



CITY OF NEW ORLEANS

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CITY CIVIL SERVICE COMMISSION
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MARK SURPRENANT
RUTH WHITE DAVIS

Monday, January 23, 2023

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Mr. Christopher Seker

Re: **Christopher Seker VS.
Information Technology and Innovati
Docket Number: 9383**

Dear Mr. Seker:

Attached is the decision of the City Civil Service Commission in the matter of your 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 - 1/23/2023 - filed in the Office of the Civil Service Commission at 1340 Poydras St. Suite 900, Orleans Tower, New Orleans, Louisiana.

If you choose to appeal this decision, such appeal must conform to the deadlines established by the Commission's Rules and Article X, Sec.12(B) of the Louisiana Constitution. Further, any 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 blue ink that reads "Doddie K. Smith".

Doddie K. Smith
Chief, Management Services Division

cc: Kimberly LaGrue
William R. H. Goforth
Jay Ginsberg
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**CHRISTOPHER SEKER,
Appellant**

Docket No. 9383

v.

**INFORMATION TECHNOLOGY AND
INNOVATION,
Appointing Authority**

DECISION

Appellant, Christopher Seker, brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from his June 7, 2022, termination of employment. (Ex. HE-1). At all relevant times, Appellant had permanent status as an IT Computer Specialist III. (Tr. at 125; Ex. HE-1). A Hearing Examiner, appointed by the Commission, presided over a hearing on September 8, 2022. 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 November 16, 2022, and controlling Louisiana law.

For the reasons set forth below, Mr. Seker's appeal is GRANTED.

I. FACTUAL BACKGROUND

The Information Technology and Innovation Department of the Chief Administrative Office was responsible implementing an IT system called Hexagon for use by the New Orleans Police Department. Hexagon is "a technology system to replace multiple systems that NOPD uses right now." (Tr. at 15). NOPD currently uses about 20 different IT systems. (Tr. at 128). "Hexagon

would modernize the entire department.” (Tr. at 130). ITI started on the Hexagon project in mid-2021. (Tr. at 18).

Christopher Seker’s original role in Hexagon was quality assurance and quality control. (Tr. at 19). ITI hired April Vasquez to serve as the project manager in January 2022 because of dissatisfaction with NOPD’s project manager. (Tr. at 20-22, 31-32). Then, Mr. Seker’s role shifted to supporting Vasquez. (Tr. at 23). Mr. Seker reported to Ron Nelson. (Tr. at 11-12).

Generally, the sequence of events for implementation of new information technology involves ensuring the technology works correctly, training the users, and then going live. (Tr. at 25). Configuration of Hexagon was “intense” and “taking a long time.” (Tr. at 26). The original goal for the live date was January 2022, but this date was extended several times. (Tr. at 31-32). ITI completed initial configuration by the end of April 2022. (Tr. at 32, 38). After configuration, ITI needed to engage the NOPD stakeholders for review, feedback, and sign-off. (Tr. at 32). The tentative dates for review by the stakeholders were the weeks of May 16 and May 23. (Tr. at 43).

Because of his work experience, Mr. Seker had an intimate knowledge of NOPD personnel and hierarchy. (Tr. at 127). ITI relied on Mr. Seker for NOPD’s cooperation. (Tr. at 131). According to Whitney Soenksen, the Deputy Chief Information Officer, Mr. Seker was in the “best position” with the “best relationships” to set up testing and work closely with NOPD. (Tr. at 46).

Reflecting his knowledge of the project, Mr. Seker prepared a memo requesting that the Superintendent of Police designate the stakeholders. (Tr. at 44-45; Ex. ITI-2). This memo was reviewed by Mr. Seker’s superiors, and the Director of ITI emailed the memo to the Superintendent of Police on April 20, 2022. (Tr. at 44-45, 48; Ex. ITI-3).

On May 2, at the request of Ron Nelson, Mr. Seker sent Mr. Nelson an email on the status of contacting NOPD personnel. (Tr. at 76; Ex. ITI-6). Mr. Seker copied the text from the April 20 memo into the body of the email and added language in red, as follows:

- ITI Proposes two specific activities to meet the current schedule:
 1. FOB Review – Week of May 16
 - To date we have met with:
 - 5th Dist. Sargent
 - 8th Dist. Lieutenant
 - We need to know if this is sufficient for FOB
 - Should we include SWAT, SOD, K9, Mounted?
 2. ISB Review – Week of May 23
 - To date we have met with:
 - Homicide
 - SVS
 - To be comprehensive, we might want to include:
 - Child abuse, Juvenile, White Collar, etc.
 - Crime Lab – Session pending

(Ex. ITI-6).

Superintendent Ferguson responded on May 4, identifying the stakeholders who were required to sign off. (Tr. at 48). These stakeholders were Chief Otha Sandifer (PSAB), Chief Christopher Goodly (FOB), Lieutenant Monaco (Superintendent's Office), and Nathaniel Weaver (NOPD data analytics). (Tr. at 49-50). Mr. Seker recorded the stakeholders in the project management software on May 5. (Ex. ITI-1). Mr. Seker also authored an email at 9:14 AM on May 5, stating "Ron and I spoke about an approach to engage the stakeholders. I will be sending out a notice later today." (Tr. at 51; Ex. ITI-3). Ms. Soenksen, the Deputy Chief Information Officer, responded to this email and asked Mr. Seker to add Captain Chris Hart to the list. (Tr. at 71).

The addition of Capt. Hart put the list of stakeholders in "flux." (Tr. at 180). According to Mr. Seker, this change "threw a monkey wrench in the whole plan." (Tr. at 145). Mr. Seker felt it

put him in a “pickle.” (Tr. at 179). NOPD had identified the stakeholders, but the Deputy CIO had added someone to the list not approved by NOPD or the CIO. (Tr. at 176, 179). Mr. Seker testified that the Deputy CIO “contradicted” the CIO. (Tr. at 179). Because Capt. Hart was a subordinate of Chief Goodly, Mr. Seker would have to go through the chain of command to talk to Capt. Hart under “paramilitary protocol.” (Tr. at 139, 177). Mr. Seker also expressed a concern about Capt. Hart attending a meeting with the chiefs because of the difference in rank in an email to his superiors. (Tr. at 140). Mr. Seker testified that “you wouldn’t have a captain disagree with a chief, his boss[,] in a meeting.” (Tr. at 140). Ultimately, on May 15 or 16 — 10 days later — NOPD confirmed that Capt. Hart would not sign off on the configuration. (Tr. at 140, 147).

ITI scheduled a meeting with Superintendent Ferguson on May 11, and ITI had an internal meeting on May 10 to prepare for the meeting. (Tr. at 53). ITI did not invite Mr. Seker to attend the May 11 meeting with Superintendent Ferguson, and Mr. Seker testified he was unaware of the meeting or the purpose of the May 10 internal meeting, if, in fact, he was in attendance. (Tr. at 135, 151). Mr. Seker does not recall the meeting because he did not appreciate its significance. (Tr. at 168). Mr. Seker was also unaware that the meeting with Superintendent Ferguson had taken place. (Tr. at 135). Mr. Seker believes April Vasquez “misunderstood” the information he gave her in the meeting, if any. (Tr. at 170).

Whitney Soenksen, the Deputy Chief Information Officer, testified that she attended the May 10 meeting in person in the ITI conference room with April Vasquez and Ron Nelson. (Tr. at 53-54). Adriana DeSouza attended the meeting by phone. (Tr. at 54). Ms. Soenksen testified that Mr. Seker said he had reached out to all stakeholders. (Tr. at 54-55). Mr. Nelson also testified that Mr. Seker represented that he had reached out to all the departments and districts. (Tr. at 80). Mr.

Seker denied he ever told April Vasquez he had reached out to NOPD or that NOPD failed to respond. (Tr. at 153-54).

Following this internal meeting, April Vasquez prepared a PowerPoint listing NOPD departments for “resource engagement.” (Tr. at 54). These departments were listed as “Homicide, A-Case/DIU, CEP, Districts 1, 2, 3, 4, 6, and 7th, Swat, DOD, K9, Child Abuse, Juvenile, White Collar, Crime Lab” and appear to be taken from Mr. Seker’s May 2 email. (Tr. at 79; Ex. ITI-4). Mr. Nelson testified that the list in the PowerPoint tracks the departments listed in red or a lighter font on the photocopied version. (Tr. at 79). Mr. Nelson testified he responded to Seker in an email to contact all districts and all the departments he had listed, but the only email addressing this issue is dated May 13. (Tr. at 79-80). Mr. Seker testified that he never reviewed the PowerPoint and that the first time he saw it was at the hearing of this matter. (Tr. at 152). Mr. Seker testified that if he had been given the opportunity, he “would have corrected [the PowerPoint] immediately.” (Tr. at 156).

At the May 11 meeting, ITI informed Superintendent Ferguson that all the departments listed on the PowerPoint had been contacted by ITI and had failed to respond. (Tr. at 68). Superintendent Ferguson was “indignant,” and asked for proof from Kimberly LaGrue, the Chief Information Officer and IT Director, that all the NOPD personnel had been contacted by ITI. Ultimately, ITI determined that ITI had not contacted the listed departments and districts. (Tr. at 106).

Kimberly LaGrue testified that she believed Mr. Seker misrepresented his intention to contact NOPD stakeholders on May 5, and she no longer has trust or confidence in Mr. Seker. (Tr. at 107, 110).

Mr. Seker testified that he did not have a final list of stakeholders until May 16 because of the question of whether Capt. Hart should be included. (Tr. at 140). Mr. Seker did not want to send out more than one invitation because each invitee would be privy to the list of stakeholders. (Tr. at 176). “The stakeholder list should be firm when you invite them.” (Tr. at 177). Because of the departure of Chief Paul Noel, the review by FOB and ISB were combined into one meeting for sign-off on May 23. (Tr. at 143-44). Therefore, Mr. Seker did not send out the notice until May 17. (Tr. at 150; Ex. Seker-5).

Mr. Seker also testified that Adriana DeSouza, a business analyst in charge of evidence and case management at NOPD, communicated with all the departments listed on the PowerPoint and the May 2 email. (Tr. at 153). Ms. DeSouza kept a spreadsheet of all contacts and meetings and handled everything but the stakeholder sign-up meeting. (Tr. at 154). Mr. Seker would communicate with the NOPD chiefs to respect the organization’s chain of command. (Tr. at 157).

II. ANALYSIS

A. Legal Standard for Commission’s Review of Discipline

1. The Appointing Authority must show cause for discipline

“Employees with the permanent status in the classified service may be disciplined only for cause expressed in writing. La. Const., Art. X, Sec. 8(A).” *Whitaker v. New Orleans Police Dep’t*, 2003-0512 (La. App. 4 Cir. 9/17/03), 863 So. 2d 572 (quoting *Stevens v. Dep’t of Police*, 2000-1682 (La. App. 4 Cir. 5/9/01)). “Legal cause exists whenever an employee’s conduct impairs the efficiency of the public service in which the employee is engaged.” *Id.* “The Appointing Authority has the burden of proving the impairment.” *Id.* (citing La. Const., art. X, §

8(A)). “The appointing authority must prove its case by a preponderance of the evidence.” *Id.* “Disciplinary action against a civil service employee will be deemed arbitrary and capricious unless there is a real and substantial relationship between the improper conduct and the “efficient operation” of the public service.”” *Id.* “It is well-settled that, in an appeal before the Commission pursuant to Article X, § 8(A) of the Louisiana Constitution, the appointing authority has the burden of proving by a preponderance of the evidence: 1) the occurrence of the complained of activity, and 2) that the conduct complained of impaired the efficiency of the public service in which the appointing authority is engaged. *Gast v. Dep’t of Police*, 2013-0781 (La. App. 4 Cir. 3/13/14), 137 So. 3d 731, 733 (quoting *Cure v. Dep’t of Police*, 2007-0166 (La. App. 4 Cir. 8/1/07), 964 So. 2d 1093, 1094).

2. The Appointing Authority must show the discipline was commensurate with the infraction

The Commission has a duty to decide independently from the facts presented in the record whether the appointing authority carried its legally imposed burden of proving by a preponderance of evidence that it had good or lawful cause for terminating the classified employee and, if so, whether such discipline was commensurate with the dereliction. *Durning v. New Orleans Police Dep’t*, 2019-0987 (La. App. 4 Cir. 3/25/20), 294 So. 3d 536, 538, *writ denied*, 2020-00697 (La. 9/29/20), 301 So. 3d 1195; *Abbott v. New Orleans Police Dep’t*, 2014-0993 (La. App. 4 Cir. 2/11/15); 165 So.3d 191, 197; *Walters v. Dept. of Police of the City of New Orleans*, 454 So. 2d 106 (La. 1984). The Appointing Authority has the burden of showing that the discipline was reasonable and not arbitrary or capricious. *Neely v. Dep’t of Fire*, 2021-0454 (La. App. 4 Cir. 12/1/21), 332 So. 3d 194, 207 (“[NOFD] did not demonstrate . . . that termination was reasonable

discipline”); *Durning*, 294 So. 3d at 540 (“the termination . . . deemed to be arbitrary and capricious”).

a. Factors considered by Commission

“In determining whether discipline is commensurate with the infraction, the Civil Service Commission considers the nature of the offense as well as the employee’s work record and previous disciplinary record.” *Matusoff v. Dep’t of Fire*, 2019-0932 (La. App. 4 Cir. 5/20/20), 2020 Westlaw 2562940, *writ denied*, 2020-00955 (La. 10/20/20), 303 So. 3d 313. The Commission considers the nature of the offense, the employee’s work ethic, prior disciplinary records, job evaluations, and any grievances filed by the employee.” *Honore v. Dep’t of Pub. Works*, 14-0986, pp. 8-9 (La. App. 4 Cir. 10/29/15), 178 So. 3d 1120, 1131, *writ denied*, 2015-2161 (La. 1/25/16), 185 So. 3d 749

B. ITI has failed to carry its burden of showing cause for the termination of Mr. Seker

ITI has failed to carry its burden of proof to show cause for the termination of Mr. Seker. ITI has failed to show the occurrence of the complained-of conduct. Although Mr. Seker stated on May 5 that he would contact the stakeholders that day, he testified that the Deputy Chief Information Officer added a stakeholder not approved by NOPD or the Chief Information Officer. Therefore, the contact to stakeholders was delayed because he sought to have a “firm” list of stakeholders before sending the invitation. Although Mr. Seker’s direct supervisor testified that he replied to this email and instructed Mr. Seker to contact all suggested stakeholders, the only email offered into evidence is dated May 13.

ITI has also failed to show that Mr. Seker informed Ms. Vasquez that he had contacted all stakeholders and they failed to respond. In light of the fact that the entities on the PowerPoint are almost identical to an email sent to Mr. Seker’s supervisor on May 2, which were only suggested

contacts by Mr. Seker, Mr. Seker's testimony that he never claimed to have contacted all the entities in his email is more credible. Further supporting his version is events is the fact that an NOPD employee, Adriana DeSouza, who attended the May 10 meeting by phone, kept a spreadsheet of all departments contacted. Mr. Seker's supervisor requested this spreadsheet from Ms. DeSouza by email on May 13. (Ex. ITI-5).

Mr. Seker's superiors excluded Mr. Seker from meetings and information about project he was intimately involved in. Then, the superiors blamed Mr. Seker for a miscommunication resulting in ITI presenting erroneous information to the Superintendent of Police.

For the foregoing reasons, Mr. Seker's appeal is GRANTED. Mr. Seker shall be reinstated and shall be reimbursed all lost wages and emoluments of employment from June 7, 2022, to present.

This the 23rd day of January, 2023.

WRITER:

J H Korn
J H Korn (Jan 13, 2023 15:54 CST)

JOHN KORN, VICE-CHAIRPERSON

CONCUR:

Brittney Richardson
Brittney Richardson (Jan 21, 2023 16:37 CST)

BRITTNEY RICHARDSON, CHAIRPERSON

Ruth White Davis
Ruth Davis (Jan 12, 2023 16:45 CST)

RUTH DAVIS, COMMISSIONER