



Transportation
Security
Administration

Date: September 3, 2014

To: (b)(6)
Behavior Detection Officer
Jacksonville International Airport

From: (b)(6)
Transportation Security Manager-BDO

Subject: Notice of Proposed 5 Day Suspension

Reference: (b)(6)

This is notice that I am proposing to suspend you from duty without pay for five (5) calendar days in order to promote the efficiency of the service. If a decision is made to suspend you, it will not be made or effected earlier than your reply. If you do not reply, a decision will be made no earlier than seven (7) calendar days from the date you receive this letter. This proposal is based on the following:

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

Specification: On July 26, 2014 between approximately 1203 pm to 1256 pm, you were not at your assigned position and failed to observe passenger interactions

(b)(3):49 U.S.C. § 114(r)

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On Saturday July 26, 2014 you were on duty as a Behavior Detection Officer and were assigned to the 11:30AM-8:00PM shift. Between the hours of 12:00PM and 1:15PM you were assigned to the MI2 operation, as indicated on your BDO Efficiency & Accountability Metric (BEAM) report. CCTV indicates that your partner was at the front of the MI2 queue line which would

(b)(3):49 U.S.C. § 114(r)

CCTV of both the (b)(3):49 U.S.C. § 114(r) show that for 53 minutes you were (b)(3):49 U.S.C. § 114(r) while he selected passengers for inclusion into MI2. You were not in your required position (b)(3):49 U.S.C. § 114(r)

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For that period of time approximately 124 passengers processed through the MI 2, none of whom were subjected to BDO observation since you were not in your proper position.

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Your conduct violates TSA Management Directive No. 1100.73.5, *Employee Responsibilities and Code of Conduct* (dated September 30, 2013), Sections 5A (2), and (7), which states that employees are responsible for "Responding promptly to and fully complying with directions and instructions received from their supervisor or other management officials, and "Observing and abiding by all laws, rules, regulations and other authoritative policies and guidance, written and unwritten."

Your conduct also violates *RBS Managed Inclusion SOP* dated September 26, 2013, Implemented on October 1, 2013 Sections 1.4.G. 2), 1.5. B. 2) and 1.5. E.3)

During the pre-decisional meeting on July 29, 2014, BDO TSM (b)(6) and I met with you to afford you the opportunity to clarify what had taken place and informed you that you were observed on CCTV not in your required position and that during said time frame approximately 124 passengers had entered the Managed Inclusion (MI) lane: (b)(3) 49 U.S.C. § 114(r)

(b)(3) 49 U.S.C. § 114(r) You were given the chance to write or verbally discuss the situation. You stated verbally that during the time frame in question that (b)(3) 49 U.S.C. § 114(r) but that you were (b)(3) 49 U.S.C. § 114(r) talking with BDO (b)(6). You stated that you were walking back and forth between talking to (b)(6) and your position. You also opted to write a statement that stated "MI II 1200-1315. Engaged and observed passengers during the said time frame." This statement does not explain your actions on this date. You offered no further clarifying information about your conduct. Additionally, the CCTV does not show you moving from the front of the MI queue at any time during the time period in question.

I have considered all of the evidence of record, including your response(s). I find the evidence supports the charge and specification as stated above.

Penalty Determination:

In determining the appropriateness of this action, I considered a number of factors. As an employee of the Transportation Security Administration, you are expected to meet high standards of conduct and are accountable for your actions. You admitted that you were supposed (b)(3) 49 U.S.C. § 114(r) on the date and time specified in the charge. As an aggravating factor I considered the length of time that you were away from your stated position and the number of passengers that were not observed by you (b)(3) 49 U.S.C. § 114(r). Additionally, the CCTV shows that you spent the entire 53 minutes talking with BDO (b)(6) and did not walk back and forth as you indicated in your verbal reply. As a Behavior Detection Officer you are an integral part of the MI process. MI is a large portion of TSA's Risk Based Security initiative and mission. You chose to disregard TSA policy, your training and my directions. Your conduct is a serious breach of procedures, unacceptable and not up to standards.

I find that you were on notice of what was expected of you when assigned to MI operations. You received training in MI operations on October 16, 2013. Additionally, we have discussed the importance of conducting MI properly numerous times during the morning in briefings and the evening out briefings.

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I also considered mitigating factors including your 7 years of TSA service, your satisfactory performance record and your lack of recent discipline. However, I find the nature and seriousness of the misconduct described above outweighs the mitigating factors and warrants proposing this action. Therefore, it is my decision to propose a 5 day suspension, which I find is the minimum penalty necessary to ensure that you will perform your assigned duties in accordance with the SOP in the future.

This penalty is the lowest level of penalty within the recommended penalty range for the charge of Failure to Follow SOP, Section M (1) in the TSA's Table of Offenses and Penalties.

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, (b)(6) Deputy Assistant Federal Security Director. Your written reply and any evidence should be sent to the Deciding Official at 14201 Pecan Park Road Jacksonville, FL 32218. You may make arrangements for an oral reply by contacting the Deciding Official at (904) 380-(b)(6). A decision will not be made until after your reply has been received and considered, or if no timely reply is received, until after the time specified for the reply has passed.

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 the American Federation of Government Employees (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 to the Deciding Official 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.

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I have attached the material relied on to support this proposed action. Some of the information is SSI, therefore if you need to review the material listed but not provided, you may contact DAFSD Walker at 904-380-^(b) If after a review of the documents containing SSI you believe that you need further access to a particular provision please notify Mr. Walker of your need in writing.

The Employee Assistance Program (EAP) is available to you to provide counseling services and/or assistance and may be contacted at 1-800-222-0364. The EAP is a confidential resource designed to help employees address a wide range of personal or family issues.

You will be notified in writing of the final decision.

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.

(b)(6)

09/03/14
Date

Transportation Security Manager -BDO

Available for review:

- 1) Risk Based Security-Managed Inclusion II SOP, implemented on October 2, 2013
- 2) CCTV footage July 26, 2014 camera 408
- 3) CCTV footage July 26, 2014 camera 1102

Attachments:

- 1) Statement of BDO TSM ^{(b)(6)}
- 2) Statement of BDO TSM ^{(b)(6)}
- 3) Attendance Record for RBS Managed Inclusion II training 10/16/2013
- 4) Employee Detailed Time Breakdown, dated July 26, 2014
- 5) MI 2 data collection sheet, dated July 26, 2014
- 4) Statement of employee dated 7/29/2014

Acknowledgement of Receipt

(b)(6)

Employee's Signature

Date

9/3/2014

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