

Officer Mark A. Hosek, #1055
San Antonio Police Department
San Antonio, Texas

NOV 30 2015

Fire Fighters' and Police Officers' Civil Service Commission
111 Soledad, Suite 123
San Antonio, Texas 78205

AGREED SUSPENSION

Commissioners and Officer Mark A. Hosek:

WHEREAS, Officer Mark A. Hosek, pursuant to Article XXVIII, Section 2 of the Collective Bargaining Agreement by and between the City of San Antonio and the San Antonio Police Officers' Association, was served on November 18, 2015, with a thirty-day contemplated suspension; and

WHEREAS, pursuant to said contract, Officer Hosek was given an opportunity to rebut those charges being brought against him to Police Chief William P. McManus; and

WHEREAS, said opportunity was exercised by Officer Hosek; and

WHEREAS, Officer Hosek and Chief McManus have agreed that the discipline in this matter shall be a thirty-day suspension without pay, and that Officer Hosek will be allowed to satisfy the suspension by forfeiting accumulated leave; **NOW THEREFORE:**

The undersigned parties hereby enter into this suspension agreement wherein it is provided that Officer Hosek shall be suspended without pay from the San Antonio Police Department for a period of thirty days, commencing on December 21, 2015, and ending on January 19, 2016. Officer Hosek waives any rights to appeal this Agreed Suspension and agrees no administrative or judicial body shall have power to review this Agreed Suspension or alter the terms of this agreement.

Officer Hosek has violated Subsection C of Rule XIII of the City of San Antonio Fire Fighters' and Police Officers' Civil Service Commission Rules, said rules having been adopted on February 23, 1998, and thereafter from time to time amended, by the Fire Fighters' and Police Officers' Civil Service Commission as the Civil Service Rules for the Fire and Police Departments of the City of San Antonio. The particular civil service rules violated by Officer Hosek and grounds for suspension are as follows:

- (12) Violation of an applicable fire or police department rule or special order.

The Rules and Regulations and Procedures of the San Antonio Police Department which Officer Hosek has violated are as follows:

RULE 3.04 - RESPONSIBILITY TO SERVE THE PUBLIC:
Members shall serve the public through direction, counseling, assistance, and protection of life and property. Members shall also respect the rights of individuals and perform their services with honesty, sincerity, courage, and sound judgment. (C) CONDUCT

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AND BEHAVIOR: Members, on-or off-duty, shall be governed by the ordinary and reasonable rules of good conduct and behavior, and shall not commit any act tending to bring reproach or discredit on themselves or the department.

PROCEDURE 507 - DWI ARRESTS (.04) PROBABLE CAUSE FOR DWI OR DUI (A) Officers establish probable cause for arresting drivers for Driving While Intoxicated (DWI) or for Driving Under the Influence of Alcohol by Minor (DUI) by relying on personal knowledge and training, including: (1) Personal observation of drivers involved in traffic accidents and or traffic violations; (2) Reasonable suspicion based on information provided by individuals who are witnesses to traffic violations and or traffic accidents involving the person suspected of being intoxicated or under the influence; or (3) Personal observation of drivers stopped for the purpose of providing them with information (i.e., road conditions ahead).

The factual basis for the instant disciplinary suspension is as follows:

On or about July, 9, 2015, Officer Mark A. Hosek was dispatched to IH 35 N. & Binz Engleman Road to investigate a report of a tractor trailer truck driving recklessly, weaving across lanes of traffic, and driving off the roadway. Officer Hosek contacted the driver of the tractor trailer truck at the entrance to Fort Sam Houston on Binz Engleman Road, but failed to recognize signs of impairment. Officer Hosek also spoke with a witness who reported specific driving actions prompting the call to police.

Instead of acting on this information, Officer Hosek determined the driver was lost and offered a police escort to the driver's destination. The driver actually was intoxicated and shortly thereafter was involved in a major crash documented under SAPD Case No. 15145828.

Officer Hosek failed to act upon reasonable suspicion present at the initial scene which supported a Driving While Intoxicated charge prior to the crash. Officer Hosek then failed to use sound judgment when he allowed an intoxicated individual to operate a motor vehicle.

A copy of the instant disciplinary suspension order is being filed with the Fire Fighters' and Police Officers' Civil Service Commission.

AGREED TO BY: William P. McManus 11/30/15
WILLIAM P. MCMANUS DATE
CHIEF OF POLICE
SAN ANTONIO POLICE DEPARTMENT

Mark A. Hosek 11-30, 2015 10:00
OFFICER MARK A. HOSEK, #1055 DATE TIME
SAN ANTONIO POLICE DEPARTMENT

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On this 30th day of November, 2015, I hereby acknowledge receipt of the original of the foregoing Agreed Suspension. I acknowledge having received notification that I have fifteen days from the date of receipt of this suspension during which to file a written appeal of this suspension with the Personnel Director of the City of San Antonio requesting either arbitration or the hearing of my appeal by the Fire Fighters' and Police Officers' Civil Service Commission. I acknowledge that I have been informed that if I appeal to a hearing examiner/arbitrator, I waive all rights to appeal to a district court except as provided by subsection 143.057(j) of the Texas Local Government Code. I also acknowledge that I have been informed that my right to appeal the decision of a hearing examiner/arbitrator to district court pursuant to section 143.057 of the Texas Local Government Code may have been modified by the provisions of article 28 of the current Collective Bargaining Agreement by and between the City of San Antonio and the San Antonio Police Officers' Association. I further acknowledge that in light of my entry into this Agreed Suspension, I shall have no right to appeal said suspension nor will any administrative or judicial body have power to review same or alter its terms. I do hereby waive any and all rights to appeal said suspension and no administrative or judicial body shall have power to review same or alter its terms.

Mr. Hosek #1055
OFFICER MARK A. HOSEK, #1055
SAN ANTONIO POLICE DEPARTMENT

WITNESSED BY:

[Signature]
[Signature]

TIME: 1040 DATE: 11/30/15

TIME: 1040 DATE: 11/30/2015

FILED on this the 2nd day of December, 2015, with the Fire Fighters' and Police Officers' Civil Service Commission.

[Signature]
DIRECTOR, FIRE FIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION

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CITY OF SAN ANTONIO
PERSONNEL SERVICES DIV.