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2 **BEFORE THE CITY OF SEATTLE CIVIL SERVICE COMMISSION**
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Lisa A. Espinosa
Appellant

Vs.

Seattle Public Utilities (SPU)
City of Seattle, Respondent

**MEMORANDUM DECISION
AND
DISMISSAL**

CSC No. 07-03-008

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7 The Civil Service Commission hereby enters the following:
8

9 **BACKGROUND**

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11 On June 11, 2007 the Appellant submitted an appeal to the Civil Service Commission.
12 The Appellant is appealing a demotion.
13

14 In the appeal the Appellant alleges that Personnel Rules related to performance
15 management, disciplinary actions and salary placement were violated.
16

17 The Appellant also alleges in her appeal that "my position was changed from a
18 Manager 2 to a Division Director to demote me without cause."
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20 In order to accurately make a determination regarding jurisdiction, the Commission
21 requested that both parties respond to a request for information.
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23 Briefs and supporting documentation were received prior to the Commission's meeting
24 on July 18, 2007. The Commissioners reviewed the submissions and considered the
25 appeal at its July 18, 2007 meeting.
26

27 In order to clarify issues presented in the first responses and answer direct questions,
28 the Commission sent an additional request for briefs and responses to the parties. The
29 Commission received additional briefs and responses prior to the Commission's
30 September 19, 2007 meeting.
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32 **FINDINGS of FACT**

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34 The Appellant was appointed to the position of Wholesale Contracts Manager II,
35 position number 00026810, effective Wednesday, June 1, 2005, per letter to the
36 Appellant and entry into the City's HRIS system. (Dept. 7/9/07 submittal, Ex. 1)
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Note: Commission decisions are final and conclusive unless a party of record makes application for a writ of review to the Superior Court of the State of Washington for King County within fourteen days of issuance

1 In December 2005, Appellant was designated as Customer Programs and Contracts
2 Management Division Director. (Dept. 7/9/07 submittal, Ex. 3)

3
4 No later than January 2006, the Human Resources Division of the Department began
5 work to reclassify Appellant's position, along with several other positions in the
6 Department, as exempt from civil service. (Dept. 7/9/07 submittal Ex. 5) (App. 8/22/07
7 submittal Ex. 12)

8
9 No later than May 2, 2006, Appellant was instructed to complete a Job Summary
10 Questionnaire ("JSQ") for the reclassification of her position. (App. 8/22/07 submittal
11 Ex. 13).

12
13 The completed JSQ included a detailed description of Appellant's job responsibilities in
14 the position of Customer Programs and Contracts Management Division Director.
15 (Dept. 7/9/07 submittal Ex. 8) (App. 8/22/07 submittal Ex. 6).

16
17 The City of Seattle Personnel Department's Executive Compensation Review
18 Committee ("ECRC") issued report # 06-9218, dated November 7, 2006 and approved
19 December 11, 2006, that included a description of Appellant's job responsibilities,
20 designated number 00012558 for the position, and recommended reclassification of the
21 position as Executive 1, with an effective date of September 21, 2006. (Dept. 7/9/07
22 submittal Ex. 9) (App. 8/22/07 submittal Ex. 7).

23
24 On December 20, 2006, the City of Seattle Personnel Department issued the ECRC
25 decision to reclassify position number 00012558 as Executive 1. (Dept. 7/9/07
26 submittal, Ex. 9) (Appellant 8/22/07 submittal Ex. 7).

27
28 Ordinance number 122364, passed by the City Council on March 26, 2007, and signed
29 by the Mayor on April 2, 2007, re-designated a total of six SPU positions as exempt,
30 including position number 00012558. The ordinance became effective on May 2, 2007.

31
32 On April 16, 2007, the City Personnel department notified the Department that per
33 Ordinance 122364, the classification determination report #06-9218 could be
34 implemented. (Dept. 7/9/07 submittal Ex. 10) (App. 8/22/07 submittal Ex. 4).

35
36 An entry in the City's HRIS system, dated May 16, 2007, identifies Appellant as an
37 Executive 1, exempt from Civil Service, position number 00012558. (Dept. 7/9/07
38 submittal Ex. 12) (App. 8/22/07 submittal Ex. 21).

39
40 In a letter dated June 5, 2005, Chuck Clark, SPU Director, notified the Appellant that
41 she was being demoted from the position of Division Director to the position of Account
42 Executive, effective June 13, 2007. (Dept. 7/9/07 submittal, Ex. 13)

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CONCLUSIONS

3 Beginning in December 2005, the Appellant was re-designated as a Division Director. No later than January 2006, the Department began work to reclassify Appellant's position, along with several other SPU positions, as exempt from the Civil Service System. This process took place over the course of 2006 and involved Appellant's completion of a JSQ for her position and cooperation between SPU and the City Personnel Department. Ordinance 122364, signed by the Mayor on April 2, 2007, and effective on May 2, 2007, reclassified Appellant's position, along with five other SPU positions, as exempt. The City's HRIS system reflects Appellant in an exempt position as of May 16, 2007. The Appellant's position was not reclassified in order to demote her without cause.

14 Seattle Municipal Code ("SMC") Section 4.04.260(A) states that "a regular employee who is aggrieved thereby may appeal to the Civil Service Commission his/her demotion, suspension, termination of employment, or violation of this chapter or rules passed pursuant thereto; provided that the employee first exhausts his/her intradepartmental grievance remedies."

20 SMC Section 4.04.260(B)(1) states that "an appeal from an action other than a disciplinary action must be filed with the Commission within twenty (20) days of the action appealed from."

24 Without a determination as to the specific effective date of the reclassification, the Appellant's position was reclassified as an Executive 1 and exempt from Civil Service System requirements, no later than May 16, 2007.

28 At the time of her demotion on June 5, 2007, the Appellant was in an Executive 1 position and exempt from Civil Service Status.

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DECISION

33 The Executive 1 position is exempt from civil service. The Civil Service Commission does not have jurisdiction over exempt employees, therefore the Appellant cannot appeal to the Commission alleged violations of personnel rules related to her demotion.

37 To the extent that Appellant alleges violations of other personnel rules while classified as a non-exempt employee, those alleged violations did not take place within twenty days of the Commission's receipt of her appeal. Thus an appeal of these actions is not timely filed.


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DISMISSAL DECISION

The Civil Service Commission does not have jurisdiction, therefore the appeal is dismissed with prejudice.

Issued this 19th day of *September* 2007

FOR THE CITY OF SEATTLE CIVIL SERVICE COMMISSION



Glenda J. Graham-Walton, Executive Director

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