

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

One Ashburton Place, Room 503
Boston, MA 02108

SCOTT VECCHI,
Appellant

v.

G1-21-107 (Captain Bypass)
G1-21-108 (Lieutenant Bypass)

TOWN OF PLYMOUTH,
Respondent

Appearance for Appellant:

Gary Nolan, Esq.
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Appearance for the Respondent:

David Jenkins, Esq.
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Commissioner:

Christopher C. Bowman¹
Cynthia A. Ittleman

Summary of Decision

After rebuffing the efforts of numerous Town and County employees and office holders who overtly sought to interfere with the promotional process and undermine the Appellant through often stale and disproven allegations, the Town Manager ultimately conducted a fair, thorough review and provided sound and sufficient reasons for bypassing the Appellant for the positions of police Lieutenant and Captain in the Town of Plymouth's Police Department.

¹ Commissioner Ittleman conducted the full hearing regarding this appeal, but she retired from the Commission prior to drafting a decision. For that reason, the appeal was assigned to me. I have reviewed the entire record in this matter, including the recording of the full hearing and all exhibits.

DECISION

On June 12, 2021, the Appellant, Scott Vecchi (Appellant), pursuant to G.L. c. 31, § 2(b), filed two appeals with the Civil Service Commission (Commission), contesting the decision of the Town of Plymouth (Town) to bypass him for promotion to the position of Police Lieutenant (G1-21-108) and Police Captain (G2-21-107) in the Plymouth Police Department (PPD). Per agreement of the parties, the two appeals were consolidated. The Commission held a full hearing over the course of two days on October 13, 2021, and November 21, 2021.² The hearing was conducted remotely and recorded via Webex.³ Sixteen Respondent exhibits (Resp. Ex. 1-16) and thirty-four Appellant exhibits (App. Ex. 1-34) were received in evidence. The parties submitted proposed decisions on January 11, 2022. For the reasons set forth below, Scott Vecchi's appeal is denied.

FINDINGS OF FACT:

Based on the exhibits entered into evidence, the testimony of the following witnesses:

Called by the Town:

- Michael Botieri, former PPD Chief
- Melissa Arrighi, former Town Manager

Called by the Appellant:

- Scott Vecchi, Appellant

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

³ The Commission provided the parties a link to the recording of the full hearing. If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. In such cases, this CD should be used by the plaintiff in the judicial appeal to transcribe the recording into a written transcript.

and taking administrative notice of all matters filed in the case; pertinent law and reasonable inferences from the credible evidence; a preponderance of the evidence establishes these facts:

Background

1. The Town Manager is the appointing authority for the PPD. Melissa Arrighi was the Town Manager at all times relevant to this appeal. (*Testimony of Arrighi*)
2. The five-member Select Board, which supervises the Town Manager, has no power under the Town Charter to veto promotions made by the Town Manager (except for department head promotions, which is not relevant in this case). (*Testimony of Arrighi*)
3. The Police Chief acts as the department head for the PPD and reports to the Town Manager. (*Testimony of Botieri and Arrighi*)
4. The PPD, the Town's municipal police department, employs approximately 124 officers with the current recognized chain of command: Chief, three Captains, six Lieutenants, twelve Sergeants, and around 102 Patrol Officers. (*Testimony of Botieri*)
5. Michael Botieri was the Police Chief at all times relevant to this appeal. Botieri served as Chief from November 17, 2008 until his retirement on June 1, 2021. (*Testimony of Botieri*)
6. The Appellant, Scott Vecchi, has been a full-time officer in the PPD for over twenty-five years. He was hired as a Patrol Officer in 1997 and promoted to Sergeant in 2003. He was subsequently promoted to Lieutenant, but chose to return to the rank of Sergeant for personal and medical reasons. (*Testimony of Appellant; App. Ex. 3, A0012*)
7. The Appellant has performed several supervisory roles in the PPD, including Training Coordinator, head of the Motorcycle Unit, head of the Street Crimes Unit, Detective Sergeant, and supervisor of SWAT assigned officers. (*Testimony of Appellant*)

8. The Appellant has also completed a long list of advanced police training, investigatory training, and instructor qualifications. (*Testimony of Appellant; App. Ex. 3, A0013-14*)
9. The Appellant began his law enforcement career in 1992 as a reserve intermittent police officer for the PPD. He worked as a Correction Officer at the Suffolk County Sheriff's Department from 1992 to 1994, and then he worked as an MBTA transit police officer from 1994 to 1997. (*Testimony of Appellant; App. Ex. 3, A0012*)
10. From 1987 to 2006, the Appellant served in the United States Marine Corps as a Gunnery Sergeant. The Appellant was deployed three times following the September 11 attacks, and he served as a Scout Sniper Platoon Commander during his final deployment to Iraq in 2006. (*Testimony of Appellant; App. Ex. 3, A0015*)
11. The Appellant was born in Plymouth and has lived there most of his life. He has obtained numerous degrees: an Associate's in Law Enforcement, a Bachelor's in Criminal Justice, a Master's in Criminal Justice Administration, and a Juris Doctor. (*Testimony of Appellant; App. Ex. 3, A0012*)
12. The Appellant is an active community member. He serves as an elected member of the Plymouth Charter Review Commission, the Plymouth Redevelopment Authority, and the Plymouth Historic Commission. In 2016, he ran unsuccessfully for Plymouth County Sheriff against incumbent Sheriff Joe McDonald. (*Testimony of Appellant; App. Ex. 3, A0012*)

Spring 2021 Promotional Process

13. On March 17, 2021, following promotional examinations for Lieutenant and Captain, HRD established the eligible lists for PPD Lieutenant and Captain promotions. The eligible list for Lieutenant consisted of three individuals ranked in the following order: (1) Scott Vecchi, (2) Marc Manfredi, and (3) John Bonasera. The eligible list for Captain consisted of two

individuals ranked in the following order: (1) Scott Vecchi, and (2) James LeBretton. (*App. Ex. 4-5, A0017-19; Stipulated Facts*)

14. Each candidate up for promotion in the PPD is interviewed before a panel consisting of the Town Manager, the Police Chief, the Assistant Town Manager, and often the Human Resources Director. (*Testimony of Arrighi and Botieri*)

15. The Police Chief provides the questions to be asked by the interview panel. The panel does not use a grading, scoring, or ranking system. The interviews are not recorded. (*Testimony of Arrighi and Botieri*)

16. Town Manager Arrighi relied on Chief Botieri's knowledge of candidates' personnel history. (*Testimony of Arrighi*)

17. Town Manager Arrighi has traditionally relied heavily on the Chief's recommendations for promotion, and she could not recall ever rejecting one of the Chief's recommendations. Town Manager Arrighi was comfortable that the Chief "[ran] a tight ship" and had a "good grasp of what employees are capable of." (*Testimony of Arrighi*)

18. The PPD has historically promoted officers by their ranking on the eligible list, including those with a disciplinary history. Chief Botieri could not recall a single instance of promotional bypass during his tenure as Chief from 2008 to 2021, and he could recall only one promotional bypass occurring during his roughly forty years with the PPD. (*Testimony of Botieri*)

Promotional Interviews: April 8, 2021

19. On April 8, 2021, the Town conducted interviews for the open Lieutenant and Captain positions. (*Testimony of Arrighi and Botieri*)

20. First the panel interviewed Lt. James LeBretton, the second-ranked candidate on the eligible list for **Captain**. The Chief considered Lieutenant LeBretton to be “squared away, professional, and represents the Department very well.” With three years as a Sergeant and two years as a Lieutenant, Lt. LeBretton had less supervisory experience than the Appellant, who had been a Sergeant for nearly eighteen years. Town Manager Arrighi wrote in her interview notes that Lt. LeBretton was “concise & clear” and “comfortable, able to joke & relate, personable.” *(Testimony of Botieri)*
21. Next, the panel interviewed Sgt. Mark Manfredi, the second-ranked candidate on the eligible list for **Lieutenant**. Chief Botieri considered Sgt. Manfredi to be well-respected and a good candidate for Lieutenant. Sergeant Manfredi had been on the PPD for twenty years, with significant experience as a patrol supervisor and training sergeant. *(Testimony of Botieri)*
22. The Appellant underwent one interview on April 8 for both positions. The Appellant’s interview was around forty minutes long, while the interviews of Lt. LeBretton and Sgt. Manfredi lasted roughly twenty minutes each. *(Testimony of Arrighi, Botieri, and Appellant)*
23. Prior to the Appellant’s interview, Chief Botieri informed the Town Manager of two written reprimands that the Appellant had received in the past. *(Testimony of Botieri)*
- a) In February 2014, the Appellant inappropriately involved himself in the criminal arraignment of a Mayflower Taxi driver. Mayflower Taxi is owned and operated by the Appellant. The Appellant spoke to the Department Prosecutor more than once about the case, inquiring about the Prosecutor’s ability to have the hearing expedited as well as what final disposition he could expect. The Appellant’s actions violated PPD rules regarding conflict of interest and undue influence. Before the Commission, the Appellant testified: “I shouldn’t have asked him that while I was working and

while I was in uniform. I accepted responsibility for that, I understood that the optics of it were bad. . . . I understood that I shouldn't have mentioned anything about it at all *when I was working.*" (*Testimony of Appellant and Botieri; Resp. Ex. 9, R0043-56*)

- b) In April 2020, the Appellant published a post on his personal Facebook, which has over 1800 followers. The post was a "meme," with an image of a rat wearing a police hat underneath the words: "When you run to Admin when you have a conflict with another Officer." The Appellant also added his own caption: "#ThatGuy #SnitchesGet..." About a month prior, the Appellant had an issue with a fellow officer, and the officer had reported the issue to a superior. After being shown the Appellant's post, the fellow officer believed it was referring to him and his action of complaining to a superior. The Appellant's action violated the rule against conduct unbecoming an officer. He had meant for the post to be "funny," but apologized and took it down once Chief Botieri spoke to him about it. (*Testimony of Appellant and Botieri; Resp. Ex. 11, A0071-73*)

24. Town Manager Arrighi thought the Appellant "excel[led] at very specific areas" but gave some odd answers during the interview. In her interview notes, she wrote that the Appellant was "more interested in making his case and laying out his arguments than answering the questions." He spoke a lot about his relationships and difficulties with colleagues in the Department. Town Manager Arrighi also wrote that the Appellant was "very stiff, didn't seem to 'get it,' couldn't engage on a personal level." She concluded that the Appellant performed the least well of those interviewed. (*Testimony of Arrighi; App. Ex. 12, A0049*)

25. The interview panel posed the same questions to each candidate. One of these questions was, "what do you find most stressful about your current position?" The Appellant was the only

candidate who mentioned “internal issues” with coworkers and peers. The panel also asked, “what stress do you believe will be added if promoted to Captain?” Again, in contrast to the other two candidates, the Appellant stated “coming up to new peers” and “other Captains.” (*App. Ex. 10, A0036-37*)

26. The Appellant was also asked, “what do you believe are the responsibilities of a Captain with this department?” He replied, “overall running dept.” and “HR issues.” (*App. Ex. 10, A0037*)

27. During a post-interview discussion with the panel, Chief Botieri told the panel that what the Appellant “has done as a supervisor is invaluable to me as the Chief,” and that the Appellant had the qualifications for the new Captain job. Chief Botieri recommended the Appellant for the Captain promotion despite the fact that his command staff had concerns about the Appellant. Chief Botieri did not discuss his command staff’s concerns with anyone on the interview panel. (*Testimony of Botieri and Arrighi*)

28. During that discussion, the panel briefly discussed the possibility of bypassing the Appellant. Assistant Town Manager Marlene McCollem told the panel she felt that some of the Appellant’s answers were odd and wondered if he would be the right choice for a high-level supervisor. (*App. Ex. 22, A0479-80*)

29. Even with Assistant Town Manager McCollem’s reservations, Town Manager Arrighi “struggled to see if there was enough at that point for an actual bypass,” but “understood both of their points of view.” Ultimately, Town Manager Arrighi “didn’t believe at that time it rose to a level of bypass.” (*Testimony of Arrighi; App. Ex. 22, A0480*)

30. Chief Botieri believed that the Appellant’s promotion to Captain was a “done deal” after his discussion with the panel, as he thought the Town Manager was leaning toward promoting the Appellant. (*Testimony of Botieri*)

31. By 11:48 on the morning of the interviews, the Town Manager had already made up her mind and decided to promote the Appellant to Captain. She sent an email directing the Human Resources Director “to process the paperwork to promote Scott Vecchi to Police Capt.” Chief Botieri and Assistant Town Manager McCollem were both copied on this email. *(App. Ex. 17, A0287)*
32. At 12:02 PM the same day (April 8), the Appellant texted the Chief asking how he did in his interview. The Appellant texted: “Did I do ok? I felt good about my presentation.” The Chief replied: “Very good.” The Appellant wrote: “Good enough is the question?” The Chief replied: “Yes.” *(App. Ex. 13, A0080)*
33. When Chief Botieri returned to the Police Department that afternoon, he told Captains Kevin Manuel and Dana Flynn that the Appellant “had a great interview and would most likely be promoted to Captain by the Town Manager.” Chief Botieri knew that Captains Manuel and Flynn both had concerns with the Appellant’s potential promotion, and Chief Botieri told them to share those concerns with Town Manager Arrighi. Chief Botieri did this because he was retiring soon, and he thought Captains Manuel and Flynn should have input regarding their future command staff. *(Testimony of Botieri)*
34. At 4:48 PM, Chief Botieri emailed the interview panel asking if anyone was going to reach out to the Appellant about his promotion. *(App. Ex. 17, A0288)*
35. When no one responded, the Chief sent another email at 5:20 PM stating that he would reach out to the Appellant the next day regarding his start date. *(App. Ex. 17, A0288)*
36. At 6:19 PM, Capt. Manuel emailed Town Manager Arrighi: “Chief Botieri informed me a decision has not been made regarding departmental promotions. He indicated I should reach

out to you and voice my opinion. It would be greatly appreciated if you could carve out 15 minutes for me to stop by and speak with you.” (*App. Ex. 17, A0290*)

Days Following Promotional Interviews: April 9-20, 2021

37. The next day, April 9, at 10:57 AM, Town Manager Arrighi emailed Capt. Manuel indicating that she was free to speak. He called her immediately. Town Manager Arrighi informed Capt. Manuel that she was going to put him on speaker phone so Assistant Town Manager McCollem could listen. (*Testimony of Arrighi; App. Ex. 20, A0397-98*)

38. During this phone call, Capt. Manuel expressed his opposition to the Appellant’s promotion. Capt. Manuel also informed Town Manager Arrighi about three incidents involving the Appellant, two of which Town Manager Arrighi had not previously been aware. (*Testimony of Arrighi; App. Ex. 20-22, A0397-407, A0437-39, A0482-84*)

39. Within an hour of their phone call, Capt. Manuel delivered documentation of the incidents to Town Manager Arrighi. The Appellant was not formally disciplined for either incident, described below. (*Testimony of Arrighi; App. Ex. 22, A0484*)

- a) On August 23, 2020, the Appellant sent a Facebook message to a PPD dispatcher. This occurred after the Appellant received a call from the Milton Police asking about the PPD dispatcher. He had apparently entered a friend’s house in another town with a key, but inadvertently set off an alarm. When police officers responded to the alarm, the PPD dispatcher found them to be unnecessarily hostile and unhelpful. The PPD dispatcher called the town’s Police Department to express his concerns with how he was treated, but declined to file a formal complaint. Later that day, the PPD dispatcher received a private Facebook message from the Appellant. The Appellant wrote: “Are you retarded? Your [*sic*] filing a complaint against a cop while your [*sic*] trying to get

in to the academy? You don't think that will come up?" (*Testimony of Appellant and Botieri; App. Ex. 17, A0294-96*)

b) On December 31, 2020, the Appellant published a Facebook post associated with the PPD. The location feature at the top of the post said, "Scott M. Vecchi is at Plymouth Police Station." Then there was an image of a ticket stub with the words "shit show" on the ticket. The Appellant captioned the post: "Well this was an awful idea." The post referred to the Appellant's difficult overtime shift on New Year's Eve. It had been a very busy night with excessive alcohol consumption, fights, and accidents. (*Testimony of Appellant; App. Ex. 13, A0297*)

40. At 1:25 PM, Assistant Town Manager McCollem emailed Town Manager Arrighi, "respectfully requesting that the Chief delay reaching out to the [Appellant] until next week. This is an important decision for the future of the Department and I would like to have a bit more time to reflect on the information presented by each candidate during their interview." (*App. Ex. 17, A0288*)

41. Capt. Flynn contacted Town Manager Arrighi on two occasions in the days following the Appellant's April 8 interview. Capt. Flynn opposed the Appellant's promotion and stated that it would be bad for Department morale. (*Testimony of Arrighi; App. Ex. 19, A0378-79; App. Ex. 22, A0482*)

42. In a subsequent internal affairs investigation by the PPD,⁴ Capt. Flynn reiterated his belief that the Appellant should not be promoted to Captain. Capt. Flynn was less concerned about

⁴ In May 2021, the Appellant filed an internal affairs complaint against Lt. Higgins, Capt. Manuel, and Capt. Flynn, alleging that they improperly interfered with his promotional opportunity. The Town hired private investigator Arthur Parker, a retired police chief, to investigate the complaint. See findings 68 to 72, *infra*. (*Testimony of Appellant; App. Ex. 15-16, A0096-106*)

the Appellant being promoted to the lower rank of Lieutenant. Capt. Flynn expressed his concerns to Town Manager Arrighi only after the Appellant's April 8 interview, and did not share his concerns with any Town officials before that time. (*App. Ex. 19, A0367-77*)

43. On April 11, 2021, at 9:30 AM, Capt. Manuel called Select Board member Betty Cavacco, and the call lasted twenty-four minutes.⁵ (*App. Ex. 31, A0817*)

44. Roughly ninety minutes later, Cavacco texted Town Manager Arrighi stating that she would appreciate if Town Manager Arrighi could wait to make any decisions until speaking with the Select Board. Cavacco said that she and Richard Quintal, another Select Board member, were "being inundated with calls."⁶ (*App. Ex. 14, A0299-300*)

45. At some point around the time of the Appellant's April 8 promotional interview, Quintal spoke to Lt. Jason Higgins on the phone. Quintal asked Lt. Higgins who he felt should be Captain, and Lt. Higgins shared his opinion that Lt. LeBretton was a much better candidate than the Appellant. Lt. Higgins also stated that he had overheard talk between Chief Botieri, Capt. Flynn, and Capt. Manuel about sending negative paperwork concerning the Appellant to Town Hall. Lt. Higgins told Quintal about additional "rumors that other people in town were creating paperwork on Scott Vecchi, as well, and I think some of that's gonna hit you guys, too." (*App. Ex. 18, A0317-22*)

⁵ In the Department's internal affairs investigation, Capt. Manuel testified that he never spoke to any Select Board members about the Appellant's potential promotion. Cavacco also denied speaking to Capt. Manuel or any members of the PPD about the promotion. (*App. Ex. 20, A0412; App. Ex. 23, A0527-29*)

⁶ In the internal affairs investigation, Cavacco claimed she never received any phone calls or communications of any kind concerning the Appellant's potential promotion. She denied making a statement to anybody that she was being inundated with calls about the promotional process or the Appellant's promotion. Cavacco also denied asking Town Manager Arrighi to delay the promotion decision until she discussed it with the Select Board. (*App. Ex. 23, A0538-42*)

46. Lt. Higgins also spoke to Cavacco about his opinion that Lt. LeBretton was a better candidate for the Captain promotion. Cavacco and Lt. Higgins both believed that the Appellant was “rude” and did not “treat people with respect.” (*App. Ex. 18, A0347-49*)
47. In addition to Select Board members Quintal and Cavacco, Lt. Higgins also discussed the Appellant’s potential promotion with Plymouth County Sheriff Joe McDonald. The two were personal friends, and they both felt strongly that the Appellant should not be promoted. (*App. Ex. 25, A0594-96*)
48. On April 11, 2021 at around 10:30 AM, Lt. Higgins went to a Staples store in Plymouth to meet Scott Petersen, an Assistant Superintendent at the Plymouth County Sheriff’s Department. Petersen showed Lt. Higgins a packet of unfavorable information about the Appellant, and Lt. Higgins made himself a copy of the packet at Staples. (*App. Ex. 18, A0332-40*)
49. That day, Select Board members Betty Cavacco, Richard Quintal, and Ken Tavares each received a copy of the above packet concerning the Appellant. The packet had been placed in their home mailboxes by an anonymous source.⁷ (*Testimony of Arrighi; App. Ex. 22-23, A0485, A0515-18*)
50. The packet was originally created in 2015 by Paul Lawton, the chief of staff to Plymouth County Sheriff Joe McDonald. Lawton circulated the packet in an attempt to discredit the

⁷ In the internal affairs investigation, Lt. Higgins testified that he never shared the packet with anyone. After looking through it, Lt. Higgins thought a lot of the packet was “mumbo-jumbo,” “real old stuff,” and “a reach.” Scott Petersen refused to testify in the internal affairs investigation without a subpoena. (*App. Ex. 16, A0166; App. Ex. 18, A0333-36*)

Appellant during his unsuccessful campaign against McDonald for Plymouth County Sheriff in 2016.⁸ (*App. Ex. 25, A0592-93; App. Ex. 27, A0639-41*)

51. Cavacco texted Town Manager Arrighi at 11:20 AM on April 11, asking if she had received a packet like Cavacco and Quintal had. (*App. Ex. 17, A0299-300*)
52. That day, Cavacco emailed copies of the packet to Town Manager Arrighi, Chief Botieri, and Town Counsel. (*Testimony of Arrighi; App. Ex. 17, A0306; App. Ex. 23, A0515-21*)
53. Town Manager Arrighi did not lend any credence to the packet and Chief Botieri agreed that it was “a load of bunk.” (*Testimony of Arrighi and Botieri*)
54. On April 12, Cavacco called Chief Botieri about the packet and the call lasted twenty-five minutes. They also had phone calls on April 15 for sixteen minutes, April 21 for eight minutes, April 22 for six minutes, and April 30 for six minutes. (*App. Ex. 30, A0780-89; App. Ex. 23, A0515*)
55. Cavacco also called Town Manager Arrighi multiple times to discuss the Appellant’s promotion and the packet of negative information about him. Cavacco shared her concern that the Town could be sued or face a news scandal if the Appellant were promoted. (*Testimony of Arrighi; App. Ex. 22, A0488-490*)
56. During their multiple phone calls, Cavacco and Town Manager Arrighi had “spirited” discussions in which Cavacco attempted to dissuade Town Manager Arrighi from promoting the Appellant. Town Manager Arrighi told Cavacco that she should not be trying to influence the Town Manager’s decision, as the Town charter does not allow the Select Board to

⁸ Lawton stated in the internal affairs investigation that he mailed copies of the packet to Chief Botieri and Town Manager Arrighi in April 2021. Lawton testified that he did not place the packet in anyone’s home mailbox, and he did not know the names or addresses of any Select Board members. (*App. Ex. 27, A0647-49*)

interfere with promotions. Cavacco brought up the Select Board’s power to override a promotion decision, but Town Manager Arrighi reminded her that such power was limited to department head positions and that did not apply here. (*Testimony of Arrighi; App. Ex. 22, A0485-487*)

57. Town Manager Arrighi took handwritten notes documenting some of these phone calls. On April 11, 2021, she wrote: “[Cavacco] calling me again—mentions [packet]—not happy about Vecchi promo—wants to stop me from promoting.” On April 14, Town Manager Arrighi wrote: “Talked to [Quintal] about B.S. anonymous [packet] going around.” On April 20, she wrote: “[Cavacco] relentless ‘override/veto my decision.’ I’m doing 2nd interview – back off!” (*App. Ex. 11, A0044*)

58. Quintal called Town Manager Arrighi on April 14, 2021, and told her he was getting multiple calls about the Captain promotion. Quintal emphasized the importance of taking a close look at the packet of unfavorable information circulating about the Appellant, and asked if Town Manager Arrighi planned on bypassing anybody. (*Testimony of Arrighi; App. Ex. 22, A0490*)

59. During the call, Town Manager Arrighi told Quintal that she did not feel a bypass was warranted based on what she knew at that point. Town Manager Arrighi reminded Quintal of the Appellant’s “amazing service in the military and his long standing in the community.” She also encouraged Quintal to keep Cavacco out of the promotional process. (*App. Ex. 22, A0490-91*)

Appellant’s Second Promotional Interview: April 21, 2021

60. Following the advice of Town Counsel, Town Manager Arrighi scheduled a second interview with the Appellant on April 21, 2021 to address new information which she had not known during the first interview. (*Testimony of Arrighi*)

61. On the morning of the Appellant's second interview, Cavacco called Chief Botieri at 10:13 AM and they spoke for eight minutes. (*App. Ex. 30, A0784*)
62. That afternoon, the Appellant attended his second interview with Town Manager Arrighi, Assistant Town Manager McCollem, and Chief Botieri. (*Testimony of Arrighi*)
63. At the start of the interview, the Appellant mentioned the packet that had been distributed to Town officials. Town Manager Arrighi assured the Appellant that she gave the packet no weight because it was just a "way to disparage somebody and make them look bad when there is no substance to it." (*Testimony of Arrighi*)
64. The interview panel subsequently discussed six incidents with the Appellant during the interview. (*Testimony of Arrighi*)
- a) The February 2014 written reprimand for the Appellant's improper involvement in a criminal case against his private employee (see finding 23, *supra*). This incident was documented in the Appellant's personnel file and the interview panel was aware of it prior to the Appellant's first interview. (*Testimony of Arrighi; Resp. Ex. 9, R0043-56*).
- Town Manager Arrighi took notes on the Appellant's response to this topic:
- When I asked if he understood why this was not appropriate, he struggled to answer. He concentrated solely on the fact that he had accepted the written reprimand and thus taken responsibility for his actions. He claimed that there "was not a lot of thought put in it."
- (*App Ex. 12, A0067*)
- b) A complaint against the Appellant in July 2018 for improperly seizing a witness's cell phone. The Appellant seized the cell phone on the grounds that it contained relevant video evidence of a drunk driver whom the Appellant had arrested. Chief Botieri understood the Appellant's reasoning for the seizure, but advised that he did not want cell phones seized under those circumstances. Chief Botieri considered this a "minor

incident,” but sustained the complaint and ordered counseling for the Appellant. (*Testimony of Botieri and Appellant; Resp Ex. 10, R0058-69*). Town Manager Arrighi

also took notes on the Appellant’s response to this topic:

He explained that the individual was being “antagonistic” towards the officer(s) and was also video recording them. He believed the phone had footage that would be evidence, so he took it. The dept returned it when the person complained. I asked if he would do that again today, and he said that the Chief had explained that it was not department practice. He wouldn’t do it now because it was not department practice. Even when I tried to pursue the topic, he didn’t acknowledge why the action of confiscating the phone would be perceived as wrong, nor did he acknowledge that police can be filmed. His view was very narrow.

(*App Ex. 12, A0067*)

- c) The April 2020 written reprimand for the Appellant’s inappropriate “rat meme” post on Facebook (see finding 26, *supra*). This incident was documented in the Appellant’s personnel file and the interview panel was aware of it prior to the Appellant’s first interview. (*Testimony of Arrighi; Resp. Ex. 11, A0071-73*). Town Manager Arrighi’s notes from the second interview also address this topic:

I asked why he had put that on his Instagram and what did it mean to him. He said “what did someone tell on me? I thought it was funny. Not a lot of thought put into it.” He added that he never thought he’d be up for the promotion of captain. . . . Again, even upon prompting, no acknowledgement that his action of posting this meme reflects poorly on policing, reflects poorly on the dept and his own professionalism – and reflects a certain mentality of inappropriate policing

(*App Ex. 12, A0067*)

- d) The Appellant’s Facebook message to a PPD dispatcher in August 2020 (see finding 39, *supra*). The Appellant was not disciplined for this incident and it was not documented in his personnel file. (*Testimony of Botieri and Appellant; App. Ex. 17, A0294-96*). Town Manager Arrighi took notes on the Appellant’s response to this topic:

He explained that he found out the dispatcher was complaining about another police dept in another town and he was warning him not to make waves because this dispatcher was also trying to get into the police academy. He explained that he was friendly with the dispatcher & considered him more of a peer than he considered himself his supervisor. He explained that he should have wrote “what are you stupid?” He explained that the point was instructions in the academy are you are seen not heard. There is a mutual respect for “each other” [police officers] in different towns. He went on to explain that there’s professional courtesy extended among police across departments and that you should not make waves. I asked “is it not okay for him to report when he thinks a police officer did something wrong?” Vecchi continued to just concentrate on this extension of professional courtesy within the police force. He also concentrated on the word “retarded” and that it’s no longer acceptable. I tried to move him from focusing on that to seeing the bigger picture that anyone—regardless of profession—should report potential wrongdoing without fear that the action is somehow wrong or may result in retaliation or is against some code. Scott couldn’t grasp the concept and was unable to see the bigger picture. His view was very narrow – evident in his comment about how he should have sent “what are you stupid?” So his policing philosophy has not evolved, either through new policing methodology or through his rise to a supervisory role.

(App Ex. 12, A0068)

- e) An argument the Appellant got into with a supervisor in October 2020. The Appellant had just been assigned to a new office, and he became frustrated when he mistakenly believed that coworkers were repeatedly removing a nameplate from his door. The Appellant got into a shouting match with his supervisor. Ultimately, the Appellant apologized for his actions and agreed to be transferred out of that office and back to patrol. The Appellant was not disciplined for this incident and it was not documented in his personnel file. *(Testimony of Botieri and Appellant; Resp. Ex. 14, R0099-101)*

Town Manager Arrighi took notes on the Appellant’s response to this topic:

He said that his reaction to someone continuing to take down his door signs was over the top. But he just wanted to be ‘left alone – leave me alone, leave the office alone.’ I asked if he had raised his voice with [the supervisor] and if he was in a private area. He said others may have been around. And he was yelling and using profanity. He said that later, when he was spoken to

about the incident, that he tried but [the supervisor] would not take his apology. He said “people didn’t want me there.” Seems to have an issue with being accepted and finding a way to work with others – also, importantly, he appears to lose his temper and “react” without thinking first “not a lot of thought put in it” and lacking in self constraint and how he will be perceived by others and how it reflect on dept.

(App Ex. 12, A0068)

- f) The Appellant’s “shit show” Facebook post on December 31, 2020 (see finding 39, *supra*). The Appellant was not disciplined for this incident and it was not documented in his personnel file. (*Testimony of Botieri and Appellant; App. Ex. 12-13, A0047, A0297*). Town Manager Arrighi took notes on the Appellant’s response to this topic:

He explained that he was on overtime and he wished he hadn’t taken the shift and that his social media is perceived poorly but he was trying to be funny. He said the selectmen’s assistant occasionally “laughs” at his posts. He said there was “not a lot of thought put in it.” I asked him if it was important for him to be perceived as funny? I asked him if he understood how that would reflect on his own professionalism and that of the department? He said in retrospect, it was a bad idea. Philosophy is not at a supervisory level and reflects immaturity.

(App Ex. 12, A0068)

65. Town Manager Arrighi’s notes from the second interview also include the following:

Lack of understanding of how his actions reflect on Professionalism of Dept
Lack of professionalism
Undue influence/interference
Lack of Judgment
Lack of perception
Narrow view of situations that involve him
Lack of self reflection
Counter Productive Use of Time
Mentality of old policing brotherhood ‘code’
Certain hypocrisy
Struggles to grasp larger concept – the whole picture
All recent – all at higher level than patrolman

Repeat comments

“Never thought I’d be here” [interviewing for this rank] (that means these things are okay to do at lower rank?) Ask Marlene on which 2?

“Not a lot of thought put in it” also 2ce, maybe 3 times

(App Ex. 12, A0069)

66. Following the second interview, Town Manager Arrighi concluded that the Appellant should not be promoted to Captain. She thought that during the interview, the Appellant displayed a “narrow perspective” and an outdated attitude regarding the police “brotherhood.” (*Testimony of Arrighi*)

Bypass of Appellant: May 5, 2021

67. On May 5, 2021, Town Manager Arrighi notified the Appellant that he had been bypassed for both positions of Lieutenant and Captain. Both bypass letters stated, in relevant part:

It was the opinion of the interview panel that Sergeant Vecchi’s answers to questions showed a lack of experience and decision making capability. His answers were sometimes evasive. During the interview, the Sergeant stated in a response to a question that he had made a large number of errors in judgment during his tenure as a police officer and had he known that he would someday be eligible for appointment as a Captain he would have performed better as a Sergeant.

In addition, Sergeant Vecchi has had a number of job performance issues that display a lack of judgment that in the opinion of the Appointing Authority render him unfit for the position of Police [Lieutenant or Captain].

These include:

1. Sergeant Vecchi received a Letter of Reprimand and punishment duty in February of 2014 regarding an incident in November of 2013, when he interfered with the criminal prosecution of an employee of his employed by Mayflower Taxi.
2. In 2018, Sergeant Vecchi took possession of a cell phone at the scene of an OUI arrest, stating that it had evidence on it. This phone was returned to the subject and a complaint for the improper seizure of the phone was sustained against Sgt. Vecchi.
3. In February 2020, Sergeant Vecchi received a letter of reprimand for violation of the Departments use of computer Policy by posting a meme of a “Rat” on social media referring to a subordinate officer in the Department.

4. In August 2020, Dispatcher [M] was in the process of applying for the . . . PD Academy. Sergeant Vecchi sent him an e-mail or text saying something like are you retarded – this could come up regarding the . . . PD Academy.
5. On December 31, 2020, Sergeant Vecchi posted “This is a shit show” with his location identified as the Plymouth police station.
6. In August 2020, Sergeant Vecchi was assigned as a Detective Sergeant. During the course of that assignment, the Sergeant engaged in a shouting match with his superior officer Detective Lieutenant [R]. The Sergeant was voluntarily re-assigned to the Uniform Division.

(App. Ex. 1-2, A0002-10)

68. The Appellant subsequently filed an internal affairs complaint against Lt. Higgins, Capt. Manuel, and Capt. Flynn, alleging that they improperly interfered with his promotional opportunity. The Town hired private investigator Arthur Parker, a retired police chief, to investigate the complaint. *(Testimony of Appellant; App. Ex. 15-16, A0096-106)*

69. In his investigation report, Parker concluded that Lt. Higgins violated three Department rules regarding undue influence, dissemination of official information, and dealing with local officials. *(App. Ex. 16, A0187-90)*

- Rule 4.5, Undue Influence: “Lt. Higgins violated this rule by his contact with Select Board members in his attempt to harm Sgt. Vecchi’s promotional opportunity for captain and by promoting the virtues of Lt. LeBretton as a captain candidate.”
- Rule 6.7, Dissemination of Official Information: “Lt. Higgins broke this rule by discussing his knowledge from within the department with Select Board members informing them of some type of unfavorable material being sent to town hall about Sgt. Vecchi and by telling Board members about his department business without being authorized by then Chief Botieri.”
- Rule 6.14, Dealing with Local Officials:

Lt. Higgins, not being authorized by then Chief Botieri, breached this rule by speaking with Select Board members and discussing police matters that include his knowledge and experiences about Sgt. Vecchi in an attempt to erode his chances of promotion to captain, telling two Board members about the unknown but unfavorable material was being sent to town hall about Sgt. Vecchi and promoting Lt. LeBretton as a better candidate for captain. This violation, though serious, is mitigated by what appears to be a history of non-enforcement and an apparent culture of ignoring unauthorized contact with local officials.

(App. Ex. 16, A0187)

70. The investigation report noted that Lt. Higgins did not influence the ultimate decision to bypass the Appellant for promotion. There was no evidence that Lt. Higgins communicated in any way with the appointing authority, Town Manager Arrighi, or made any attempt to directly influence the promotional process through Town Manager Arrighi. *(App. Ex. 16, A0180-82)*

71. The investigation report stated that the Appellant's promotional bypass was due to recent incidents in 2020, along with the Appellant's statements in the second interview regarding those incidents. "Sgt. Vecchi's second interview had nothing to do with any actions by Lt. Higgins, the unfavorable packet created by Lawton and distributed to some municipal officials or by any communication from Select Board [member] Cavacco or Quintal to TM Arrighi about Sgt. Vecchi and the promotional process." Rather, the report explained,

[t]he discussions TM Arrighi had with Captains Flynn and Manuel and in particular, the material of the three recent incidents and Capt. Flynn's experiences with Sgt. Vecchi and his lack of fulfillment of expectations in past assignments greatly contributed to the necessity of the second interview. The newly released material about these three incidents was provided to TM Arrighi by Captain Manuel with the authorization [of] then Chief Botieri and therefore, not in violation of the department's rules.

(App. Ex. 16, A0181)

72. In September 2021, Lt. Higgins received a three-day suspension for the above infractions.

(Testimony of Appellant)

APPLICABLE CIVIL SERVICE LAW

“The fundamental purpose of the civil service system is to guard against political considerations, favoritism, and bias in governmental hiring and promotion.” *Malloch v. Hanover*, 472 Mass. 783, 799 (2015), quoting *Massachusetts Ass’n of Minority Law Enforcement Officers v. Abban*, 434 Mass. 256, 2009 (2001). The Commission must ensure that appointing authorities act in accordance with basic merit principles, which is defined in part by “promoting [] employees on the basis of their relative ability, knowledge and skills,” and “assuring fair treatment of all applicants and employees in all aspects of personnel administration” G.L. c. 31, § 1; *Sherman v. Randolph*, 472 Mass. 802, 810 (2015).

The Commission’s responsibility is “to determine, on the basis of the evidence before it, whether the appointing authority has sustained its burden of proving, by a preponderance of the evidence, that there was reasonable justification for the decision to bypass the candidate.” *Sherman*, 472 Mass. at 810, quoting *Police Dep’t of Boston v. Kavaleski*, 463 Mass. 680, 688 (2012) (quotations omitted). The question for the Commission is not “whether it would have acted as the appointing authority had acted,” but whether reasonable justification existed at the time the appointing authority made its decision. *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 727-28 (2003), quoting *Watertown v. Arria*, 16 Mass. App. Ct. 331, 334 (1983). “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.” *Sherman*, 472 Mass. at 810, quoting *Kavaleski*, 463 Mass. at 688 (quotations omitted).

In determining whether there was reasonable justification for the bypass, the Commission owes substantial deference to the judgment of the appointing authority. *Id.*; *Boston Police Dep’t v. Civ. Serv. Comm’n*, 483 Mass. 461, 469 (2019). It is not within the Commission’s authority

“to substitute its judgment about a valid exercise of discretion based on merit or policy considerations by an appointing authority.” *Falmouth v. Civ. Serv. Comm’n*, 61 Mass. App. Ct. 796, 800 (2004), quoting *Cambridge v. Civ. Serv. Comm’n*, 43 Mass. App. Ct. 300, 304 (1997). However, it is appropriate for the Commission to intervene “[w]hen there are, in connection with personnel decisions, overtones of political control or objectives unrelated to merit standards or neutrally applied public policy” *Id.*

ANALYSIS

Despite the inappropriate conduct of peripheral actors in this case, the Appointing Authority has provided sound and sufficient reasons for bypassing the Appellant for promotional appointment.

To begin, I have not overlooked the troubling behavior of numerous Town and County employees and office holders who sought to interfere with the promotional process with the singular focus of undermining the Appellant’s candidacy. The inappropriate meddling of individuals from the Plymouth County Sheriff’s Department, driven purely by personal animus against the Appellant, is deeply troubling. Also concerning is Select Board member Cavacco’s repeated attempts to overstep her authority, as well as her refusal to observe appropriate boundaries within her position on the Select Board as laid out in the Town Charter. What is crucial in this case, however, is that those involved in the decision to bypass the Appellant saw the inappropriate, unfounded meddling for exactly what it was and dismissed it.

Town Manager Arrighi did not lend any credence to the packet which originated from the Plymouth County Sheriff’s Department, which she referred to in her own notes as “anonymous B.S.,” and Chief Botieri agreed that it was “a load of bunk.” The Appellant repeatedly acknowledges in his post-hearing brief that “both the [Town] Manager and Police Chief knew

the slander packet was “bullshit,” and that Vecchi had been exonerated from the false allegations it contained” At the Appellant’s second interview, Town Manager Arrighi assured him that she gave the packet no weight, as it was just a “way to disparage somebody and make them look bad when there is no substance to it.” A preponderance of the evidence shows that neither the Appointing Authority nor the PPD credited any of the outdated gossip about the Appellant that was spread by the Plymouth County Sheriff’s Department.

Furthermore, Town Manager Arrighi shut down the Select Board’s attempts to interfere with the promotional process. She told Cavacco numerous times that Cavacco should not be trying to influence her decision, and that the Town Charter does not allow the Select Board to interfere with promotions. When Quintal called Town Manager Arrighi and asked about a bypass, she dismissed Quintal and reminded him of the Appellant’s “amazing service in the military and his long standing in the community.” Town Manager Arrighi even encouraged Quintal to help keep his fellow Select Board member, Cavacco, out of the promotional process.

I now turn to the reasons ultimately put forth by the Town Manager for bypassing the Appellant for promotional appointment to both Police Lieutenant and Police Captain. Notwithstanding the Appellant’s commendable background, including his extensive education and distinguished military service, his conduct, over a period of years, paints a picture of someone who too often lacks the judgment and temperament to serve in a command-level position in a local police department. A summary of what has been detailed in the findings follows.

During the first interview, the Appellant made it clear that (a) he had numerous interpersonal issues with colleagues, and (b) the most stressful part about being promoted would be “coming up to new peers” and “other Captains.” The Appellant performed the least well of

those interviewed. Nonetheless, Town Manager Arrighi found insufficient reason for a bypass at that time because she did not know about two recent incidents concerning the Appellant.⁹ After she learned of those two other issues, it became necessary to schedule a second interview with the Appellant. The Appellant takes issue with the fact that he was called back for a second interview unlike other candidates. I disagree. Before making a final, informed decision, Town Manager Arrighi took the appropriate and fair step of scheduling a second interview to present new information to the Appellant and give him an opportunity to respond. Following the second interview, after carefully reviewing and weighing the entire record, Town Manager Arrighi had reasonable justification to bypass the Appellant for promotion.

The first new incident Town Manager Arrighi learned about had occurred in August 2020. When a dispatcher, in his capacity as a private citizen, contacted another town's Police Department to voice concerns about the actions of its police officers, the Appellant asked the dispatcher if he was "retarded" and warned him "not to make waves" while trying to get into the police academy. During his interview with the Town Manager, the Appellant only acknowledged that it would have been better to use the word "stupid" rather than "retarded," but still persisted in his position about the importance of "professional courtesy" between police officers. The Town Manager was reasonably justified to interpret the Appellant's response as a

⁹ This case demonstrates why it is imperative for the Police Chief and the appointing authority to be armed with all relevant information about each candidate before they begin an interview. Here, Chief Botieri, the sole member of the PPD on the interview panel, should have been the conduit for providing all of that information to Town Manager Arrighi prior to the promotional interviews. All concerns about the Appellant, including his "shit show" post shared with over 1800 people on Facebook, should have been reported to Town Manager Arrighi before the Appellant's first interview. Had this process been followed, it would have made the interview process more fair and probably avoided the risk of undue influence that later emerged.

bow to the shibboleth that, rather than be held to a higher standard, police officers are supposed to give fellow officers a pass in the face of subpar conduct.

This new incident also added significance to the previously known incident involving the “rat” meme in which a police officer reported an issue with the Appellant to a superior, the Appellant posted a meme of a rat with a reference to what happens to “snitches.” While there is no work setting where that type of behavior is appropriate, it is particularly troubling in the context of a police department, where such ominous warnings typically come from those seeking to stymie criminal investigations. As a police lieutenant or captain, the Appellant would be called upon to take all complaints seriously, treat them with confidentiality, and seek to provide a fair, just resolution. Engaging in this type of behavior, while serving in the supervisory capacity of sergeant, calls into question whether the Appellant could carry out this function effectively. It is clear that the Appellant holds onto antiquated notions that police officers should be afforded certain courtesies and deference. The Town Manager was reasonably justified to conclude that someone with those views should not be promoted to a command-level position, where it is imperative to review all allegations of wrongdoing fairly and transparently.

Similarly, the incident involving the dispatcher also sheds new light on the 2014 incident for which the Appellant received counseling when he inappropriately approached a prosecutor to inquire about a criminal case involving an employee of the Appellant’s taxi company. The Appellant testified to the Commission: “I shouldn’t have asked him that while I was working and while I was in uniform. I accepted responsibility for that, I understood that the optics of it were bad. . . . I understood that I shouldn’t have mentioned anything about it at all when I was working.” Instead of understanding that he should not have approached the prosecutor at all, the Appellant views his mistake as approaching the prosecutor while he was on duty and in uniform.

This represents yet another example of the Appellant's failure to accept that, as a police officer, he must comport himself in exemplary fashion and not simply refrain from behavior that is patently wrongful. It also demonstrates the Appellant's repeated failure to grasp what is wrong about that conduct.

The final newly identified incident was the Appellant's post about the PPD being a "shit show" on December 31, 2020. During the second interview, the Appellant explained that his social media is perceived poorly, but he was trying to be funny and did not put a lot of thought into it. Before the Commission, the Appellant appeared not to appreciate the distinction between privately referring to one's work shift as a "shit show" and posting about it, to over 1800 followers, in one's capacity as a Plymouth Police Sergeant. Town Manager Arrighi reasonably concluded that the Appellant's actions demonstrated poor judgment and behavior inconsistent with the standard of exemplary behavior and professionalism required of a PPD superior officer.

I have not overlooked the outsized contributions that the Appellant has made to the Plymouth Police Department during his tenure, but neither did Town Manager Arrighi. The Town Manager heard from Chief Botieri about the valuable contributions made by the Appellant over the years, and she sought to balance those many strengths against what she reasonably concluded was a pattern of poor judgment and immaturity by the Appellant. I do not perceive a basis for the Commission to disturb the merits-focused balance the Appointing Authority struck here.

CONCLUSION

For the reasons stated above, the Appellant's appeals, under Docket Nos. G1-21-107 and G1-21-108, are *denied*.¹⁰

Civil Service Commission

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

By vote of the Civil Service Commission (Bowman, Chair; Dooley, McConney, Stein, and Tivnan, Commissioners) on February 23, 2023.

Either party may file a motion for reconsideration within ten days of the receipt of the Commission's 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 the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's 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:

Gary Nolan, Esq. (for Appellant)
David Jenkins, Esq. (for Respondent)

¹⁰ While these appeals were pending, the Appellant filed a Petition asking the Commission to initiate an investigation regarding the interference of various Town officials and employees regarding his promotion. The Commission issued interim orders requiring the preservation of various records, including email and text messages, and held in abeyance whether to initiate an investigation until this decision issued. That Petition will now be fully considered by the Commission and the Town is reminded that the Commission's interim orders remain in effect.