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ATTORNEY FOR PETITIONER-APPELLANT-
EMPLOYEE SHEEHAN (SEAN) GILLIS EMT-P

CITY OF OAKLAND
CIVIL SERVICE BOARD

9	SHEEHAN GILLIS,)	Case Number:
)	
10	Petitioner-Appellant,)	<i>VERIFIED</i>
)	APPEAL OF DISCIPLINARY ACTION
11	vs.)	
)	
12	FIRE DEPARTMENT OF THE CITY OF)	
13	OAKLAND,)	
)	
14	Respondent.)	
)	
15)	

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2 NOTICE

3 By this filing, Employee Sheehan (Sean) Gillis EMT-P gives notice of his appeal of the
4 suspension ordered by employing department Fire Department of the City of Oakland (Oakland
5 Fire hereinafter).
6

7 INTRODUCTION

8 Oscar Grant died on January 1st, 2009 because he was shot in the back at point-blank
9 range and because first responder Oakland Fire failed to apply basic wound treatment to Grant.
10 For five-and-a-half (5 ½) hours, Grant struggled to survive against Oakland Fire’s negligence or
11 intentional misconduct. Acting Oakland Fire Emergency Medical Service (EMS) Manager Nina
12 Morris moved quickly to cover up Oakland Fire’s involvement in Grant’s death. Morris
13 removed the paper Grant file and deleted the “undeletable”¹ computer archive of the Patient Care
14 Report for Grant. Morris suppressed the mandatory call review (call review is mandatory in
15 seminal events where mistakes are made) and Oakland Fire Medical Director Howard Michaels,
16 MD’s order for a call review (even though Michaels technically “out-ranked” Morris). Only two
17 (2) people spoke out and they spoke out together—Dr. Michaels, MD and EMS Coordinator and
18 Paramedic Sheehan (Sean) Gillis (EMT-P). Morris retaliated against both. Morris stopped
19 payroll from issuing paychecks to Dr. Michaels, MD and claimed Michaels never had a contract
20 with Oakland. Dr. Michaels worked for six (6) months “for free” and offered Paramedic Gillis to
21 continue working “for free” to protect Gillis from retaliation.

22 Oakland Fire hired William Sugiyama as the replacement for Morris in Summer 2009.
23 Sugiyama’s public sector employment history included a recent cover up and scandal. Alameda
24

25

¹ Policy and procedure requires the archive be undeletable. Practice does not follow policy or procedure.

1 County employed Sugiyama and Michael King in the Alameda County Emergency Medical
2 Service District until whistleblower John Vonhoff reported to the Board of Supervisors that King
3 and accomplices were accepting gifts (luxury sport utility vehicles) from ambulance provider
4 American Medical Response, Inc. (AMR hereinafter) in lieu of penalties AMR owed the County
5 for slow service. The Board of Supervisors was able to keep this scandal out of the press. Many
6 taxpayers wondered why AMR's forty (40) year monopoly contract suddenly ended. Media
7 reported Alameda County switched ambulance providers (to Paramedics Plus) because AMR's
8 contract ended.

9 Immediately after Sugiyama left his Alameda County position in the wake of that AMR
10 scandal, Sugiyama was conspiring with AMR to use his position at Oakland Fire to benefit AMR
11 in exchange for kickbacks from AMR. At the time, Oakland Fire operated a joint venture
12 Emergency Medical Technician (EMT) training program with Merritt College. Merritt College,
13 in general, and the EMT program, in particular, was created to serve at-risk youths, traditionally
14 disadvantaged people—including racial and ethnic minorities, and women. AMR offered to pay
15 Sugiyama if he dumped Merritt College and transferred Merritt College's assets (half of the joint
16 venture) to AMR (dba National College of Technical Instruction [NCTI]). NCTI is an expensive
17 for-profit college that serves wealthier, white, male students. AMR offered and Sugiyama
18 agreed to kickbacks totaling 40% of the tuition paid by NCTI students (federal student loans) for
19 dumping Merritt College.

20 One person stood in the way—already-Oakland-Fire-disfavored employee Sheehan
21 Gillis. After years of volunteering with the Merritt College program, Gillis had been hired by
22 Merritt College to run the joint venture in his (Oakland Fire) off hours.

23 Sugiyama and Morris entered into an agreement to “get rid of” Gillis. This suspension is
24 just the latest in their relentless campaign of harassment and retaliation. Said campaign is
25 painstakingly detailed below in the Affirmative Defenses and Exhibit One hereto—Campaign of

1 Harassment, Discrimination, and Retaliation (which is incorporated by this reference as if fully
2 set forth herein).

3
4 OPEN TO THE PUBLIC

5 Because this involves important public interests and in spite of Gillis' right to privacy in
6 personnel matters, Gillis requests this proceeding and all filings and evidence be open to the
7 public and a public record.

8
9 RECORDS REQUESTS AND ISSUE SANCTIONS

10 About two weeks before this filing Gillis requested public records from the City of
11 Oakland to use as evidence in this hearing. Gillis requests: 1) That the hearing be set far enough
12 out to allow Gillis to enforce his records request, or 2) the City's failure to timely provide
13 documents be deemed conclusive proof in Gillis' favor on all contentions related to the requests.

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16 OPPOSITION AND OBJECTION TO NOTICE OF SUSPENSION

17 OBJECTION TO LETTER OF INTENT, OBJECTION TO SKELLY REPORT

18
19 1. INTRODUCTION

Paramedic Sheehan (Sean) Gillis, EMT-P

20 Paramedic Sheehan Gillis, EMT-P provides the highest level of service. Absolutely
21 nothing in the Letter of Intent, Skelly Findings, or Notice of Suspension supports any discipline.
22 The "best" Oakland Fire can "come up with" is that Gillis came back late from lunch a couple of
23 times (though Oakland Fire apparently does not know when or possess any evidence) and the
24 storage area Gillis shares with a dozen people was "disarrayed" one day (Oakland Fire has
25

1 photographs of that, but the photos are not relevant—they were taken on another day). The
2 Letter, Findings, and Notice are empty hyperbole.

3
4 2. LAW

5 *Civil Service Employees May Only Be Disciplined for Good Cause;
6 Discriminatory, Retaliatory (including Whistleblower Retaliatory), or
7 Corrupt Motives for Discipline Are Proscribed*

8 The California system of civil service employment has its roots in the Constitution of the
9 State of California, Article XXIV, Section 1, Subdivision (b) (System shall be based on merit
10 and the tenure of every permanent employee may only be separated for good cause.). Punitive
11 action that is not for good cause violates Due Process and Equal Protection guarantees provided
12 by the Fifth and Fourteenth Amendments to the United States Constitution and Article I §§ 7, 15
13 of the state Constitution. The relevant Memorandum of Understanding (MOU) provides that the
14 City of Oakland shall make employment decisions only for such cause that will promote the
15 efficiency of government. Self-dealing and embezzlement, nepotism, cronyism, favoritism,
16 racism, sexism, homophobia, and retaliation and whistleblower retaliation are proscribed by the
17 MOU.

18 Federal, state, and local laws prohibit discrimination based on (and based on having
19 opposed discrimination based on) race, ethnicity, origin, sex, sexual orientation, and/or
20 disability. *See e.g.*, Title VII (42 U.S.C. § 2000e et seq.), FEHA (Government Code § 12900 et
21 seq.), 42 U.S.C. § 1981 et seq., 42 U.S.C. § 1983 et seq., and similar local laws. Whistleblowing
22 is Constitutionally-protected free speech, and an employer may not retaliate against an employee
23 for whistleblowing. First Amendment to the United States Constitution (enforced through 42
24 U.S.C. § 1983); Article I § 8 of the Constitution of the State of California; Labor Code § 1102 et
25 seq. An employer may not retaliate against a healthcare worker who participates in the reporting
of medical malpractice, and the professional ethical code for paramedics provides that the
highest duty of the paramedic is to protect the public health and safety. Labor Code § 6310 et

1 seq. An employer may not discriminate against an employee because of that employee's
2 position as a union member or officer. 29 U.S.C. § 158 et seq., Labor Code §§ 921 et seq., 923
3 et seq. An employer may not retaliate against an employee who participates in reporting false
4 claims. Government Code § 12651 et seq.

5
6 3. OBJECTION TO LETTER OF INTENT:

7 *Letter of Intent Is Vague, Indefinite, or Uncertain; Fails to Identify*
8 *Acts or Omissions with Specificity*

9 A Letter of Intent must state the acts or omissions upon which the request for discipline is
10 based. The subject Letter of Intent is two pages and contains no acts or omissions. Rather, the
11 Letter of Intent (dated February 3rd, 2011) states that the request for suspension is based on
12 receipt of 1) A Performance Appraisal dated May 15th, 2010, and 2) A written Reprimand dated
13 October 15th, 2010. No further or continuing violations are stated.

14 The Performance Appraisal is the first appraisal written by Sugiyama and completely
15 opposite to all of Gillis' past Performance Appraisals. For years, Gillis was appraised "meets
16 expectations" or "exceeds expectations." Suddenly, Sugiyama found him "needs improvement."
17 The Sugiyama Performance Appraisal complained that Gillis could not transition Employee Dan
18 Gerard in time to meet Sugiyama's deadline. However, the failure to transition was not caused
19 by Gillis. The failure was caused by a third party—Gerard left early for an Oakland Fire work
20 assignment (EMS Today Conference), and culpable party Gerard was not punished.

21 The Reprimand was purportedly for failing to meet a target date for moving Oakland Fire
22 storage, "disarray" in a storage room, and failing to transition Daniel Gerard.²

23
24 ² The reprimand also purports to be based on leaving AV equipment at a secured office in Oakland Fire but the
25 "wrong" location according to Sugiyama. Again, there is no precedent for reprimanding personnel for leaving
equipment at secure offices of Oakland Fire. It seems obvious that Sugiyama could "reprimand" any employee for

1 STORAGE MOVING. Gillis was not paid for moving the heavy storage, the moving
2 was a voluntary task done on off hours and the weekend, the move was completed within days of
3 the target date, the move was not completed because ordered storage racks had not yet arrived,
4 and Oakland Fire owes Gillis a “thank you” for doing this volunteer work. Instead of thanking
5 Gillis, Oakland Fire reprimanded Gillis when he could not complete the move by the target date
6 and completed it a couple of days late. A basic principle of MOU discipline is that it applies
7 when the employer does not receive value, or a return, for the wages the employer pays. Here,
8 the City paid nothing and got storage moving that was only a couple of days late. As a matter of
9 fairness and in order to further the City’s interest in encouraging volunteering, the volunteered
10 moving should not form the basis of suspension. As a matter of public policy, the City of
11 Oakland cannot sanction volunteers. Sanctioning volunteers and volunteering will result in
12 fewer volunteers and less volunteering and higher costs for taxpayers. There is absolutely no
13 record of Oakland Fire or the City of Oakland suspending employees for performing volunteer
14 work. As a matter of Due Process and Equal Protection, there is no precedent for a written
15 reprimand being issued to anyone—employee or not—for helping the City for free. Note: This
16 move-my-boss’-storage-for-free-on-my-off-hours task is what Oakland Fire refers to when
17 Oakland Fire accuses Gillis of “failing to meet self-imposed deadlines.”

18 “DISARRAY.” The reprimand accuses Gillis of creating “disarray” in the storage room
19 and leaving a couple of files in the room. The reprimand does not explain the term “disarray.”
20 First and foremost, “disarray” is un-Constitutionally vague. Second, Gillis proved the disarray
21 was caused by others—it is a shared, common room. Oakland Fire’s evidence photographs are
22 inadmissible to prove disarray in October because they were taken in January. Finally, the files

23
24 this “violation” at any time. Accordingly, this allegation is un-Constitutionally vague and ambiguous and the
25 punishment un-Constitutionally arbitrary and capricious.

1 were left in the shared, common room because Oakland Fire took away Gillis' office. There is
2 no history of Oakland Fire reprimanding personnel for "disarray" or for leaving files in common
3 areas after revoking office privileges.

4 "TRANSITIONING DAN GERARD." As stated above, the Reprimand accuses Gillis of
5 failing to transition Dan Gerard, the failure occurred because Gerard left for a conference, and
6 Gerard was not punished. Use of the failure of a third party to punish Gillis (and not the culpable
7 third party) is strong evidence of Sugiyama's bad faith. The Skelly Officer's failure to report
8 Gillis' evidence and position and, more generally, the Skelly Officer's failure to comment on
9 Sugiyama's repeated use of third party performance issues (like not-completely-filled-in course
10 evaluations) as a basis for disciplining Gillis is indicia of bias on the part of the Skelly Officer.

11 **If Sugiyama is so desperate he must look to third parties to find failings, Gillis must be**
12 **doing a good job.** Use of such bad faith tactics violates of Gillis' Fifth and Fourteenth
13 Amendment Due Process and Equal Protection rights.

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15 4. OBJECTION TO SKELLY REPORT:

16 *Skelly Report Indicates Bias; Is Vague, Indefinite, and Uncertain; and*
17 *Fails to Identify Acts or Omissions with Specificity*

18 The Skelly Report states, "Sheehan has a responsibility to communicate (in a timely
19 manner) any impediments to his ability to complete assignments[.]" The Skelly Reports fails to
20 include Sheehan's repeated statements that the loss of his office and the move to a storage closet
21 in a remote trailer impede his ability to do his job.

22 The Skelly Officer is required to be impartial and NOT RUBBER STAMP management's
23 decisions and to state facts with specificity (who, what, where, when). The Skelly Officer fails
24 to be impartial or specific. The Skelly Report is a general attack on Gillis. The Skelly Officer
25 accuses Gillis of "repeated failures to adhere to expectations of attendance and use of time."

That's it! That is not "acts or omissions." At the same time, the Skelly Officer fails to criticize

1 Oakland Fire for taking away Gillis' office, moving Gillis to a remote trailer, converting Gillis'
2 trailer office to a storage closet (leaving Gillis with no office), and then, taking away Gillis'
3 mailbox. Why would Oakland Fire convert Gillis' trailer office into a storage closet? Does
4 Oakland Fire need a storage closet so badly? Gillis has photographs of almost-empty storage
5 garages. The Skelly Officer is required to be impartial and to criticize Oakland Fire's
6 misconduct. Oakland Fire's misconduct tends to prove that Oakland Fire is interfering with
7 Gillis' ability to perform and, in fact, intentionally creating "performance of duty" issues.

8 The Skelly Officer accuses Gillis of taking a couple of long lunches, but fails to identify
9 dates or evidence, and omits the fact that Oakland Fire cut Gillis' lunch break in half (to thirty
10 (30) minutes). Gillis' remote trailer makes going for lunch in a half-hour impossible.

11 Obviously, Oakland Fire is trying to create further lunch tardiness issues. Finally, the Skelly
12 Officer accuses Gillis of missing staff meetings, but fails to criticize Oakland Fire for scheduling
13 Gillis' teaching assignments (class instruction) at the same time as staff meetings and shortening
14 Gillis' lunch break when it knows Gillis is an officer of the union and the union meets at
15 lunchtime. It seems Oakland Fire is deliberately preventing Gillis from attending staff and union
16 meetings.

17 The Skelly Officer should be investigated for bias, for failing to be impartial, and
18 thereby, for "failing in the performance of *his* duties."

19 Before we leave the issue of lunches, it is worth noting that Oakland Fire's accusations
20 against Gillis—"a couple of late lunches"—is identical to that which the California Supreme
21 Court heard from the employer in the legendary case Skelly v. State Personnel Bd. ([1977] 15
22 Cal. 3d 194). The Supreme Court found 'a couple of late lunches' to be insufficient to support
23 disciplinary action; the discipline (termination) of a doctor for a couple of late lunches was held
24 to be abuse of discretion.

5. OBJECTION AND OPPOSITION TO NOTICE OF SUSPENSION

Notice of Suspension Is Vague; Fails to Identify Acts or Omissions with Specificity

The Notice of Suspension does not list any acts or omissions upon which it is based.

Instead, it confirms that Gillis received the May 2010 Appraisal and the October 15th, 2010

Reprimand discussed above. The Notice of Suspension (March 30th, 2011) states the basis for

the October 2010 Reprimand is: 1) Failure to transition Dan Gerard in Summer 2010, 2)

“Failure to adequately organize” (“Disarray” previously) a shared storage room, 3) “Failure to

provide leadership/management to [staff],” and 4) Leaving AV equipment at the “wrong” office.

The Notice of Suspension then states that “Chief [sic—Sugiyama is not a Chief although

Sugiyama insists everyone call him that] Sugiyama stated that, generally, your job performance

continued to be below standard and he had [sic] seen little or no progress to [sic] overcome

deficiencies that had been previously identified on October 15th, 2010.” The Notice of

Suspension continues “You have continued to have unacceptable performance in several critical

areas of your 2010-2011 Performance Plan. Specifically, those involving Use of Time; Team

Work and Collaboration; Performance Management; Accountability; Adaptability and problem

Solving [sic].” ***That’s it!*** That is not “acts or omissions.” Reading that ungrammatical

sentence, it seems Oakland Fire is complaining about the Performance Plan. That Performance

Plan was drafted by Sugiyama. Again, no acts, no omissions by Gillis. The Notice of

Suspension concludes, “You are hereby suspended without pay from April 27th, 2011 to April

29th, 2011.”

The Notice of Suspension is completely based on the fact that Gillis was reprimanded in

October 2010. No subsequent acts or omissions are stated. Period.

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1 AFFIRMATIVE DEFENSES

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3 1. ALLEGED FAILING CAUSED BY MISCONDUCT OF OAKLAND FIRE
4 *Performance of Duty Issues Caused by Removal of Office and Removal of Mailbox,
Scheduling Conflicts Created by Management or Condoned by Management*

5 As set forth above, Oakland Fire caused the alleged performance issues. Oakland Fire
6 moved Gillis' office to a remote location and then converted that office to a storage closet and
7 removed Gillis' mailbox. Oakland Fire scheduled meetings so that Gillis would be late to or
8 miss meetings and then disciplined Gillis for being late or missing meetings. Oakland Fire
9 shortened Gillis lunch breaks and re-located him to a remote location and then disciplined Gillis
10 for not being able to eat in the required time. Oakland Fire condoned the early departure of Dan
11 Gerard and then disciplined Gillis for Gerard not being able to meet and complete transitioning.
12 As set forth in the attached document, entitled Campaign of Harassment, Discrimination, and
13 Retaliation, Oakland Fire's Hostile Work Environment caused any alleged performance
14 difficulties by making Gillis the object of a campaign of harassment that distracted Gillis and
15 substantially impaired his ability to perform, and Oakland Fire did not "live up to its end" by
16 participating in the employer-employee relationship in good faith and with honest intentions.
17

18 2. DISCIPLINE VIOLATES DUE PROCESS AND EQUAL PROTECTION
19 *Punishing an Employee Over and Over Again for the Same Allegations of Minor*
20 *Misconduct Violates the Principle of Progressive Discipline and Fifth and*
Fourteenth Amendment Due Process and Equal Protection rights.

21 Oakland Fire uses hyperbole to intimidate its employees. Oakland Fire's words make it
22 seem like the employee has done something really bad, but, in reality, those intimidating words
23 are hollow paper tigers. Under scrutiny, the Appraisal, Reprimand, Baseline Performance Letter,
24 Letter of Intent, Skelly Report, and Notice of Suspension are all based on the same single-
25 episode alleged failings. Recycling the same incidents over and over again, using them as a basis

1 for discipline after discipline, violates the principle of progressive discipline and Gillis' Fifth and
2 Fourteenth Amendment Rights. If this were "three strikes," Oakland Fire would send Sean Gillis
3 away for life for committing a single offense and then receiving three letters from Oakland Fire
4 about the offense.

5
6 3. DISCIPLINE IS UNLAWFULLY DISCRIMINATORY

7 *Discipline Began When and Intensified After Gillis
8 Opposed Discriminatory Practices*

9 The attached document, entitled Campaign of Harassment, Discrimination, and
10 Retaliation, painstakingly shows a hostile work environment and a campaign of discriminatory
11 and retaliatory (including whistleblower retaliatory) harassment with a clear starting point. The
12 campaign began when Gillis stood up to the racist and unprofessional handling of Oscar Grant
13 and the Oscar Grant cover up and the racist handling of (and disparate-impact-causing behavior
14 toward) the Merritt College program and intensified with other complaints by Gillis. Gillis
15 opposed racism (including based on race, origin, and ethnicity) and disparate- impact
16 discrimination, sexism, homophobia, and other forms of proscribed hate and cronyism and self-
17 dealing and other forms of misconduct as set forth in the Campaign of Harassment,
18 Discrimination, and Retaliation. The discipline is unlawfully discriminatory.

19 4. DISCIPLINE IS UNLAWFULLY RETALIATORY

20 *Discipline Began When and Intensified After Gillis Opposed Unlawful Practices*

21 The attached document, entitled Campaign of Harassment, Discrimination, and
22 Retaliation, painstakingly shows a hostile work environment and a campaign of discriminatory
23 and retaliatory (including whistleblower retaliatory) harassment with a clear starting point. The
24 campaign began when Gillis stood up to the racist and unprofessional handling of Oscar Grant
25 and the Oscar Grant cover up and the racist handling of (and disparate-impact-causing behavior
toward) the Merritt College program and intensified with other complaints by Gillis. Gillis

1 opposed racism (including based on race, origin, and ethnicity) and disparate- impact
2 discrimination, sexism, homophobia, and other forms of proscribed hate and cronyism and self-
3 dealing and other forms of misconduct as set forth in the Campaign of Harassment,
4 Discrimination, and Retaliation. The discipline is unlawfully retaliatory.

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6 REQUEST FOR COSTS

7 Gills incurred substantial costs in bringing this Appeal. The initial filings alone represent
8 over 40 hours of attorney billing for research, records review, drafting, editing, and filing. Gillis'
9 attorney bills him at \$250.00 per hour—for a total of over \$10,000.00 not including post-filing
10 work, review of any opposition, other filings or review, and preparation for and work at the
11 hearing hereon. Sheehan (Sean) Gillis, hereby, requests his costs against Oakland Fire pursuant
12 to the law (including CCP § 1021.5 [because a significant public benefit results from this filing
13 in that it exposes EMS failings, racism and other discrimination, retaliation, whistleblower
14 retaliation, cronyism, and other matters of public interest]).

15
16 2011 April 10

Respectfully submitted

17 /s/Philip Horne, Esq. 

PHILIP HORNE, ESQ.

18 ATTORNEY FOR PETITIONER-APPELLANT-
19 EMPLOYEE SHEEHAN (SEAN) GILLIS, EMT-P
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VERIFICATION

I, Sheehan (Sean) Gillis, reviewed this Appeal of Disciplinary Action. It is true.

I make this verification under penalty of perjury under the laws of the State of California.

Executed in San Francisco this April 10th, 2011.



Sheehan (Sean) Gillis, EMT-P

Exhibit One to Appeal of Disciplinary Action
Campaign of Harassment, Discrimination, and Retaliation

CAMPAIGN OF HARASSMENT, DISCRIMINATION, AND RETALIATION

1. SHEEHAN GILLIS. Sheehan Gillis is an EMT-P (paramedic), a paramedic teacher and supervisor with the Fire Department of the City of Oakland, and a Shop Steward and Vice President of Local 21 International Professional and Technical Engineers (IFPTE). Gillis is an active member of his community (for example, Gillis participates in “National Night Out” every year), helped build the Black community garden at Peralta Street and 36th Avenue, and helps raise money for charitable organizations like Random Acts. Gillis grew up poor, in a trailer in Alaska, with a mother who only knew poverty and worked in a women’s domestic violence shelter, identifies with other disadvantaged people, and volunteers to help traditionally-disadvantaged people, including “at risk” youth, people of color, and people with ethnic minority background, in the hopes that they can also hope to climb out of poverty and oppression.
2. HELPING KIDS. Starting on or about early 2006, Gillis volunteered (without pay) to teach classes at traditionally black, public Merritt College. Gillis taught traditionally-disadvantaged people, “at risk” youth, people of color, and people with ethnic minority background skills that could lead to a better life. Merritt College was so happy with Gillis’ work, Merritt College offered Gillis a paid job as Instructor and later Program Director (2009). Gillis was allowed to work as a Program Director on his off hours. Merritt College wants an active-duty Oakland Fire Program Director so its students are ensured “real world” training and experience.
3. KING AND SUGIYAMA. At the same time that Gillis was being promoted for his good work, Michael King and William Sugiyama were leaving their respective positions as EMS Director and Trauma Unit Pre-Hospital Care Coordinator with the Alameda County Emergency Medical Service District in the wake of a scandal involving American Medical Response, Inc. (AMR).
4. AMR CAUGHT BRIBING KING. AMR is the nation’s largest ambulance service corporation and owns and operates a lucrative subsidiary called NCTI (National College of Technical Instruction). NCTI provides expensive, private education services. Both AMR and NCTI are overwhelmingly supported by taxpayer dollars (corporate welfare) in the form of county payments, Medicaid payments, Medicare payments, and, in the case of NCTI, federal student grants and loans. For forty years, AMR held a monopoly on ambulance service for Alameda County and most other Bay Area counties. The Alameda County monopoly ended when AMR was caught bribing King to avoid penalties due Alameda County for late ambulances. AMR reportedly “racked up millions of dollars” in penalties and avoided paying them by buying King a couple of luxury sport utility vehicles. Alameda County executives and the Board of Supervisors

failed to report the scandal to their public. Sugiyama had been employed by AMR before Alameda County, worked closely with King, and, at least, must have known about, and failed to report, the bribes. Gillis knows of this scandal because of admissions of Sugiyama.

5. SUGIYAMA MOVES TO OAKLAND. Because the Alameda County executives and Board of Supervisors kept the scandal secret—to avoid political embarrassment—Sugiyama was able to get another public-sector job in Alameda County—as an EMS Supervisor with Oakland Fire. By this hire, Oakland Fire made Sugiyama Gillis’ boss.
6. SUGIYAMA UN-PUNISHED. Because he suffered no punishment, Sugiyama even maintains his ties to and corrupt, self-serving-at-the-public’s-expense-dealings with AMR Inc.
7. AMR BRIBES SUGIYAMA. Immediately after being hired by Oakland Fire in 2009, Sugiyama entered into a deal with AMR to transfer public, City of Oakland and Alameda County assets to AMR in exchange for cash payments to Sugiyama. The first asset to be sold to AMR? The Merritt College EMT training program run by Gillis.
8. SUGIYAMA TARGETS MERRITT COLLEGE AND GILLIS. While Sugiyama was still transitioning into his new job with Oakland Fire, Sugiyama issued a “Letter of Caution” against Gillis by which he demanded that Gillis stop his work with Merritt College. Sugiyama knew his use of disciplinary process in Oakland Fire to achieve ends in an Alameda County program was improper. Sugiyama deliberately called his demand a “Letter of Caution” because the City of Oakland Fire Department Memorandum of Understanding and related administrative rules and regulations provide that a “Letter of Caution” is a low-level process for which an employee is not allowed representation. Sugiyama insisted his “Letter of Caution” be issued to Gillis during off hours for Sugiyama and Gillis. Put another way, Sugiyama purported to make his actions “un-official official” and enforceable against Gillis but not reviewable against Sugiyama.
9. OAKLAND FIRE FAILS GILLIS. Even though Gillis was a “meets expectations” or “exceeds expectations” employee in all past evaluations and proved himself a valuable member of the EMT community by volunteering in the community with the EMT program, while Sugiyama was a new hire with a troubling history, Oakland Fire endorsed Sugiyama’s “un-official official” process and the campaign of harassment that Sugiyama soon unleashed against Gillis to force Gillis to quit Merritt College, to tarnish Gillis’ reputation, to retaliate against Gillis, and, ultimately, to force Gillis out of Oakland Fire.
10. UNION FAILS GILLIS. In spite of his positions with IFPTE, his union representative fails and refuses to grieve the misconduct stated herein, because the

union represents the very same supervisors and personnel officer committing the misconduct.

11. FALSE ACCUSATION OF EMBEZZLEMENT AGAINST GILLIS. On or about August 27th, 2009, Sugiyama purposely and intentionally falsely claimed Gillis accepted \$12,000.00 from a City contractor. Strangely, Sugiyama created the lie against Gillis about the same time Sugiyama disclosed Sugiyama's scandal—the Alameda County SUV bribe—to Gillis.
12. VERBAL HARASSMENT FOR NOT HAVING TWO PARENTS. When Gillis refused to quit Merritt College, Sugiyama yelled (in front of the Battalion Chiefs), “You have a problem with authority. You need to dig back to your childhood.”
13. NIXONIAN HIT LIST. Sugiyama told Gillis he maintains a “hit list” of employees he will ‘get rid of’ and that Gillis is “already on the firing list.”
14. JOB OFFER WITH AMR. Even though he was trying to get Gillis to quit Merritt College (and Oakland Fire), Sugiyama attempted to recruit Gillis to AMR. On or about October 15th, 2009, Sugiyama suggested that AMR's subsidiary NCTI would “give you more” than Merritt College.
15. “DICTATOR” THREAT. Paradoxically, Sugiyama threatened Gillis that, if Gillis failed to do what Sugiyama demanded, he (Sugiyama) would become an “autocratic dictator that [Gillis] will not like.”
16. FALSE FLAG COVER FOR EMBEZZLEMENT. Once Gillis was “out of the picture,” Sugiyama, appealing to the basest stereotypes, intentionally falsely accused Merritt College and Merritt College students and faculty of theft and used those accusations to bar students and faculty from accessing supplies and equipment, used the “false flag” accusations to commandeer the Merritt College program and its assets, embezzled said assets, and transferred said assets to AMR. Sugiyama embezzled other Oakland Fire equipment, transferred said other equipment to AMR, fraudulently promised and provided AMR, rent-free offices and class rooms at Oakland Fire, agreed to and did recruit students for AMR while on the clock with the City of Oakland, and agreed to and did use City property and personnel to perform recruiting and training services for AMR. Sugiyama blocked County-owned Merritt College from using the same equipment or space and from developing an EMT-P (paramedic) program.
17. RETURN OF AMR MONOPOLY. Sugiyama and AMR Inc., are working to create an East Bay monopoly on training for EMT and EMT-P (paramedics) and to become the gate keeper for paramedic jobs in the East Bay.
18. DISPARATE IMPACT AGAINST BLACK PEOPLE. Sugiyama and AMR, Inc.'s misconduct disparately impacts low income workers, “at risk” youth,

people of color, and people with ethnic minority ancestry because the Merritt College program was chartered and built to help, and in fact serves, these traditionally-disadvantaged people, while the AMR program has no such charter and, historically and currently, a white, “middle-class” student population. AMR chooses students based on their ability to pay AMR’s \$10,000.00 tuition. Oakland Fire refuses to investigate Gillis’ complaints regarding how loss of the Merritt College program will impact its Oakland’s most vulnerable population.

19. OSCAR GRANT AND SHEEHAN GILLIS. Gillis otherwise advocates for low income, “at-risk,” and ethnic minority people. On or about January 2009, Oakland Fire destroyed records related to its response to 911 calls to save the life of Oscar Grant on January 1st, 2009. The Medical Director of the City of Oakland demanded a “call review.” It is the written policy and “always” procedure of Oakland Fire to perform such a call review in “high profile” cases like that of Oscar Grant. In spite of the order of the Medical Director, the written policy, and the “always” procedure of Oakland Fire, it failed and refused to perform the call review. Oakland Fire refuses to investigate Gillis’ complaints about the 911 call response, destruction of public property, violation of the order of the Medical Director, and refusal to perform the mandatory call review. On or about March 30th, 2011, with the collusion of Sugiyama, an EMS Coordinator queried Gillis about “what he would have done” in a hypothetical rescue with facts identical to Grant. This was designed to cause Gillis to suffer embarrassment and harassment in front of his peers for exposing injustice and racism in Oakland Fire.
20. L.A. CONFIDENTIAL. Gillis fights a system of racism and nepotism, cronyism, and favoritism that has changed little from the stereotype of L.A. Confidential. The crimes of the “good ole boys” go un-punished. For example, during the summer of 2009, Gillis received reports of missing narcotics from field personnel. The suspect was a white male EMT. Per written code and stated policy, Gillis contacted the Medical Director, the Medical Director ordered Gillis to perform an investigation, Gillis investigated, and Gillis made written findings to Oakland Fire “brass.” Instead of completing the process by reporting to the City Attorney (the last step), Oakland Fire turned on Gillis and warned him “The City Attorney does not like your reports.” No reports were made to the City Attorney. Gillis complained to Oakland Fire for a year and a half about this. Finally, after a Skelly Hearing embarrassed the Department, Sugiyama informed Gillis that he contacted the DEA and “the union can’t help anyone when it comes to the DEA.” Amazingly, the whistleblower is being threatened with punishment for the crime he reported.
21. RELENTLESS CAMPAIGN OF HARASSMENT AGAINST GILLIS. In May 2010, Sugiyama issued a substandard Performance Appraisal (PA) of Gillis. It was remarkably different from all past PAs (“meets expectations” or “exceeds expectations”) and done to retaliate against Gillis for advocating for the racially-

inclusive program of Merritt College and complaining about the racist mishandling of the Oscar Grant call and follow up.

22. **BACK TO THE TRAILER PARK.** On or about September 22nd, 2010, Sugiyama took away Gillis' office and moved him to a storage trailer. Sugiyama did so knowing that Gillis was raised in a trailer and would experience distress from same. The removal was done in order to discriminate and retaliate against Gillis.
23. **PUNISHMENT FOR VOLUNTEERING.** On or about September 27th, 2010, Sugiyama disciplined Gillis for failing to meet Gillis' self-imposed goal date for moving Oakland Fire storage and for another personnel's failure to transition by goal date. The moving was a voluntary assignment performed on the weekend and during off hours and completed within days of the target; the transitioning failure was caused by third parties and not the fault of Gillis. The discipline was done to discriminate and retaliate against Gillis.
24. **SUGIYAMA WRITES LETTER OF RESIGNATION FOR GILLIS.** On or about October 4th, 2010, Sugiyama drafted a letter of resignation for Gillis to sign. Sugiyama insisted Gillis sign the same without reading it. When Gillis refused, Sugiyama billed Gillis \$659.95 for personnel texting on company equipment even though Oakland Fire had a practice of allowing such personal texting and **no other** employees have been required to pay for personal texting. Sugiyama's misconduct, in drafting a letter of resignation for Gillis to sign, violates the MOU. It is extra-MOU discipline. Sugiyama's misconduct, in retaliating against Gillis for refusing to sign the letter, violates the MOU. Oakland Fire refuses to investigate Gillis' complaints regarding same. Sugiyama's misconduct was committed in order to discriminate and retaliate against Gillis.
25. **MAIL BOX REMOVED.** On or about the same October 2010, Sugiyama removed Gillis' mailbox. The mailbox removal was done to make it impossible for Gillis to be successful and to "set him up" for further "violations" and in order to discriminate and retaliate against Gillis.
26. **PUNISHMENT II FOR MISSED MOVE DATE.** On or about October 15th, 2010, Sugiyama issued a letter of discipline to Gillis. The stated basis of that letter was the missed deadlines for which Gillis was already disciplined and new allegations that: 1) Gillis left his computer at the wrong office of Oakland Fire, and 2) Shared storage was "disarrayed." The MOU does not allow a supervisor to use same alleged violations as the basis for successive discipline. Gillis "served his time" regarding the deadlines. Gillis did not cause the disarray and "disarray" is un-Constitutionally vague. No other employees would have been disciplined for "disarray" or leaving equipment at the wrong office once. The letter was issued in order to discriminate and retaliate against Gillis.

27. IMPOSITION OF 30-DAY FORMAL AND WEEKLY “ONE-ON-ONE” REVIEWS. On or about November 2010, Sugiyama imposed 30-day formal and weekly one-on-one performance reviews for Gillis only. Said are nothing more than hour-long-rants and bullying sessions, and Sugiyama repeatedly and over objection, schedules same on Gillis’ vacation or off days. The imposition was committed to discriminate and retaliate against Gillis.
28. OUT ON THE STREET. On or about November 3rd, 2010, Sugiyama ordered Gillis to vacate his office and convert it into a storage closet. Gillis has no office today. The order was done to discriminate and retaliate against Gillis.
29. PURPOSELY EMBARRASSING. On or about November 10th, 2010, Sugiyama made Gillis late to a meeting between Gillis and the Fire Chief and City Attorney telling him a meeting scheduled for the same day would “only take ten (10) minutes and then keeping Gillis for over thirty (30) minutes all while knowing the Chief and City Attorney were waiting for Gillis.
30. PUNISHMENT III FOR MISSING MOVE DATE. On or about January 14th, 2011 (30-day review), Sugiyama negatively reviewed Gillis for moving the storage a couple of days late in September and certification deadline misses by others that were not the fault of Gillis. Said review was done to discriminate and retaliate against Gillis.
31. PUNISHMENT IV FOR MISSING MOVE DATE. On or about February 3rd, 2011, Sugiyama issued a Letter of Intent in which he seeks three days suspension for Gillis for: 1) Receiving the May 2010 evaluation, and 2) Receiving the October 15th, 2010 letter. No further conduct or any continuing violation were stated. As set forth above, that Letter of Intent violates the MOU, because it does not state the misconduct upon which the penalty is based and the same allegations cannot support successive discipline. **This letter is the fourth time Sugiyama used the September 2010 voluntary-storage-move-days-late issue as a basis for discipline.** The Letter of Intent was done to discriminate and retaliate against Gillis.
32. SUGIYAMA’S DESPERATION. Sugiyama cannot find fault with Gillis’ performance. In desperation, he faults Gillis for the conduct of others. For example, Sugiyama disciplines Gillis for the failure of others to transition by goal dates and for not fully completing confidential course evaluations. This is done to discriminate and retaliate against Gillis.
33. IMPOSITION OF 24/7 SHIFT. On or about February 26th, 2011, Sugiyama imposed “24/7 on call” status on Gillis (for call back and return to work), an immediate-update requirement for Gillis’ calendar, and 24/7 access to the calendar. Said 24/7 status was done in order to interfere with Gillis’ representation and in order to discriminate and retaliate against Gillis.

34. CULTURE WITHIN OAKLAND FIRE—RACISM, HOMOPHOBIA, and SEXISM. Oakland Fire maintains a hostile work environment in which bullying and racist, homophobic, and sexist statements are tolerated and even committed by supervisors. Oakland Fire promotes those who will assimilate and retaliates against those who challenge that culture. Persons from traditionally disadvantaged groups who replicate the hostile work environment are promoted. Even though Sugiyama is apparently of Japanese American ancestry, he has clearly assimilated into that racist, sexist, and homophobic environment and now perpetuates the very culture that one day would have kept a Japanese American out of the Department.
35. LATINOS NEED NOT APPLY. Sugiyama refused to hire Carolina Green for a position as EMS Coordinator. Oakland Fire allowed Sugiyama to act as a one (1) man hiring committee and hire his 20+-year friend over a better qualified, bilingual, female, Latina applicant. Oakland Fire refuses to investigate Gillis' written complaint regarding same.
36. UNIFORMS FREE FOR NON-BLACKS. Sugiyama "doctors" time records. Sugiyama re-pays all but African American employees for uniform expenditures by padding time cards exactly according to uniform receipts and even puts copies of receipts for uniforms on the back of padded time cards.
37. COMP TIME FOR ALL EXCEPT BLACKS AND GILLIS. Sugiyama gives disallowed comp time to all but African American employees.
38. SUGIYAMA'S RACIST AND HOMOPHOBIC STATEMENTS. Sugiyama calls Native American employees "just off the reservation," jokes about lesbian mothers not needing maternity/family leave ("What are they . . . sharing a baby?"), and claims un-married persons (bachelors and divorcees) "can't understand what team work is." Sugiyama condones conduct in meetings and classes that includes calling persons with Philippine ancestry "Flips" and joking about "spreading the butt cheeks of" and anally probing certain (gay male?) patients. Oakland Fire refuses to investigate Gillis' complaints regarding same.
39. CULTURE WITHIN OAKLAND FIRE—FRAUD. Oakland Fire holds "Community CPR Classes" in City buildings for the purpose of recruiting students for AMR Corporation EMT training. The attendance records are doctored and submitted as "at-risk" youth mentoring for Measure Y money. In fact, the attendees are overwhelmingly 30-to-40-something white males and not the "at-risk" youth Measure Y was created to help. Similarly, though Oakland Fire collected Measure Y funding for his teaching work, Oakland Fire failed to honor its commitment to pay instructor Pascal Depaz over 463 hours of wages.

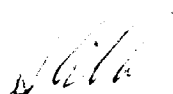
40. CULTURE WITHIN OAKLAND FIRE—RETALIATION. The misconduct regarding Oscar Grant is generally known by all paramedics and the entire management of Oakland Fire. No one, except Gillis, “broke the silence,” because Oakland Fire maintains a pattern and practice of retaliating against complainers. For example, on or about May 6th, 2010, Sugiyama held a meeting in which he discussed his plan to “get rid of” Employee Tim Takis (Sugiyama referred to as a “stupid dick” and “ha[ving] just made the biggest mistake of his career” and about to have “a giant lens turned on him”) because Takis successfully grieved a “needs improvement” Performance Appraisal. Sugiyama then raised 15 other employees from “needs improvement” to “fully effective,” to dilute Takis’ success.
41. RIGHT TO AN ATTORNEY. On or about March 8th, 2011, Sugiyama, acting through the Personnel Office of Oakland Fire, *in writing* informed Gillis it scheduled a personnel mediation between Gillis and Sugiyama to “resolve all issues” on or about March 11th, 2011, and that Gillis and Sugiyama have the right to bring an attorney to the mediation. When Gillis notified Oakland Fire that he would appear with an attorney, Sugiyama cancelled the mediation. From on or about March 8th to 24th, 2011, Sugiyama refused to reschedule the mediation. On or about March 24th, 2011, Sugiyama informed Gillis that Oakland Fire: a) Will re-schedule the mediation if Gillis waives his right to be represented at the mediation, and b) Is more likely to grant Sugiyama’s February 3rd Skelly Hearing request (to suspend Gillis for three days) if Gillis refuses to waive his rights.
42. ADMINISTRATIVE COMPLAINT. On or about March 15th, 2011, Gillis filed a False Claims Act administrative complaint with the City regarding misappropriation of the Merritt College program and related issues. On or about March 24th, 2011, the City Attorney issued a right to sue entitled “Denial of Claim Against City.”
43. COERCION AGAINST EXERCISE OF RIGHT TO ATTORNEY. On or about March 24th, 2011, Sugiyama informed Gillis that Oakland Fire: a) Will re-schedule the mediation if Gillis waives his right to be represented at the mediation, and b) Is more likely to grant Sugiyama’s February 3rd Skelly Hearing request (to suspend Gillis for three days) if Gillis refuses to waive his rights.
44. BASELINE PERFORMANCE LETTER OF MARCH 24TH, 2011. On the same day as Sugiyama requested Gillis waive Gillis’ right to an attorney, Sugiyama issued a Baseline Performance Letter (BPL) against Gillis. In the BPL, Sugiyama criticizes Gillis for: 1) Missing deadlines (but fails to identify any missed deadlines), 2) Mis-management of time (but fails to identify any specific acts or omissions except use of allowed sick leave), 3) Using an ASHI policy for storing coursework (Sugiyama expressly approved using ASHI and identified same as “best practices”), and 4) Finding files in a storage cabinet (when it happened, Gillis complained the files were planted, requested an investigation, and no investigation occurred). Sugiyama fails to include “corrective action” other than

‘identify deficiencies and correct them.’ Said BPL was issued to discriminate and retaliate against Gillis.

45. ADMINISTRATIVE COMPLAINT II. On or about March 28th, 2011, Gillis complained to the City Attorney about the “quid pro quo” and un-Constitutional coercion by Sugiyama and Oakland Fire.

46. PUNISHMENT V FOR MISSED MOVE DATE. On or about March 30th, 2011, Sugiyama and Oakland Fire suspended Gillis as Sugiyama and Oakland Fire promised they would if Gillis refused to waive his attorney. The suspension was based on the missed move date. The suspension was issued to discriminate and retaliate against Gillis.

VERIFICATION: I, Sheehan (Sean) Gillis, reviewed this document. It is true. I make this verification under penalty of perjury under the laws of the State of California. Executed in San Francisco this April 10th, 2011.



Sheehan (Sean) Gillis, EMT-P

Exhibit Two to Appeal of Disciplinary Action

Notice of Suspension and Skelly Report

THE ON-DUTY BATTALION CHIEF IS TO HAND DELIVER THE ATTACHED LETTER TO THE ADDRESSEE ON DUTY. THE BATTALION CHIEF IS TO WITNESS (BY SIGNATURE) THE SIGNING OF THIS RECEIPT OF DOCUMENT BY THE ADDRESSEE. THE SIGNED RECEIPT OF DOCUMENT FORM IS TO BE RETURNED TO STEVE DANZIGER AT OFD ADMINISTRATIVE OFFICE.

CITY OF OAKLAND FIRE DEPARTMENT

RECEIPT OF DOCUMENT

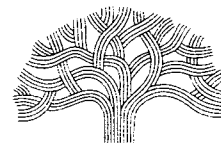
TO: Sheehan Gillis
FROM: OFD Personnel Unit
DATE: March 30, 2011

RE: Attached Letter Dated March 30, 2011, Hand Delivered

I Sheehan Gillis have received a copy of the attached Oakland Fire Department Letter dated March 30, 2011.

Sheehan Gillis COORDINATOR 3/30/2011
NAME/TITLE DATE

Jeffrey Ray Battalion Chief 3/30/11
WITNESS/TITLE DATE



LIONEL J. WILSON BUILDING • 150 FRANK H. OGAWA PLAZA, SUITE 3354 • OAKLAND, CA 94612

Administrative Offices
Oakland Fire Department

March 30, 2011

(510) 238-3856
FAX (510) 238-7924
TDD (510) 238-3254

HAND DELIVERED AND RECEIPT SIGNED

Mr. Sheehan Gillis
6525 Buena Ventura Avenue
Oakland, CA. 94605

Re: Notice of Suspension for Three (3) Days

Dear Mr. Gillis:

This letter is to advise you that the Oakland Fire Department (OFD) is suspending your employment as an Emergency Medical Services (EMS) Coordinator for three (3) work days.

The suspension is based on the following acts or omissions:

1. Violation Civil Service Rule 10: Performance of Duty;
2. Performance Appraisal May 1, 2009 – April 30, 2010 and Skill Enhancement Plan dated May 13, 2010;
3. Performance Appraisal Plan, Organizational Values and Work Habits Section I, #2 – Use of Time; #5 – Accountability; #6 – Adaptability and Problem Solving;
4. Prior (progressive) discipline received: Baseline Performance Letter & Written Reprimand dated October 15, 2010;
5. Baseline Performance Letter dated January 14, 2011;

You were hired as an EMS Coordinator in the Oakland Fire Department on September 26, 2005. In this position you develop or modify medical training programs and curricula for the Oakland Fire Department. This includes development of programs and curricula in response to specific and mandated medical training programs. You also facilitate or present medical training programs to staff and the community, provide lead direction to part-time EMS instructors, assess training facilities, including classrooms, conference rooms, and related facilities, equipment, and support services; manage logistics, and draft and revise policies to comply with Alameda County's Emergency Medical Service Policy.

On October 15, 2010, you were issued a written reprimand and Baseline Performance Improvement Letter. The reprimand was for your failure to transition Advance Life Support (ALS) Coordinator functions to another EMS Coordinator, Daniel Gerard, by an agreed upon deadline, failure to adequately organize the new EMS Training facility at its new location, failure to provide leadership /management to the part time EMS Training Staff and for failing to secure a newly purchased computer before leaving for a conference in Dallas. It was noted that these deficiencies were similar to issues that had been previously discussed and addressed with a

Skill Enhancement Plan dated May 13, 2010 and numerous meetings with EMS Chief William Sugiyama. Additionally, on November 2, 2009 you were provided with a Microsoft Outlook organizational guide "And Outlook" by David Allen and you were sent to a Managing Multiple Priority and Project Seminar on July 20, 2010, to address a major area of performance deficiency.

The Written Reprimand as well as the Baseline Performance Improvement Letter issued on October 15, 2010, address specific areas of your Performance Appraisal for 2009-2010 and Performance Appraisal Plan for 2010-2011 where you are not meeting standards. Chief Sugiyama points out that in spite of efforts to assist you in succeeding he has seen "little or no progress to overcome performance deficiencies". Specifically, the areas of concern are Organization Values and Work Habits Section I, #2 – Use of Time; #5 – Accountability; and #6 Adaptability and Problem Solving. A formal 60 day review was scheduled to evaluate progress made toward becoming fully effective in all aspects of your position.

The formal 60 Day review was held on January 14, 2011, and evaluated your performance up to December 15, 2010. Chief Sugiyama issued a Baseline Performance Letter and stated that generally, your job performance continued to be below standard and he had seen little or no progress to overcome deficiencies that had been previously identified on October 15, 2010. This has occurred in spite of Chief Sugiyama's attempts to meet with you and develop strategies for addressing your performance deficiencies.

You have continued to have unacceptable performance in several critical areas of your 2010-2011 Performance Plan. Specifically, those involving Use of Time; Team Work and Collaboration; Performance Management; Accountability; Adaptability and problem Solving. Your unacceptable job performance is supported by the documentation included as part of the Baseline Performance Letter.

On February 3, 2011, a letter was given to you that advised of the discipline recommendation and you were given the opportunity to respond either orally, in writing or both. You chose to respond in person with a Local 21 representative. You met with Battalion Chief Darin White on February 18, 2011, so you could respond to the facts upon which the discipline was based. In his report dated March 16, 2011, Skelly Officer Battalion Chief White, stated in part that "Although Bill has provided Sheehan with time management training as a measure of support and corrective action, it appears that this has yielded very little benefit or improvement as evidenced by the repeated missed deadlines (self-imposed by Sheehan or imposed by Bill)." He further stated that "...failure to follow through demonstrated a lack of concern for the EMS program and either a failure to understand the duties as outlined or a willful neglect to accomplish assignments as required." Battalion Chief White concluded that he was recommending to uphold the three (3) day suspension for "...repeated failures to adhere to expectations..."

In reviewing all the documents relating to the suspension recommendation including the "Opposition to February 3rd, 2011 Letter of Intent" you submitted to Battalion Chief White, I have decided to sustain the three (3) day suspension. You are therefore suspended without pay for three (3) days from April 27, 2011 to April 29, 2011. You are to report back to work on May 2, 2011. During the three day suspension you are prohibited from performing any and all duties

related to your employment as an EMS Coordinator. This includes accessing you office and doing any business related to your employment.

You are hereby notified that pursuant to the Memorandum of Understanding between the City of Oakland and Local 21, you may file a grievance regarding this action. Alternatively, you may submit your appeal directly to the Civil Service Board in accordance with Civil Service Rule 10.02 – Appeal of Disciplinary Action.

Further, you are instructed that future occurrences of this or similar incidents will lead to more severe disciplinary action up to and including termination.

Sincerely,


MARK HOFFMANN
Interim Fire Chief

Attachment: Skelly Officer Recommendation

cc: Donna Hom, CFO/Personnel Manager
William Sukiya, EMS Division Chief
Employee Relations
IFPTE, Local 21
OFD Personnel File
Official Personnel File

CITY OF OAKLAND

MEMORANDUM

TO: Mark Hoffmann, Interim Fire Chief
FROM: Darin White, Skelly Officer
DATE: March 16, 2011
SUBJECT: **Skelly Officer Recommendation in the Matter of February 3, 2011,
Proposed Notice of Intent to Suspend EMS Coordinator Sheehan Gillis**

On Friday February 18, 2011 at 10:30 a.m. the Skelly meeting was held in the above mentioned matter. Sheehan Gillis and Vickie Carson (the union representative of Local 21) and I were present.

The charges and proposed discipline for Sheehan Gillis are as follows:

- Sheehan Gillis violated Civil Service Rule #10 by failing in his Performance of Duty
- Performance Appraisal Plan, Organizational Values and Work Habits Section I, #2 Use of Time, #5 Accountability, #6 Adaptability and Problem Solving
- Prior (progressive) discipline received; Baseline Performance Letter and Written Reprimand dated October 15, 2010;
- Baseline Performance Letter dated January 14, 2011.

In summary, the proposed action is based on Sheehan's failure to meet deadlines (both self imposed and as set by his Supervisor), failure to adhere to the requirements of a Training Officer/EMS Coordinator, and his repeated and excessive use of unscheduled breaks and additional time beyond the allotted lunch hour. He has also received a written reprimand for failure to manage, organize and lead subordinate personnel, and his below standard maintenance of equipment and documents in designated storage/office areas.

The Meeting:

At the start of the meeting I welcomed both individuals and outlined the purpose of the meeting, set ground rules and summarized the charges and recommended discipline for Sheehan Gillis. I then provided both Sheehan Gillis and his union representative, Vickie Carson, with an opportunity to verbally and/or in writing submit their response to the proposed action. Sheehan provided a letter in opposition to the proposed discipline. The following is information captured during the meeting:

Vickie Carson began by stating that Sheehan has been a Fully Effective employee from 2005-2009. In 2010 he received an overall Fully Effective Performance Appraisal rating with the identified problem areas being "use of time and attendance". She offered that the relationship between Sheehan and Bill Sugiyama

has "gone off the scales" and indicated that Steve Danziger has witnessed the "hostile" environment between both persons. She further stated that Sheehan's duties changed from EMS Coordinator to evolve more into a Training Officer which now requires a supervisory and managerial component. This was done simultaneously with Sheehan's move to the Training Division at Victory Court. According to her, it isn't clear what type of support was provided to Sheehan as this transition in new duties and location occurred. In addition, she alleged that on October 4, 2010 Chief Bill Sugiyama (hereafter referred to as Bill) had a conversation with Sheehan in which he directly asked for Sheehan's resignation. To her, this is further evidence that Bill is bringing more of a private sector mentality to the current environment. She states that Bill's tone has been punitive, not corrective. 10 days after that meeting, Sheehan received the written reprimand.

She stated that the written reprimand, along with weekly meetings with a supervisor who yells at his employee(s) is making performance in this environment very difficult. Every shortcoming is being written up and mentoring is unavailable. She stated that meetings are becoming increasingly hostile and as a result a mediator has been secured by OFD to improve working conditions and relations between Bill and Sheehan. She applauded OFD for interceding in this manner in an attempt to turn this situation around. She asked that any disciplinary action be held in abeyance until the mediation process has occurred.

Sheehan spoke next and admitted nervousness about the Skelly meeting. He also stated that Steve Danziger assured him that he could provide a letter from his legal representative (unnamed in the document provided) which would oppose the discipline being proposed. This letter is attached to the recommendation. He stated that Bill's behavior doesn't appear to change and he is convinced that Bill is trying to "usher him out the door". He stated that there have been some strange things occurring and is concerned that his position and questioning of certain lost documents may contribute to the current predicament he is confronted with. This is explained further in the attached letter.

Upon moving to the Training Division location from the EMS Division, Sheehan stated that he was unable to communicate with other co-workers as easily and the standard operations that were previously in place were not the same as the new standards that were being employed. He stated that there is not as much part-time help as everyone would like, but he is willing (and has demonstrated his commitment to working hard) and getting the job done. He went on to state that Bill had a conversation with him on October 4, 2010 in which he had requested Sheehan's letter of resignation. Sheehan stated that he was warned by Bill that he had 2 routes to go with this situation. He could take the route of least resistance and Bill would write him a letter of recommendation if he resigned, if he did not resign and went the "Union path" then Bill would document every misstep and Sheehan would be gone in 12-14 months. According to Sheehan, Bill mentioned that maybe his skill sets were a better fit in ALCO as opposed to OFD. Sheehan said that he had initially thought about resigning and then after considering it decided that the way Bill was handling this matter was unfair and wrong.

He cited an example where Bill asked him about a document(s) on December 22, 2010, and the very next day the Compliance Officer asked him for the very same

document(s). This was the first time these docs had been requested and it came across as an urgent request but he felt it should have been communicated well in advance if there was a compliance concern. When asked specifically about the deficiencies mentioned in the written reprimand and other performance based areas needing improvement he acknowledged the need to meet deadlines and communicate the need for extensions in a timely manner. However, he mentioned that in one case (the Bike Bag inventory and Bike Deployment matter) he had provided a draft Bike Deployment policy to Bill in June 2010, and didn't understand how a Bike Deployment could be effective without having a policy in place for those members serving as bike Paramedics at events. He cited concerns with radio call signs, dispatch and other factors that hadn't been implemented. He admits that he should have addressed these concerns with Bill prior to agreeing to self imposed deadlines for inventorying, but felt that trying to discuss this with Bill would only result in another hostile or uncomfortable discussion. In a separate instance, he again acknowledged that he didn't meet the deadline as expected. In this case, he hadn't provided Daniel Gerard with the necessary documents and information to transition into ALS Coordinator. According to Sheehan, he provided the needed information on the last day that it was due, but it wasn't considered to have met the deadline because Daniel Gerard was out of town.

Sheehan stated that most missed meetings were a result of staff meetings being scheduled during times when Sheehan was training members. When asked about his failure to secure the EMS answer keys and tests in the storage area at the training division, he stated that he doesn't have an office and that the items were in a folder on top of the desk or file cabinet. He stated that Bill opened the folder to take photographs of the tests and answer keys. He said that only specified persons have access to the storage closet and cabinet. Those persons include Training and EMS Directors, himself and the 4 instructors. So theoretically, the room is secure unless someone is allowed by training division personnel to enter for items related to CORE or some other similar reason.

Sheehan closed by stating that to his knowledge there have been no previous Training Officers for the EMS Division and he had received only an informal discussion about what he would be required to do. He didn't recall receiving any written documents which outlined his new duties and there was nothing or anyone to provide him with direction for operating in this new role. He offered that Victor Velasquez (an EMS Instructor employed by OFD who also works for San Jose Fire Dept.) may have heard Bill state that if Sheehan didn't perform well in his new capacity he would be fired. He said that his statements and reference to the M.O.U. language are being taken out of context. One example cited by Bill involving the use of detailing members for training had been mentioned as a concern. Sheehan noted that the M.O.U. language hasn't changed (except with reference to PSP's), nor the number of members able to be detailed to training in an 8 hour period.

Vickie and Sheehan proposed the following:

- Sheehan should receive some training about how to develop into the lead Training Officer as his duties now require
- Bill must immediately stop treating Sheehan as if he is an unwanted , short term employee (both verbally and with written disciplinary threats)
- Steps be taken to immediately improve the work environment