

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

100 Cambridge St., Suite 200
Boston, MA 02114
(617) 979-1900

BRENNAN POLIDORO,
Appellant

v.

G1-23-067

CITY OF PITTSFIELD,
Respondent

DECISION

Pursuant to 801 CMR 1.01 (11) (c), the Chair of the Civil Service Commission (Commission) assigned the Commission's General Counsel to serve as presiding officer over an evidentiary hearing into whether the Respondent had reasonable justification to bypass the Appellant for the position of firefighter.

The Presiding Officer released to the Commission the attached Tentative Decision and advised the parties that they had thirty days in which to provide any written objections to the Commission. No objections were received.

After careful review and consideration, the Commission voted to affirm and adopt the Tentative Decision of the Presiding Officer, thus making the attached the Final Decision of the Commission.

Accordingly, the decision of the City of Pittsfield to bypass the Appellant for the position of firefighter is affirmed and the Appellant's appeal under Docket No. G1-23-067 is hereby *denied*.

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney and Stein, Commissioners) on May 2, 2024.

Civil Service Commission

/s/ Christopher C. Bowman
Christopher C. Bowman
Chair

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:

Brennan Polidoro (Appellant)

Russell J. Dupere, Esq. (for Respondent)

COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION

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BRENNAN POLIDORO,
Appellant

v.

G1-23-067

CITY OF PITTSFIELD,
Respondent

Appearance for Appellant:

Brennan Polidoro, *pro se*

Appearance for Respondent:

Russell J. Dupere, Esq.
Dupere Law Offices, P.C.
94 N. Elm St., Suite 307
Westfield, MA 01085

Presiding Officer:

Robert L. Quinan, Jr., Esq.¹

SUMMARY OF TENTATIVE DECISION

The Commission should affirm the decision of the City of Pittsfield to bypass the Appellant for original appointment as a firefighter based on a pattern of obfuscation and lack of candor on the Appellant's part regarding material facts elicited by the City during hiring and background check processes.

TENTATIVE DECISION

On May 24, 2023, the Appellant, Brennan Polidoro ("Appellant" or "Polidoro"), pursuant to G.L. c. 31, § 2(b), timely appealed to the Civil Service Commission ("Commission") contesting the decision of the City of Pittsfield ("City" or "Pittsfield") to bypass him for appointment as a

¹ The Commission acknowledges the assistance of Law Clerk Daniel Taylor in the drafting of this Tentative Decision. As the duly appointed Presiding Officer, I am filing this initial decision with the Commission today. Pursuant to 801 Code Mass. Regs. 1.01(11)(b) and (c), the parties shall have 30 days from today to file any written objections to this Tentative Decision.

full-time permanent firefighter. A pre-hearing conference was held via Webex on June 20, 2023. I held a full hearing in person at the Pittsfield City Hall on September 8 and September 25, 2023, and via Webex on October 6, 2023.² The hearing was recorded, and a copy was electronically submitted to both parties. The Commission also retained a copy of the hearing recording. For the reasons stated below, I recommend that Mr. Polidoro's appeal be denied.

FINDINGS OF FACT:

Sixteen exhibits were offered into evidence at the hearing: three by the Appellant and thirteen by the City. Both parties chose to file post-hearing briefs. Based on these exhibits and the testimony of the following witnesses:

Called by the City:

- Thomas Sammons, Fire Chief, Pittsfield Fire Department (“PFD”)
- Michael Murphy, Sergeant, Pittsfield Police Department (“PPD”)
- Michael Taylor, Human Resources Director, Pittsfield
- Linda Tyer, then-Mayor, Pittsfield
- Michael Johnson, Former Sergeant, Monterey Police Department (“MPD”)

Called by the Appellant:

- Brennan Polidoro, Appellant
- James Ziter, Fire Captain, PFD
- Daniel Garner, Deputy Fire Chief, PFD

and taking administrative notice of all pleadings filed in the case, plus pertinent rules, statutes, regulations, case law and policies, and drawing reasonable inferences from the credible evidence, I make the following findings of fact:

² The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR § 1.00, *et seq.*, apply to adjudications before the Commission, with G.L. c. 31 or any Commission rules, taking precedence.

Appellant's Background

1. The Appellant, Brennan Polidoro, graduated from high school in 2009. He then attended a regional community college, at which he completed most of the requirements for an associate degree in criminal justice. (Resp. Ex. 1)

2. The Appellant has also attended a number of specialized training courses, mostly related to law enforcement and drug investigations. (Resp. Ex. 1)

3. The Appellant has submitted a total of four employment applications to the City: one application to the PPD in 2016, and three applications to the PFD, including the Appellant's 2022 and 2023 applications. (Resp. Ex. 1; Resp. Ex. 4; Resp. Ex. 12; Testimony of Sammons)

4. From 2004 to 2010, the Appellant was employed training new employees at a fast-food restaurant. On his 2023 employment application, he listed his reason for leaving as "took another job." The Appellant did not include this position on his 2016 and 2022 employment applications to the PPD and PFD, respectively. (Resp. Ex. 1; Resp. Ex. 4)

5. From 2010 to 2011, the Appellant worked at a local supermarket, stocking and ordering products. On his 2023 employment application, he listed his reason for leaving as "Resigned for personal reasons." On his 2016 employment application, this field contains the phrase "Uncomfortable Work Environment." The Appellant did not include this position on his 2022 employment application. (Resp. Ex. 1; Resp. Ex. 4)

6. While employed at the local supermarket, the Appellant's interactions with a young female coworker led to at least one confrontation with that coworker and her significant other in the workplace. The coworker also sought a Harassment and Protection Order (HPO) against the Appellant. The Appellant resigned shortly thereafter.³ (Resp. Ex. 10; Testimony of Murphy;

³ In his testimony before the Commission, the Appellant claimed that he did not consider this to be a resignation under "unfavorable circumstances" because the dispute was not directly related to his work duties and performance. (Testimony of Appellant)

Testimony of Appellant)

7. In a related affidavit, the Appellant's coworker stated that she felt unsafe around him. Sergeant Murphy of the PPD, during his 2016 investigation of the Appellant, spoke to this individual, and found her to be credible. (Resp. Ex. 10; Testimony of Murphy)

8. From approximately 2010 to approximately 2011, the Appellant worked as a sales associate in a sporting goods store. On his 2023 employment application, he listed his reason for leaving as "Took job in path of wanted career." This is consistent with the Appellant's 2016 employment application, but the Appellant did not include this position on his 2022 employment application. (Resp. Ex. 1; Resp. Ex. 4)

9. From 2011 to 2012, the Appellant worked as a security officer at a center for behavioral health treatment. On his 2023 employment application, he listed his reason for leaving as "Took job in law enforcement." This is consistent with the Appellant's 2016 employment application, but the Appellant did not include this position on his 2022 employment application. (Resp. Ex. 1; Resp. Ex. 4)

10. From 2012 to 2013, the Appellant worked for the Monterey Police Department as a part-time patrolman. On his 2023 employment application, he listed his reason for leaving as "Personal issues to do with admin." The Appellant did not include this position on his 2016 or 2022 employment application. (Resp. Ex. 1; Resp. Ex. 4)

11. The Appellant's departure from the MPD was precipitated by an incident involving former MPD sergeant Michael Johnson. The Appellant informed Johnson, shortly after the Chief of the MPD had departed for vacation, that he was unable to work his upcoming scheduled shifts. Johnson said that in that case "he might as well not come back." The Appellant resigned shortly thereafter. Following repeated attempts to collect the Appellant's department-issued gear, the Chief of the MPD contacted the Appellant's father. Following this contact, the Appellant left

uniforms, a badge, pepper spray, and a handwritten note outside of Johnson’s personal residence.⁴
(Testimony of Appellant; Testimony of Johnson)

12. From April 2012 to August 2015, the Appellant worked for the Egremont Police Department as a part-time patrolman. On his 2023 employment application, he listed his reason for leaving as “took full time police officer position.” This is consistent with his 2022 and 2016 employment applications. (Resp. Ex. 1; Resp. Ex. 4; Resp. Ex. 12)

13. From February 2013 to September 2017, the Appellant worked for the Sheffield Police Department as a field training officer and drug recognition expert. On his 2023 employment application, he listed his reason for leaving as “Sought better career opportunities.” This is consistent with his 2022 employment application. (Resp. Ex. 1; Resp. Ex. 4)

14. From September 2015 to May 2021, the Appellant worked as a patrolman for the Lanesborough Police Department (“LPD”). On his 2023 employment application, he listed his reason for leaving as “terminated from position.” This is consistent with his 2022 employment application. (Resp. Ex. 1; Resp. Ex. 4)

15. During his time at the LPD, the Appellant was placed on administrative leave pending an investigation into misuse of certain police databases. The Appellant was found to have queried the database inappropriately regarding several women he knew personally. This investigation led to the Appellant’s termination and was reported in a local newspaper.⁵ (Resp. Ex. 1; Testimony of Tyer; Testimony of Sammons; Testimony of Taylor)

⁴ Johnson expressed in his testimony before the Commission that if the Appellant had not resigned, he would have recommended to the Chief of the MPD that the Appellant be terminated for conduct unbecoming an officer. (Testimony of Johnson)

⁵ In his testimony before the Commission, the Appellant acknowledged in a general sense that he had “made mistakes,” but said that his “experiences regarding [his] past are [his] and [his] alone.” He then accused the City of trying to “twist those experiences to fit a pattern or a narrative that benefits them.” (Testimony of Appellant)

16. For the duration of the investigation, the Appellant's firearms were in the custody of an acquaintance. Upon his termination, the Appellant was ordered to surrender these firearms, which he failed to do. The Appellant was later charged with Failure to Surrender Firearms, which resulted in a Continuance Without a Finding (CWOFF).⁶ (Resp. Ex. 1; Testimony of Appellant)

17. From July 2021 to August 2021, the Appellant worked as a driver for a package delivery company. On his 2023 employment application, he listed his reason for leaving as "Seasonal position and sickness in the family." This is consistent with his 2022 employment application. (Resp. Ex. 1; Resp. Ex. 4)

18. From April 2021 to May 2022, the Appellant worked as a general contractor in Egremont. On his 2023 employment application, he listed his reason for leaving as "Took job closer to home." This is consistent with his 2022 employment application. (Resp. Ex. 1; Resp. Ex. 4)

19. Beginning in November 2021, the Appellant worked seasonally as a shop manager for a trucking company. This is consistent with his 2022 employment application. (Resp. Ex. 1; Resp. Ex. 4)

2016 Application to the PPD

20. In 2016, the Appellant submitted an employment application to the PPD. This application included language indicating that "honesty and candor in answering the questions in this application is valued above all else." The Appellant also signed under a statement declaring: "I am aware that willfully withholding information or making false statements on this application will be the basis for rejection of my application or dismissal from the Pittsfield Police Department." (Resp. Ex. 12)

21. The Appellant nevertheless failed to include the MPD as a past employer on his 2016

⁶ In his testimony before the Commission, the Appellant again denied any wrongdoing, describing the incident as an "oversight." He later admitted that he had not read the notice of revocation and suggested that the LPD shared responsibility for his oversight. (Testimony of Appellant)

employment application. The Appellant also failed to name the MPD when asked whether he had ever “previously submitted an application to a local, county, state or federal law enforcement agency.” (Resp. Ex. 12)

22. The Appellant indicated in his application to the PPD that he had never been disciplined by an employer, despite having been suspended during his time at the local supermarket. (Resp. Ex. 12; Testimony of Murphy)

23. The Appellant also indicated in his 2016 application that he had never used steroids, despite having done so multiple times between 2010 and 2015.⁷ (Resp. Ex. 12; Testimony of Appellant)

First Application to the PFD

24. The Appellant’s first application to the PFD resulted in a bypass, based on pending criminal charges against the Appellant which stemmed from his failure to surrender firearms following his departure from the LPD. (Testimony of Sammons)

Second Application to the PFD

25. The Appellant’s second employment application to the PFD is dated September 12, 2022. Said application included a provision stating that “willfully withholding information or making false statements on this form will be the basis of rejection of the application or dismissal from the Pittsfield Fire Department.” (Resp. Ex. 1)

26. The Appellant was hired by the PFD on a probationary basis but then terminated within weeks based on omissions in his 2022 employment application. The PFD initially expressed concern with the Appellant’s departure from the Town of Lanesborough. (Resp. Ex. 2; Testimony of Sammons; Testimony of Tyer)

27. Prior to his termination, the Appellant met with a group that included Mayor Tyer and Fire

⁷ At the Commission hearing, the Appellant testified that he had omitted this information because he was “embarrassed” to admit steroid use. (Testimony of Appellant)

Chief Sammons, who asked him to explain his departure from the LPD. During this meeting, Tyer and Sammons asked the Appellant if there were any further issues that they should know about. The Appellant replied that there were not. (Testimony of Tyer; Testimony of Sammons)

28. The City continued to investigate the Appellant's background, and discovered from the Appellant's previous application to the PPD that he had worked for the MPD and the local supermarket. Neither of those employers had been included on the Appellant's 2022 employment application, or on his resume, despite being chronologically between several other listed employers. (Resp. Ex. 1; Testimony of Tyer; Testimony of Sammons)

29. The Appellant failed to include the Town of Monterey under sections which asked about previous background investigations, and previous applications to law enforcement agencies. (Resp. Ex. 1)

30. The Appellant also indicated on his 2022 application that he had never left a job under unfavorable circumstances. (Resp. Ex. 1)

31. The Appellant requested that the Commission investigate the circumstances surrounding his termination but, as he remained within his probationary period, the Commission found that it lacked jurisdiction to intervene. (Resp. Ex. 3)

Current Bypass

32. On October 30, 2021, the Appellant took the civil service examination for firefighter candidates. He received a score of 99. (Stipulated Facts)

33. On March 15, 2022, the state Human Resources Division (HRD) established an eligible list for Pittsfield firefighter. On March 22, 2023, HRD issued Certification No. 09187 to the City; the Appellant was ranked fourth among those willing to accept appointment on that certification. (Stipulated Facts)

34. Following his termination, the Appellant again applied for a position at the PFD on May 5, 2023, signing the above-referenced certification as willing to accept appointment. (Resp. Ex. 4)

35. In his 2023 application to the PFD, the Appellant failed to include the towns of Monterey, Egremont, and Lanesborough in response to a question about past employers having investigated his background. (Resp. Ex. 4)

36. In response to Question 4c on his 2023 employment application, the Appellant indicated that he had been disciplined by a past or current employer. Despite instructions to include a narrative for all work-related discipline, he included a narrative only for discipline issued by the Town of Lanesborough. (Resp. Ex. 4)

37. In response to Question 5 on his 2023 employment application, the Appellant indicated that his employers have not always treated him fairly, and again included a narrative related only to his employment with the Town of Lanesborough.⁸ (Resp. Ex. 4)

38. In response to Question 6e on his 2023 employment application, the Appellant indicated that he had never reported for work under the influence of drugs or alcohol. The Appellant did however use steroids during the period in which he was employed as a police officer. (Resp. Ex. 4; Testimony of Appellant)

39. In response to Questions 6h, 6i, 6j, and 6k on his 2023 employment application, the Appellant acknowledged that he had previously been terminated from employment but indicated that he had never left a job to avoid being fired, or under any other unfavorable circumstances. (Resp. Ex. 4)

40. The PFD did not conduct a full background investigation into the Appellant in the 2023 hiring cycle, given that an investigation had been completed several months earlier, during the

⁸ In his testimony before the Commission, the Appellant claimed he had been treated unfairly both by the local grocery store and the MPD. (Testimony of Appellant)

2022 hiring cycle. (Testimony of Sammons)

41. The PFD conducted an abbreviated interview with the Appellant in the 2023 round of hiring, given that the pre-set questions were substantially similar to those he had been asked in the previous hiring cycle.⁹ (Testimony of Sammons; Testimony of Appellant)

42. In a letter dated May 16, 2023, Fire Chief Sammons informed the Appellant that he had “chosen another candidate to fill the position whose background and experience more closely matches the current needs of the City.” That candidate ranked lower on the certification than the Appellant. Mayor Tyer noticed that this letter did not meet the requirements for a bypass notification, and informed Sammons that a new letter meeting those requirements would need to be issued. (Resp. Ex. 6; Testimony of Tyer)

43. In a letter dated May 25, 2023, Chief Sammons informed the Appellant that the May 16 letter had been sent in error, and that a corrected version would be forthcoming. (Resp. Ex. 7)

44. In a letter dated June 7, 2023, Mayor Tyer informed the Appellant that he was being bypassed, based on “dishonesty and omissions” in his PFD employment application, “concerning behavior and biases against women,” and a “poor” work history. In short, the City did not find the Appellant to be “honest, trustworthy, dependable,” and capable of following orders. (Resp. Ex. 8)

Legal Standard

The core mission of Massachusetts civil service law is to enforce “basic merit principles” for “recruiting, selecting and advancing of employees on the basis of their relative ability, knowledge and skills” and “assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.” G.L. c. 31, § 1. See, e.g., Mass. Ass'n of Minority Law Enforcement Officers v. Abban, 434 Mass. 256, 259 (2001); MacHenry v.

⁹ In his testimony before the Commission, Sammons expressed his opinion that conducting a full interview would not have led to a different result, given how recently the Appellant had been terminated from the PFD. (Testimony of Sammons)

Civil Serv. Comm'n, 40 Mass. App. Ct. 632, 635 (1995), rev. den., 423 Mass. 1106 (1996).

Basic merit principles in hiring and promotion and other provisions of the civil service law call for regular, competitive qualifying examinations, open to all qualified applicants, from which eligible lists are established, ranking candidates according to their exam scores (along with certain statutory credits and preferences). Appointments are then made, generally in rank order, from a “certification” of the top candidates on the applicable civil service eligible list, using what is called the 2n+1 formula. G.L. c. 31, §§ 6-11, 16-27; Personnel Administration Rules, PAR.09. In order to deviate from that formula, an appointing authority must provide specific, written reasons—positive or negative, or both, consistent with basic merit principles—to affirmatively justify bypassing a higher-ranked candidate in favor of a lower-ranked one. G.L. c. 31, § 27; PAR.08(4).

A person may appeal a bypass decision under G.L. c. 31, § 2 (b) for de novo review by the Commission. The Commission’s role is to determine whether the appointing authority has shown, by a preponderance of the evidence, that it has “reasonable justification” for the bypass after an “impartial and reasonably thorough review” of the relevant background and qualifications bearing on the candidate’s present fitness to perform the duties of the position. Boston Police Dep’t v. Civil Service Comm’n, 483 Mass. 474, 478 (2019); Police Dep’t of Boston v. Kavaleski, 463 Mass. 680, 688-89 (2012); Beverly v. Civil Service Comm’n, 78 Mass. App. Ct. 182, 187 (2010); Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-28 (2003).

“Reasonable justification . . . means ‘done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law’”. Brackett v. Civil Service Comm’n, 447 Mass. 233, 543 (2006); Commissioners of Civil Service v. Municipal Ct., 359 Mass. 211, 214 (1971) and cases cited. See also Mayor of Revere v. Civil Service Comm’n, 31 Mass. App. Ct. 315, 321 (1991) (bypass reasons “more probably than not sound and sufficient”).

Section 2(b) of G.L. c. 31 gives the Commission's de novo review "broad scope to evaluate the legal basis of the appointing authority's action" and it is not necessary for the Commission to find that the appointing authority acted "arbitrarily and capriciously." City of Cambridge v. Civil Service Comm'n, 43 Mass. App. Ct. 300, 303-305, rev. den., 428 Mass. 1102 (1997). However, appointing authorities are vested with a degree of discretion in selecting public employees of skill and integrity. The Commission "cannot substitute its judgment about a valid exercise of discretion based on merit or policy considerations by an appointing authority" unless there are "overtones of political control or objectives unrelated to merit standards or neutrally applied public policy[;] then the occasion is appropriate for intervention by the commission." Id.

Public safety officers are vested with considerable power and discretion and must be held to a high standard of conduct. See, e.g., Falmouth v. Civil Service Comm'n, 61 Mass. App. Ct. 796, 801 (2004), citing Cambridge, 43 Mass. App. Ct. at 303-305; Police Comm'r v. Civil Service Comm'n, 22 Mass. App. Ct. 364, 371, rev. den., 398 Mass. 1103 (1986). As such, the Commission has consistently held that an Appointing Authority is within its rights to bypass an individual for "fudging" the truth as part of an application for the position of firefighter. See O'Brien v. Somerville, 25 MCSR 292 (2012). See also Polin v. Randolph, 23 MCSR 229 (2011); Minoie v. Braintree, 27 MCSR 216 (2014); Hussey v. Somerville, G1-21-081 (2022).

However, "labeling a candidate as untruthful can be an inherently subjective determination that should be made only after a thorough, serious and [informed] review that is mindful of the potentially career-ending consequences that such a conclusion has on candidates seeking a career in public safety." Kerr v. Boston Police Dep't, 31 MCSR 35 (2018), citing Morley v. Boston Police Department, 29 MCSR 456 (2016). Therefore, any finding that a public safety officer or applicant has violated their duty of truthfulness must be carefully scrutinized to ensure that the individual is not unreasonably disparaged for honest mistakes or misunderstandings. See, e.g., Boyd v. New

Bedford, 29 MCSR 471 (2016); Morley v. Boston Police Dep't, 29 MCSR 456 (2016).

Analysis

The City has established, by a preponderance of the evidence, that it had reasonable justification for its decision to bypass the Appellant for appointment as a full-time permanent firefighter. The employment application that the PFD provides to prospective firefighters clearly states that “willfully withholding information or making false statements on this form will be the basis of rejection of the application or dismissal from the Pittsfield Fire Department.” The Appellant’s previous applications to the PPD included similar provisions. The Appellant acknowledged this requirement on each of his applications.

Nevertheless, whether by deliberate omission or inexcusable neglect, the Appellant has repeatedly failed to provide the City with full and complete responses to straightforward questions. In his testimony before the Commission, the Appellant expressed no remorse for any of these lapses, refused to admit any wrongdoing, and repeatedly attempted to shift blame for his inappropriate conduct to past employers, supervisors, and colleagues. This is consistent with the concerns expressed by the City’s June 7 bypass letter, as well as the credible testimony of Mayor Tyer, Fire Chief Sammons, and HR Director Taylor.

These concerns are especially salient given that the Appellant had previously been terminated from the PFD in 2022, just months before the 2023 hiring cycle. This termination was largely the result of omissions on his 2022 employment application; most notably, the absence of any information relating to his employment at a local supermarket, and at the Monterey Police Department. The Appellant may have assuaged these concerns had he provided a convincing explanation for this lapse, or expressed a sincere desire to be more forthcoming, but he failed to do so.

During his 2010-2011 employment at a local supermarket, the Appellant was accused of

inappropriately pursuing a relationship with a teenaged coworker and then having an altercation with her significant other; he consequently became the subject of a Harassment and Protection Order. The coworker who sought the order claimed that the Appellant had made her feel unsafe, and her significant other confronted the Appellant at the local supermarket. The Appellant was suspended pending an investigation into his conduct but resigned shortly thereafter. In his 2023 employment application, the Appellant summarized these events as “resigned for personal reasons,” and inaccurately answered later in the application that he had never resigned to avoid termination, or under any other unfavorable circumstances. The Appellant summarized the incident in his 2016 application as “Uncomfortable Work Environment.” Mention of his nearly year-long tenure in the supermarket position did not appear in his 2022 application.

When asked to elaborate in his testimony before the Commission, the Appellant claimed that he had been truthful, and that these were not unfavorable circumstances, because the dispute was not related to his assigned work at the supermarket. I do not find this explanation convincing, nor do I find “resigned for personal reasons” to be an honest statement. This dispute was with a teenaged coworker who specifically accused the Appellant of making her feel unsafe in their shared workplace, allegedly leading to a physical confrontation in said workplace, and a suspension pending an investigation by the employer. Characterizing this as just a personal matter, or as anything other than unfavorable circumstances, is plainly an evasion, if not an outright mistruth.

Likewise, the Appellant has consistently withheld information regarding his departure from the Monterey Police Department. He omitted this employer entirely from his applications until 2023, at which time he included the employer, but failed to include several narratives of events as requested by the application materials. The Appellant claims that he resigned for “personal issues to do with admin,” and because he did not appreciate the way that he was being

treated by MPD superior officers. It appears clear from the record, however, that this is an understatement of the contentious relationship that had developed between the Appellant and his superiors.

The Appellant's resignation came after he informed then-Sergeant Johnson that he would not be working his upcoming scheduled shifts, and Johnson told him that if he did not show up for work, he should not return to the department at all. The Appellant promptly resigned. The MPD contacted the Appellant multiple times in an attempt to recover his department-issued equipment, initially to no avail. Only after the MPD contacted the Appellant's father was his equipment returned; but rather than returning it to the MPD police station, the Appellant left police equipment that should be safeguarded in the driveway of then-Sergeant Johnson's home, along with a curt and unprofessional handwritten note.

In his testimony before the Commission, Johnson expressed that he had planned to recommend termination of the Appellant's employment when the Chief of the MPD returned from vacation. Johnson found the Appellant's conduct to be unbecoming an officer, both in his failure to meet his scheduled obligations, and in his choice to leave a box of police uniforms, a badge, and a can of pepper spray in Johnson's driveway, rather than in a secure location like the police station. Again, I cannot credit the Appellant's claim that this separation was more benign than an "unfavorable circumstance" parting, or that it could fairly be summarized simply as arising from "personal issues to do with admin."

While the Appellant has been truthful as to the fact of his departure from the Lanesborough Police Department, his descriptions of the underlying events represent a clear attempt to minimize his past misconduct. Following a suspension and investigation, the Appellant was found to have misused LPD resources to investigate women that he knew personally, without a clear professional motive for doing so. But in the account of these events included in his 2023 employment

application, the Appellant continued to deny all wrongdoing, and accused the Chief of the LPD of bias against him. Upon his termination, the Appellant then failed to surrender his firearms, leading to a criminal charge against him. In his testimony before the Commission, the Appellant suggested that the LPD bore some responsibility for this, because they did not make more of an effort to recover his firearms. The Appellant later admitted that he had not read the notice of revocation requiring his firearms to be surrendered.

The Appellant has also been less than forthcoming about his use of steroids, omitting it entirely from his 2016 application to the PPD, and claiming in his 2023 application to the PFD that he had never reported to work under the influence of drugs. Despite this claim, the Appellant acknowledged in his testimony before the Commission that he used steroids multiple times between 2010 and 2015, a period during which he was employed with the Monterey, Egremont, Sheffield, and Lanesborough police departments. His 2023 application, consequently, is at least misleading in this regard.

Any one of these incidents, taken alone, might in theory not be sufficient to justify a bypass of the Appellant. However, taken collectively, I find them sufficient to support the City's claim that the Appellant has engaged in a pattern of untruthful disclosure, "fudging" the truth, and omitting unfavorable information from his employment applications to present himself as a more appealing candidate. Of particular note is the Appellant's statement that his "experiences regarding [his] past are [his] and [his] alone." That the Appellant feels the PFD is not entitled to information regarding his past conduct as a public safety officer is deeply concerning, given the concerning pattern of omissions detailed above. The Appellant's propensity for taking liberties with the truth and obscuring unfavorable facts is unquestionably relevant to his applications for employment in the field of public safety, regardless of his personal feelings or opinions.

Likewise, I do not credit the Appellant's accusation that City is attempting to "twist" his

experiences to “fit a pattern or a narrative that benefits them.” In his filings with and testimony before the Commission, the Appellant has repeatedly contended that he was treated differently from other, similarly situated candidates. He has not, however, introduced evidence in support of this contention, and has fallen well short of his burden of proof in that regard. In their testimony before the Commission, HR Director Taylor and Fire Chief Sammons—who were involved in the 2022 hiring of the Appellant—showed no personal animus toward the Appellant, and credibly testified as to their reasons for conducting an abbreviated interview in the 2023 hiring cycle; namely, that they had conducted a functionally identical interview only months earlier.

Conclusion

For all of the above reasons, I recommend that the appeal of Brennan Polidoro under Docket No. G1-23-067 be **denied**.

Civil Service Commission

/s/ Robert L. Quinan, Jr.

Robert L. Quinan, Jr., Esq., General Counsel and assigned Presiding Officer

Date: March 20, 2024

Notice to:

Brennan Polidoro (Appellant)

Russell J. Dupere, Esq. (for Respondent)