



TOWN OF JUPITER

March 16, 2016

Sergeant Jason VanSteenburgh
Jupiter Police Department
210 Military Trail
Jupiter FL 33458

Re: Town Manager Determination Letter regarding Internal Affairs Investigation 2016-003

Dear Sergeant VanSteenburgh:

As you are aware, you have been the subject of a Jupiter Police Department Internal Affairs Investigation (IA 2016-003) in response to a series of alleged violations involving you having sex on duty, sending and receiving inappropriate photographs and making threats of physical harm against the Town and/or its employees. The investigation resulted in the following alleged violations and findings:

- **Allegation of having sex on duty on March 29, 2016**

It was alleged by Sergeant Amy Walling that she performed oral sex on you at your home during your scheduled work hours on March 29, 2016. As a result, the following alleged violations were investigated and found to be **unsubstantiated**:

- General Order 1.4 (101) Conduct Unbecoming an Officer/Employee
- General Order 1.4 (105) Integrity
- General Order 1.4 (153) Code of Ethics for Public Offices and Employees
- General Order 1.4 (311) Neglect of Duty (Inattention to Duties/Procedures)

- **Allegation of a threat against the Town and/or its employees by stating that you wanted to “blow the place up”**

It was alleged by Ms. Jennifer Lunsford that you threatened to “blow the place up”, referring to the Jupiter Police Department, in a text exchange with her. As a result, the following alleged violation was investigated and found to be **unsubstantiated**:

- General Order 1.4 (101) Conduct Unbecoming an Officer/Employee

- **Allegation of having sex on duty on July 25, 2015**

It was alleged by Sergeant Amy Walling that she performed oral sex on you at her home during your scheduled work hours on July 25, 2015. This was confirmed by a video produced by Sergeant Walling. As a result, the following alleged violations were investigated and **sustained**:

- General Order 1.4 (101) Conduct Unbecoming an Officer/Employee
- General Order 1.4 (105) Integrity
- General Order 1.4 (153) Code of Ethics for Public Offices and Employees
- General Order 1.1.6 Code of Ethics for Public Offices and Employees

- General Order 1.4 (311) Neglect of Duty (Inattention to Duties/Procedures)
 - General Order 1.4 (149) Perjury in Official Proceeding
- **Allegation of taking, and subsequently sending, a photograph of yourself in uniform, with your penis exposed, on April 24, 2015**
It was alleged by Sergeant Amy Walling that you photographed yourself, while in uniform with your penis exposed, and subsequently sent it to Sergeant Amy Walling. A photo produced by Sergeant Walling confirmed her allegation. As a result, the following alleged violations were investigated and **sustained**:
 - General Order 1.4 (101) Conduct Unbecoming an Officer/Employee
 - **Allegation of failing to report the receipt of a photograph of Sergeant Amy Walling wearing a Jupiter Police Department uniform with her breasts exposed**
You provided the Jupiter Police Department with a photograph of Sergeant Walling, while she was serving as a Major, wearing a Jupiter Police Department Class "A" Sergeants uniform shirt with her breasts exposed. As a result, the following alleged violations were investigated and **sustained**:
 - General Order 1.4 (155) Duty to Report Misconduct
 - General Order 1.4 (153) Code of Ethics for Public Offices and Employees
 - General Order 1.1.6 Code of Ethics for Public Offices and Employees

On February 3, 2017, Chief Kitzerow recommended that your employment with the Town of Jupiter be terminated as a result of his review of the alleged violations investigated per Internal Affairs Case 2016-003.

Town Manager Evaluation of Recommended Disciplinary Actions:

Upon receipt of the IA 2016-003 file on February 6, 2017, I began reviewing the findings of the investigation, the supporting evidence and Chief Kitzerow's recommendation for termination of your employment with the Town.

On Thursday, March 2, 2017, I met with you and your legal counsel, Ms. Suzanna Scarborough and Ms. Allison Duffie. During that meeting, you read from a prepared statement, a copy of which you subsequently gave me, which described how, when the sexual relationship you had with Sergeant Walling was coming to an end, you were harassed by Sergeant Walling. You also stated in your prepared remarks that members of the Jupiter Police Department's Command Staff, because they were "tired" of addressing the conflict between the two of you, began treating you with contempt. You stated that members of the Command Staff reprimanded and/or inappropriately scrutinized your job performance and denied you training opportunities that you would have normally participated in. Additionally, you indicated that Sergeant Walling threatened to share information with others in the Department about your sexual relationship.

In addition to your comments, Ms. Scarborough also read from a prepared statement that addressed concerns about the evidence in this case. Ms. Scarborough stated that the standard of proof in this case should be "competent, substantial evidence" as opposed to the threshold of "preponderance". The definition of "competent, substantial evidence", as explained by the Fourth District Court of Appeal in *Pollard v. Palm Beach County*, 560 So. 2d 1358, 1359-60 (Fla. 4th DCA 1990), is "evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion."

Ms. Scarborough went on to indicate that the texts provided by Sergeant Walling could have been manufactured and may not reflect actual dialogue between you and her. Further, Ms. Scarborough raised the issue of Sergeant Walling's credibility and pointed to her inability to recall certain facts

throughout her interviews. In summary, Ms. Scarborough argued that a determination in this case must be based upon scientific or hard evidence and not opinions of the IA investigators or Chief Kitzerow.

On Thursday, March 8, 2017, I met with Majors Hirsch and England. I asked them two general questions about their investigation. First, I asked about the source of the text messages provided by Sergeant Walling. Both indicated that the text messages were from printed, hard copies provided by Sergeant Walling. Additionally, both indicated that the texts were not the basis for the conclusions drawn in the case and served only as part of the information upon which they relied in their evaluation of the evidence. Second, I asked Major England about the instances in which you indicated your work was being unfairly scrutinized and when training was denied. I asked about this since both you and Ms. Scarborough claimed this treatment, as well as your dismissal from the SWAT unit, was evidence that the Department's Command Staff was predisposed to favor Sergeant Walling. As you stated in your predetermination hearing, the Department was seeking an "eye for an eye." Major England explained that his request that you include an officer's name in an accident report was to simplify efforts of Command Staff in following up on the issue and was not an unusual issue to address with a relatively new supervisor. Additionally, Major England indicated that you were not removed from the SWAT unit because of the conflict between you and Sergeant Walling, but because of your inability to maintain positive working relationships with other members of the unit and that some of the training you requested was not pertinent to your responsibilities as a Sergeant.

Town Manager Determination:

Sergeant VanSteenburgh, throughout your career, you have possessed the skills to be an effective law enforcement officer. You have shown aptitude for the job and impressed those who witnessed your efforts. I would count myself amongst those who would have considered you to have the potential to become a leader in the organization. However, your failure to conduct your personal affairs and professional responsibilities with honesty and integrity makes your continued employment with the Town untenable. Having had the opportunity to consider the competent, substantial evidence in this case, as well as the arguments raised by you and Ms. Scarborough, I am upholding the recommendation from Chief Kitzerow and terminating your employment with the Town of Jupiter effective immediately.

Throughout this process, you've continually blamed Sergeant Walling for decisions that you've made or just flatly denied any responsibility for your actions. For instance, it is not necessary to have the voice or images in the video provided by Sergeant Walling analyzed by a forensic expert to draw a clear conclusion that you were the individual in the video receiving oral sex at a time that you were on duty. The similarities between the images of the arms and hands taken in the video and the photos that were taken of you in the Police Department, the similarity of the voice in the video and yours clearly indicate that you were having sex while on duty in violation of the Department's General Orders. Moreover, the text messages and your activity log for that evening only support the conclusion that can be drawn by anyone that knows you and who watches and listens to the video. Further, scientific or hard evidence is simply not required to meet the "competent, substantial evidence" threshold, contrary to Ms. Scarborough's assertion. You have not been honest about receiving oral sex while on duty in violation of the General Orders.

I don't find any competent, substantial evidence that you were being sexually harassed by then-Major Walling and threatened to the point of being compelled to send a photo of yourself, while working a special detail, in uniform with your penis exposed. If you believed you were being harassed, there was ample opportunity to come forward and be protected. Asking me to believe that you were intimidated by then-Major Walling to an extent that you would follow an unlawful directive and jeopardize your career is unpersuasive at best. Further, you have explained that a statement Chief Kitzerow made about supporting the Command Staff chilled your ability to complain about being sexually harassed when this would have been an obvious abuse of an employee by a supervisor. There is no competent, substantial

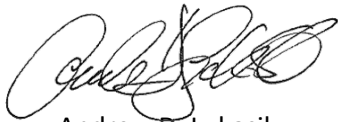
evidence to support your claims of sexual harassment or to justify your decision to take and send a photo of yourself, partially exposed while wearing the same uniform you wore on your special duty detail that evening.

Lastly, your failure to report the receipt of the photo that then-Major Walling sent to you is inexcusable. There was absolutely no legitimate explanation for not bringing forward the photo she sent to you. I find no merit to your defense that this was done due to being sexually harassed. You had no issues speaking with Command Staff or Human Resources during the time in which you were trying to separate yourself from the relationship with your then-fiancée, but you never raised the issue of any of the photos that were sent.

Your unprofessional behavior, as well as your failure to take any responsibility for your actions, led to a sound recommendation from Chief Kitzerow regarding the appropriate level of discipline. Therefore, I am terminating your employment with the Town of Jupiter effective immediately. You should seek counsel from your attorney immediately to preserve your rights.

The Town of Jupiter's Department of Human Resources will immediately contact you to coordinate the return any of the Town's equipment in your possession as well as handle issues associated with your separation from service with the Town.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew D. Lukasik". The signature is stylized and cursive.

Andrew D. Lukasik
Town Manager