

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**

Appeal Nos. 177-03, 63-04, 180-04 and 02-05

DECISION AND ORDER

IN THE MATTER OF THE APPEAL OF:

WARDALE CARLIS, Appellant,

Agency: Department of General Services, Public Office Buildings Division, and the City and County of Denver, a municipal corporation.

The hearing in these consolidated appeals commenced on Sept. 26, 2005 and concluded on Sept. 27, 2005 before Hearing Officer Valerie McNaughton. Appellant was present throughout the hearing and was represented by Karen Larson, Esq. The Agency was represented by Assistant City Attorney Robert Wolf, and Public Office Building (POB) Director Dan Barbee served as the Agency's advisory witness. Having considered the evidence and arguments of the parties, the following findings of fact, conclusions of law and order are entered herein:

FINDINGS AND ANALYSIS

Appellant Wardale Carlis is a Custodial Supervisor for the Public Office Buildings Division of the Denver Department of General Services (the Agency). Appellant appeals a written reprimand dated Oct. 7, 2003, his October 15, 2003 Performance Enhancement Program Report (PEPR), a three-day suspension imposed on May 3, 2004, and a twenty-day suspension dated January 3, 2005, superseding an identical previous suspension based on the same conduct. Appellant has raised claims that the administrative actions were motivated by discrimination and retaliation for prior protected activity.

The Agency's exhibits 2 – 3, 11 – 13, 15, 17, 22 – 23, and 26 – 28 were admitted into evidence. Appellant's exhibits Y and Z were also admitted.

I. Appeal No. 177-03

On Nov. 14, 2003, Appellant appealed the denial of his grievance of a written reprimand and his "meets expectations" PEPR. He alleges that both were inaccurate and motivated by his supervisor Steve Pacheco's racial bias, as demonstrated by various comments derogatory towards African Americans and the creation of a hostile work environment based upon race.

a. Written Reprimand

The written reprimand dated October 7, 2003 was issued because 1) on Aug. 15th, Aug. 29, and Sept. 12, 2003, Appellant failed to submit bi-weekly reports, 2) on Sept. 10th and 19th, 2003, Appellant allowed an employee to take lunch without punching out or in, and 3) on Sept. 22, 2003, Appellant refused to obey an order to correct an employee PEPR. [Exh. 2.]

At hearing, Appellant admitted that he did not turn in bi-weekly reports for the indicated dates, because he believed the reports concentrated on negative information. His supervisor Steve Pacheco testified that Appellant expressed his opinion that the reports were inadequate, and that Appellant substituted another report, which he submitted to Mr. Pacheco on one occasion.

Next, Appellant was accused of allowing employee Nathaniel Duckett to take lunch without punching his time card on two occasions. When Mr. Pacheco asked Appellant about the missing time entries, Appellant told him that on Sept. 10th, Mr. Duckett took a late lunch after Appellant told him he would sign him out, as there was no one in the office in which the time cards are kept. On Sept. 19th, an assignment delayed lunches for Mr. Duckett and other custodians. Mr. Duckett was the only one who did not punch out for the late lunch. Appellant testified he had keys to the time card office, and that he did not open it to allow Mr. Duckett to sign out for lunch. The evidence shows it is the supervisor's responsibility to assure the employees assigned to him clock out. [Exh. Y.]

Finally as to the written reprimand, Appellant admitted at hearing that he refused to change employee Henry Owens' PEPR to below average for attendance. Appellant testified that he declined to make the change because he believed Mr. Pacheco had a mission to discredit Mr. Owens and two other employees based on their race, African American. Appellant asked for more information to justify the rating, but was not satisfied that the notes provided by Mr. Pacheco were reliable. Appellant continued his refusal to change the rating.

Appellant contends that the written reprimand was racially discriminatory, as illustrated by three racist comments he states were made by Mr. Pacheco. First, he testified he overheard Mr. Pacheco tell Robert Perez, "I have to show Blackie how to use the equipment." During an Agency investigation into night crew custodians' allegations of unfair treatment in the fall of 2003, Appellant related the same incident, stating that it had occurred about a year before that time. Appellant explained that he had not reported it because he had no one to support his statement. The investigator reminded him that Mr. Perez had also overheard the comment. Mr. Perez was not contacted during the investigation. The investigative report noted Appellant's failure to report the incident, Mr. Perez' failure to mention the incident to anyone, and the fact that Appellant and Mr. Perez had disciplinary problems with Mr. Pacheco. [Exh. 23, pp. 12 – 13.]

Former custodian Robert Perez testified that Mr. Pacheco told him he had to wait to use a machine so he could “show Blackie how to use the buffer,” which was a reference to Appellant, according to Mr. Perez. “That’s the one that stuck to my head because no one did anything about it. Who can you tell? Mr. Byron, he wasn’t interested.” It appears from this testimony that Mr. Perez did not report the remark because he believed no one would take any action. Shortly thereafter, Mr. Perez was placed on investigative leave regarding an unrelated incident, and never returned to work. At hearing, Mr. Pacheco denied that he ever called anyone Blackie.

Secondly, Appellant testified that Mr. Pacheco referred to him as a “monkey”, a comment Appellant considers racist. Custodian Henry Owens testified that he never heard a supervisor use that word. Jeanette Glass and William Coon heard him say “[a]ny monkey can do this job”. Both considered it belittling to them as custodians. Mrs. Glass is an African American female, and Mr. Coon is a white male. During the 2003 investigation, Appellant stated that Mr. Pacheco said, “[t]he job is so simple a monkey could do it,” during a supervisors’ meeting. Mr. Pacheco admitted making the comment, but explained that he did so in order to illustrate how words can be taken out of context. Custodial supervisors Yvonne Chavez and Daniel Swinarski agreed with Mr. Pacheco’s explanation of the comment, as both were present when it was made. [Exh. 23, pp. 12 - 13.]

Third, Appellant claims Mr. Pacheco made reference to Appellant’s mostly African American crew, stating to Appellant, “[t]hey’re black, you’re black, can’t you handle your people?” Appellant did not state when the remark was made, and apparently did not report the remark to others, either during the investigation or at any other time.

A prima facie case of discrimination requires proof that 1) an appellant is a member of the protected class, 2) he was qualified for his position, 3) the agency imposed an adverse action on appellant, and 4) there is evidence that the action was motivated by discrimination. McDonnell Douglas v. Green, 411 U.S. 792 (1973).

Appellant established that he is protected from discrimination by virtue of his race, African American, that he is qualified for his job, and that he suffered a three-day suspension, which is an adverse action within the meaning of CSR § 19-10 c). It remains to be determined whether the final element has been proven.

The testimony that Mr. Pacheco used the word “Blackie” sometime in 2002 is evidence tending to show that Mr. Pacheco harbored discriminatory bias against African Americans, although it is not direct evidence that the action taken was the product of discrimination. Use of such a word by a supervisor is prohibited by the city’s rules of conduct, and would subject the supervisor to discipline. CSR § 16-50 A. 10). Both Appellant and Mr. Perez testified they were offended by the word. CSR § 15-103 outlines the actions which may be taken by a person who experiences unlawful harassment. The employees did not report the incident because they thought it would

be useless. Neither supported their conclusion by any evidence that prior complaints of racial harassment or supervisory misconduct were ignored.

Appellant's testimony that Mr. Pacheco asked Appellant why he couldn't control his black employees was also never reported. Under the circumstances, the failure to report these comments renders the testimony less believable. As to the use of the word "monkey", it appears from the evidence that it was made at a supervisor's meeting in an attempt to show how words can be taken out of context. It was not intended as a racial comment, as it was made to both white, Hispanic and African American employees.

Appellant's allegation that the discipline unfairly held him responsible for attendance does not support an inference of discriminatory intent, since Appellant has failed to establish that by this or any other means he was treated differently than comparable employees based on his race. On the contrary, the evidence indicates that two Hispanic employees, Ms. Chavez and Mr. Pacheco, were likewise disciplined for rules violations as a result of the same review of attendance records.

Therefore, I find that Appellant has failed to meet his burden to establish that the written reprimand was motivated by racial discrimination.

I find that Appellant refused to submit the bi-weekly reports for the above three dates, failed to follow instructions, and failed to meet his performance standards, in violations of CSR §§16-50 A. 7), and 16-51 A. 10) and 2), respectively. I find also that Appellant allowed Mr. Duckett to take lunch without punching out on Sept. 10th and 19th, 2003, and was thereby careless in the performance of his duties, in violation of CSR § 16-51 A. 6). As to the failure to change Mr. Owens' PEPR as instructed, I find that Appellant's distrust of his supervisor based on a suspicion of bias does not justify a refusal to obey an order. Thus, Appellant violated CSR § 16-50 A. 7) by his refusal to comply with his supervisor's order. Given the number and extent of Appellant's non-compliance with the above rules, as well as Appellant's seven past verbal reprimands within the previous seven months, I conclude that the written reprimand was well within the range of penalties that could be imposed by a reasonable administrator.

b. PEPR

The October 15, 2003 PEPR also challenged in this appeal rated Appellant as "meets expectations" in five categories. He was given a "meets" overall rating because there was no Performance Enhancement Plan (PEP) in place. [Exh. 3.] The PEPR asserted that he refused to properly rate two of his employees, and that he failed to file bi-weekly reports, resulting in "below expectations" ratings in five areas: 1) apply all rules and policies fairly, 2) performance evaluation preparation and performance, 3) maintain effective communications with staff/management and public, 4) assist custodial services supervisor, and 5) follow POB/city rules, regulations and policies.

Appellant contends with some justification that the five areas in which he was rated below expectations all use the same two reasons for the rating: Appellant's failure to complete bi-weekly reports, and his failure to properly rate two employees in their

PEPRs. Appellant argues that this unfairly weighed the rating against him. However, a close reading of the PEPR reveals that those two reasons illustrated deficiencies in several areas of his supervisory and employment duties: communication of unit activity to management and employees, fair application of policy, documentation of facts supporting employee PEPRs, giving assistance to his managers in their duties, and following Agency policy and instructions. Appellant did not support his claim that the “meets” rating was discriminatory by any evidence other than that considered above with regard to the written reprimand. For the same reasons as stated above, I cannot conclude on this evidence that Appellant has proven the PEPR rating was motivated by discrimination. The “meets expectations” rating itself is not separately appealable. CSR § 19-10 e).

II. Appeal No. 63-04

This appeal challenges the issuance of a three-day suspension imposed on May 3, 2004 for Appellant’s failure to enforce the Agency’s attendance and leave policies. [Exh. 22.] The appeal asserts that the discipline was motivated by race, national origin and/or religious discrimination, and retaliation for his participation in a complaint of favoritism or discrimination investigated by the Agency.

As a result of a 2004 investigative report which concluded that supervisors were guilty of favoritism in their implementation of attendance and leave policies, Dan Barbee reviewed the unit time cards and leave slips for the year 2003. [Exh. 23.] He determined that both Appellant and custodial supervisor Yvonne Chavez allowed certain employees to abuse leave and attendance policies. Public Office Building (POB) Administrative Policies provide that employees who violate the attendance policy may be subject to discipline. [Exh. 26.]

Appellant was suspended for three days because he failed to discipline two employees, Henry Owens and Nathaniel Duckett, for forty instances of tardiness and for leaving early on nineteen days, largely without the appropriate leave slips. In addition, Appellant was charged with failing to maintain good working relationships with his two co-workers, Daniel Swinarski and Yvonne Chavez, thus hindering the completion of their work. As a part of the same investigation, Mr. Barbee suspended Ms. Chavez for three days for her failure to enforce the attendance and leave rules as to two of her employees, which was later reduced to a one-day suspension. [Agency’s Response to CSB Hearings Officer’s June 17, 2004 Discovery Order, p. 2, and Exh. 2, pp. 18 – 24; testimony of Appellant.] In addition, Custodial Service Supervisor Steve Pacheco was suspended for five days for failure to supervise Appellant’s and Ms. Chavez’ enforcement of the attendance and leave rules, the improper assignment of leave approval to Ms. Chavez, and failure to handle dissension between Appellant and his two co-workers, Mr. Swinarski and Ms. Chavez. [Agency’s Response to CSB Hearings Officer’s June 17, 2004 Discovery Order, p.2, and Exh. 2, pp. 25 - 34.] Mr. Barbee concluded that Mr. Pacheco had shown favoritism towards Appellant by failing to discipline him for these violations of policy and procedure. [Testimony of Dan Barbee.]

Appellant does not deny that Messrs. Owens and Duckett were guilty of the cited attendance inadequacies. He argues instead that he should not be held responsible for their attendance problems, since Ms. Chavez handled employee leave for nine of the twelve months in question, from January to September 2003. Thereafter, Mr. Barbee directed Mr. Pacheco to have Appellant sign leave slips and maintain a computer attendance log on his own employees.

Mr. Pacheco admitted he assigned Ms. Chavez the duty of handling daily time cards when he was absent, but contended that each supervisor was responsible for keeping track of employee's work time on the time sheets. This testimony was partially contradicted by memos dated Sept. 22, 2003 and October 7, 2003, in which Mr. Pacheco stated that Ms. Chavez is responsible for time cards, slips and sheets, and is required to keep Mr. Pacheco aware of employee attendance issues. [Exhs. Y, Z.]

Appellant testified that he had no sense of how tardy Mr. Owens was, since he believed it was Ms. Chavez' job to keep track of it. However, the fact that Ms. Chavez recorded attendance during part of 2003 does not relieve Appellant of his responsibility to discipline employees for attendance problems of which he was aware. Appellant was assigned to be at the location of the time cards at the beginning and end of the shift, and thus had actual notice of each instance of tardiness or early departure. [Exh. Y.] There is no evidence that Appellant did not meet his obligation to be at the time clock as assigned to provide his employees access to their time cards. I conclude Appellant knew of his employees' tardiness and early departures. In addition, Appellant gave a verbal warning to both Messrs. Duckett and Owens for their tardiness on May 30, 2003, but did not follow up by further discipline, despite their continued attendance violations, and his access to their time records. Therefore, the evidence supports a finding that Appellant was careless in the performance of his duty to supervise the attendance of two of his employees for the year 2003, in violation of CSR § 16-51 A. 6).

As to the charge of failing to maintain satisfactory work relationships, Mr. Pacheco testified that Appellant was required to work well with his co-supervisors, Mr. Swinarski and Ms. Chavez, but that Appellant sat behind a partition between him and Ms. Chavez, with whom he did not get along. Appellant complained to Mr. Pacheco that Ms. Chavez asked him questions. After interviewing Ms. Chavez and Mr. Pacheco, Mr. Barbee concluded that Appellant went out of his way not to communicate with Ms. Chavez, sometimes walking across the street to tell another employee information he was instructed to give Ms. Chavez, and that Appellant extended that lack of communication to Mr. Swinarski. Appellant admitted at his predisciplinary meeting that he did not have a good working relationship with Ms. Chavez and Mr. Swinarski, and did not contradict the Agency's testimony on this issue at the hearing. On the foregoing evidence, I conclude that the Agency established that Appellant violated CSR § 16-51 A. 4), failure to maintain satisfactory work relationships. The Agency did not submit evidence proving any of the other rules violations alleged in the May 3, 2003 discipline.

Appellant offered no evidence in support of his claims of national origin and religious discrimination. Appellant asserts that his race, African American, was the

basis for the 3-day suspension, since he should not have been held responsible for his employees' attendance problems after Mr. Pacheco assigned the duty to record attendance to Ms. Chavez. Appellant supported the claim with the same evidence discussed above with regard to his first appeal. That evidence asserts the discriminatory animus of Mr. Pacheco. Since this suspension was imposed by Mr. Barbee after his independent verification of the facts supporting it, I conclude that the evidence is insufficient to prove that this discipline was imposed for discriminatory reasons.

Next, Appellant asserts a claim that the discipline was imposed in retaliation for protected activity, i.e., his complaint of race discrimination during the 2003 internal investigation of the complaints of night crew custodians. Between October 27 and November 4, 2003, Appellant was interviewed by Human Resources Specialist Regina Garcia. A summary of his interview, including a statement that Mr. Pacheco used the words "Blackie" and "monkey", was included in the investigative report issued on January 26, 2004. [Exh. 23.]

"To establish a prima facie case of reprisal, a plaintiff must show (1) protected employee action; (2) adverse action by an employer either after or contemporaneous with the employee's protected action; and (3) a causal connection between the employee's action and the employer's adverse action." Morgan v. Hilti, 108 F.3d 1319, 1324 (10th Cir. 1997).

Appellant's participation in an internal investigation into alleged discrimination is clearly employee action intended to be protected from retaliation. CSR § 15-106. His participation became known to the Agency by the date of the report, January 26, 2004. On May 3, 2004, this suspension was imposed as a result of Mr. Barbee's review of 2003 time cards and leave slips, and his conclusion that Appellant favored two employees in his administration of attendance and leave policies. I find that the passage of little more than three months is not long enough to disprove a causal connection between the protected activity and the adverse action, since the time card review was undertaken as a result of the protected activity, and consumed some portion of that time. In a retaliation claim, timing of the adverse action is evaluated in light of other evidence, or lack of other evidence. Nelson v. J.C. Penney Co., Inc., 75 F.3d 343, 346 (8th Cir. 1996.) However, Appellant submitted no other evidence that would support an inference of discrimination. It is undisputed that two other employees who had not engaged in protected activity were likewise disciplined as a result of Mr. Barbee's review of time cards and leave slips. Appellant offered no evidence that Mr. Barbee intended to retaliate against him for his participation in the internal investigation. Protected activity does not immunize an employee from discipline imposed for good cause. Mt. Healthy City Board of Education v. Doyle, 429 U.S. 274 (1977). I therefore find that Appellant has failed to present evidence that the three-day suspension was imposed in retaliation for Appellant's protected activity.

It remains to be determined whether the three-day suspension was an appropriate penalty for the proven misconduct. The evidence indicates that, under very similar circumstances, the Agency imposed a three-day suspension on Ms. Chavez for

her failure to control the attendance of two employees, which was settled as a one-day suspension. Appellant admitted he was later offered the same settlement. A comparison of their disciplinary letters indicates that Appellant was charged with two additional violations: failure to maintain satisfactory work relationships and failure to comply with a supervisor's instructions. It also shows that Ms. Chavez had no previous disciplinary history, in contrast with Appellant's written reprimand and seven verbal reprimands in the past year. It cannot be concluded on this evidence that the three-day suspension was outside the range of discipline that could be imposed for the offenses.

III. Appeal Nos. 180-04 and 02-05

On January 3, 2005, Appellant was suspended for twenty days for having an accident with a city vehicle resulting in damage on October 15, 2004, and failing to report that accident. Appellant was charged with the specific violations of gross neglect in the use of city property, dishonesty, violation of Executive Order 3, failure to observe departmental regulations, and carelessness in the performance of duties.

Appellant admitted at hearing that he backed into a private automobile with his city truck in the Family Crisis Center parking lot on Friday, October 15, 2004. He testified he did not report it because he believed after inspecting the car that there was no damage. The Agency submitted the testimony of Social Case Worker Karen Blackwell, who stated that she left her car in the lot that Friday to go to dinner with her husband. When she returned later that night, she found the back panel dented, the back bumper detached, and the back windshield wiper inoperable. She reported the damage to the security personnel the following Monday, and obtained two damage estimates, \$1,784.10 and \$1,992.30.

Security Supervisor Kenneth Lowe testified that on Monday, October 18th, he took pictures of both vehicles and viewed the security tape of the parking lot. The video showed that Appellant's truck backed straight into Ms. Blackwell's car, then left the lot without its driver getting out of the truck. The truck was removed from service, and Appellant's supervisor Tony Rios told Appellant not to drive it, as it was assigned to him. Mr. Rios testified that Appellant made no comment at that time.

The next day, Mr. Rios met Appellant at the police office in the Human Services Building, along with Facility Supervisor Bill Luetzen and Officer Gregory Gentry of the Denver Police Department. Appellant admitted bumping the other car while backing up, but stated he did not see any damage to the car. [Exhs. 15, 16.]

POB administrative policy requires that "[e]mployees are responsible for taking care of all City property assigned to them. . . Employees must also immediately report to their supervisor any damage to property belonging to POB or to another agency or employee, whether they are responsible for the damage or not." Appellant acknowledged that he read and understood these policies on June 20, 2003. [Exh. 26, pp. 8, 12.]

Appellant testified that he saw the other car when he entered the lot, but did not see it when he got in the city truck and checked the rear-view mirror. He backed straight out of his space at about 2 to 5 miles per hour, and felt a slight bump. Appellant looked at the car he had hit without leaving his truck. He stated he could not see any damage, so he left the lot. When he returned, it was dark. He got out of the truck and noticed that the tail light was broken and the bumper was bent on one side of the car. He believed that the damage must have been old, since there were no fragments below the tail light. Since he didn't think he was going fast enough to cause any damage, he looked no further for damage he could have done.

Appellant argues that he was not required to report the accident because he did not believe he caused the damage on the car. The evidence shows Appellant did not get out of the truck after the accident, and only looked at the damaged car momentarily at about 7:00 in the evening when he returned to the lot, as shown in the parking lot video. [Testimony of Mr. Luetzen.] Based upon the pictures of the car Appellant admits striking, and the convincing testimony of the car's owner, Karen Blackwell, I find that the damage to the car's back panel and bumper were easily visible. [Exhs. 17, 27.] Appellant's conclusion that he did not cause the damage was not reasonable, based upon the cursory nature of his examination of the car, and his admission that he was in the dark during that examination. Under similar circumstances, a reasonable person who sought to comply with the policy would have taken more effective efforts to determine whether there was damage to property. Appellant failed to immediately notify his supervisor of the damage done to the property of another employee, in accordance with departmental policy. [Exh. 26, p. 8.] Appellant thereby violated CSR § 16-51 A. 5), failure to observe departmental regulations. The evidence also shows that Appellant failed to call the police or his supervisor after the accident, in violation of Executive Order No. 3, and CSR § 16-50 A. 18).

As to the charge of carelessness in the performance of duties, the Agency established that Appellant backed his assigned city truck into another vehicle while driving to an assignment. The car was in plain sight as Appellant entered the lot, and Appellant admitted at hearing that he saw the car. Appellant backed straight into the car without taking steps to see if his way was clear. Under these circumstances, Appellant was careless in the performance of his driving duties, in violation of CSR § 16-51 A. 6).

The evidence does not establish that Appellant was grossly negligent in the use of City and County property, or that he was guilty of "theft of property or materials of any other person", in accordance with CSR § 16-50 A. 2). Therefore, I find this asserted violation has not been proven.

The Agency also alleged that Appellant was dishonest in his statement that he looked at the car and concluded he had not damaged it. The parking lot video tape showed that Appellant exited the truck and looked at the car for a moment. Appellant testified he believed he did not damage the car. While I have concluded that his belief was unreasonable, it does not necessarily follow that he was lying about that belief.

Appellant did not reveal the accident to his supervisor when he had the opportunity to do so on October 18th, but he did admit to the accident when confronted by Officer Gentry and his supervisors on the following day. The evidence does not support a finding that Appellant lied during the investigation of the October 15th incident.

Appellant claims that the imposition of the discipline was discriminatory. The only evidence presented as to this claim relates to the allegedly discriminatory attitude of Mr. Pacheco. That evidence is not probative of any discriminatory motive on the part of Mr. Barbee. Appellant also testified that he supervised three African American women, two Hispanic woman and one man who demonstrated their dislike of him through various means. Appellant failed to present any evidence that their dislike was based upon his race. Therefore, the discrimination claim has not been proven.

Appellant also claims the January 2005 discipline was issued in retaliation for his previous EEOC activity. The first such activity of record was Appellant's October 2003 interview with the investigator. I find that was too remote in time to be probative of a causal connection between the activity and this 2005 discipline. Appellant has also engaged in protected activity by virtue of his claims of discrimination in these consolidated appeals on November 4, 2003 (Appeal No. 177-03) and May 4, 2004 (Appeal No. 63-04). I find that there is no evidence of a causal connection between the most recent EEO activity in May 2004 and this discipline, imposed between eight and nine months later. I therefore find that the retaliation claim is not supported by the evidence.

Finally, Appellant argues that the twenty-day suspension is too harsh for the misconduct. Mr. Barbee testified he considered that Appellant as a supervisor is held to a higher standard for upholding departmental policies, and that he had not reported the accident until confronted. He also considered Appellant's prior discipline, including a three-day suspension for failure to perform the duties of a supervisor in May 2004 (Appeal No. 63-04), one written reprimand, and four verbal reprimands in the previous two years. Mr. Barbee testified that the Agency takes corrective action for counterproductive behavior, and more severe discipline if it is not thereafter corrected in order to allow an employee to be a productive member of the team. Given the extent of the damage to the other employee's car, Appellant's failure to report the incident for four days, and Appellant's extensive disciplinary history, I find that a twenty-day suspension was within the range of discipline that could reasonably be imposed by the Agency.

ORDER

Accordingly, the Agency disciplinary actions and PEPR which are the subjects of Appeal Nos. 177-03, 63-04, 180-04 and 02-05 are AFFIRMED.

Dated this 9th day of
November, 2005.

Valerie McNaughton
Hearing Officer
Career Service Board

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CERTIFICATE OF MAILING

I hereby certify that I have forwarded a true and correct copy of the foregoing decision by depositing same in the U.S. mail, postage prepaid, this __ day of November, 2005, addressed to:

Karen Larson, Esq.
1120 Lincoln St., S. 711
Denver, CO 80203

Wardale Carlis
20927 E. 45th Avenue
Denver, Co 80249

I further certify that I have forwarded a true and correct copy of the foregoing decision by depositing same in the interoffice mail, this __ day of November, 2005, addressed to:

Robert Wolf
City Attorney's Office
Litigation Section
201 West Colfax Ave. Dept. 1108
Denver, CO 80202

Luis A Colón
Department of General Services

Dan Barbee
Public Office Buildings
