

**NOTICE AND ORDER REGARDING DISQUALIFICATION**

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IN THE MATTER OF THE APPEAL OF:

**DANIELLE BROWN**, Appellant,

vs.

**CAREER SERVICE AUTHORITY (now known as Office of Human Resources)**,  
and the City and County of Denver, a municipal corporation, Agency.

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As the judge assigned to hear this case, I make the following disclosures in order to permit either party to consider whether to move for disqualification (recusal).

1. The Colorado Code of Judicial Conduct, defines "judge" as "anyone who is authorized to perform judicial functions, including a... member of the administrative law judiciary. [Colo. Code of Jud. Conduct, "Application"]. As such, and by directive of the Career Service Board, I am a judge as defined by, and subject to, the Colorado Code of Judicial Conduct.

2. Canon 1 of the above Code states "A judge shall uphold and promote the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

3. Rule 2.11 Disqualification under Canon 2 states

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party...

...

(C) A judge subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree,

without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

#### Comment

[1] Under this Rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (5) apply. The term "recusal" is sometimes used interchangeably with the term "disqualification."

[2] A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

...

[5] A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.

4. Annotations which follow the "comment," section, immediately above, may also be relevant to the parties. The canons, rules, comments and annotations may be found at <http://www.cobar.org/repository/JudicialConduct.pdf>.

5. Canon 3 states, in part:

A judge should disqualify himself or herself in a proceeding in which the judge's partiality might reasonably be questioned, including but not limited to instances where . . . [a] judge has a personal bias or prejudice concerning a party . . .

6. The Agency has listed as a "will call" witness Executive Director Nita Henry. [Agency's Pre-hearing Statement, p.4].

7. I consider Executive Director Henry to be a friend. We have had lunch together several times and have socialized outside of the business arena, both individually and with our families. Executive Director Henry invited my child to speak at last year's 5281 Awards Ceremony honoring City employees.

8. Executive Director Henry was a member of the Career Service Board that hired me. As such, she was my direct supervisor (along with the other members of the Board) from 2004 until taking her current position, I believe in January 2012.

9. The parties should consider these disclosures and shall inform the Hearing Office by motion (for disqualification) or notice (not to seek disqualification, or waiver of disqualification) on or before January 25, 2013, whether either party seeks disqualification.

10. The January 25 deadline is of the essence in order for the Hearing Office to procure, timely, an outside hearing officer for this appeal, in case of disqualification.

11. A pre-hearing conference shall be set by the Hearings Office on or shortly after January 25, 2013, in order to place into the record those disclosures made above, and to incorporate any agreement regarding disqualification into the record, pursuant to Rule 2.11 (C), and comment [5] under the same rule, above.

DONE January 17, 2013.



Bruce A. Plotkin  
Career Service Hearing Officer

I certify that on January 17, 2013, I delivered an accurate copy of this Notice to the following by email:

Ms. Danielle Brown, <a href="mailto:Dbrowns2@comcast.net">Dbrowns2@comcast.net</a>	(via email)
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