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July 12, 2016

DEPARTMENTAL ORDER OF DISCIPLINARY ACTION

Case No. IC2014-0080

Brett Titus (P93013)
Technician in the Classified Service
of the Denver Police Department

This is before the Executive Director of the Department of Safety to approve, modify or disapprove the Chief of Police's Written Command ordering disciplinary action for Technician Brett Titus. The Written Command contains determinations that Technician Titus violated RR-102.1, Duty to Obey Departmental Rules and Mayoral Executive Orders, of the Denver Police Department Operations Manual as it pertains to OMS 114.01, Secondary Employment, when he engaged in outside employment without the Chief's authorization in 2011 and 2013 and RR-808, Equipment and Property – Restrictions on Use, of the Denver Police Department Operations Manual, when he drove a Department assigned vehicle when he was off duty because of an on duty injury. The Written Command determined that these were Conduct Category B violations and imposed aggravated penalties of three (3) fined days for each rule violation. Technician Titus agrees with these penalty determinations.

Technician Titus conducts K9 training through his company ADL. On April 8, 2013, Technician Titus tore his ACL while chasing a suspect over a fence. Technician Titus was placed by the Department on limited duty from April 8, 2013 to May 27, 2013, when he returned to work. On April 19, 2013, Technician Titus conducted seminars for ADL in League City, Texas. Technician Titus also conducted a seminar in Plano, Texas from April 22 to April 25, 2013 and one in Denver from May 23, to May 26, 2013.

Upon receiving his doctor's medical findings, the Department mistakenly sent Technician Titus limited duty paperwork, which informed him that he was prohibited from working Secondary Employment while on limited duty. A subsequent investigation revealed that because of the extent of his injuries and his doctor's medical findings, Technician Titus should have been placed by the Department on Workers' Compensation status during the entire time he was out. Because he met the criteria for Workers' Compensation status, Technician Titus could legitimately do outside work so long as doing so did not go against the restrictions and limitations placed by his doctor. Thus, the training that Technician Titus performed in 2013 did not, in and of itself, violate any departmental rules. Moreover, Technician Titus was under no obligation to use personal time for this outside work because, as noted above, he should have been classified as being on Workers' Compensation status. However, Technician Titus did not seek written permission from the Chief of Police to perform Secondary Employment Non-Police Work in 2013, while off duty due to a line of duty injury, as is required by departmental policy. Technician Titus admits not doing so because, "[He] did not realize [he] was required to do so."

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Although Technician Titus indicated that he completed an application for Secondary Employment Non-Police Work in 2013, command supervisors stated that they could not recall ever receiving or approving one. Applications for Secondary Employment Non-Police work submitted by Technician Titus were located for the years 2012 and 2014, but no application for 2013 was found.

Technician Titus has a Class II authorization for full use of a Department vehicle. Class II authorization allows an officer "to drive the assigned vehicle to and from work. The employee's residence must be within a twenty five mile radius of the City and County building...Class II authorizes the employee to operate the vehicle between work, authorized secondary employment, and their residence...PERSONAL USE IS PROHIBITED." Technician Titus lives approximately 21.957 miles from the City and County Building.

On April 29, 2013, Technician Titus received a notification relating to his line of duty injury indicating, "You are prohibited from driving a marked Denver Police Car." A thorough review of the fuel logs for Technician Titus's Department vehicle revealed that he used the vehicle to travel approximately 672 miles while he was unable to work because of his injuries. Technician Titus admitted that he drove the vehicle. He indicated that he drove the vehicle to and from doctor's appointments and also used it to transport K9 dogs.

In 2011, Technician Titus entered into a contract with the Greenwood Village Police Department (GVPD) to assist in the purchase of two K9s, as well as to provide training for the two K9s and for their handlers. Although there was an indication that Technician Titus may have conducted some of this training while on duty, the weight of the evidence did not support a finding that he did so. However, the record does show, and Technician Titus admits, that he did not seek written permission from the Chief of Police to perform Secondary Employment Non-Police Work while off duty due to a line of duty injury during 2011.

RR-102.1, Duty to Obey Departmental Rules and Mayoral Executive Orders, of the Denver Police Department Operations Manual, provides that,

Officers shall obey all Departmental rules, duties, procedures, instructions, directives, and orders; the provisions of the Operations Manual; and Mayoral Executive Orders.

As it pertains to . . .

OMS 114.01 Secondary Employment

(1) SECONDARY EMPLOYMENT, as used in this section, is defined as any work, including self-employment, performed by any officer apart from official assigned duties and required duty times.

...

(3) Restrictions

...

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- e. Officers off duty due to...line of duty illness/injury...or on limited duty status, will not be permitted to perform Secondary Employment Police Work. However, such officers may seek written permission from the Chief of Police to perform Secondary Employment Non-Police Work.

...

OMS 114.02 Secondary Employment Non-Police Work: Procedure

- (1) Any officer desiring Secondary Employment Non-Police Work, including self-employment, will submit DPD 149A, Application for Non-Police Secondary Employment, through the chain of command.

In 2013, Technician Titus was injured while on duty. His doctor certified that he was unable to work because of the extent of injuries he sustained. Although the Department mistakenly classified him as being on limited duty, the extent of his injuries were such that Technician Titus should have been classified as being on Workers' Compensation status, rather than on limited duty. Because of this, Technician Titus was permitted to perform non-police work so long as he obtained "written permission from the Chief of Police" and provided that he "submit[ted] DPD 149A, Application for Non-Police Secondary Employment, through the chain of command." Technician Titus did neither.

In 2011, Technician Titus conducted training while on limited duty status. He did not "seek written permission from the Chief of Police" to do so.

Technician Titus engaged in outside employment while off duty due to a line of duty injury but did not seek permission to do so and did not submit an application for Secondary Employment Non-Police Work as required. In failing to do so, Technician Titus violated this departmental rule.

A violation of RR-102.1 appears in Conduct Categories A through F of the disciplinary matrix. In failing to adhere to the requirements for employment outside the Department, Technician Titus engaged in conduct that "ha[d] more than a minimal negative impact on the operations [and] professional image of the Department." As such, this was a Conduct Category B violation.

Technician Titus has no prior Conduct Category B, or higher, violations within the specified time-frame of four (4) years that would mandatorily increase the penalty level. Pursuant to the disciplinary matrix, for a discipline level of two (2), the mitigated penalty is an oral reprimand, the presumptive penalty is a written reprimand, and the aggravated penalty is one (1) to three (3) fined days. Technician Titus has taken responsibility for his conduct. Nevertheless, given the number of times policy was violated, a penalty in the aggravated range is warranted.

RR-808, Equipment and Property – Restrictions on Use, of the Denver Police Department Operations Manual, provides that,

Officers are prohibited from using Police Department property or vehicles in the conduct of their own personal or private affairs without approval of a Division Chief or the Chief of Police.

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Technician Titus was notified that, because of his duty related injuries, he was not permitted to drive his assigned vehicle. The investigation in this case revealed that Technician Titus put approximately 670 miles on his Department vehicle during the period of time that he was out of work because of his injuries and while on notice not to drive. Further, any use of the Department vehicle would be prohibited personal use because the extent of his injuries were such that he was unable to work and, as a result, should have been placed on Workers' Compensation status. In driving the Department vehicle, Technician Titus violated this departmental rule because he did so "in the conduct of [his] own personal or private affairs without approval of a Division Chief or the Chief of Police."

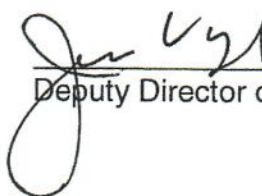
A violation of RR-808 appears in Conduct Category B of the disciplinary matrix. In driving a Department vehicle after being notified that he was prohibited from doing so, Technician Titus engaged in conduct which "ha[d] more than a minimal negative impact on the operations [and] professional image of the Department." As such, this too was a Conduct Category B violation.

As noted above, Technician Titus has no prior Conduct Category B, or higher, violations within the specified time-frame of four (4) years that would mandatorily increase the penalty level. Thus, the penalties for this rule violation are as set forth above. Although Technician Titus has taken responsibility for his actions, a penalty in the aggravated range is warranted, given the number of miles the vehicle was driven and the fact that Technician Titus drove the vehicle during a period of time when he had no legitimate Department-related purpose to do so.

Accordingly, the Written Command is hereby approved. Technician Titus shall serve an aggravated penalty of three (3) fined days for violating RR-102.1 as it pertains to OMS 114.01 and 114.02 and an aggravated penalty of three (3) fined days for violating RR-808. The fined time shall be served as sixteen (16) hours in Work Period 9, 2016, sixteen (16) hours in Work Period 10, 2016 and sixteen (16) hours in Work Period 11, 2016.

Please be advised that the discipline enumerated in this Order is based upon the Executive Director of the Department of Safety approving Technician Titus' agreement to accept the discipline as stated above and waive further disciplinary process.

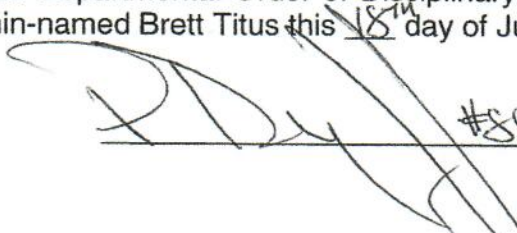
BY ORDER:


Deputy Director of Safety

7-12-16
Date

OFFICER'S RETURN

I hereby certify that I received the within Departmental Order of Disciplinary Action and have delivered a true copy thereof to the within-named Brett Titus this 18th day of July, 2016.


#8965

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BRETT TITUS (P93013)
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Signature

P.N. Duval Jr. #89025
Printed Name