

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

JEFFREY KING,
Appellant

V.

MEDFORD FIRE DEPARTMENT,
Respondent

Docket Number G1-05-20

DECISION ON JOINT MOTION FOR EQUITABLE RELIEF

The Appellant, Jeffrey King, filed this appeal with the Civil Service Commission on January 26, 2005 pursuant to G.L. c. 31, § 2(b). The Appellant seeks relief from a decision by the Respondent, Medford Fire Department (hereafter "Department") as Appointing Authority, bypassing him for original appointment to the position of Permanent Full-Time Firefighter in the Department. This appeal had been allowed by the Commission on September 28, 2006. In that decision, the Commission found that the selection process employed by the Respondent was flawed. Because of this concern, the Commission ordered equitable relief for the Appellant and also ordered that the Commission would "maintain jurisdiction over the hiring of any firefighters by the City of Medford." Subsequently, the Commission learned that the Appellant had once again been bypassed for an offer of conditional employment by the Department, allegedly due to his imminent re-deployment for duty with the United States Army in Iraq. As a result of this allegation, the Commission convened an emergency discussion with the parties in

order to enforce its September 28, 2006 decision. The parties reached a resolution of the matter and submitted an agreement to the Commission on October 10, 2007.

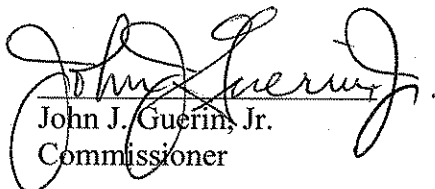
The Commission accepts the agreement of the parties on this matter, which has been appended hereto, and, pursuant to the powers of relief inherent in Chapter 534 of the Acts of 1976 as amended by Chapter 310 of the Acts of 1993, orders the Human Resources Division (hereafter "HRD") to take the following action:

The HRD is to place the name of Jeffrey King at the top of the eligibility list for original appointment to the position of firefighter so that his name appears at the top of the existing certification list, or the next certification list if the current one has expired, requested by the City of Medford from HRD and from which the next original appointment to the position of firefighter in the Medford Fire Department shall be made by the City of Medford and for which Mr. King will be available following his military service.

The letter sent to the HRD by the Department, dated March 9, 2007, stating the reasons for bypassing Jeffrey King, pursuant to c. 31, § 27, is hereby rescinded. The reasons, including Mr. King's driving history, as set forth in the aforementioned letter of bypass shall not be considered by or used in any way by the Appointing Authority in the future with regard to Mr. King's candidacy for a public safety position in the City of Medford.

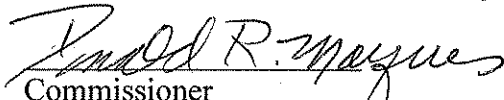
It is further ordered that the Commission's order of September 28, 2006 to maintain jurisdiction over the hiring of any firefighters in the City of Medford is hereby *rescinded*.

Civil Service Commission


John J. Guerin, Jr.
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Guerin, Marquis and Taylor, Commissioners) on October 11, 2007.

A true record. Attest:


Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. 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.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A 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:

Frank J. McGee, Esq.

Mark E. Rumley, Esq.

John Marra, Esq.



MARK E. RUMLEY
City Solicitor

City of Medford

LAW DEPARTMENT

City Hall - Room 206
85 George P. Hassett Drive
Medford, Massachusetts 02155

Telephone (781) 393-2470
FAX: (781) 393-2410 • TDD: (781) 393-2516

ANTHONY M. SANTORO
Assistant City Solicitor

October 10, 2007

Civil Service Commission
One Ashburton Place
Room 503
Boston, MA 02108

Attn: Commissioner John Guerin

Re: Jeffrey King v. Medford Fire Department
Case # G1-05-20

Dear Commissioner Guerin:

Enclosed please the executed Agreement of the Parties and Motion in the above captioned matter.

Thank you for your assistance in this matter.

Very truly yours,

Mark E. Rumley

enc

cc: Frank J. McGee, Esq.

MER/mr

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CIVIL SERVICE COMMISSION

Case # G1-05-20

JEFFREY KING,
Appellant

v.

MEDFORD FIRE DEPARTMENT
Appointing Authority

Appellant's Attorney:

Frank J. McGee
1952 Ocean Street
Marshfield, MA 02050-3424
781-834-4690

Appointing Authority's Attorney:

Mark E. Rumley
City Solicitor
City of Medford
85 George P. Hassett Drive
Medford, MA 02155
781-393-2470

Commissioner: John Guerin

AGREEMENT OF THE PARTIES

Including

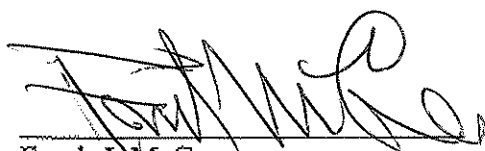
Motion for Relief under Chapter 534 of the Acts of 1976,
as amended by Chapter 310 of the Acts of 1993.

Now come the parties to the above captioned matter and hereby stipulate and agree as follows:

That the letter sent to John O'Leary, Chief Human Resources Officer, Executive Office for Administration and Finance, Human Resources Division, dated March 9, 2007 is hereby rescinded by the Appointing Authority;

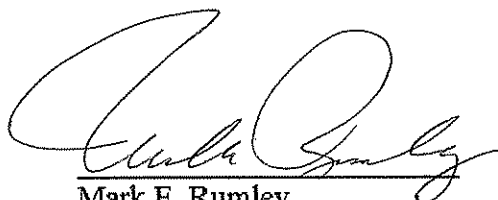
2. The reasons set forth in the aforementioned letter of March 9, 2007, upon which the Appointing Authority concluded that the Appellant was not a suitable candidate for a public safety position at the Medford Fire Department, shall not be considered by or used in any way by the Appointing Authority in the future with regard to the Appellant's candidacy for a public safety position at the Medford Fire Department;
3. The Appointing Authority agrees to reserve one opening for the Appellant for a position as a firefighter at the Medford Fire Department;
4. Upon the Appellant's discharge from the United States Army, the City Appointing Authority will extend to the Appellant a written conditional offer of employment to join the Fire Department as a firefighter. The offer will be conditional on the Appellant passing a pre-employment psychological examination, medical examination, background investigation, to include driving history¹, CORI check, employment history, character references and a successful interview with the Mayor;
5. In order to put into effect the intent and purpose of this Agreement, the parties agree and assent to the Civil Service Commission ordering the Human Resource Division to place the Appellant first on the Certification list pursuant to Chapter 534 of the Acts of 1976, as amended by Chapter 310 of the Acts of 1993.

The Appellant
By



Frank J. McGee
1952 Ocean Street
Marshfield, MA 02050-3424
781-834-4690

The Appointing Authority
By



Mark E. Rumley
City Solicitor
City of Medford
85 George P. Hassett Drive
Medford, MA 02155
781-393-2470

Date: 10/10/07

¹ As set forth in paragraph 2 of this Agreement, the driving history which is set forth in the letter of March 9, 2007 shall not be considered by or used in any way by the Appointing Authority with regard to the Appellant.