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OFFICE OF THE  
MAYOR

VINCENT C. GRAY  
MAYOR

February 26, 2013

The Honorable Phil Mendelson  
Chairman  
Council of the District of Columbia  
1350 Pennsylvania Avenue, N.W., Suite 402  
Washington, D.C. 20004

Dear Chairman Mendelson:

In accordance with section 215 of the District of Columbia Health Occupations Revision Act of 1985, effective March 14, 1995, D.C. Law 10-205; D.C. Official Code § 3-1202.15 (2007 Repl.), and section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142; D. C. Official Code § 1-523.01 (2012 Supp.), I am pleased to nominate the following person for appointment to the Board of Massage Therapy (hereinafter referred to as "Board"):

Robert P. Fabia  
5220 42<sup>nd</sup> Street, N.W.  
Washington, D.C. 20015  
(Ward 3)

as a consumer member, of the Board, replacing Philip Bergman, to complete the remainder of an unexpired vacant term to end October 29, 2013, and for a new term to end October 29, 2016.

Enclosed you will find biographical information detailing the experience of the above-mentioned nominee, together with a proposed resolution to assist the Council during the confirmation process.


I would appreciate the Council's earliest consideration of this nomination for confirmation.

Sincerely,

A handwritten signature in black ink that reads "Vincent C. Gray". The signature is written in a cursive style with a large, looped "G" at the end.

Vincent C. Gray

Enclosures  
VCG/mld

  
Chairman Phil Mendelson  
at the request of the Mayor

A PROPOSED RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Chairman Phil Mendelson, at the request of the Mayor, introduced the following resolution, which was referred to the Committee on \_\_\_\_\_.

To confirm the appointment of Mr. Robert P. Fabia to the Board of Massage Therapy.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Massage Therapy Robert P. Fabia Confirmation Resolution of 2013".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Robert P. Fabia  
5220 42<sup>nd</sup> Street, N.W.  
Washington, D.C. 20015  
(Ward 3)

as a consumer member of the Board, in accordance with section 215 of the District of Columbia Health Occupations Revision Act of 1985, effective March 14, 1995, D.C. Law 10-205; D.C. Official Code § 3-1202.15 (2007 Repl.), and section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142; D. C. Official Code § 1-523.01 (2012 Supp.), replacing Philip Bergman, to complete the remainder of an unexpired vacant term to end October 29, 2013, and for a new term to end October 29, 2016.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

**ROBERT PIÑON FABIA**

5220 42nd Street, NW  
Washington DC 20015-1832

**LEGAL EMPLOYMENT EXPERIENCE:**

02/11/91 - 08/30/08: **GENERAL ATTORNEY, U.S. Department of Education, Office of the General Counsel, 400 Maryland Avenue, SW, Washington, DC 20202-2110**

*GS-905-15/09 Attorney, Division of Business and Administrative Law, with prime responsibility to act as lead agency counsel in the defense of internal employment discrimination cases before federal district courts, the US EEOC and the US MSPB. Many assigned cases tend to be most complex and difficult, as well as unique, in nature. MSPB-related assignments tend to be advising management with respect to performance issues and misconduct matters so as to prevent any successful challenge before the Board. Other "EEO-related" duties assigned are the legal sufficiency reviews of draft proposed dispositions, final decisions, and settlement agreements, as well as providing legal advice on the issuance of departmental guidelines, rules, and instructions. Coordinated successful agencies' challenge to EEOC proposed 1614 regulations before White House Mandatory Mediation process in 1991.*

*As a senior divisional attorney, informal guidance is provided to junior attorneys on matters relating to the defense of internal employment discrimination cases, including evidentiary and procedural matters and substantive matters. Other areas assigned include: contracts (bid protests), FOIA, Privacy Act, overview of Misconduct/Misuse of Government Property Case Law, advisory committees, labor-management relations, personnel, workers' compensation claims, Indian Preference Eligibility Selections Procedures, overpayment-waiver cases, federal surplus property, and the Fair Credit Reporting Act (as it impacts on federal sector investigations by outside third parties).*

05/19/90 - 02/10/91: **ATTORNEY-ADVISER (GENERAL), US Merit Systems Protection Board, Office of Appeals Counsel, Washington, DC 20419**

*GS-905-13 Staff Attorney, Office of Appeals Counsel, part of a cadre of attorneys assigned to serve all Board members in the adjudication of cases before them. Assigned tasks included the examination of petition for reviews of initial decisions (primarily) of the MSPB's administrative judges. Drafted proposed dispositions for the processing of such petitions. Prepared detailed memorandum when a short summary opinion and order used to dispose a case, explaining to Board members: (1) the procedural background of the pending appeal, (2) the analysis of the points raised on review, and (3) the recommendation on the disposal of the appeal. Other work included the drafting of opinions and orders reflecting MSPB precedent and with a short memorandum summarizing that action. In sum, charged with conducting a careful review of the record and the*

contentions, researching Board precedent, OPM regulations, federal case law, especially the Federal Circuit, and other sources so that Board members are provided with a full and complete overview of the pending appeal and a satisfactory means of disposing the matter.

05/07/79 -  
05/19/90:

**ADMINISTRATIVE JUDGE, US Equal Employment Opportunity Commission, Washington Field Office, 1400 L St., NW, Suite 200, Washington, DC 20005**

*GS-905-13 Attorney-Examiner, who functioned as the trial judge in the administrative processing of employment discrimination complaints, individual and class, of federal employees and applicants against employing federal agencies. Conducted full adjudicatory hearings, with summary judgment decisional authority with sanctions power. Over saw discovery proceedings in class complaints. Recommended decisions, with findings of facts and conclusions of law, binding, if not modified or rejected in sixty calendar days. Jurisdiction based on Title VII of the Civil Rights Act of 1964, as amended (race, color, sex, national origin and religion), Age Discrimination in Employment Act of 1967, as amended, (age) and the Rehabilitation Act of 1973 (disability).*

Employed the logic of the Federal Rules of Procedure and Evidence to examine the procedural posture of cases and disposed of them in the fastest and most expeditious way while still providing adequate due process to parties. Utilized status conferences to advise the parties of the strengths and weaknesses of their cases, often providing them with the most extant case law on substantive and procedural issues before me. This often provided a solid basis for initiating successful settlement talks or preparing the parties for the actual hearing process. Issued substantive and procedural rulings as to the equitable adjudicatory processing of an assigned case.

8/78 - 5/79:

**ATTORNEY-AT-LAW, 1924 N Street, NW, Washington, DC**

Sole practitioner in the general practice of law, specializing in the areas of criminal and civil rights litigation. Litigation experience through Criminal Justice Act appointments in D.C Superior Court and U.S. District Court. Total number of appointments during short (9 months) span of self-employment was 43 (thirty misdemeanors, ten felonies and one appellate). Criminal work consisted of doing bail hearing, interviewing client and possible witnesses and bonds agents, plea bargaining, and sentencing proceedings.

Other court appointments were civil commitment cases. Such cases called for reviewing medical/hospital records, interviewing treating physicians, nurses, or orderlies about client, and the client (if possible) in preparation for an administrative hearing before the DC Mental Health Board. Also argued in a full evidentiary hearing before a DC Superior Court judge. Other work included providing legal consultation on two Title VII federal sector employment

discrimination cases, one having a full bench trial before a federal district court judge.

12/77 - 8/78: LEGAL COUNSEL, Student National Education Association, 1201 Sixteenth Street, NW, Suite 401, Washington DC 20036

*Corporate Counsel* for non-profit association of student-teachers. Legal analysis provided in areas of rights of student-teachers, federal grants procedures, nonprofit corporation law, and law of associations. Primarily worked to develop a model on the teaching of student-teachers' rights and efforts on funding it.

9/77 - 12/77: CONSULTANT, Equal Employment Opportunity Project, National Bar Association, 1900 L Street, NW, Washington, DC 20036

*Leads Article Editor* working on a multi-task EEO Project, funded by the EEOC. Worked on all aspects of the grant by coordinating the editing of a legal journal commemorating the first decade of Title VII. Journal work included proofreading all tendered articles, negotiating with printers on production matters, and negotiating with advertisers for further funding of the journal itself. Answered telephone inquiries from attorneys throughout the United States seeking technical advice on the handling of an employment discrimination case by clarifying applicable federal discrimination law and recommending various tactical strategies to the requesting attorney.

6/75 - 6/77: EEO Specialist/Program Analyst, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, DC

*Program Analyst, GS-345-7, then EEO Specialist, GS-160-9, primarily functioning as a law clerk within this Assistant Secretary's staff office for EEO matters. Other assigned duties were: Development the OSHA Affirmative Action Plan, reviewing formal investigations of EEO complaints, and making recommendations for settlements of informal and formal complaints. Also acted as an effective recruiter of Hispanic and female law students into part-time and summer positions within OSHA.*

#### PROFESSIONAL EXPERIENCE:

1985 - 03/93: ARBITRATOR, DC Bar, Lawyer-Client Fee Dispute Board Panel

Served on a three-person panel (composed of two lawyers and one non-lawyer), often as chair during my last years, to resolve fee disputes between a lawyer and a client. Meeting usually once a month for three hours on this volunteer, non-paying function.

12/11/92:	<p><b>CO-AUTHOR/CO-INSTRUCTOR, An Annual Review of Federal Sector EEO Cases: Fiscal Year 1992, 1992, Federal Bar Association, Washington, DC</b></p> <p>A comprehensive review and presentation covering significant federal sector employment discrimination cases by myself, Raj Gupta, Executive and Special Assistant to EEOC Commissioner Joy Cherian, and Anthony DeMarco, Assistant General Counsel, HUD.</p>
12/05/91:	<p><b>CO-AUTHOR/CO-INSTRUCTOR, An Annual Review of Federal Sector EEO Cases: Fiscal Years 1991, 1992, Federal Bar Association, Washington, DC</b></p> <p>A comprehensive review and presentation covering significant federal sector employment discrimination cases by myself and Raj Gupta, Executive and Special Assistant to EEOC Commissioner Joy Cherian.</p>
05/05/91:	<p><b>CHIEF AUTHOR/INSTRUCTOR, Federal Sector EEO: Recent Developments Since 1988, Federal Bar Association, Washington, DC</b></p> <p>A comprehensive review and presentation covering significant federal sector employment discrimination cases with a special emphasis on case law interpreting EEOC's 1987 amendments to 29 C.F.R. Part 1613 regulations.</p>
06/88:	<p><b>CHIEF AUTHOR, Manual To The Administrative Processing of Federal Sector EEO Complaints, Federal Bar Association, Washington, DC</b></p> <p>A comprehensive work detailing the myriad procedures and problems existing in the administrative processing of federal sector EEO complaints.</p>
10 - 11/80:	<p><b>COURSE DIRECTOR, Title VII and Federal Employment: Litigating Administrative Hearings, District of Columbia Bar Continuing Legal Education Program, Washington, DC</b></p> <p>Lead instructor for a 1 2 hr., six-session course on how to be an effective advocate in an administrative hearing on federal employment discrimination issues before the EEOC and the Merit Systems Protection Board. Author of a sixty-page article on the application of administrative due process to the EEOC hearing.</p>
<b>EDUCATION</b>	
05/77:	<p><i>Juris Doctorate</i> -- Georgetown University Law Center, Washington, DC 20001 1974 to 1977 -- earning 82 semester hours</p>
05/74:	<p><i>Bachelor of Arts (Psychology)</i> -- University of Kansas, Lawrence, Kansas 66045 Summer 1971 to 1974 -- earning 99 semester hours</p>
	<p>[No degree earned] -- Illinois Institute of Technology, Chicago, Illinois 60610 1970 to 1971 -- earning 34 semester hours</p>

05/70: *High School Diploma -- Junction City Senior High School, Junction City, KS 66441*

**ASSOCIATION MEMBERSHIP:**

State of Kansas Bar: Member (since September 1977): Inactive status

District of Columbia Bar: Member (since February 1978): Active status  
Co-Chair (1979-81), EEO Committee, Labor Law Section

United States Federal District Court, District of Columbia: Member of the Bar: Active Status

Federal Bar Association: Judiciary Division:

Chair, Administrative Judiciary Committee, Judiciary Division (1988); Editor, *The Federal Jurist* (1989 to 1991); and Chair, Lawyers' Committee (1991 to 1993); Deputy Chair, Publications; Consulting Editor, November-December 1994 edition, *FBA News & Journal*; also Publication Board: Member (1991 to August 1994); Awards: 1989 Publications Award for EEO Manual, 1989 Award Recognition for Administrative Judiciary Chair Efforts

American Bar Association: Vice-Chair, Government Personnel Committee, Administrative Law and Regulatory Practice Section (1985 to 1990) (selected panelists for judicial selection committee)

**TEACHING and SPEAKING ENGAGEMENTS; and WRITING ACTIVITIES:**

Guest lecturer or writer on the substantive and procedural aspects of the federal sector EEO area as shown below.

**DC Bar:**

Moderator and Host, "Panel (Luncheon) Discussion on EEOC Guidance (MD-110) on Its New Regulations (29 CFR Part 1614)," DC Bar (Wash., DC July 1992)

**Federal Bar Association:**

Speaker, "EEO Update -- From 1988 to 1990" (June 1991)

Speaker, "Federal Sector EEO: New Developments Since 1988," (Wash., DC June 5, 1991)

Speaker, "1991 EEO Case Law Review," (Wash., DC December 5, 1991)

Speaker, "1992 EEO Developments (including a look at new legislation and new regulations)," (Wash., DC Dec. 11, 1992)

Speaker, "Civil Rights in the Federal Sector -- A Look at HR 3613," (Wash., DC Feb. 13, 1992)

Consulting Editor, *The Changing Directions of Our Judicial System*, @ Judiciary Division, 41 *Federal Bar News & Journal* (Nov./Dec. 1994)

**Public Administration Forum:**

Speaker/Instructor, "Mock EEOC Hearing Program: How to Litigate an EEO Administrative Case@

(2 day on-hands training program for participants)," (Wash., DC March 29 and 30, 1984; San Francisco, CA April 26 and 27, 1984; December 6, 1986; November 1989; March 1990; November 1990; February 19, 1991)

Speaker, "Examination of a Witness," (Wash., DC March 25, 1991)

Speaker, "Annual Review of Federal Court Case Law," (Alexandria, VA March 16, 1995)

**Georgetown University Law Center:** Continuing Legal Education's EEO Update Program in the Federal Sector

Speaker, "Perspectives of an EEOC Administrative Judge on Practice and Recent Developments," (Wash., DC April 5, 1990, April 4, 1991, and April 10, 1992)

**Government Training Institute:**

Moderator *Analysis of Psychological Injuries*, @ part of a Two-Day Program on Compensatory Damages (Sheraton-Pentagon, February 5, 1997)



**Leventhal-Prettyman Inns of Court:**

Guest Commentator-Evaluator, "Sexual Harassment in the Federal Work Place," (Wash., DC December 13, 1993 and June 9, 1994)

**Federally Employed Women Legal and Education Fund Conference:**

Speaker, "How to Handle a Hearing," (Wash., DC July 10, 1980)

**Office of Personnel Management: Interagency Personnel Attorney Group:**

Moderator, "Trial by (EEO) Jury," Panel of local Assistant US Attorneys= experiences with federal sector EEO jury trials (March 30, 1995)

Moderator, "An Update on Compensatory Damages in the Federal EEO Sector," Panel of agency representatives on their experiences and insights on the evolving state of compensatory damages and related case law (March 28, 1996)

Moderator, "Impact of Recent Privacy Act Cases in the Personnel Area -- What Every Agency Representative Should Know ...," Panel of agency representatives discussing their involvement and insights on recent Privacy Act cases (April 17, 1997)

**U.S. Department of the Navy:**

Speaker, "EEO -- Individual and Class Complaints," (Pensacola, FL October 30, 1980)

**U.S. Department of Justice:**

**Immigration and Naturalization Service:**

Speaker, "EEO Hearings and Case Law," (New York City September 29, 1982)

**Federal Bureau of Investigation:**

Speaker, "The Law of Evidence Relating to Hearing Procedures and Techniques -- A Former Administrative Judge's Perspective," (Training for Special Agent-EEO Investigators (Quantico, VA February 18, 1993)

**U.S. Department of the Interior:**

Speaker, "Agencies' Challenges to EEOC's Proposed 29 CFR Part 1614 Regulations," Training and Orientation Course for EEO Counselors and EEO Staff (Wash., DC June 18, 1991)

*Fabia's Resume, page 8*

Speaker, "Training for EEO Counselors, Managers, and Officers - Bureau of Land Management." (Wash., DC March 23, 1995)

**U.S. Department of Transportation:**

Speaker/Instructor, "An EEO Update and Perspectives for the Office for Civil Rights" (training for staff and attorneys) (Wash., DC July 8, 1992)

**U.S. Department of Education:**

Speaker/Instructor, EEO Staff: "Drafting Legally Sufficient EEO Decisions," (Washington, DC May 4, 6, and 8, 1992); "The Status of the Federal Sector Arena," (Wash., DC October 2, 1992)

Speaker/Instructor, Employee and Relations Branch and Labor Relations Branch: "An Overview and Review of Handicap Discrimination Law," (Wash., DC October 20, 1992)

Author, Misconduct Manual - A Primer on Chapter 75 Adverse Actions

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL**



Legal Counsel Division

**MEMORANDUM**

**TO: Lolita S Alston  
Director  
Office of Legislative Support**

**FROM: Janet M. Robins  
Deputy Attorney General  
Legal Counsel Division**

**DATE: February 22, 2013**

**SUBJECT: Certification of Legal Sufficiency of Resolution, the "Board of Massage  
Therapy Robert P. Fabia Confirmation Resolution of 2013"  
(AE-12-676 B)**

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**This is to Certify that** this Office has reviewed the above-referenced legislation and has found it to be legally sufficient. If you have any questions regarding this certification, please do not hesitate to contact me at 724-5524.

  
Janet M. Robins