbons, (hereafter "Gibbons" or "Appellant") seeks review of the Personnel Administrator's decision to accept the reasons of the City of Woburn (hereafter "Appointing Authority", "City") bypassing him for promotional appointment to the position of Police Captain of the Woburn Police Department (hereafter "Department").

The appeal was timely filed. A full hearing was held on September 14, and December 18, 2007 at the offices of the Civil Service Commission. The hearing was stenographically recorded and the transcript of 426 total pages was designated as the official record of the proceeding. By Appellant's Motion, the witnesses were sequestered.

### **FINDINGS OF FACT**

Seventeen exhibits were entered into evidence at the hearing. Based on these exhibits and the testimony of the following witnesses:

*For the Appointing Authority:*

1. John K. Murphy (Appointee)
2. Former Mayor John C. Curran
3. Police Chief Phillip L. Mahoney

*For the Appellant:*

1. Joseph M. Gibbons (Appellant)

I make the following findings of fact:

1. The Appellant was appointed as a Reserve Woburn Police Officer on June 10, 1983. He was appointed as a Full-Time Permanent Civil Service Police Officer of the Department on October 28, 1984. He was promoted to the rank of Sergeant on May 28, 1995 and promoted to the rank of Lieutenant on June 1, 1997. (Ex 1)
2. The City employs three Captains who serve as second in command of the Department after the Chief of Police. One Captain is assigned to oversee the Detective Bureau, Drug Unit, and Internal Affairs, the second oversees the Services Division and the third administers the Patrol Division. The Department is staffed by approximately seventy-five sworn police officers. (Testimony of Chief Mahoney)

3. The Appellant took and passed the promotional examination for the position of Permanent Police Captain in the City, achieving a score of 91. (Ex. 1)
4. Based on his score, the Appellant's name appeared at the top of the eligible list for certification number 250572 and the Appointee Murphy appeared at the bottom of the list, having received the lowest score of 82. (Ex. 1 and testimony)
5. The Department sought to fill one permanent full time Police Captain position from the aforementioned certification. (Ex. 1)
6. At all times relevant to this appeal, then-Mayor John C. Curran ("Mayor Curran") was the Appointing Authority for the City. (Ex. 1)
7. On July 5, 2005, interviews for the three candidates who had indicated a willingness to accept the vacant Captain position were conducted by the Mayor. The interviews lasted approximately thirty minutes and were held at Mayor Curran's office at City Hall. Mayor Curran conducted the interview process alone. (Testimony of Curran)
8. Mayor Curran testified that prior to the interviews for this vacant position; he conferred with Police Chief Philip Mahoney ("Chief Mahoney"). Chief Mahoney has served as Police Chief for the City for more than twenty years and began his law enforcement career almost forty years ago as a reserve police officer. Given the important function that a Captain has within the Police Department, Chief Mahoney requested that Mayor Curran appoint the most-qualified applicant for the position. (Testimony of Curran and Mahoney)

9. Curran testified that Chief Mahoney specifically recommended the Appointee for promotion. However, Chief Mahoney testified that he did not specifically recommend the Appointee, Murphy. I find Mahoney's testimony to be believable and accurate as his testimony and demeanor was professional, straight forward and unembellished. He appeared to have a clear and detailed memory on relevant matters. If he had no clear memory of an event, he stated so. Mayor Curran however had a poor memory of the details of the interview process and related events. He testified by describing his best memory which amounted to impressions, emotional reactions and subjective conclusions to the competing candidates answers to interview questions. (Testimony of Curran and Mahoney)
10. Mayor Curran's testimonial difficulty started immediately upon cross-examination. He could not remember that the Appellant with 24 years experience on the Woburn Police Department had been performing the duties of patrol supervisor and shift supervisor at the time of the interviews here. Mayor Curran could not list or identify the duties and responsibilities of those two positions. Mayor Curran then went on to defend his poor memory by answering; "But like you or like anyone, I remember the gist of the events and why I made the decisions and I stand by them." (Testimony of Curran, Tr. 166-169; 173-205)
11. Curran stated that he took notes during the interviews but did not use standardized ranking, rating, or scoring sheets to rate the candidates' interview performance. (Exs. 5 and 6 and testimony of Curran)

12. On cross examination, Curran acknowledged that he has little police education, training, background, or experience.(Testimony of Curran, Tr. 206-207)
13. The candidate selected for appointment by Mayor Curran was John Murphy, who scored an 82 on the promotional examination. Curran testified that he chose Murphy for the position because he believed he was the best qualified candidate for the job based on his interview with Murphy.
14. On or about July 27, 2005, Mayor Curran notified the state's Human Resources Division (HRD) that it was bypassing the Appellant for appointment for numerous reasons including the Appointee's "experience and leadership skills, his initiative in researching, developing and managing a number of new programs which have significantly and positively impacted the Department as well as the community as a whole, and his leadership in making positive changes in the Police Department workforce through his administrative duties as well as his work as Internal Affairs Officer." (Ex. 2)
15. The Authorization for Employment Form 14 from the City and signed by Curran stated as follows:

"John Murphy's experience, motivation and demonstrated leadership skills are far superior to the other candidates for Police Captain. Specifically, he:

- Has developed and managed a number of important new Police Department programs, including the Housing Liaison Officer Program, the "Clean Start" Youth Crime Diversion Program, the Proportional Patrol Officer Deployment Program, the Weed and Seed Grant Program, the Police Department Grant Writing Program (obtaining more than \$1M in grants), and a number of other programs.

- Has served as the staff officer for the Police Department, developing and supporting the administration of the approximate \$7.5M departmental budget, developing and implementing the Crime Analysis System, developing other statistical and support material for various projects and resolving numerous issues assigned to him.
- Is the Police Department computer expert, investigating computer crime, managing the Department's computer systems, developing a proposal for a new computer system for the department and acting as the computer liaison with various other groups. Acted as the System Administrator for Windows 2003 Based Server, for the Microsystem Police System and for the NEMLEC Drug Task Force, and developed an Electronic Salary Generation System for the Police Department.
- Served as the Internal Affairs Officer, investigating and resolving a number of very high profile and difficult cases, obtaining and presenting the facts and appearing at civil and criminal hearings to present the information in a very professional and complete manner, often cited by the Hearing Officer for his ability to present complex information in an understandable manner.
- Is the Emergency Operations Officer and has experience as the Domestic Violence Officer and the Public Housing Liaison Officer.
- Obtained a grant to implement an ERI Summer Youth Employment program that provides summer employment with training to high risk youths.
- Has a high degree of community police involvement, representing the Police Department in City Council meetings, at meetings with housing advocates, in meetings regarding youth issues, etc.
- Was far better prepared for his interview than the other candidates for Captain, having researched and analyzed the captain position and preparing a list of his skills, experience and accomplishments, showing that he had been doing almost all of the Captain duties listed in the Civil Service job duties for Captain.
- And in his structured interview showed well-developed leadership standards and skills, expressing responses to the questions on supervisory judgments and police ethics that were better than the other candidates.

Murphy has a Bachelor's Degree in Sociology with a concentration in Criminal Justice from Curry College and has been pursuing a Master's Degree in Criminal Justice with a concentration in Terrorism from the University of Massachusetts." (Ex. 2)

16. On or about August 8, 2005, HRD accepted Mayor Curran's reasons for his bypassing Appellant and on or about August 21, 2005, Murphy was promoted to the rank of Police Captain. (Ex. 1)
17. Mayor Curran testified that Murphy showed the initiative that he was looking for in the next Captain before his interview. He stated that Murphy researched the duties and responsibilities of a civil service Captain and documented what of those duties he had performed as well as preparing a detailed resume of his credentials and experience. Mayor Curran stated that he was impressed with the comprehensive documentation presented by Murphy at the interview, which highlighted his accomplishments and his breadth and depth of experience. (Testimony of Curran and Ex. 7)
18. Curran testified that he knew Murphy before his interview and he had participated in meetings with Murphy regarding the preparation and presentation of budgetary issues to the Woburn City Council. Curran stated that he did not have any experience in dealing with the Appellant. Curran held a very favorable opinion of Murphy at the time of the interviews due to their prior interaction (Testimony of Curran)
19. Curran testified he was aware prior to the interviews, that during his employment with the Department, Murphy had developed a number of programs on his own initiative, including the Proportional Deployment Program, the Weed and Seed Program, and the Clean Start Program.
20. The Mayor acknowledged that Appellant had more supervisory experience than the appointee. However, Curran criticized the Appellant for describing his leadership

style as “democratic” during the interview and the Mayor believed this was an improper leadership style.. According to textbooks on the reading list for the promotional examination for the supervisory positions of Sergeant, Lieutenant, and Captain, such a leadership style is valid. (Testimony of Curran, Murphy, and Gibbons)

21. The Appellant has worked for almost twenty four years in the Patrol Division, in the positions of patrol officer, patrol supervisor, and shift commander. As a Shift Commander, his duties included supervising thirty people a week, answering radio calls, providing emergency service, taking reports, investigating crime in the preliminary stages and assisting citizens. (Testimony of Gibbons)

22. A print out from the official City website states: The heart and soul of the Woburn Police Department is the Patrol Division. Patrol is the largest and the most visible part of the Department, and the part of the Department that most people come into contact with. Patrol Division is commanded by a Captain, who is assisted by an administrative Sergeant. Patrol has four Lieutenants, five Sergeants and 38 Patrol Officers. 2 Reserve Patrol Officers are assigned to Patrol on a full time basis. (Ex. 10)

23. Mahoney testified credibly that a Shift Commander such as the Appellant has overall responsibility for the total shift, stating of shift commanders: “They do everything.” He stated they would do all the booking of the prisoners brought in, the breathalyzer, fingerprinting, the pictures, making sure the prisoner’s rights are adhered to. He would supervise all the reports the officers do, he would review and is required to



sign off on reports. In addition to these high level functions, the Chief testified that “during the evening hours...they are in charge actually for the City.”

24. The Appellant holds both a Bachelor’s and Master’s Degree in Criminal Justice.

(Testimony of Gibbons)

25. Murphy has a Bachelor’s Degree in Sociology and has been working towards a Criminal Justice Master’s Degree for the past several years. (Testimony of Murphy)

26. Murphy spent most of his career in the Department’s Services Division. The official City website states: “The Services Division is the smallest of the Department's three divisions. It consists of a Captain, a Lieutenant, two Sergeants and four Officers. The Department's non-sworn staff are included in the Division.” (Ex.11)

27. Murphy performed primarily administrative and support assignments during his tenure with the Department, having served only five years in the Patrol Division, in a non-supervisory capacity. (Testimony of Murphy)

28. Positions held by Murphy such as Public Housing Liaison Officer, Computer Systems Administrator and Staff Officer, etc., were not posted or filled by an open competitive process. (Testimony of Murphy)

29. Many of the positions held by the Appointee Murphy and cited as bypass reasons by the City were awarded to Appointee without prior posting or announcement. They were actually created at the suggestion of Appointee Murphy, within his division, the Services Division. Therefore, the Appellant did not have the opportunity to hold those positions. (Testimony of Chief Mahoney, Tr. 285-286)

30. The Appellant spent most, if not all, of his career in the Police Department's Patrol Division (Exhibit 10, Testimony of Gibbons, Tr. 345-349). "The heart and soul of the Woburn Police Department is the Patrol Division. Patrol is the largest and the most visible part of the Department, and the part of the Department that most people come into contact with. Patrol Division is commanded by a Captain, who is assisted by an administrative Sergeant. Patrol has four Lieutenants, five Sergeants and 38 Patrol Officers. 2 Reserve Patrol Officers are assigned to Patrol on a full time basis. " (Exhibit 10). (See also Testimony of Curran, Tr. 168-169).
31. The Appellant performed primarily patrol and operational assignments during his tenure with the Department, having served as a patrolman, patrol supervisor, and shift commander. (Testimony of Gibbons, Tr. 345-349).
32. The Appointee Murphy spent most of his career in the Police Department's Services Division. "The Services Division is the smallest and least visible of the Woburn Police Department's three divisions. It consists of a Captain, a Lieutenant, two Sergeants and four Officers. The Department's non-sworn staff is included in the Division." (Exhibit 11).
33. The Appointee Murphy performed primarily administrative and support assignments during his years of service with the Police Department, having served only five (5) years in the Patrol Division, in a non-supervisory capacity. (Testimony of Murphy, Tr. 28-33).
34. Mayor Curran magnified the importance of many of the programs and positions held by the Appointee and cited as bypass reasons. The evidence revealed a lack of any

documents or reliable evidence describing or explaining the programs and positions.

(Testimony of Curran, Tr. 191-193; Tr. 238-248; Testimony of Murphy, Tr. 87-

Testimony of Mahoney, Tr. 285, 290).

35. Mayor Curran largely ignored the Appellant's work as a Lieutenant in the Department's Patrol Division, even though he supervised a significantly larger number of officers for a longer period of time, as compared to the Appointee. (Testimony of Curran, Tr. 168-169).
36. Mayor Curran's familiarity with and admiration for the Appointee Murphy predated the interview process in this matter. The information and beliefs held by the Mayor were garnered and generated outside of the interview and evaluation process. The Mayor held a very high opinion of Murphy and this high opinion tainted the entire selection process, as the selection was subjective. The Mayor's detailed familiarity with Murphy's background is contrasted by his dearth of information on the Appellant. This contrast is especially significant considering the important position of Patrol Supervisor or Shift Supervisor, held by the Appellant at the time and his 24 years of service in the Department. The Mayor's selection of the Appointee was subjective and strongly influenced by his predisposition in favor of the Appointee. Chief Mahoney, a credible witness clearly refuted the Mayor regarding the Chief's recommendation for this promotional appointment. The Mayor's testimony tended to be safe; being subjective, conclusory and therefore difficult to refute. The Mayor resorted to the excuse of elapsed time resulting in lost memory. The Mayor's testimony regarding his selection of the Appointee was based on little more than

personal feelings and a poor memory. His testimony is not credible. (Testimony, Exhibits and demeanor)

37. Both the Appellant and Chief Mahoney testified clearly, responsively and directly without embellishment. They had proper and professional demeanor while maintaining eye contact and delivering unhesitating answers that rang true. If they could not recall an event they answered so with out hesitation or excuse. Their testimony is credible. (Testimony, Exhibits and demeanor)

## **CONCLUSION:**

The role of the Civil Service Commission is to determine “whether the Appointing Authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority.” City of Cambridge vs. Civil Service Commission, 43 Mass.App.Ct.300, 304 (1997). Reasonable justification means the Appointing Authority’s actions were based on adequate reasons supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law. Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex 262 Mass, 477, 482 (1928). Commissioners of Civil Service vs. Municipal Ct. of the City of Boston, 359 Mass. 214 (1971). Basic merit principles as defined in G.L. c. 31, §1 require that employees be selected and advanced on the basis of their relative ability, knowledge and skills, assured fair and equal treatment in all aspects of personnel administration and that they are protected from arbitrary and capricious actions. See Tallman v. City of Holyoke, G-2134 Cotter, et al v. City of Boston, et al., United States District Court of Massachusetts, Civil Action Number 99-1101, (Young, CJ).

Appointing Authorities are expected to exercise sound discretion when choosing individuals from a certified list of eligible candidates on a civil service list. The issue for the commission is “not whether it would have acted as the appointing authority had acted, but whether, on the facts found by the commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the commission to have existed when the Appointing Authority made its decision.”

Watertown v. Arria, 16 Mass. App.Ct. 331, 334 (1983). See Commissioners of Civil Ser. V. Municipal Ct. of Boston, 369 Mass. 84, 86 (1975) and Leominster v. Stratton, 58 Mass.App. Ct. 726, 727-728 (2003). However, personnel decisions that are marked by political influences or objectives unrelated to merit standards or neutrally applied public policy represent appropriate occasions for the Civil Service Commission to act. City of Cambridge, 43 Mass. App. Ct. at 304.

Both the Appellant and Chief Mahoney testified clearly, responsively and directly without embellishment. They had proper and professional demeanor while maintaining eye contact and delivering unhesitating answers that rang true. In contrast, it is found that Mayor Curran lacked credibility. Mayor Curran greatly exaggerated his law enforcement experience. Moreover, Mayor Curran often claimed a lack of memory regarding basic facts throughout cross-examination. His answers tended to be safe; general subjective impressions that were incapable of refutation. No such memory lapses were exhibited on direct examination. Further, it must be noted that a glaring contradiction existed between the testimony of Mayor Curran and Chief Mahoney’s testimony with respect to the issue of whether the Chief specifically recommended the Appointee, by name, for promotion. The Chief testified that he did not specifically recommend the Appointee for the

promotion. I credit the Chief's testimony on this issue. Overall, the Chief had a clearer recollection of the events surrounding this appointment. Unlike Mayor Curran, Chief Mahoney was able to testify, with clarity and about the time period in question here. No such clarity existed with respect to Mayor Curran's testimony.

The Mayor also implemented and executed an arbitrary and capricious selection process in a previous bypass appeal. See Bardascino et al v. City of Woburn 19 MCSR 25, February 16, 2006.

The Commission is empowered to overturn an Appointing Authority's bypass decision based on a finding that the reasons given for the bypass were vague, untrue, applied equally to the bypassed candidate, are incapable of substantiation or are a pretext for other impermissible reasons. Roberts v Lynn Fire Department, 10 MSCR 13 (1997)

Here, Respondent did not prove reasonable justification for bypassing Appellant for the position of Police Captain. The bypass reasons consist primarily of the former Mayor Curran's opinion of the candidates' interview performance was biased, having been strongly influenced by his prior knowledge of and familiarity with Murphy. The Mayor, the sole interviewer and decision maker in the appointment process, stated the reasons for bypassing the Appellant included the Appointee's "experience and leadership skills, his initiative in researching, developing and managing a number of new programs which have significantly and positively impacted the Department as well as the community as a whole, and his leadership in making positive changes in the Police Department workforce through his administrative duties as well as his work as Internal Affairs Officer." However, an analysis of these reasons indicates that Respondent overstated the importance of the Appointee's accomplishments, while the Mayor

overlooked the Appellant's greater overall length of service with the Department, and the Appellant's greater length of service as a supervisor for the Department. Specifically, the Appellant worked primarily as a Patrol Supervisor and Shift Commander in the largest and most visible division of the Department. Chief Mahoney testified that a Shift Commander such as the Appellant "has overall responsibility for the shift... they would do all the booking of the prisoners...the breathalyzer, the fingerprinting, the pictures, making sure the prisoner's rights are adhered to. He would supervise all the reports the officers do, he would review and is required to sign off on reports. . . . They do everything." In his capacities as Patrol Supervisor and Shift Commander, Appellant supervised approximately thirty or more lower-ranking police employees per week.

In contrast, the Appointee spent much of his career in the smallest and least visible division of the Department, supervised far fewer people than the Appellant and primarily engaged in office work and specialized support related tasks such as budgeting, computer operations, grant writing, and crime analysis. As the Appellant has led and supervised considerably more officers for a longer period of time, the Appointee's leadership experience is not a valid bypass reason.

Further, Respondent relied on the Appointee's various assignments, such as the Appointee's experience as Public Housing Liaison Officer and Staff Officer, as justification for bypassing the Appellant. Neither of these positions were posted or filled by any open competitive process. Such a practice of assigning positions to individuals without posting the vacancies, thereby depriving other employees an opportunity to compete for selection is suggestive of favoritism and contrary to basic merit principles, which "require that applicants be selected and advanced on the basis of their relative

ability, knowledge and skills, assured fair and equal treatment in all aspects of personnel administration, and that they be protected from arbitrary and capricious action.” Domond v. Cambridge, Case No.: G1-03-158 & CS-07-63 (March 23, 2007); See Tallman v. City of Holyoke, et al., G-2134, and compare Flynn v. Civil Service Commission, 15 Mass. App. Ct. 206. Allowing an Appointing Authority to benefit from such a practice in the context of bypass appeal hearing is contrary to the Commission’s fundamental purpose and perpetuates unfair treatment. See City of Cambridge v. Civil Service Commission, 43 Mass. App. Ct. at 308. (Commission’s fundamental purpose is to protect against overtones of political control, objectives unrelated to merit standards, and assure neutrally applied public policy.) Moreover, although Mayor Curran relied on the programs and positions held by the Appointee as bypass reasons, the evidence revealed a lack of any documents describing or explaining the programs and positions.

Other bypass reasons are also insufficient. The Appellant has more overall education than the Appointee: the Appellant holds both a Bachelor’s and Master’s Degree in Criminal Justice while the appointee has only a Bachelor’s Degree in Sociology and has been working towards a Criminal Justice Master’s Degree for the past several years. Thus the Respondent’s reliance on the Appointee’s education as a bypass reason is improper.

“A civil service test score is the primary tool in determining relative ability, knowledge and skills and in taking a personnel action grounded in basic merit principles.” Sabourin v. Town of Natick, Docket No. G-01-1517 (2005). Here, Respondent could have used the nine point disparity in scores to determine a legitimate selection. Instead, the former Mayor, the sole Appointing Authority, relied on his



interview with the candidates. The potential for bias and subjective decisions here was apparent in former Mayor Curran conducted interviews alone, without the participation of the Chief of Police. Although he testified that Chief Mahoney specifically recommended the Appointee, the Chief testified that he made no specific recommendation. The type of interview conducted by the Mayor, where the candidates' responses were rated by a single individual with little to no police education and experience is, in the Commission's experience, suggestive of a flawed selection process. Although the Commission has consistently upheld the use of an oral interview as a selection tool, for such a tool to be valid, the interview process must be "conducted on a level playing field." Brown v. Town of Duxbury, Case No.: G2-04-264 (December 1, 2006). No such level field existed in the present case.

The Commission's intervention is proper where, as here, the Appellant has presented credible evidence that a flawed and partial interview process violated the basic merit principles of the civil service system.

The interview process established and administered exclusively by the Mayor here, is entirely subjective and not capable of measurement of the knowledge, abilities and skills which are rationally related to the position. The entire process was so severely tainted by bias and personal interest that it could only be described as arbitrary and capricious.

The Commission determines that the selection of candidates for appointment was contrary to the fundamental purpose of the civil service system and the basic merit principles – upon which the system is grounded – which require that public employees be selected and advanced on the basis of ability, knowledge and skill. The Appointing

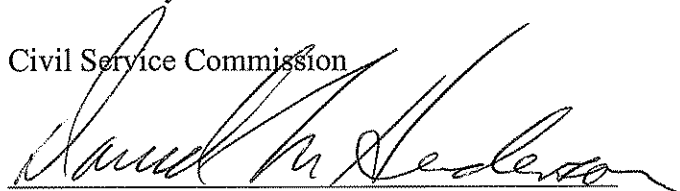
Authority failed to administer a selection process that gave candidates fair and equal treatment and consideration. Therefore the City's personnel actions were arbitrary and capricious. Because the City failed in its burden to provide reasonable justification for the bypasses.

Accordingly, the Commission, pursuant to the powers of relief inherent in Chapter 310 of the Acts of 1993, orders HRD to take the following action:

The Civil Service Commission directs the Division of Human Resources to place Joseph Gibbons' name at the top of the eligibility list for promotional appointment for the position of Police Captain for the City of Woburn, so that his name appears at the top of the current and/or next certification which is requested by the City of Woburn from HRD and from which the next appointment to the position of Police Captain for the City of Woburn shall be made, for so long as it takes to receive at least one opportunity for consideration. Upon appointment to the position of Captain, the Appellant shall receive additional relief consisting of a retroactive seniority date, for civil service purposes, back to the date of this improper bypass.

For all of the above reasons and as ordered the appeal under Docket No. G2-05-350 is hereby *allowed*.

Civil Service Commission

A handwritten signature in black ink, appearing to read "Daniel M. Henderson", is written over a horizontal line.

Daniel M. Henderson,  
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman, Henderson, Marquis, Stein and Taylor Commissioners) on September 18, 2008.

A true record. Attest:

  
\_\_\_\_\_  
Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice to:

Brian E. Simoneau, Atty.

David Jenkins, Atty.