STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Michael Minnie,

Appellant,

v. Case Nos. 2013-INV-10-0266
2013-MIS-10-0267

Campbell Civil Service Commission,

Appellee.

ORDER

These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

After a thorough examination of the entirety of the records, including a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that the instant investigation is **TERMINATED**.

Casey - Aye
Lumpe - Aye
Tillery - Not Participating

Terry L. Casey, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes (~~the original/~~a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, January 09, 2014.

Clerk

NOTE: *Please see the reverse side of this Order* ***or*** *the attachment to this Order for information regarding your appeal rights.*

1/9/14 ec

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Michael Minnie,	Case Nos. 2013-INV-10-0266 2013-MIS-10-0267
Appellant	
v.	December 3, 2013
Campbell Civil Service Commission	
Appellee	Christopher R. Young *Administrative Law Judge*

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration upon a review of the information contained in the record. On October 18, 2013, Appellant filed an appeal with this Board requesting an investigation of a resume that he apparently submitted to the Campbell Clerk of Council that was apparently not forwarded the Campbell City Council for consideration of an open Civil Service Board position. On October 29, 2013, the undersigned sent a letter to the Campbell Civil Service Commission to respond to the instant allegations.

The Appellee, the Campbell Civil Service Commission, on November 7, 2013, responded to Appellant's request, wherein it stated that the correct body to address this matter the Campbell City Council who made the appointment of an individual to finish the term of Mr. Charles Terek, as per Ohio Revised Code Section 124.40. Further, it is stated that the Campbell City Charter follows the above-mentioned revised code which states that appointments to the Civil Service Commission is to be made by the Mayor and City Council, with appointments alternating between the two.

CONCLUSIONS OF LAW

Initially, I note that this Board does not have jurisdiction to investigate or review the merits of employment actions taken by a municipality. No section of the Ohio Revised Code grants the Board investigatory authority over a municipality, and

municipal employees are not employees in the state service, as defined by R.C. 124.01(B). Accordingly, this Board may not consider whether or not the City of Campbell acted properly in its selection of a candidate to fill the position of an open Civil Service Commission position, or substitute its judgment for that of City in determining the best candidate to fill a position.

This Board does have investigatory authority over municipal civil service commissions pursuant to R.C. 124.40. That statute provides that the Board is authorized to conduct investigations when it has reason to believe:

> ... that a municipal civil service commission is violating or is failing to perform the duties imposed upon it by law, or that any member of a municipal civil service commission is willfully or through culpable negligence violating the law or failing to perform official duties as a member of the commission ....

A municipal civil service commission, pursuant to R.C. 124.40, performs the same functions as does the Director of Administrative Services and the State Personnel Board of Review with respect to the civil service of a city. It has the responsibility to make sure that all appointments, discipline and removals are carried out correctly, and that employees have the same right to appeal to the municipal civil service commission as a state or county employee would have to appeal to this Board. See, *Brotherton v. Amherst Civil Service Commission* (Jan. 23, 1991), PBR 90-INV-08-0861; aff'd Franklin Co. No. 91CVF04-2777, unreported. Likewise, this Board does not have the investigatory authority over municipalities or their respective City Councils, as there's nothing in the applicable statutes to indicate that this Board does have jurisdiction of the same.

Information contained in Appellee's response, filed with this Board on November 7, 2013, indicate that the Campbell Civil Service Commission did not have anything to do with the appointment of the open Civil Service Commission position. Further, the information contained in the case file reveals that the Appellant forwarded his resume and information to the Campbell City Council's Clerk for consideration, which was apparently not forwarded to the Campbell City Council. As correctly noted by Appellee, it is not appropriate for the Civil Service Commission to be held accountable in this situation, as they are not a party to this

action, or substitute its judgment for which candidate is best suited to fill a position.

Therefore, pursuant to a review of the information contained in the record and pertinent case law, I find no evidence to support a conclusion that the Campbell Civil Service Commission, or its individual members, violated or failed to perform the duties imposed upon it by law, when the Campbell City Council's Clerk did not forward the Appellant's resume to the Campbell City Council or Mayor, with respect to the open Civil Service Commission position. Accordingly, I respectfully **RECOMMEND** that the instant investigation be **TERMINATED**.

Christopher R. Young
Administrative Law Judge

CRY: