

NOTICE OF INDEFINITE SUSPENSION WITHOUT PAY

Fire Engineer Austin Cain
San Antonio Fire Department
315 S. Santa Rosa
San Antonio, Texas 78207

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

Commissioners and Fire Engineer Austin Cain:

Under and by the virtue of the authority vested in me by Chapter 143, Municipal Civil Service, Subtitle A, Title 5, V.T.C.A. Local Government Code, I do hereby suspend Fire Engineer Austin Cain from the San Antonio Fire Department without pay for an indefinite period, beginning on the 14 day of September, 2017.

Fire Engineer Cain has violated Subsection C of Rule XIII of the City of San Antonio Fire Fighters and Police Officers Civil Service Commission Rules which were adopted on February 23, 1998, by the Fire and Police 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 Fire Engineer Cain and which are grounds for suspension are as follows:

Rule XIII, Subsection C(12): Violation of an applicable fire or police department rule, or special order.

The Rules and Regulations of the San Antonio Fire Department which Fire Engineer Cain has violated were those approved by the Firemen's and Policemen's Civil Service Commission on February 10, 2003, to be effective March 7, 2003. The particular rules thereof which Fire Engineer Cain has violated are as follows:

2.02 ABIDE BY LAWS AND DEPARTMENTAL ORDERS:

B. **ORDERS, RULES, REGULATIONS, DIRECTIVES, POLICIES AND PROCEDURES:** Members shall abide by the Rules and Regulations, Departmental roles and responsibilities, administrative orders, directives, policies and procedures of the San Antonio Fire Department.

9.03 **REPORT OF ARREST, CRIMINAL CHARGE, OR INDICTMENT:** Any Member arrested, charged with or indicted for a federal, state (any state) or municipal offense (any municipality), must immediately provide the Office of the Fire Chief with written notification of such incident. The

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FIRE DEPARTMENT

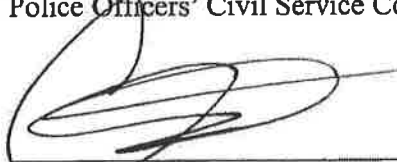
Member must provide the Office of the Fire Chief with the name of the arresting agency, a description of the nature of the charges, the date of the incident and the style, court and cause number of the charge or indictment, if any. This rule does not apply to non- alcohol or non-drug related traffic citations or parking violations.

The acts committed by Fire Engineer Cain which violated the aforementioned Civil Service Rules and Fire Department Rules are as follows:

On or about March 28, 2016, Fire Engineer Cain was arrested for public intoxication by the San Antonio Police Department. An SAPD officer observed that his eyes were bloodshot/watery and he smelled strongly of an odor of alcoholic beverages. Fire Engineer Cain was also observed to have difficulty keeping his balance. After this incident, Fire Engineer Cain failed to report the incident to his supervisor in conformity with SAFD Rules and Regulations. Each day that he did not report this arrest was a violation of those Rules and Regulations. The San Antonio Fire Department became aware of Fire Fighter Cain's arrest on March 27, 2017. On May 5, 2017, Fire Fighter Cain provided a memorandum to Chief Hood acknowledging that he had failed to report.

Fire Engineer Cain's violation of the cited rules is the basis for these charges and the reason for his indefinite suspension without pay.

An original of this disciplinary suspension order is being filed with the Fire Fighters' and Police Officers' Civil Service Commission.


Fire Chief Charles N. Hood

9/14/17
Date


0818
Time

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NOTICE OF RIGHT OF APPEAL

I hereby acknowledge receipt of a copy of the foregoing indefinite suspension without pay and further acknowledge that I have been notified that I have ten days to file a written appeal of this suspension with the Fire Fighters' and Police Officers' Civil Service Commission for hearing before the Commission or an independent third party hearing examiner. I also understand that if I appeal to the hearing examiner, I waive all rights of appeal to a District Court, except as provided by subsection (j) of Section 143.057 of Title 5, V.T.C.A. Local Government Code.


Fire Engineer Austin Cain


14 Sept 2017 0819
Date Time

WITNESSED BY:

Raul Lopez # 91651
Signature

9/14/17 0819
Date Time

FILED on this the 14 day of September, 2017, with the
Fire Fighters' and Police Officers' Civil Service Commission.


Director, Fire Fighters' and Police
Officers' Civil Service Commission

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RELEASE AND SETTLEMENT AGREEMENT

WHEREAS, Fire Engineer Austin Cain was issued an indefinite suspension on 9/14, 2017, by Fire Chief Charles N. Hood for violations of civil service rules and regulations of the San Antonio Fire Department as stated in the notice of suspension; and

WHEREAS, Fire Engineer Austin Cain has the right to appeal, but has not yet appealed, said suspension to the San Antonio Firefighters and Police Officers Civil Service Commission or a third-party arbitrator; and

WHEREAS, Chief Hood and Fire Engineer Cain have agreed to settle this disciplinary matter;
NOW THEREFORE:

FOR AND IN CONSIDERATION OF THE AGREEMENTS CONTAINED HEREIN:

SECTION 1. Fire Engineer Austin Cain admits that he violated the rules of the Fire Fighters' and Police Officers' Civil Service Commission and of the San Antonio Fire Department set out in the Notice of Indefinite Suspension issued on 9/14, 2017, and admits to the truth of the facts stated in the factual basis in said notice of indefinite suspension.

SECTION 2. The aforementioned indefinite suspension without pay of Fire Engineer Cain is hereby reduced to a thirty day suspension without pay beginning September 16, 2017.

SECTION 3. IT IS FURTHER AGREED AND UNDERSTOOD THAT BY EXECUTION OF THIS AGREEMENT, AND IN CONSIDERATION OF SAID REDUCTION OF DISCIPLINE, FIRE ENGINEER CAIN DOES HEREBY RELINQUISH AND WAIVE ANY RIGHT TO APPEAL SAID SUSPENSION TO THE FIREFIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION, A THIRD-PARTY ARBITRATOR, THE DISTRICT COURT, OR ANY OTHER COURT HAVING COMPETENT JURISDICTION AND THAT THIS AGREEMENT IS INTENDED TO BE A FULL AND FINAL SETTLEMENT OF ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, WHETHER KNOWN OR UNKNOWN, WHETHER ASSERTED OR NOT HAVING YET BEEN ASSERTED, ARISING OUT OF THE AFORESAID SUSPENSION.

SECTION 4. FIRE ENGINEER CAIN, FOR HIMSELF, HIS HEIRS, EXECUTORS, AND ASSIGNS, DOES HEREBY RELEASE, DISCHARGE, AND ACQUIT THE CITY OF SAN ANTONIO, TEXAS, ITS SUCCESSORS, ASSIGNS, OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES, AND CHARLES N. HOOD, HIS HEIRS, EXECUTORS, ASSIGNS, AGENTS, SERVANTS, AND EMPLOYEES, FROM ANY AND ALL ACTIONS, CAUSES OF ACTION, INCLUDING THOSE ARISING OUT OF CHAPTER 554 OF THE TEXAS GOVERNMENT CODE, CLAIMS, OR DEMANDS FOR DAMAGES, COSTS, EXPENSES, COMPENSATION, OR CONSEQUENTIAL

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FIRE DEPT

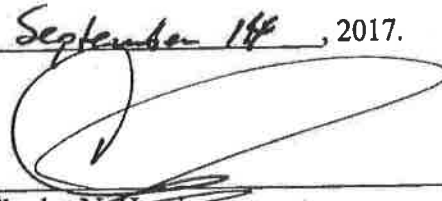
DAMAGES, KNOWN OR UNKNOWN, ASSERTED OR NOT, ARISING OUT OF THE AFORESAID SUSPENSION.

SECTION 5. Should there be any contention, now or in the future, that the terms of this agreement conflict with or are inconsistent with those of the Collective Bargaining Agreement between the City of San Antonio and Local 624 International Association of Fire Fighters, which was executed on June 27, 2011, Fire Engineer Cain agrees that the provisions of this agreement prevail.

SECTION 11. Fire Engineer Cain acknowledges that he has been given an opportunity to review this agreement with the International Association of Fire Fighters, Local 624, and his attorney or other representative. Fire Engineer Cain acknowledges that he has carefully read this Release and Settlement Agreement, he knows and understands the contents of the agreement, and he is satisfied with the contents of the agreement.

EXECUTED IN DUPLICATE ORIGINALS on September 14th, 2017.


Austin Cain
Fire Engineer


Charles N. Hood
Fire Chief