

U.S. Department of Homeland Security
2020-A Yale Blvd SE
Albuquerque, NM 87106



Transportation
Security
Administration

Date: October 16, 2012

To: (b)(5)
Expert Behavior Detection Officer (EBDO)
Albuquerque International Sunport

From: Deborah Gonzales
SPOT Transportation Security Manager (STSM)
Albuquerque International Sunport

Subject: Notice of Proposed Fourteen (14) Calendar Day Suspension

Ref: (b)(5)

You are hereby notified that I am proposing that you be suspended from duty without pay for fourteen (14) days from Federal Service. If a decision is made to suspend you, it will not be made or effective earlier than your reply. If you do not reply, a decision will not be made earlier than seven (7) calendar days from the date you receive this letter. This decision is made in order to promote the efficiency of the Federal service and is based on the following:

Charge 1: Failure to follow Standard Operating Procedures (SOP)

Specification: On July 24, 2012, you were assigned the duties of the SPOT-Certified Designee Point of Contact (SPOT-POC). One of the duties of the SPOT-POC is to complete all BDO paperwork to include completing Playbook submissions forms by entering the information into the PMIS database. You failed to complete the required Playbook submissions for the morning shift on July 24, 2012.

Charge 2: Inappropriate Conduct

Specification: On September 24, 2012, at approximately 7:45 a.m., you were observed sitting down and smoking a cigarette in the Albuquerque International Sunport parking garage. This was not during your designated lunchtime or break time. You were assigned to perform Playbook from 7:00am to 8:00 a.m. Your inappropriate conduct resulted in an additional layer of security not being performed by you.

Your actions violate TSA MD 1100.73-5, Employee Responsibilities and Conduct 5. A. (2) which states TSA employees are responsible for "responding promptly to and fully complying with directions and instructions from their supervisor or other management officials."

Your actions also violate the SPOT Standard Operating Procedures, SPOT Reporting Requirements, chapter 3, section 12.F, which requires reports to be entered into the database and chapter 3.2, Section C.2 regarding Preparation and Positioning while performing BDO duties.

Your actions also violate ABQ BDO Plain Clothes Operations and Playbook Conduct Responsibilities Memorandum dated and issued February 28, 2012. The below is required while performing Playbook:

- Deliberate and focused movement between tasks
- Maintaining task focused and not distracted by people and activities around
- BDOs should not remain in one position for any extended amount of time
- BDO's are to stay mobile throughout the duration of the shift
- No sitting

I met with you on August 27, 2012 to discuss the first charge and gave you the opportunity to reply orally and/or in writing. You stated you remembered completing the Playbook submissions, but did not remember printing them out.

Concerning the second charge, I met with you on September 24, 2012 to discuss the incident from that day. I gave you the opportunity to reply orally and/or in writing. You provided a written statement in which you said this was the first time you smoked on any Playbook activity and that it was unfortunate. You continued to state, "the timing of the conversation about lunch, the asking for a cigarette and stopping to get them out, the habit of lighting the cigarette took over." You further state that once you and MBDO (b)(6) realized you had lit the cigarettes, you both put them out and continued to conduct the remainder of the Playbook you were assigned.

In determining the appropriateness of the penalty, I considered a number of factors, commonly referred to as the penalty factors. All TSA employees are expected to comply with all TSA directives, policies and procedures. Your failure to follow instructions, policy and procedures is inexcusable. I have considered you are an EBDO who maintains a security clearance and are relied upon to provide an additional layer of security which is vital to TSA Security Operations. You have been designated the SPOT-POC on numerous occasions and are well aware of the requirements. As a BDO, you are required to be in constant contact with the traveling public either by having discussions with them or observing their behavior. Any deviation, creates vulnerability in security. Moreover, this behavior is not in keeping with the professional standards expected of members of TSA.

I have also considered your past employment record which includes a Letter of Reprimand you received on June 17, 2012 for failing to follow SOP and submit the required reports after the shift. This prior action advised you that future instances of misconduct could result in further disciplinary action being taken against you, up to including your removal from Federal service.

The recommended penalty range for failure to follow SOP in the Table of Penalties is a five (5) day suspension to removal. The recommended penalty range for inappropriate conduct is a fourteen (14) day suspension to removal. Therefore, a fourteen (14) day suspension is consistent

with the Table of Penalties and with other employees who have engaged in the same or similar offenses.

This notice is a proposal and not a decision. You have the right to reply to this proposal orally and/or in writing and furnish any evidence in support of your reply within seven (7) calendar days after the date you receive this proposal. Consideration may be given to extending this time limit if you submit a written request stating your reasons for needing more time to the Deciding Official, Margarita Westphal, Assistant Federal Security Director for Screening. You may make arrangements for an oral reply by contacting Ms. Westphal at 505-246-4117.

You have the right to be represented by an individual of your choice in preparing and presenting any reply. As a bargaining unit employee you may select a representative from AFGE to serve as your personal representative, but you are not required to do so. You may designate any individual, whether or not that person is affiliated with AFGE, to serve as your personal representative. However, you may not select an individual employed by any union other than AFGE to serve as your personal representative.

If you choose to have a representative, you must provide your representative's name in writing (using *TSA Form 1163-1, Personal Representative Designation*) to AFSD-S Margarita Westphal, before the expiration of the reply period and you must provide written notice of any change in representation. Management has the right to disallow your representative if the representation creates a conflict of interest or position or, where the representative is a TSA employee, if he or she cannot be spared because of critical TSA work. You are responsible for all costs associated with your representation, including any travel expenses. You may refer to TSA MD 1100.63-3, *Employee Representation*, for additional information.

You and your representative, if an agency employee, will be allowed a reasonable amount of official time to assist you in your reply, to review the material relied upon to support the reason for the proposed action, and to prepare and present your written and/or oral reply. You and your representative, if a TSA employee, must contact your immediate supervisor to make advance arrangements for the use of official time.

I have attached the material relied on to support this proposal. This material will only be released to you and/or your designated representative. Some of the material contains Sensitive Security Information which will be made available for review by you and/or your designed representative, if any, by contacting the Deciding Official to arrange a mutually convenient time.

If you need assistance in dealing with any personal matters, the Employee Assistance Program (EAP) is available to provide confidential counseling services. EAP can be reached by calling 1-800-222-0364.

You will be notified in writing of the final decision. You will remain on duty until you are notified of the final decision in this matter.

Please sign the acknowledgement of receipt below. Your signature does not indicate agreement with this action; it only represents receipt of this notice on the date signed.

Please sign the acknowledgement of receipt below. Your signature does not indicate agreement with this action; it only represents receipt of this notice on the date signed.

Deborah Gonzales
Deborah Gonzales
SPOT Transportation Security Manager

10-16-12
Date

Acknowledgement of Receipt:

(b)(6)

10/16/2012
Date

Master Behavior Detection Officer

Attachments (initial each to indicate receipt):

- Penalty Factors AW
- Pre-Decision AW
- Email Statement from (b)(6) dated 07/24/2012 AW
- Written Statement from (b)(6) dated 09/19/2012 AW
- Written Statement from (b)(6) dated September 24, 2012 AW
- ABQ TSA BDO Daily Playbook Activities/ PP-19 1st Week Sep 2012 page 1 (SSI available for review only) AW
- ABQ TSA BDO Daily Playbook Activities/ PP-19 1st Week Sep 2012 page 2 (SSI available for review only) AW
- ABQ-TSA BDO Opening Checklist includes Daily Log Entry AW
- ABQ BDO Plain Clothes Operation and Playbook Conduct Responsibilities Memorandum dated February 28, 2012 AW
- ABQ BDO Plain Clothes Operation and Playbook Conduct Responsibilities Memorandum Acknowledgement AW
- TSA Form 1149, Employee Responsibilities and Conduct Acknowledgement AW
PCC Responsibilities AW

Delivery Information:

Hand Delivered By (name/signature)

Date

Or

Mailed By: (name/signature)

Date