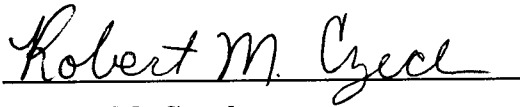


Re: Juan Villalobos

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
NOVEMBER 10, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Assistant Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Unit H
P. O. Box 312
Trenton, New Jersey 08625-0312

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 07880-15

APR 29 2016 10:00 AM

JUAN VILLALOBOS,

Appellant,

v.

NEW JERSEY STATE PAROLE BOARD,

Respondent.

Sander R. Oxfeld, Esq., and John Branigan IV, Esq., for appellant (Oxfeld Cohen, attorneys)

Gregory R. Bueno, Deputy Attorney General, and Suzanne Davies, Deputy Attorney General, for respondent (Christopher S. Porrino, Attorney General of New Jersey)

Record Closed: August 22, 2016

Decided: September 28, 2016

BEFORE **THOMAS R. BETANCOURT, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Appellant, Juan Villalobos, appeals a Final Notice of Disciplinary Action, dated May 5, 2015, providing for a penalty of removal, effective May 9, 2015, for conduct unbecoming a public employee and other sufficient cause.

The Civil Service Commission transmitted the contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13, to the Office of Administrative Law (OAL), where it was filed on June 1, 2015.

A prehearing conference was held on September 17, 2015, and a prehearing Order was entered by the undersigned on September 22, 2015.

Petitioner filed a motion for summary decision with the OAL on October 28, 2015. Respondent filed their brief in opposition on November 18, 2015.

The hearing began on October 14, 2015, and was continued on December 10, 2015, April 8, 2016, May 23, 2016, and August 1, 2016. The record was kept open until August 19, 2016, for submission of written summations. Respondent submitted their summation on August 19, 2016. Appellant submitted his summation on August 22, 2016 (dated August 18, 2016). The record was closed on August 22, 2016.

ISSUES

Whether there is sufficient credible evidence to sustain the charges of conduct unbecoming a public employee and other sufficient cause in the Final Notice of Disciplinary Action; and, if sustained, whether a penalty of removal is warranted.

SUMMARY OF RELEVANT TESTIMONY

Respondent's Case

Kenneth Metallides testified as follows:

He is a Senior Parole Officer and works in the District 1 Office. He has been a parole officer for eighteen years.

PBA Local 326 (326) is the local union for parole officers. He has been a member of the union since he began his employment with the New Jersey Parole Board. He served as treasurer of 326 from 2002 to 2011. Treasurer is an elected position. Members pay 0.92% of their salary as union dues. The monthly average amount collected was approximately \$16,000. Money was deposited to 326's general account. 326 maintained three accounts: a general account; a Political Action Committee (PAC) account; and, an annuity account. The general account was for operational expenses. The PAC account was to purchase tickets for political events. The annuity account was the depository for donations to 326. General account balance averaged between \$50,000 and \$60,000. The PAC account balance averaged between \$4,000 and \$5,000. The annuity account balance was approximately \$100,000.

Appellant was the state delegate from 326 from 2008 to 2011. State delegate is an elected position. 326 reimbursed Appellant for his expenses incurred performing his duties as state delegate.

There were no written union policies in effect for handling 326 funds. Informal procedures were used.

Appellant had access to 326 funds in his capacity as state delegate.

Checks from the general account required two signatures: the treasurer's and either the president's or the state delegate's. Checks for less than \$500 could be issued without 326 executive board approval. Union officers, including appellant, were not authorized to write checks for their own expenses.

Checks are written to cover convention expenses, legal fees, per capita dues, telephone expenses, and meeting costs. Each local, such as 326, pay dues to the state union, which are about \$50,000 per year.

A check in excess of \$500 is presented to the executive board for approval. If approved the check is issued.

Sometimes checks were issued to members who were in trouble and required payment of legal fees.

Mr. Metallides reviewed check number 2612, dated January 6, 2010, issued to Charles C. Abut, Esq. in the amount of \$3,000 from the general count. (R-4.) He noted his signature on the check. The second signature would be either appellant or the president of 326. He did not recognize the second signature, but discovered later that appellant had signed the check.

Mr. Metallides would leave signed blank checks with appellant when he was on vacation. This occurred two or three times per year. He gave six or seven signed blank checks to appellant prior to leaving for vacation in December 2009. He returned from vacation on January 5 or 6, 2010. All the checks he left with appellant were used by appellant. All were written out by appellant, including check number 2612 to Charles C. Abut, Esq. He does not know Mr. Abut. There was no executive board meeting during this time. There was no executive board approval of check number 2612. This check should not have been disbursed with executive board approval. He had no expectation that appellant would use the blank signed checks for his personal expenses. He stated "we all trusted each other and operated in good faith."

Mr. Metallides then reviewed an email he sent to appellant, dated January 7, 2010, regarding checks written by appellant, including check number 2612 to Charles C. Abut, Esq. (R-5.) He had also asked verbally for an explanation prior to the email. There was nothing on the memo line of this check indicating what it was for. It was common practice to put a notation on the memo line to indicate what the check was for. Appellant told Mr. Metallides that this check was for arbitration. He did not challenge appellant's explanation that the check was used for arbitration. Mr. Metallides noted he never received a response to his email. He also never received a verbal response from

appellant. He then reviewed the check ledger for check number 2612, which indicated it was for "arbitration." (R-6.) 326 did use attorneys for arbitration.

The accountant at this time was Joseph Zelawoski . Mr. Metallides, on a monthly basis, picked up canceled checks and the bank statements and gave them to the accountant. The accountant would then reconcile the account. The accountant did not scrutinize receipts or disbursements. He merely did account reconciliations and tax filings.

Mr. Metallides was aware that appellant was divorcing. This was common knowledge in the office, and appellant had stated as much. Appellant never asked 326 for financial assistance for his divorce, or for anything else. Appellant never mentioned payment of attorneys' fees from 326 funds for immigration matters.

Mr. Metallides knew of two instances when union members were given personal loans from 326 funds. The first time this occurred was in 2006, and the loan recipient was Jose Rodriguez. The matter was presented to the executive board for approval. Only a simple majority was needed. Appellant was a member of the executive board at this time. There was no formal writing memorializing the loan. Mr. Rodriguez repaid the loan.

The second loan was to Walter Payne in the amount of \$1,000. This was also presented to the executive board for approval. In this instance there was a loan agreement signed by Mr. Payne as there was some concern regarding repayment. (R-7.) Mr. Payne did not repay the loan and 326 took no action regarding the non-payment.

Both loans to union members should be reflected in minutes of the meetings.

At a union meeting in 2011 Appellant was asked to explain expenditures. The meeting was in New Brunswick, New Jersey. There were approximately fifty to sixty members present. It was a special meeting to review financial irregularities. The

president at the time, Thomas Lambert, set up the meeting. Appellant was at the meeting. He was still state delegate at this time.

Items discussed were high telephone bills of appellant, a \$4,000 repair bill to District Office #5, and legal fees. These expenditures were attributed to appellant. Appellant was questioned by several union executives. The interaction became angry and hostile. One executive, a Mr. Moffa, accused appellant of being a thief. Appellant did not respond to questions posed to him. The meeting ended abruptly.

Mr. Metallides resigned at this meeting, telling members he was stepping down for the good of 326, and not out of any wrongdoing.

The executive board set up a committee to investigate their finances. An audit was performed.

He was then contacted by the Bergen County Prosecutor's Office. He spoke via telephone with Detective William Valentine. Mr. Metallides met in person voluntarily with the Bergen County Prosecutor's Office. He was accompanied by his attorney. He paid for his attorney's fees from his own money. He later became aware that appellant was charged with theft.

There were no year-end audits done. There were quick audits done when a new president was elected. These were not formal audits. Nothing irregular was found.

Mr. Metallides does not know where minutes of meetings are kept. Financial records are retained for approximately six months. If the accountant did not need them, they were destroyed.

Check number 2016, dated October 26, 2008, in the amount of \$500, payable to Anayancy Hausmann, Esq., was written by Mr. Metallides. (A-2.) It was signed by him and appellant. He was told by appellant that it was for legal fees. He assumed it was for 326 legal fees.

Check number 2937, dated September 14, 2010, in the amount of \$850, payable to Anayancy Hausmann, and was completed by Mr. Metallides. It was signed by him and appellant. He assumed the executive board approved the check as it was in excess of \$500 and was requested by appellant. He did not ask appellant if the check was approved by the executive board.

Mr. Metallides noted that it was not his job as treasurer to investigate validity of checks. He also noted that checks for legal fees are routine.

Thomas Lambert testified as follows:

He is currently president of 326, and has been since July 1, 2011. The local president handles day-to-day functions of the union.

The previous president, Jose Rodriguez, made allegations regarding financial irregularities. He accused appellant of using the general account as his personal account. Mr. Lambert did not know if this was factual at the time the allegation was made.

When he was elected president he reviewed the state union by-laws, which provides that state delegates are not to have financial duties. He then went to the bank with Mr. Metallides and had appellant removed as a signatory, as well as former president Mr. Escobar, and added himself as a signatory. He also asked the bank for a rundown of all expenditures.

Mr. Lambert was present when appellant confronted Mr. Metallides about why appellant was removed as a signatory to the account. Appellant was not happy that he was so removed.

Mr. Lambert changed banks and had the previous bank supply copies of checks and statements.

Mr. Lambert also replaced the accountant for 326. The new accountant is Felix Addeo. Mr. Addeo found some anomalies. Mr. Addeo could not perform a forensic audit as there were no receipts. Mr. Addeo identified the lack of receipts as a problem. Mr. Lambert also discovered at this time that Charles Abut was a matrimonial attorney.

When he became president of 326 it did not have structure. It was administered in a haphazard manner. He instituted by-laws and procedures. Now all expenditures are discussed at meetings. Minutes are now maintained.

Mr. Metallides assisted with the transition. He was cooperative. Mr. Lambert never suspected Mr. Metallides of any wrongdoing.

Prior to being elected president, Mr. Lambert had heard that appellant was misusing union funds from another parole officer, Jose Rodriguez. Mr. Lambert did not know any facts regarding Appellant's use of the union account at this time. While assigned to watch a prisoner at Englewood Hospital with Mr. Rodriguez, Mr. Rodriguez showed Mr. Lambert photos of checks from his cellular telephone that he thought were improper uses of union funds by appellant.

The appellant was identified as being responsible for the anomalies discovered by Mr. Addeo. Checks were written to a matrimonial attorney and an immigration attorney.

Appellant was asked about these anomalies at a meeting that took place in September or October 2011. Appellant replied by stating that others new. The meeting was contentious. In response for calls for appellant to resign he stated he would hold his position until the next election. Mr. Lambert ended the meeting as he was worried there might be a physical altercation. Appellant did resign a few months after this meeting.

Thereafter Mr. Lambert was contacted by the Bergen County Prosecutor's Office. He gave a statement and provided the prosecutor's office with bank records and other information. He eventually learned appellant was charged. He is not sure what offense he was charged with. No one else was implicated. He knows that matter was resolved by appellant entering into a pre-trial intervention (PTI) program and paying restitution.

Rebecca Hiltner-Horn testified as follows:

She is a Senior Investigator and handles civilian complaints, background investigations, and urine screening for staff. She was assigned to investigate appellant and prepared a report. (R-14.)

Leonard Ward testified as follows:

He is the Director of the Division of Parole and Community Programs. He oversees highest ranking officers. He reviewed the following documents:

- R-15 New Jersey Civil Service Commission Job Specifications for Senior Parole Officers;
- R-16 New Jersey State Parole Board Code of Professional Conduct;
- R-17 Acknowledgment form signed by appellant for receipt of R-16;
- R-18 State of New Jersey Uniform Ethics Code and Plain Language Guide to New Jersey's Executive Branch Ethics;
- R-19 Acknowledgment form signed by appellant for receipt of R-18;
- R-20 New Jersey State Parole Board Code of Ethics;
- R-23 Table of Offenses and Disciplinary Sanctions.

PTI is considered as a disqualification for hire. Termination on a first offense can be appropriate. He agreed with the decision to terminate appellant from his position as Senior Parole Officer.

William Valentine testified as follows:

He is a detective with the Bergen County Prosecutor's Office (BCPO). He conducted the investigation concerning appellant. He prepared a Power Point report regarding his investigation. (R-9.)

The BCPO was contacted by Thomas Lambert. He met with Mr. Lambert and an attorney for 326, at his office. Mr. Lambert and the attorney had concerns with 326's account. Detective Valentine reviewed documents and obtained copies from Bank of America after serving them with subpoenas. He also interviewed Mr. Metallides, Anayancy Hausmann, Charles Abut and Fox and Fox, a law firm that represented appellant in his divorce matter.

The documents he reviewed were Bank of America records for 326's account; invoices from Ms. Hausmann, invoices from Mr. Abut; and, Fox and Fox invoices.

It took time to rebuild the record as 326 destroyed their records every six months. He did not contact appellant until the end of the investigation. Appellant did not provide a statement.

After the investigation appellant was charged on a Complaint/Summons with theft by deception. (R-11.)

Nothing found during his investigation would lead him to believe that the checks issued to Mr. Abut and Ms. Hausmann were authorized by 326. Nothing found during his investigation would lead him to believe that the matters handled by Mr. Abut and Ms. Hausmann constituted union business.

He believed that second signature on the check to Mr. Abut for \$3,000 was that of appellant. All the other checks were signed by Mr. Metallides and appellant. He did not consult with a handwriting expert to reach this belief.

He was advised by Mr. Metallides, Mr. Lambert and the attorney for 326 that union records were destroyed. He did not review the minutes of any meetings.

Appellant's Case

Kipley J. Astrom testified as follows:

He became a Parole Officer in July 1989. He retired in February 2010. He currently resides in Florida and is employed at the Florida Commission on Offender Review, formerly the Florida Parole Board.

While employed as a Parole Officer he was a member of PBA Local 326. He has held several positions within the Local. He was president from January 2005 to June 2009. Ken Metallides was treasurer during his tenure. The Local books were audited annually and also when there was a change in Local officers. The Local maintained its records at the District Office One in Clifton, NJ. He is not sure where they are maintained at present, but they are somewhere in Passaic County. Annual audits are mandated by the Local's by-laws.

During his tenure as president there was no procedure in place where Local records would be destroyed every six months. He never heard of this.

The procedure to have a check issued would be to complete a requisition form (A-1, page 3) and have the request voted upon by the Local's executive board. No check would issue without executive board approval. Approval would be reflected in the minutes of the meetings. He knows the signature on check number 2560 (A-1, page 2) is that of Mr. Metallides. He does not recognize the second signature. He was not president when check number 2560 was issued.

He was president when check number 2016 was issued (A-2). Said check is payable to Anayancy R. Hausman, Esq., in the amount of \$500. The notation thereon is "PBA legal fees." He has no specific memory of approval by the executive board.

Audits are performed annually and would have discovered any improperly issued check. During his tenure as president no check was ever questioned. Mr. Metallides was treasurer during his entire tenure as president.

Tony Villalobos is actually appellant Juan Villalobos.

Mr. Metallides never signed blank checks and left them for use while he was on vacation.

At times money would be loaned to members, citing Jose Rodriguez, who lost his job and was short on funds. Any loan is expected to be repaid. This practice was not frequent, but happened on numerous occasions.

Minutes of executive board meetings are maintained by the recording secretary at the District One office.

He knows Walter Payne vaguely and remembers he received funds from the Local.

He was succeeded as president by Craig Pfeifer. He turned over his files to Mr. Pfeifer and made him aware of the files at the District One office.

He is a close friend of appellant and did not color his testimony to assist appellant in the instant matter.

The Local maintained two accounts, one general checking account, and one Political Action Committee (PAC) account. The latter account was not well funded and was set up previous to his tenure as president. The general account was for all expenses.

Referring to A-1 and A-2, he does not know what legal fees the checks were for, nor does he recognize the second signature on each check. He recognizes the first signature as belonging to Mr. Metallides. As both checks (A-1 and A-2) were written to an attorney he would not think they reflected loans to a member.

The procedure for requesting personal loans by members was for the member to make a request to the executive board, who would then consider the request and vote thereon. There was no formal procedure and no criteria. Each request was handled on a case-by-case basis.

He recalled two or three times while president, a loan was made to a member. The check would usually be issued to the requesting member, unless the member requested it be made payable to a third party. He cannot recall a specific instance where a check was issued to a third party. There are normally no formal agreements regarding loans.

On occasion the Local would gift funds to members. He cannot recall any specific instance. No check would issue without executive board approval. This would occur if a member needed assistance with legal fees for a disciplinary matter. The check would be issued to the member, and not the attorney. This no longer occurs as the Union has a legal insurance policy.

Jose L. Escobar testified on direct as follows:

He was employed as a Parole Officer from 1994 until his retirement in April 2013 as Senior Parole Officer. He currently resides in Florida where he is employed as an officer in the U.S. Army.

He was an officer in the Local, serving as sergeant at arms, vice president, and president. He was president from October 2010 to June 2011, when his term expired. He became president when the previous president, Craig Pfeifer, resigned.

It is common knowledge that Local records are kept at the District One office. There is a file cabinet at the office labeled "PBA 326." He is not aware of any policy during his tenure as an officer of the Local where records were destroyed every six months or annually. He conducted a reconciliation of the account when he became president together with the account and trustees. Mr. Metallides was treasurer during his tenure as president.

Referring to A-1, he was vice president when the check was issued. Mr. Pfeifer was president and appellant was a delegate.

He is familiar with the requisition form used to request a check. He had never seen the completed form contained in A-1, page 3. The request in A-1 was made by appellant and it is for legal fees for Mario Ruiz. He does not know Mr. Ruiz.

After an expense request is submitted it would go to the treasurer and then be approved by the executive board. Checks were issued by previous presidents without executive board approval. He never did this during his tenure. He was not involved with finances while vice president or sergeant at arms.

Referring to A-3, he was not president when this check was issued. It is also issued to Ms. Hausman and is in the amount of \$850. The notation is for legal fees. When he had a reconciliation of the books done when he became president no checks issued to Ms. Hausman came to his attention. Had he been aware of an improperly issued check he would have ordered an in-house investigation, and possibly referred the matter to an in-house disciplinary committee. The police would not have called. This was never done regarding appellant.

He is not aware of any practice where the treasurer would sign blank checks and leave them for Local use while away on vacation.

He knows Walter Payne. The Local assisted Mr. Payne, but is not sure of when. He was not president during this time. He also knows Jose Rodriguez who received

local assistance after being fired and falling behind on his mortgage payments. He learned of both matters after he became president.

He knows the appellant since 1994.

Referring to A-1, page 2, he confirms the check was drawn on the Local's checking account, was payable to Anayancy Hausman, Esq. in the amount of \$500, and was for legal fees. The check does not specify the type of legal fee. He personally participated in the reconciliation that occurred when he became president. A check with the notation "legal fees" would not attract his attention. There are many checks for legal fees.

Referring to A-1, page 3, the request form is for community assistance to Mario Ruiz for legal fees for an INF matter. He does not know Mr. Ruiz. He does not know if Mr. Ruiz is a member. Assistance from the Local is only for members.

Referring to A-3, he verifies it is a Local account check to Ms. Hausman for legal fees in the amount of \$850. What legal fees are for is not noted. This check would not be flagged during reconciliation. Mr. Escobar was not present when A-1, A-2, or A-3 were executed. He was not present when the decision to disburse was made. He does not recall if any money was repaid.

Checks for assistance would be payable to a member. He does not know if checks were written to a third party.

He does not know if the Local provides community assistance funds. He did compare checks to minutes to see if there was executive board approval.

Francis Salensky testified as follows:

He was a Parole Officer for fourteen years. He left that position in 2011. He was a PBA trustee for a couple of years. He was also a shop steward. He attended both PBA public meetings and executive board meetings.

If a member was in "dire need" 326 would help out. Assistance to members would go before the executive board to be voted upon.

He recalled being at a meeting where appellant tried to return a "refund" check he received to 326. Mr. Metallides refused to accept the check as it was payable to appellant. He also thinks he was at a general meeting where appellant received funds from 326. "It was very open." He cannot recall what the check to appellant was for. "Everybody pretty much knew." He cannot recall the year or exactly what appellant received funds for. He cannot recall if a motion was made to provide funds to appellant. He never noticed any impropriety.

If the treasurer was not available he would probably leave signed checks and leave them with somebody. Mr. Metallides was the only one who could sign checks.

He never heard of a policy of destroying records every six months.

There was no need for an audit. Everyone knows what was in the account.

He then stated that Mr. Metallides would not leave signed blank checks.

He was surprised to learn there no records for 326.

Wilson Lanier testified as follows:

He is a retired Senior Parole Officer. He served as the Sergeant at Arms for 326. His job was to keep order at meetings. He recalls checks being issued to

members for financial crises. Checks were also issued to the Boy Scouts and church groups. He recalls voting on checks to be issued, including checks to attorneys. He could not recall specific cases. He does not recall a check for attorney's fees for appellant.

It was never a policy of 326 to shred documents after six months.

He was never present at a meeting where appellant requested funds.

It would not be acceptable to use 326 funds for personal divorce issue or personal immigration problem.

Cesar Ferrara testified as follows:

He is a retired Parole Officer. He was vice president of 326 for four years and president for two years. 326 records were kept in District Office #1 in Passaic, New Jersey. When he left as president he turned over the files to appellant. He did not go through the file cabinet or look in it before turning over records to appellant. The accountant for 326 would perform a yearly audit. 326 did help people, members outside groups and charities. He is not aware of a check written without executive board approval. It is not proper for an officer of the union to write a check for personal reasons.

Juan Villalobos, appellant, testified as follows:

He is referred to as "Tony." He was a Parole Officer until 2013 when he was terminated. The last day he worked there were four large file cabinets and two small two drawer file cabinets for 326 files. Files were never destroyed. There was no six-month purging of files.

He served as recording secretary in 1996; vice president in 1998, president in 2000; and, state delegate shortly thereafter. The president runs the local. The state

delegate is the liaison between the State PBA and the Local. The state delegate is a member of the executive board.

The policy for issuing checks is for a member to place the item on the meeting agenda. The item would be discussed and voted upon. The check was then requisitioned and issued and the transaction would be recorded. He never had a check issued without following the above procedure.

Mr. Metallides never left the checkbook with signed checks with anyone when he was on vacation.

When a check is issued to a member the transaction was noted in the minutes, which were filed in 326 file cabinets as District Office #1.

Appellant confirmed his signature, and that of Mr. Metallides, on check number 2560, dated November 23, 2009, in the amount of \$500, payable to Anayancy Hausman. (R-1.) He does not recall if he requested this check. Ms. Hausman is a family and immigration attorney. Appellant also confirmed his signature, and that of Mr. Metallides, on check number 2937, dated September 14, 2010, in the amount of \$850, payable to Ms. Hausman. He stated "I'm sure it did" when asked if this check went before the executive board. He does not recall if he moved this check, but could have.

He is currently married to Alba Ruiz. When checks were written to Ms. Hausman he was not married to Ms. Ruiz. Ms. Hausmann was doing immigration work for Ms. Ruiz, her daughter Angela, and Ms. Ruiz's father and brother. He was not involved in a relationship with Ms. Ruiz at this time. He requested assistance for Ms. Ruiz's father. 326 also helped people he did not know with immigration issues.

Charles Abut, Esq., served as a divorce mediator for him. The check to Mr. Abut in the amount of \$3,000 was for mediation services. Appellant stated that Mr. Metallides brought this before the general membership at a meeting. This should be in the minutes at District Office #1. He tried to repay a portion of the money to 326 as Mr.

Abut sent him a refund check for \$400. Mr. Metallides would not accept the check as it was payable to appellant.

Mr. Villalobos was charged with theft by deception on Accusation A-0421-14. He was entered into PTI and completed same. Mr. Villalobos was required to pay \$5,270 in restitution to 326. PTI was terminated early by Consent Order dated February 18, 2015. Thereafter Mr. Villalobos obtained an Order of Expungement dated January 13, 2016. (A-9.)

Mr. Villalobos does not dispute that the checks in question were used for legal fees for personal issues. None of the checks in question were for 326 bills or for 326 business.

He stated that Mr. Metallides went to 326 for the \$3,000 check to Mr. Abut without appellant's knowledge.

He denied ever receiving the email from Mr. Metallides requesting information regarding checks written from the general account. (R-5.)

He does not know why Mr. Metallides would ask for receipts.

He and Mr. Metallides are not friends.

He never asked 326 for a loan. He did acknowledge that it was a loan.

He did not complete a loan form, as did Walter Payne. This form was only used one time from fear that Mr. Payne would not repay the loan.

He was never at a meeting where he was asked to resign. The checks discussed herein did not come up at the meeting of October 2011. Other items were discussed.

He resigned after the meeting of October 2011 “to help out this new kid,” not because he was accused of stealing.

Felix A. Addeo testified as follows:

He is a certified public accountant. He has been the accountant for 326 since the end of 2011.

He met with Mr. Lambert and the incoming treasurer, Ann Hertz, on January 30, 2013. They wanted him to look into 326’s finances. He reviewed a printout of cash receipts and disbursements supplied by the previous accountant. The documents were insufficient. There was no general ledger, no tax returns, and no financial statements.

He created a general ledger using a fiscal year of July 1 to June 30. He created a general ledger going backward using information from the previous accountant. He also obtained bank statements. He prepared a spreadsheet to show receipts and disbursements. He did not have canceled checks or check stubs. He created an agenda for his meeting. He advised the union officials that there was insufficient documentation from previous years.

He had no knowledge of appellant prior to being contacted by Mr. Oxfeld.

CREDIBILITY

When witnesses present conflicting testimonies, it is the duty of the trier of fact to weigh each witness’s credibility and make a factual finding. In other words, credibility is the value a fact finder assigns to the testimony of a witness, and it incorporates the overall assessment of the witness’s story in light of its rationality, consistency, and how it comports with other evidence. Carbo v. United States, 314 F.2d 718 (9th Cir. 1963); see In re Polk, 90 N.J. 550 (1982). Credibility findings “are often influenced by matters such as observations of the character and demeanor of witnesses and common human

experience that are not transmitted by the record.” State v. Locurto, 157 N.J. 463 (1999). A fact finder is expected to base decisions of credibility on his or her common sense, intuition or experience. Barnes v. United States, 412 U.S. 837, 93 S. Ct. 2357, 37 L. Ed. 2d 380 (1973).

The finder of fact is not bound to believe the testimony of any witness, and credibility does not automatically rest astride the party with more witnesses. In re Perrone, 5 N.J. 514 (1950). Testimony may be disbelieved, but may not be disregarded at an administrative proceeding. Middletown Twp. v. Murdoch, 73 N.J. Super. 511 (App. Div. 1962). Credible testimony must not only proceed from the mouth of credible witnesses but must be credible in itself. Spagnuolo v. Bonnet, 16 N.J. 546 (1954).

Kenneth Metallides was compelling in his testimony. He was forthright in his answers. If he did not know an answer he readily admitted it. His description of how he, and 326, handled their financial matters demonstrates in detail that there were no checks and balances regarding disbursement of union funds. His testimony that he would leave checks, signed by him but otherwise blank, at the office for use while he was on vacation I deem very credible. This I deem credible notwithstanding testimony from others that he never did this. That testimony seemed to me contrived. Mr. Metallides was the treasure and he knew best what his practices were. I deem him extremely credible.

Thomas Lambert too was compelling. He took immediate steps upon his election as president of 326 to correct accounting practices and put in place checks and balances. It was his efforts that ultimately led to charges being filed against appellant. He was direct and forceful in his answers. I deem him extremely credible.

Rebecca Hiltner-Horn was credible. However, her testimony was of limited value as the investigation she conducted rested upon the investigation conducted by the Bergen County Prosecutor's Office.

Leonard Ward was credible. His testimony regarding the various codes of ethics and codes of conduct was straightforward and direct.

William Valentine's testimony was troublesome. He conducted the investigation on behalf of the Bergen County Prosecutor's Office, which ultimately resulted in a charge of theft by deception being lodged against appellant. While I believe Detective Valentine was truthful in his testimony, his investigation was lacking. He did not interview any previous officers of 326 regarding the allegations against appellant. He did not seek any union documents, instead relying on the statement of Mr. Metallides that documents were destroyed every six months. This, in and of itself, does not render his testimony not credible. However, it does detract from the weight it should be afforded.

Kiply J. Astrom was straightforward and direct in his testimony. I deem his testimony credible, but only somewhat helpful. His testimony on union procedures for check requisition was helpful, but he had no direct factual knowledge regarding the charges against appellant.

Jose L. Escobar was also credible. He too testified as to union procedures, but had no direct factual knowledge regarding the charges against appellant.

Francis Salensky was not credible. He could not recall details, but stated "Everyone pretty much knew." He never provided what it was that everyone knew.

Wilson Lanier was credible. However, his testimony was of little use. He provided little, if any, testimony regarding the instant matter.

Juan Villalobos was not credible. I cannot emphasize strongly enough how disingenuous he was in his testimony. Most telling was the statement "to help out this new kid" when asked why he resigned his position as state delegate. He resigned under a cloud of suspicion regarding his alleged abuse of union funds. Further he denied ever receiving an email from Mr. Metallides requesting certain back up

information for checks. That email was sent to both Appellant's personal email account and official State email account. It is not believable that he did not receive it. Also, Appellant stated that during the time Ms. Hausman was providing legal services to his current spouse, Alba Ruiz, Appellant was not in a relationship with her. This is simply not believable. Check number 2937 to Ms. Hausman is dated September 14, 2010. Appellant and Ms. Ruiz were married January 24, 2011, some four months later. Appellant's assertion that check number 2612, issued to attorney Charles Abut for \$3,000, was brought to the executive board by Mr. Metallides defies credulity. Mr. Metallides was on vacation at the time the check issued, and there was no executive board meeting at the time to approve the check. He was not direct in his answers. He seemed to spin answers. I deem him not credible.

Felix A. Addeo was credible, but of limited value. As the new accountant for the union he had no knowledge of what previously transpired. His review of prior financial records did reveal some anomalies, which then led to the prosecution of appellant. Contrary to counsel's assertion in his written summation that Mr. Lambert stated that Mr. Addeo "specifically identified Villalobos as being responsible for the anomalies," Mr. Addeo merely identified areas of concern for the newly elected union officials to look into. A review of the audio of Mr. Lambert's and Mr. Addeo's testimony confirms the same.

FINDINGS OF FACTS

I FIND the following **FACTS**:

1. Appellant was a Senior Parole Officer employed by New Jersey State Parole Board. A Senior Parole Officer is a sworn law enforcement officer.
2. Appellant held several positions with PBA Local 326 during his tenure as a parole officer. He was recording secretary in 1996, vice president in 1988, president in 2000. Shortly thereafter Appellant was elected state delegate.
3. In his capacity as state delegate Appellant was a signatory to the general account used by 326 and had access to that account.

4. The general account required two signatures, that of the treasurer and another officer. Appellant was one of the other officers with the power to sign checks.
5. Kenneth Metallides, also a Parole Officer, was the treasurer during Appellant's tenure as state delegate.
6. 326 had a process for check disbursement. If a check was less than \$500 it did not require approval from either the executive board of 326, or from the membership of 326. If a check exceeded \$500 it required approval of the executive board. A member could request a check and the matter would be placed on the executive board agenda. It would be discussed and voted upon. If approved the check would issue.
7. This process was rarely used based upon the evidence presented during the hearing. 326 employed little, if any, safeguards regarding issuance of checks.
8. There was no annual audit. There were only monthly bank statement reconciliations.
9. While there was testimony regarding annual audits, in fact what was testified to was merely a simple review of the accounts of 326. There was no testimony regarding an actual audit. Only statements from several witnesses that an audit occurred. Use of the word "audit" does not make an audit.
10. 326 did not keep receipts for expenditures.
11. 326's accounting practices were shoddy. There was little, if any oversight.
12. There were no written policies for 326. There were only informal procedures for handling union funds.
13. Five checks make up the basis for the charges against appellant: check number 2560, dated November 23, 2009, in the amount of \$500, payable to Anayancy R. Hausman, Esq., with the memo notation "legal fees"; check number 2937, dated September 14, 2010, in the amount of \$850, payable to Anayancy R. Hausman, Esq., with the memo notation "legal fees Invoice 13302"; check number 2016, dated October 26, 2008, in the amount of \$500, payable to Anayancy R. Hausman, Esq., with the memo

notation "PBA legal fees"; check number 2017, dated October 27, 2008, in the amount of \$420, payable to Anayancy R. Hausman, Esq., with the memo notation "TPS and Biometrics"; and, check number 2612, dated January 6, 2010, in the amount of \$3,000, payable to Charles C. Abut, Esq., with no memo notation. (R-1 and R-4.)

14. The checks written to Ms. Hausman were for legal services for immigration provided to Mario A. Ruiz, Samuel Ruiz, Karla Ruiz, Alba Ruiz, Angela Ruiz, and Carolina Mendez.
15. Alba Ruiz is Appellant's current spouse, having been married January 24, 2011. (R-3.) Mario Ruiz is Appellant's current father-in-law. Samuel Ruiz is Appellant's current brother-in-law. Angela Ruiz is the daughter of Alba Ruiz.
16. Prior to his marriage to Ms. Ruiz, Appellant was married to Johanny Villalobos. They were divorced by Dual Judgment of Divorce dated June 22, 2010. (R-2.)
17. All checks noted above, with the exception of check number 2612, payable to Mr. Abut; were signed by Mr. Metallides and Appellant. Check number 2612 was signed by Mr. Metallides. The second signature is scribbled and illegible.
18. Check number 2937, dated September 14, 2010, in the amount of \$850, payable to Anayancy R. Hausman, Esq., with the memo notation "legal fees Invoice 13302." This check was issued only four months prior to Appellant's marriage to Ms. Ruiz.
19. All checks issued to Anayancy Hausman, noted above, were not for union business or in payment of union expenses.
20. All four checks issued to Anayancy Hausman, noted above, were used by Appellant to pay for legal fees for non union members, and for a family with whom Appellant had a personal relationship.
21. All four checks issued to Anayancy Hausman, noted above, were personal expenses of Appellant, and not for legal fees rendered to 324.
22. All four checks issued to Anayancy Hausman, noted above, were not approved by union membership or the union executive board.

23. Charles C. Abut is an attorney in New Jersey practicing matrimonial law. Check number 2612, in the amount of \$3,000, payable to Mr. Abut, was for arbitration services regarding Appellant's divorce proceedings. (R-6.)
24. Kenneth Metallides would leave signed, blank checks while he was on vacation. He would do these two or three times per year. These checks would be entrusted to Appellant by Mr. Metallides. Mr. Metallides's expectation was that these checks would be used for union purposes, and only for emergent reasons. An emergent reason would be an expense that arose during his absence. There was no expectation that Appellant would use these checks for personal reasons.
25. Mr. Metallides left six or seven checks signed by him with Appellant when Mr. Metallides went on vacation in December 2009. Upon his return from vacation on January 5 or 6, 2010, he discovered that Appellant issued all the checks left with him.
26. One of those checks was check number 2612 issued to Charles C. Abut, Esq., for \$3,000. Mr. Metallides could not identify the second signature, but later found out it was that of Appellant. (R-4.)
27. There was no executive board meeting while Mr. Metallides was on vacation and this check should not have issued. Mr. Metallides does not know who Charles Abut is.
28. Check number 2612 in the amount of \$3,000, issued to Charles C. Abut, Esq., was not presented to, nor approved by, the executive board of 326.
29. Check number 2612 in the amount of \$3,000, issued to Charles C. Abut, Esq., was not for any expense incurred by 326.
30. Check number 2612 in the amount of \$3,000, issued to Charles C. Abut, Esq., was used by Appellant, without any authorization from 326, to pay for arbitration fees related to a personal matter of Appellant: his divorce proceeding with Johanny Villalobos.
31. Mr. Metallides emailed Appellant, at both his personal and State email accounts, requesting certain information regarding checks issued by Appellant during Mr. Metallides vacation. One of the checks mentioned in

- the email was the \$3,000 check issued to Mr. Abut. That email was dated January 7, 2010. Appellant never responded. (R-5.)
32. 326 did, on at least two occasions, loan money to members. One member, Walter Payne, received a loan of \$1,000 on April 24, 2009. Mr. Payne executed a Loan Agreement. (R-7.)
 33. The Loan Agreement was only used once.
 34. A second loan was issued to another member, Jose Rodriguez. This loan did not use a loan agreement.
 35. Both the loan to Mr. Payne and the loan to Mr. Rodriguez received executive board approval.
 36. When Thomas Lambert was elected president of 326 he removed Appellant as a signatory for union accounts. He requested that the bank provide rundowns of receipts and expenditures. (R-8.)
 37. Mr. Lambert also hired a new accountant to review union accounts, Felix A. Addeo. Mr. Addeo was provided the little information on hand regarding union accounts. Mr. Addeo reviewed what was provided and found some anomalies in the transaction. Some of those anomalies were later identified as transactions involving Appellant.¹
 38. A 326 meeting in October 2011 was called by Mr. Lambert specifically to discuss the anomalies with the union account and Appellant. That meeting took place in New Brunswick, New Jersey.
 39. At this meeting Appellant was questioned about the suspect expenditures. The meeting was contentious. Appellant was present for the entire meeting. Appellant did not respond to questions regarding the transactions.
 40. At the close of the meeting Mr. Metallides resigned as treasurer. Appellant, while asked to resign as state delegate, did not. Appellant did resign a few months thereafter.

¹ It is important to note that Mr. Addeo never identified Appellant personally. He only identified transactions that were anomalous. Mr. Lambert, in his testimony, did not state that Mr. Addeo identified Appellant, notwithstanding counsel's argument to the contrary in the written summation submitted post hearing.

41. Mr. Lambert contacted the Bergen County Prosecutor and met with Detective William Valentine, who conducted an investigation. (R-9 and R-10.)
42. The investigation resulted in Appellant being charged with a violation of N.J.S.A. 2C:20-4A, theft by deception, a crime of the third degree. (R-11.)
43. Appellant waived indictment and was formally charged by Accusation. (R-12.)
44. Thereafter, Appellant entered into the Pre-Trial Intervention (PTI) program. The conditions of PTI included restitution to 326 in the amount of \$5,270. (R-13 and A-9.)
45. Appellant received early terminated from PTI by Consent Order dated February 18, 2015. (A-9.)
46. Thereafter Appellant received an Order of Expungment, dated January 13, 2016, regarding the charges noted in the Accusation. (A-9.)
47. Appellant was charged on a Preliminary Notice of Disciplinary Action (PNDA), dated December 12, 2013, with N.J.S.A. 2C:20-4, Theft by Deception; N.J.A.C. 4A:2-2.7, Actions Involving Criminal Matters; N.J.A.C. 4A:2-2.3(a)(6) and (a)(11), Conduct Unbecoming a Public Employee and Other Sufficient Cause; and, HPR D-007,C. Personal Conduct (11) Conduct Unbecoming a Public Employee. The PNDA recommended a penalty of removal.
48. The Final Notice of Disciplinary Action (FNDA), dated May 5, 2015, contained the charges: N.J.A.C. 4A:2-2.3(a)(6) and (a)(11), Conduct Unbecoming a Public Employee and Other Sufficient Cause; HRP D-007 C. Personal Conduct (11) Conduct Unbecoming a Public Employee. The FNDA provided for a penalty of removal, effective May 9, 2015.

DISCUSSION OF OTHER EVIDENTIARY ISSUE

There was substantial testimony as to the existence of 325 meeting minutes and other records. Mr. Metallides testified that accounting records were destroyed every six

months. Others testified, including Appellant, that there was no policy of destroying any union records, whether it be minutes of meetings, or financial records.

Much detail was made by Appellant during both cross of Respondent's witness, and on direct of Appellant's witnesses, as to file cabinets being maintained a District Office #1 in Passaic that contained union files and records.

Neither Respondent nor Appellant produced any minutes of union meetings. Both had the ability to subpoena those records, if they exist, and produce them at the hearing. Neither Respondent, nor Appellant did so.

I draw no inference from the lack of minutes of meetings or other records of 326. Admittedly, minutes of meetings could have been informative in the context of the hearing.

However, as there are no records or minutes in evidence, the decision rendered herein is based solely upon the evidence presented.

LEGAL ANALYSIS AND CONCLUSION

The Civil Service Act, N.J.S.A. 11A:1-1 to -12.6, governs a civil service employee's rights and duties. The Act is an important inducement to attract qualified personnel to public service and is to be liberally construed toward attainment of merit appointments and broad tenure protection. See Essex Council No. 1, N.J. Civil Serv. Ass'n v. Gibson, 114 N.J. Super. 576 (Law Div. 1971), rev'd on other grounds, 118 N.J. Super. 583 (App. Div. 1972); Mastrobattista v. Essex County Park Comm'n, 46 N.J. 138, 147 (1965). The Act also recognizes that the public policy of this state is to provide appropriate appointment, supervisory and other personnel authority to public officials in order that they may execute properly their constitutional and statutory responsibilities. N.J.S.A. 11A:1-2(b). In order to carry out this policy, the Act also includes provisions authorizing the discipline of public employees.

A public employee who is protected by the provisions of the Civil Service Act may be subject to major discipline for a wide variety of offenses connected to his or her employment. The general causes for such discipline are set forth in N.J.A.C. 4A:2-2.3(a). In an appeal from such discipline, the appointing authority bears the burden of proving the charges upon which it relies by a preponderance of the competent, relevant and credible evidence. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); Atkinson v. Parsekian, 37 N.J. 143 (1962); Polk, supra, 90 N.J. 550. The evidence must be such as to lead a reasonably cautious mind to a given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). Therefore, the judge must “decide in favor of the party on whose side the weight of the evidence preponderates, and according to the reasonable probability of truth.” Jackson v. Del., Lackawanna and W. R.R., 111 N.J.L. 487, 490 (E. & A. 1933). This burden of proof falls on the agency in enforcement proceedings to prove violations of administrative regulations. Cumberland Farms v. Moffett, 218 N.J. Super. 331, 341 (App. Div. 1987).

This forum has the duty to decide in favor of the party on whose side the weight of the evidence preponderates, in accordance with a reasonable probability of truth. Evidence is said to preponderate “if it establishes ‘the reasonable probability of the fact.’” Preponderance may also be described as the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975). The evidence must “be such as to lead a reasonably cautious mind to a given conclusion.” Bornstein, supra, 26 N.J. at 275. The burden of proof falls on the appointing authority in enforcement proceedings to prove a violation of administrative regulations. Cumberland Farms, supra, 218 N.J. Super. at 341. The respondent must prove its case by a preponderance of the credible evidence, which is the standard in administrative proceedings. Atkinson, supra, 37 N.J. 143. The evidence needed to satisfy the standard must be decided on a case-by-case basis.

The FNDA charged Appellant with N.J.A.C. 4A:2-2.3(a)(6) and (a)(11), Conduct Unbecoming a Public Employee and Other Sufficient Cause; HRP D-007 C, Personal

Conduct (11) Conduct Unbecoming a Public Employee. The FNDA provided for a penalty of removal.

“Unbecoming conduct” is broadly defined as any conduct that adversely affects the morale or efficiency of the governmental unit or that has a tendency to destroy public respect and confidence in the delivery of governmental services. In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). Conduct unbecoming need not be predicated on violations of the employer’s rules or policies, but may be based merely upon the violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct. Karins v. City of Atl. City, 152 N.J. 532, 555 (1998).

A “conduct unbecoming charge may be base merely upon the violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct.” Emmons, supra, 63 N.J. Super., at 140.

Police officers are held to a higher standard of conduct than ordinary public employees. In re Phillips, 117 N.J. 567, 576-77 (1990). They represent “law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public.” Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965), certif. denied, 47 N.J. 80 (1966). Correction officers, like police officers, are “held to the highest standards.” Peterson v. E. Jersey State Prison, CSV 03927-02, Initial Decision (December 11, 2003), adopted, Merit System Board (February 17, 2004), <<http://njlaw.rutgers.edu/collections/oal/search.html>>. These higher standards can mean that infractions that may not warrant major discipline for individuals in other positions will lead to major discipline for officers. See Chopek v. Bayside State Prison, CSV 00658-01, Initial Decision (May 10, 2002), adopted, Merit System Board (June 26, 2002), <<http://njlaw.rutgers.edu/collections/oal/search.html>>. Parole officers are law enforcement officers and afforded police power. N.J.S.A. 2A:154-4.

In determining the reasonableness of a penalty, the employee's past record and any mitigating circumstances shall be reviewed for guidance. W. New York v. Bock, 38 N.J. 500 (1962). Although "progressive discipline" is generally applicable when considering the proper penalty to be imposed, Parlow v. Township of Edgewater Park, 7 N.J.A.R. 20, 27 (Civ. Serv. Comm'n 1982), rev'd on other grounds, 192 N.J. Super. 247 (1983), in certain circumstances, substantial discipline, including removal, is appropriate even if an employee has never been guilty of prior disciplinary offenses. Brown v. E. Jersey State Prison, 95 N.J.A.R.2d (CSV) 671. Some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. In re Carter, 191 N.J. 474, 484 (2007). It is well-established that where the underlying offense is egregious in nature, a penalty up to and including removal is appropriate, regardless of an employee's disciplinary history. In re Herrmann, 192 N.J. 19 (2007). As the Court stated:

[J]udicial decisions have recognized that progressive discipline is not a necessary consideration when reviewing an agency head's choice of penalty when the misconduct is severe, when it is unbecoming to the employee's position or renders the employee unsuitable for continuation in the position, or when application of the principle would be contrary to the public interest.

Thus, progressive discipline has been bypassed when an employee engages in severe misconduct, especially when the employee's position involves public safety and the misconduct causes risk of harm to persons or property. See, e.g., Henry v. Rahway State Prison, 81 N.J. 571, 580 (1980).

[Id. at 33.]

Examples of cases where offenses have been deemed serious enough for removal without prior disciplinary history include cases where an officer neglected his or her duty in a similar way. In Carter, supra, 191 N.J. 474, a police officer was found to have pulled his patrol car over to the side of the road to sleep while on duty. He was terminated for the offense. The Supreme Court of New Jersey held that removal was an appropriate penalty because of the high standard that law enforcement officers are held to, and the public-safety concerns resulting from their misconduct. Id. at 485-86.

In Robinson v. Northern State Prison, CSV 1260-97, Initial Decision (December 29, 1997), <<http://njlaw.rutgers.edu/collections/oal/search.html>>, adopted, Merit System Board (February 10, 1998), a correction officer appealed his removal after he was found to have left an inmate unattended at his mother's house while on an errand to deliver food to an outlying campus. The administrative law judge held that termination was appropriate because of the egregious nature of the offense. He determined that the offense was so serious that the officer was unfit to continue in his position.

It is abundantly clear from the record that Appellant used 326's account to pay personal legal expenses related to his divorce and for the family of his future wife. Appellant was appropriately charged with theft by deception in violation of N.J.S.A. 2C:20-4. Notwithstanding that Appellant entered into PTI, received early termination of PTI and had the record expunged, the underlying fact that Appellant misused union funds is more than sufficient to sustain a finding of conduct unbecoming a public employee. It is also a sustained charge that warrants a penalty of removal.

I **CONCLUDE** that Respondent has proved by a preponderance of the credible evidence that Appellant is guilty of conduct unbecoming a public employee and other sufficient cause, and the FNDA should be **AFFIRMED**.

I further **CONCLUDE** that the penalty of removal is appropriate.

ORDER

It is hereby **ORDERED** that Appellant's appeal is **DENIED** with prejudice; and,


It is further **ORDERED** that the Final Notice of Disciplinary Action dated May 5, 2015, and the penalty of termination effective May 9, 2015, is **AFFIRMED**.

I hereby **FILE** my Initial Decision with the **CIVIL SERVICE COMMISSION** for consideration.


This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 40A:14-204.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

9/28/16
DATE


THOMAS R. BETANCOURT, ALJ

Date Received at Agency: 9/28/16

Date Mailed to Parties: **SEP 29 2016**

DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

APPENDIX

List of Witnesses

For Appellant:

Kiply J. Astrom
Jose L. Escobar
Francis Salensky
Wilson Lanier
Ceasar Ferrara
Juan Villalobos, Appellant
Felix A. Addeo

For Respondent:

Kenneth Metallides
Thomas Lambert
Rebecca Hiltner-Ward
Leonard Ward
William Valentine

List of Exhibits

For Appellant:

- A-1 PBA Local 326 letter dated November 20, 2009, to Anayancy R. Hausman, Esq. Forwarding PBA check for \$500 for legal fees for Mario A. Ruiz, signed by Appellant
- A-2 PBA Local 326 check #2016 for \$500 payable to Anayancy R. Hausman
- A-3 PBA Local 326 check #2937 for \$850 payable to Anayancy R. Hausman
- A-4 Time and Leave Reporting System for Jan. 2010 for Kenneth Metallides
- A-5 Time and Leave Reporting System for Nov. 2009 for Kenneth Metallides
- A-6 Time and Leave Reporting System for Oct. 2008 for Kenneth Metallides
- A-7 Time and Leave Reporting System for Sept. 2010 for Kenneth Metallides

- A-8 PBA Local 326 check # 3393 for \$1,589 payable to NJ State PBA and PBA Local 326 check # 3394 for \$1,589 payable to NJ State PBA
- A-9 Pretrial Intervention Order of Postponement dated March 19, 2014, with Accusation No. A-0421-14, Consent Order for early termination of PTI, and Order of Expungement

For Respondent:

- R-1 Letter in response to subpoena by BCPO re: State of NJ, County of Bergen v. Juan Villalobos, by attorney Anayancy Hausman, with copies of financial statements, invoices and checks
- R-2 Final Judgment of Divorce between Johanny Villalobos and Juan Villalobos dated June 22, 2010
- R-3 Marriage License of Juan Villalobos and Alba Rosemary Ruiz Escobar dated August 19, 2013
- R-4 Bank of America Account Expenditures #00316290315, check #2612 written to Charles C. Abut, Esq.
- R-5 Email from Kenneth Metallides to Juan Villalobos re: receipts needed for accountant, dated January 7, 2010
- R-6 Receipt for Bank of America Account Expenditures #00316290315, check #2612 written by Juan Villalobos
- R-7 PBA Local 326 Officer Assistance Program, Loan Agreement for Walter Payne, dated April 24, 2009
- R-8 PBA Local 326 Transactions by Account as of July 31, 2011
- R-9 PowerPoint summary of investigation created by Bergen County Investigator Detective William Valentine
- R-10 Excel spreadsheet of transactions of Bank of America Account Expenditures #00316290315, created by Bergen County Investigator Detective William Valentine
- R-11 Complaint-Summons 0290 S 2013 00900 Bergen County issued against Juan Villalobos
- R-12 Bergen County Accusation No. 14-04-0421-A, State of New Jersey v. Juan Villalobos

- R-13 Pretrial Intervention Order, Bergen County Superior Court re: State of New Jersey v. Juan Villalobos
- R-14 New Jersey State Parole Board, Office of Professional Standards Investigation Report authored by Sr. Investigator Rebecca Hiltner-Horn regarding Juan Villalobos
- R-15 New Jersey Civil Service Commission Job Specifications for Senior Parole Officer
- R-16 New Jersey State Parole Board Code of Professional Conduct
- R-17 New Jersey State Parole Board Code of Conduct Acknowledgment Form
- R-18 State of New Jersey Uniform Ethics Code and Plain Language Guide to New Jersey's Executive Branch Ethics
- R-19 State of New Jersey Uniform Ethics Code and Plain Language Guide New Jersey's Executive Branch Ethics Acknowledgment Receipt signed by Juan Villalobos, dated September 22, 2009
- R-20 New Jersey State Parole Board Code of Ethics
- R-21 New Jersey State Parole Board Code of Ethics Acknowledgment Receipt signed by Juan Villalobos, dated July 7, 2005
- R-22 New Jersey State Parole Board Performance Assessment Review for Juan Villalobos for rating period June 15, 2013 to June 14, 2014, outlining job expectations and major goals
- R-23 Table of Offenses and Disciplinary Sanctions