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CITY OF SEATTLE

MAR 14 2003

CIVIL SERVICE COMMISSION BEFORE THE CIVIL SERVICE COMMISSION  
FOR THE CITY OF SEATTLE

In Re the Appeals of:

MIRA POLESZCZUK

Appellant,

v.

City of Seattle  
Municipal Court,

Department

ORDER AFFIRMING HEARING  
EXAMINER'S ORDER OF DEFAULT

CSC Case No. 02-01-008

and

CSC Case No. 02-05-009

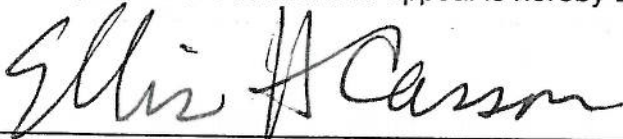
ORDER

This appeal came before the Civil Service Commission on Wednesday, February 26, 2003 for consideration of Appellant's Petition for review.

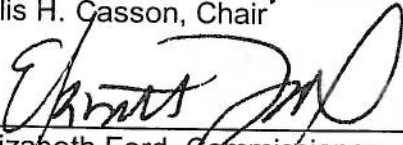
The appellant, without good cause, failed to appear at her scheduled and properly noticed hearing. The rules of the Hearing Examiner and of the Civil Service Commission give the Hearing Examiner the discretion to enter an order of default when an appellant, without good cause, fails to appear for a scheduled hearing.

Finding no material error, the Commission **affirms** the Hearing Examiner's Decision (Hearing Examiners file: CS-02-002 and CS-02-003).

As such, the above referenced appeal is hereby **DISMISSED WITH PREJUDICE**



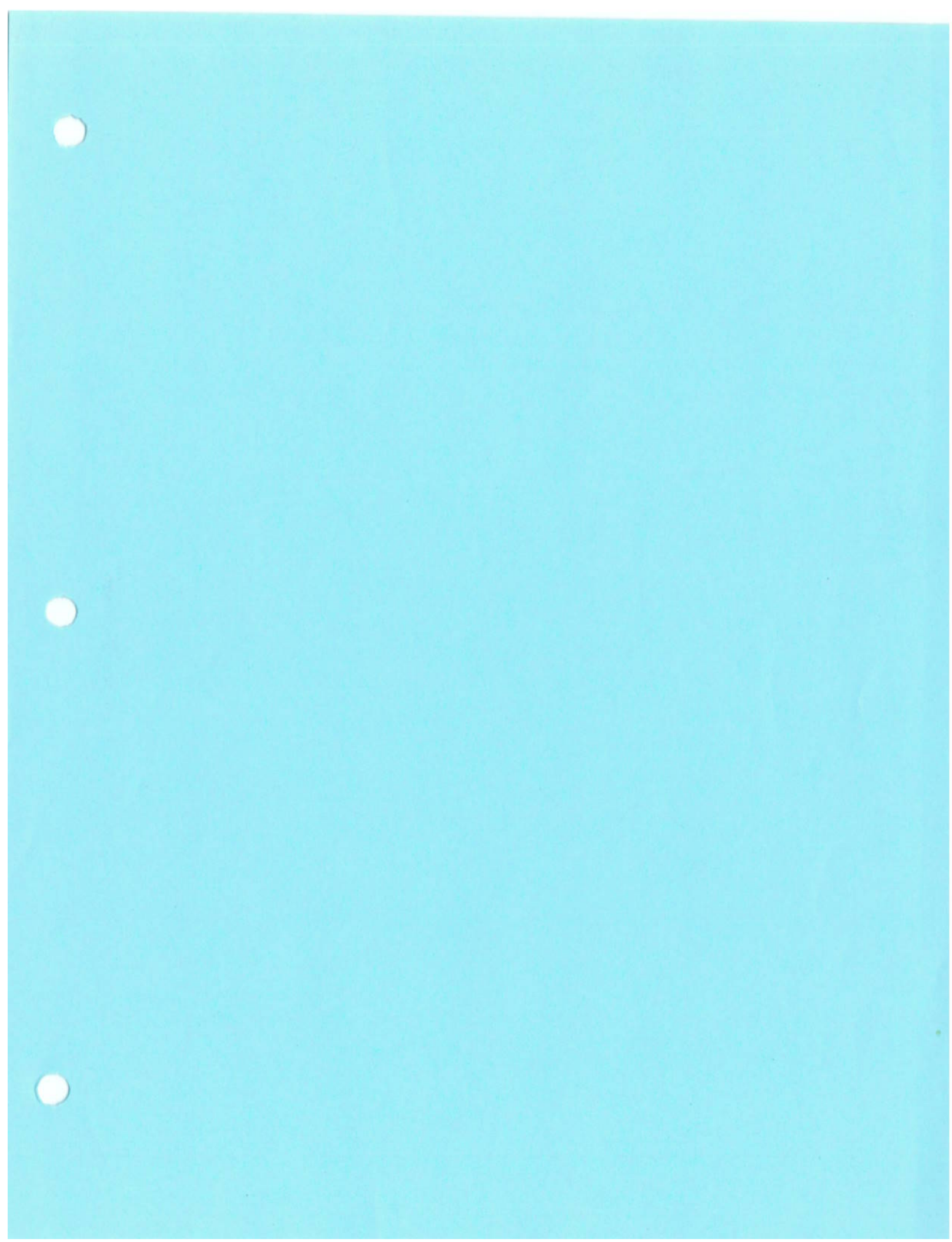
Ellis H. Casson, Chair



Elizabeth Ford, Commissioner



John Cunningham, Commissioner



BEFORE THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

In re: the appeals of

**MIROSLAWA POLESZCZUK**

Appellant

v.

**SEATTLE MUNICIPAL COURT**

City of Seattle

Respondent

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**ORDER**

**On Motion to Disqualify  
Hearing Examiner**

**CSC Appeal No.  
02-05-008, -009, and 011**

This matter came before the Commission on the motion of Appellant Mirosława Poleszczuk, seeking to appeal an Order of the Hearing Examiner declining to disqualify herself from hearing this case. Pursuant to CSC Rule 2.02B, the Chair rules on motions to disqualify a Hearing Examiner.

Having considered the record before me, the Chair finds as follows:

1. The Hearing Examiner disclosed her prior working relationship with Seattle Municipal Court to the parties at the November 21, 2002 pre-hearing conference, that she asked the parties if they objected to her hearing the case, and that neither party asked her to disqualify herself at that time.
2. The Hearing Examiner properly declined to issue those subpoenas for which Appellant did not provide addresses.
3. Because the person to whom the subpoena would have been directed will testify at trial, the Hearing Examiner did not err in declining to issue a subpoena that would duplicate that person's expected testimony.

The Chair concludes that Appellant waived her right to disqualify the Hearing Examiner at the pre-hearing conference, and that the Hearing Examiner's subsequent decisions do not evidence bias on the part of the Appellant.

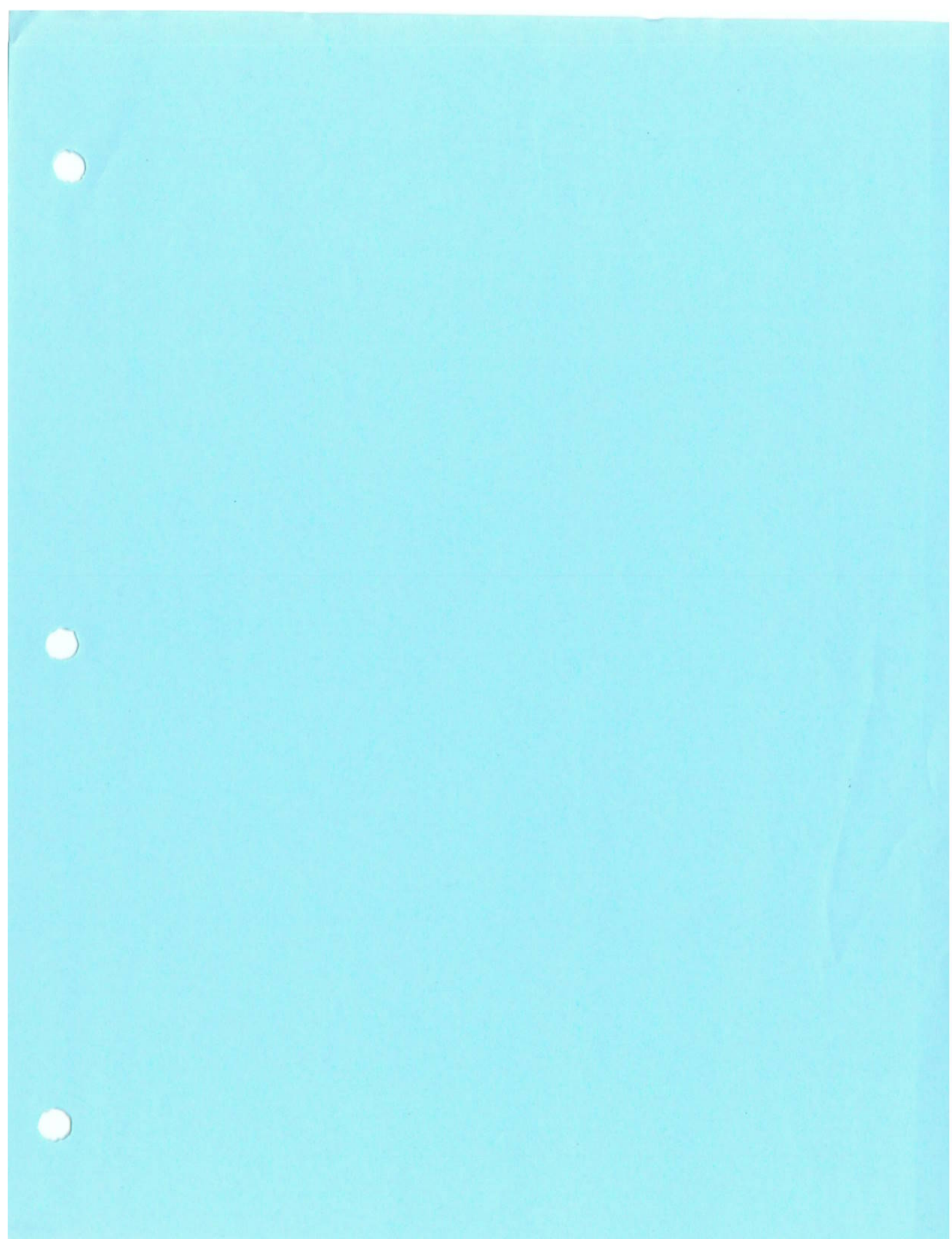
Appellant's motion to disqualify the Hearing Examiner is **DENIED**.

Dated this 17<sup>th</sup> day of January, 2003.

CITY OF SEATTLE CIVIL SERVICE COMMISSION



Ellis H. Casson, Chair



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BEFORE THE CIVIL SERVICE COMMISSION  
CITY OF SEATTLE

MAR -1 AM 11:01  
CIVIL SERVICE COMMISSION

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4 IN RE THE APPEAL OF:

5 MIROSLAWA POLESZCZUK,

6 Appellant

7 vs.

8 CITY OF SEATTLE,  
9 SEATTLE MUNICIPAL COURT,

10 Respondent.

)  
)  
)  
)  
) No. 01-04-004

) ORDER OF COMMISSION  
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11  
12 The Seattle Civil Service Commission, having heard a motion of Respondent, Seattle  
13 Municipal Court, to disqualify from these proceedings Hearing Examiner Rolfe and Executive  
14 Director Moses, together with the declarations and exhibits attached thereto, having considered  
15 Appellant Poleszczuk's response, and having deliberated as a full Commission, the Commission  
16 makes the following findings and conclusions:

17 FINDINGS OF FACT:

18 1. Hearing Examiner Rolfe has been previously employed as a Pro-tem Magistrate by  
19 the Respondent, Seattle Municipal Court. Her employment was terminated by the Respondent.

20 CONCLUSIONS OF LAW:

21 1. The appearance of fairness doctrine applies to the quasi-judicial proceedings of the  
22 Seattle Civil Service Commission. As such, the Commission, its hearing examiners and its staff  
23 must execute their duties with the appearance, as well as the reality, of fairness.

2. In light of the facts presented to the Commission, the Commission concludes that a  
disinterested person, being apprised of the totality of the circumstances, would be reasonably  
justified in concluding that partiality may exist on behalf of Hearing Examiner Rolfe with regard to  
the above-captioned appeal. In the interest of fairness and in order to protect public confidence in

1 the quasi-judicial proceedings of the Seattle Civil Service Commission, the Commission hereby  
2 concludes that Hearing Examiner Rolfe must be disqualified from all further proceedings in this  
3 appeal.

4 3. The Appellant's interests will not be harmed by this decision.

5 IT IS HEREBY ORDERED that:

6 1. The Order on Respondent's Challenge to Hearing Examiner issued by Pro-tem  
7 Hearing Examiner Rolfe entered on December 5, 2001 is reversed.

8 2. Executive Director Moses, having recused herself, shall have no further involvement  
9 with the above-captioned appeal.

10 3. Hearing Examiner Rolfe is hereby removed from the above-captioned appeal and  
11 shall have no further involvement with it.

12 4. All decisions made and orders issued by either Executive Director Moses or Hearing  
13 Examiner Rolfe regarding the above-captioned appeal are hereby null and void.

14 5. The above-captioned appeal will be assigned to a new hearing examiner by order of  
15 the Commission.

16 6. Copies of this order shall be transmitted to the parties, Hearing Examiner Rolfe, and  
17 Executive Director Moses.

18 DATED this 1 day of March, 2002

19 

20 Kenneth R. Morgan, Chair  
21 SEATTLE CIVIL SERVICE COMMISSION

22 Being duly authorized by the Commission during  
23 executive session of its February 26, 2001 regular  
meeting to execute this order on behalf of the full  
Commission.