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8 ATTORNEY FOR  
9 GRANT SEIBERT

10  
11 **BEFORE THE CIVIL SERVICE COMMISSION**  
12 **OF THE CITY OF SAN JOSE**  
13

14 In the Matter of the Appeal by Grant Seibert, Fire  
15 Engineer (0970)

16 **GRANT SEIBERT'S**  
17 **PETITION FOR REHEARING**  
18 **PURSUANT TO SAN JOSE**  
19 **MUNICIPAL CODE 3.04.1480**

20 **INTRODUCTION**

21 On April 7, 2011, the Civil Service Commission (hereinafter Commission) orally  
22 announced its intended decision to terminate Appellant Fire Engineer Grant Seibert (hereinafter  
23 Appellant). Although no written decision has been made, Appellant Grant Seibert recognizes  
24 that pursuant to San Jose Municipal Code 3.04.1480, he has only fifteen (15) days after receipt of  
25 a copy of the decision to request a rehearing. Out of an abundance of caution, and  
26 misinterpretation by the City of San Jose (hereinafter City) as to what "receipt of a copy of  
27 decision" means, Appellant hereby requests a rehearing as set forth below.

28 **ARGUMENT**

Pursuant to San Jose Municipal Code 3.04.1480, Appellant Grant Seibert requests a  
rehearing as to the Commission's findings on Counts 1, 2, 3, 4 and 5 of the charging Notice of  
Intended Discipline (NOID).

1 This Petition is made on the grounds that:

2 (1) There is insufficient evidence to support the findings that there was a violation of any City or  
3 Department policy;

4 (2) The findings were insufficient to support the decision of termination;

5 (3) If any of the charges are true, they do not justify termination;

6 (4) If any of the charges are true, the City is compelled to use progressive discipline prior to  
7 termination;

8 (5) Termination violates Library Text LT 9-8, San Jose Fire Department Disciplinary  
9 Procedures Manual which requires any discipline to be comparable to other discipline imposed  
10 on other employees for similar conduct;

11 (6) The Commission did not address the issue of progressive discipline and why it should not be  
12 followed as set forth in the case of City of San Jose v. IAFF(Baldwin), decided November 5,  
13 2010, a copy of which is in the record;

14 (7) The Commission did not allow the parties to present oral argument as required by Municipal  
15 Code 3.04.1500(J);

16 (8) The Commission did not make findings of fact as required by Municipal Code 3.04.1500(L);  
17 and

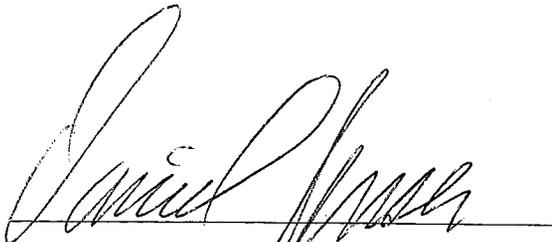
18 (9) The Commission refused to compel the city to provide records of previous discipline imposed  
19 on other city employees and the nature of the conduct involved so that the comparable discipline  
20 as set forth in Library Text LT 9-8, San Jose Fire Department Disciplinary Procedures Manual,  
21 could be assessed in this case.

22 **CONCLUSION**

23 Appellant Grant Seibert hereby requests a rehearing based on the foregoing.

24  
25 Respectfully Submitted,

26  
27 Dated: 4/22/11

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Daniel Jensen, Attorney for Grant Seibert