

4-21-04

FILED

DEPARTMENT OF HEALTH
Deputy Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPUTY CLERK

DATE 5/28/04

[Signature]

Raymond Van Loon,
Petitioner,

vs.

Department of Health,
Respondent.

AT

Case no.: 03-4285SED

Rendition no.: DOH-04-0606-FOF-HO

WFQ-CWS

01 JUN -3 PM 1:35
FILED

FINAL ORDER

This adjudicatory proceeding was initiated by a "Petition for a Section 120.569, 120.57(1) Hearing" filed August 13, 2003 responding to the July 21, 2003 memorandum (hereafter the Mahoney memorandum) of Gary J. Mahoney, Chief of the Department of Health's Bureau of Human Resource Management. The Mahoney memorandum notified the Petitioner of his right to challenge the reclassification of his position from career service to select exempt service.

This matter was referred to the Division of Administrative Hearings. In a recommended order of April 21, 2004, the Administrative Law Judge recommends that the Department of Health affirm the Bureau's reclassification decision of July 1, 2001.

The Petitioner excepts to the recommended order on the grounds that the Administrative Law Judge declined to make findings of fact regarding the extent of his supervisory duties in November 2002 when he was fired. The Administrative Law Judge rejected the Petitioner's effort to use this proceeding as a forum for litigating the termination decision, which occurred more than a year after the reclassification decision. See paragraph 26 of the recommended order. It is noted that the Petitioner does not except to the findings regarding the Petitioner's supervisory duties when his position was reclassified in July 2001. See paragraphs 15, 17, 23, and 25 of the recommended order. The Petitioner's exceptions and

request that this case be remanded to the Division of Administrative Hearings for further fact finding are denied.

The recommended order is adopted in full and incorporated by reference.

Based on the foregoing, the Petitioner's position of employment was properly reclassified as "Select Exempt Service".

DONE and **ORDERED** this 28 day of May 2004,
in Tallahassee, Leon County, Florida.

JOHN O. AGWUNOBI, M.D., M.B.A.
Secretary, Department of Health

By: Thomas W. Arnold
Thomas W. Arnold
Deputy Secretary

A PARTY ADVERSELY AFFECTED BY THIS FINAL ORDER OF DISMISSAL IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. A REVIEW PROCEEDING IS GOVERNED BY THE RULES OF APPELLATE PROCEDURE. JUDICIAL REVIEW IS COMMENCED BY FILING A NOTICE OF APPEAL WITH THE CLERK OF THE DEPARTMENT OF HEALTH AND A COPY ACCOMPANIED BY THE FILING FEE WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES OR THE FIRST DISTRICT COURT OF APPEAL. A NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE FILING DATE OF THIS FINAL ORDER OF DISMISSAL.

Copy furnished to:

Jerry G. Traynham, Esq.
Patterson & Traynham
Post Office Box 4289
Tallahassee, Florida 32315

Stephen Foxwell, Esq.
Department of Health
4052 Bald Cypress Way, bin A02
Tallahassee, Florida 32399-1703

Aaron J. Hilligas, Esq.
AFSCME Council 79
3064 Highland Oaks Terrace
Tallahassee, Florida 32301

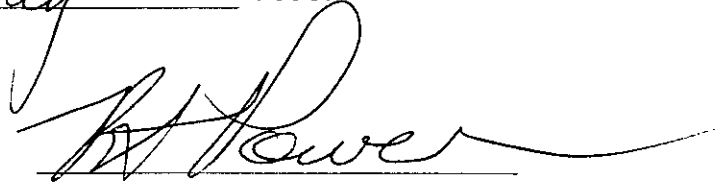
Maria N. Sorolis, Esq.
Allen Norton & Blue, PA
Hyde Park Plaza, suite 350
324 South Hyde Park Boulevard
Tampa, Florida 33606

FALR

DOAH

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing final order has been served by ordinary mail via the United States Postal Service, inter-office mail, or by hand delivery to each of the above-named persons this 28th day of May 2004.

A handwritten signature in black ink, appearing to read "R. Samuel Power", written over a horizontal line.

R. Samuel Power
Department of Health
Agency Clerk
4052 Bald Cypress Way, bin A02
Tallahassee, Florida 32399-1703