



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
SUITE 900 - 1340 POYDRAS ST.
NEW ORLEANS, LA 70112
(504)658-3500 FAX NO. (504) 658-3598

CITY CIVIL SERVICE COMMISSION
BRITTNEY RICHARDSON, CHAIRPERSON
JOHN H. KORN, VICE-CHAIRPERSON
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RUTH WHITE DAVIS
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AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Wednesday, April 9, 2025

Ms. Ariel Zaleha

Re: **Ariel Zaleha VS.
Sewerage & Water Board
Docket Number: 9636**

Dear Ms. Zaleha:

Attached is the decision of the City Civil Service Commission in the above-referenced appeal.

This is to notify you that, in accordance with the rules of the Court of Appeal, Fourth Circuit, State of Louisiana, the decision for the above captioned matter is this date - 4/9/2025 - filed in the Office of the Civil Service Commission at 1340 Poydras St. Suite 900, Amoco Building, New Orleans, Louisiana.

If you choose to appeal this decision, such appeal shall be taken in accordance with Article 2121 et. seq. of the Louisiana Code of Civil Procedure.

For the Commission,

A handwritten signature in purple ink that reads "Stacie Joseph".

Stacie Joseph
Management Services Division

cc: Ghassan Korban
Harrece Gassery
Jay Ginsberg
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**ARIEL ZALEHA,
Appellant**

Docket No. 9636

v.

**SEWERAGE & WATER BOARD,
Appointing Authority**

DECISION

Appellant, Ariel Zaleha, brings this appeal pursuant to this Commission's Rule II, § 10.1 seeking relief from the Sewerage & Water Board's termination of her employment on July 15, 2024. (Ex. Appellant-3). At all relevant times, Appellant had probationary status as a Management Development Specialist II. (Tr. at 7). Appellant worked as a Compliance Analyst in the Economically Disadvantaged Business Program. (Tr. at 7-8). A Hearing Examiner, appointed by the Commission, presided over a hearing on September 17, 2024. At this hearing, both parties had an opportunity to call witnesses and present evidence.

The undersigned Commissioners have reviewed and analyzed the entire record in this matter, including the transcript from the hearing, all exhibits submitted at the hearing, the Hearing Examiner's report dated December 17, 2024, and controlling Louisiana law.

For the reasons set forth below, Ms. Zaleha's appeal is DENIED.

I. FACTUAL BACKGROUND

The Sewerage & Water Board hired Ms. Zaleha on August 28, 2023, as a Compliance Analyst in the Economically Disadvantaged Business Program (EDBP). (Tr. at 7-8). Ms. Zaleha was responsible for auditing 25 prime contractors in the water line replacement program for compliance with disadvantaged business enterprise (DBE) goals. (Tr. at 8, 10). Ms. Zaleha found

one prime contractor, ILSI, unresponsive to her requests for more information about payments to the disadvantaged business enterprise subcontractors identified in ILSI's contract with the Sewerage & Water Board. (Tr. at 12). Ms. Zaleha testified that she was seeking assistance from her superiors to "chase up non-compliance issues and auditing issues having to do with R-115-2015," the contract between the Sewerage & Water Board and ILSI. (Tr. at 13).

The amount of the contract was \$3.9 million, and approximately \$2 million had been disbursed to ILSI without any documentation of payments to DBE subcontractors. (Tr. at 30). Ms. Zaleha requested information about the compensation ILSI had paid to the DBE's listed in its contract. (Tr. at 17). Eventually, ILSI informed her it was not interested in maintaining a relationship with any of the DBE's it listed on the initial contract. (Tr. at 24). Based on her conversations with the DBE subcontractors, two of the three DBE subcontractors identified were not aware they were listed on ILSI's initial contract. (Tr. at 24, 28).

According to Ms. Zaleha, when she brought these concerns to her supervisor, Ms. Plummer, she asked her "what pot did I stir in now?" (Tr. at 22). Ms. Plummer also informed Ms. Zaleha that the Sewerage & Water Board was not in the business of forcing marriages between primes and DBE's. (Tr. at 24).

The Sewerage & Water Board terminated her employment three days after her last conversation with one of ILSI's DBE subcontractors. (Tr. at 56).

Alvin Porter, a Management Development Supervisor I, who works in DBE compliance and monitoring, testified that the most concerning aspect of the situation with ILSI was that it released DBE subcontractors without notification to the Sewerage & Water Board. (Tr. at 68).

Ms. Plummer testified that Ms. Zaleha thought ILSI had listed the three DBE subcontractors on its contract with the Sewerage & Water Board in order to win the contract, but

that the Sewerage & Water Board had selected ILSI, then a DBE subcontractor on the project, after the prime contractor walked off the job. (Tr. at 94).

II. ANALYSIS

Civil Service Rule II, § 10.1 provides that “[n]o employee shall be subjected to discipline or discriminatory treatment by an appointing authority because he or she gives information, testimony or evidence in a prudent manner to appropriate authorities concerning conduct prohibited by law or regulation which he or she reasonably believes to have been engaged in by any person(s). Therefore, even though Ms. Zaleha has no right to appeal her termination of employment because of her probationary status under Civil Service Rule II, § 4.1, she may appeal her termination based on whistleblower status. Thus, probationary employees “[can] be terminated for any reason other than discrimination based on his whistle-blowing activities.” *Balancier v. Sewerage & Water Bd. of New Orleans*, 2022-0255 (La. App. 4 Cir. 10/19/22), 351 So. 3d 439, 443. The burden of proof is on Ms. Zaleha under Civil Service Rule II, § 4.8. *Id.* at 444 n.2.

Ms. Zaleha has failed to carry her burden of proving that she reasonably believed any person was engaging in conduct prohibited by law or regulation. Although public bid law is governed by a number of statutes, regulations, and ordinances, Ms. Zaleha testified that no law or regulation was violated if ILSI failed to reach its DBE goal of 35%. (Tr. at 45). Ms. Zaleha’s supervisor also testified that Ms. Zaleha failed to complain about a violation of law or regulation. (Tr. at 82).

Ms. Zaleha suggested that the contractor may have engaged in grand larceny, or violated laws governing ethics, compliance, or auditing by its failure to account for the funds disbursed to it. (Tr at 44). However, the allegation of theft is not factually supported, and the allegations about ethics, compliance, or auditing lack specificity.

Because Ms. Zaleha has failed to identify a law or regulation she reasonably believed was violated, along with factual support for her reasonable belief of the violation, she has failed to carry her burden of proof.

Ms. Zaleha's appeal is DENIED.

WRITER: Mark C. Surprenant
Mark C. Surprenant (Apr 9, 2025 15:31 CDT)
MARK SURPRENANT, COMMISSIONER

CONCUR: Ruth White Davis
Ruth Davis (Apr 9, 2025 14:49 CDT)
RUTH DAVIS, COMMISSIONER

Andrew Monteverde
Andrew Monteverde (Apr 9, 2025 13:59 CDT)
ANDREW MONTEVERDE, COMMISSIONER