

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER JOHN P. LOCONSOLE,) **No. 16 PB 2899**
STAR No. 18919, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1060986)**
RESPONDENT.)

FINDINGS AND DECISION

On January 28, 2016, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer John P. Loconsole, Star No. 18919 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct:

- Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 6: Disobedience of an order or directive, whether written or oral.
- Rule 23: Failure to obey Department orders concerning other employment, occupation, or profession.
- Rule 24: Failure to follow medical roll procedures.

The Police Board caused a hearing on these charges against the Respondent to be had before Hearing Officer Thomas E. Johnson on June 2 and 3, 2016.

Following the hearing, the members of the Police Board read and reviewed the record of the proceedings and viewed the video-recording of the testimony of the witnesses. Hearing Officer Johnson made an oral report to and conferred with the Police Board before it rendered its findings and decision.

POLICE BOARD FINDINGS

The Police Board of the City of Chicago, as a result of its hearing on the charges, finds and determines that:

1. The Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.

2. The written charges, and a notice stating when and where the initial status hearing will be held, were personally served upon the Respondent more than five (5) days before the date of the initial status hearing.

3. Throughout the hearing on the charges the Respondent appeared in person and was represented by legal counsel.

4. The Respondent, Police Officer John P. Loconsole, Star No. 18919, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

in that the Superintendent proved by a preponderance of the evidence the following charge:

From on or about November 1, 2012, through on or about March 6, 2013, or on one or more dates therein, you engaged in secondary employment while on the medical roll of the Chicago Police Department, in that you performed work for John's Snow Plowing & Hauling, a company you owned and/or operated, and/or from which you received compensation.

You and/or your company, John's Snow Plowing & Hauling, performed this work while under contract with Tim's Snowplowing, Inc., Cherry Logistics, and/or Aragon Real Estate, LLC, and were paid up to or exceeding \$102,312.54. Said work included, without limitation, snow plowing and removal, salting/de-icing, clearing snow and/or ice from walkways and sidewalks, purchasing salting/de-icing supplies and materials, and/or supervising any of the aforementioned activities while performed by agents, employees, and/or contractors of John's Snow Plowing & Hauling, at or around one or more locations in Chicago, Illinois and/or Evanston, Illinois.

You thereby impeded the Department's efforts to achieve its policy and goals, and/or brought discredit upon the Department.

See the findings set forth in paragraph nos. 5 and 6 below, which are incorporated here by reference.

5. The Respondent, Police Officer John P. Loconsole, Star No. 18919, charged herein, is **guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: From on or about November 1, 2012, through on or about March 6, 2013, or on one or more dates therein, you engaged in secondary employment while on the medical roll of the Chicago Police Department, in that you performed work for John's Snow Plowing & Hauling, a company you owned and/or operated, and/or from which you received compensation.

You and/or your company, John's Snow Plowing & Hauling, performed this work while under contract with Tim's Snowplowing, Inc., Cherry Logistics, and/or Aragon Real Estate, LLC, and were paid up to or exceeding \$102,312.54. Said work included, without limitation, snow plowing and removal, salting/de-icing, clearing snow and/or ice from walkways and sidewalks, purchasing salting/de-icing supplies and materials, and/or supervising any of the aforementioned activities while performed by agents, employees, and/or contractors of John's Snow Plowing & Hauling, at or around one or more locations in Chicago, Illinois and/or Evanston, Illinois.

You thereby disobeyed orders or directives regarding secondary employment while on the medical roll, including Employee Resource E01-11, Section IV(J), which prohibits secondary employment when a Department member is on the medical roll for any reason.

There is no dispute that Officer Loconsole was placed on the medical roll for a back injury from October 13, 2012, through March 8, 2013, and received his full Police Department pay and benefits during this period. Officer Loconsole further conceded that he owned John's Snow Plowing & Hauling and operated the business while on the medical roll between November 1, 2012, and March 6, 2013. His operation of the business was confirmed by the testimony of Michael Healy, Timothy Gibbons, and Livia Kradenych, who worked respectively for Cherry

Logistics, Tim's Snowplowing, and Aragon Entertainment. They testified that they contracted for services during the relevant period from Officer Loconsole's company and that he fulfilled the terms of their contracts. The Superintendent also offered the records of Cherry Logistics, Tim's Snowplowing, and Aragon Entertainment to establish that Officer Loconsole's company did this work and was paid in excess of \$100,000 for his services during the period relevant to these charges. Further, the Superintendent offered the testimony of Officer Michael Cruz-Garbo, who conducted surveillance of Officer Loconsole and found him at work in connection with his snowplowing business during two nights in February of 2013, while Officer Loconsole was on the medical roll and prohibited from working. Chicago Police Department policy, as expressed in Section IV(J) of Employee Resource E01-11, prohibits an officer from engaging in secondary employment while on the medical roll for any reason. Officer Loconsole's operation of his snowplowing business, including his on-site work captured on the surveillance video, constitutes secondary employment, as that term is defined in Section II of Employee Resource E01-11. As such, Officer Loconsole violated Department policy by operating his business.

6. The Respondent, Police Officer John P. Loconsole, Star No. 18919, charged herein, is **guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: From on or about November 1, 2012, through on or about March 6, 2013, or on one or more dates therein, you engaged in secondary employment while on the medical roll of the Chicago Police Department, in that you performed work for John's Snow Plowing & Hauling, a company you owned and/or operated, and/or from which you received compensation.

You and/or your company, John's Snow Plowing & Hauling, performed this work while under contract with Tim's Snowplowing, Inc., Cherry Logistics, and/or Aragon Real Estate, LLC,

and were paid up to or exceeding \$102,312.54. Said work included, without limitation, snow plowing and removal, salting/de-icing, clearing snow and/or ice from walkways and sidewalks, purchasing salting/de-icing supplies and materials, and/or supervising any of the aforementioned activities while performed by agents, employees, and/or contractors of John's Snow Plowing & Hauling, at or around one or more locations in Chicago, Illinois and/or Evanston, Illinois.

You thereby disobeyed orders or directives regarding medical roll, including Employee Resource E03-01, Section III(C)(1), by failing to comply with procedures for placement on, and removal from, the medical roll.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference. Employee Resource E03-01, Section III (C)(1) provides that medical certification to work as a police officer will be withheld or withdrawn whenever a sworn Department member fails to comply with the procedures for placement on, and removal from, the medical roll. This would include where, as here, an officer fails to refrain from secondary employment while on the medical roll, as required by Employee Resource E01-11. As Officer Loconsole violated Section IV(J) of Employee Resource E01-11, he necessarily also violated Employee Resource E03-01, Section III (C)(1).

7. The Respondent, Police Officer John P. Loconsole, Star No. 18919, charged herein, is **guilty** of violating, to wit:

Rule 23: Failure to obey Department orders concerning other employment, occupation, or profession,

in that the Superintendent proved by a preponderance of the evidence the following charge:

From on or about November 1, 2012, through on or about March 6, 2013, or on one or more dates therein, you engaged in secondary employment while on the medical roll of the Chicago Police Department, in that you performed work for John's Snow Plowing & Hauling, a company you owned and/or operated, and/or from which you received compensation.

You and/or your company, John's Snow Plowing & Hauling, performed this work while under contract with Tim's Snowplowing, Inc., Cherry Logistics, and/or Aragon Real Estate, LLC,

and were paid up to or exceeding \$102,312.54. Said work included, without limitation, snow plowing and removal, salting/de-icing, clearing snow and/or ice from walkways and sidewalks, purchasing salting/de-icing supplies and materials, and/or supervising any of the aforementioned activities while performed by agents, employees, and/or contractors of John's Snow Plowing & Hauling, at or around one or more locations in Chicago, Illinois and/or Evanston, Illinois.

You thereby disobeyed orders or directives regarding secondary employment while on the medical roll, including Employee Resource E01-11, Section IV(J), which prohibits secondary employment when a Department member is on the medical roll for any reason.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

8. The Respondent, Police Officer John P. Loconsole, Star No. 18919, charged herein, is **guilty** of violating, to wit:

Rule 24: Failure to follow medical roll procedures,

in that the Superintendent proved by a preponderance of the evidence the following charge:

From on or about November 1, 2012, through on or about March 6, 2013, or on one or more dates therein, you engaged in secondary employment while on the medical roll of the Chicago Police Department, in that you performed work for John's Snow Plowing & Hauling, a company you owned and/or operated, and/or from which you received compensation.

You and/or your company, John's Snow Plowing & Hauling, performed this work while under contract with Tim's Snowplowing, Inc., Cherry Logistics, and/or Aragon Real Estate, LLC, and were paid up to or exceeding \$102,312.54. Said work included, without limitation, snow plowing and removal, salting/de-icing, clearing snow and/or ice from walkways and sidewalks, purchasing salting/de-icing supplies and materials, and/or supervising any of the aforementioned activities while performed by agents, employees, and/or contractors of John's Snow Plowing & Hauling, at or around one or more locations in Chicago, Illinois and/or Evanston, Illinois.

You thereby disobeyed orders or directives regarding medical roll, including Employee Resource E03-01, Section III(C)(1), by failing to comply with procedures for placement on, and removal from, the medical roll.

See the findings set forth in paragraph no. 6 above, which are incorporated here by

reference.

9. The Respondent filed a Motion for Police Board to Consider Hearing Testimony of Respondent's Prior Police Board Case. The Board considered this Motion and the Superintendent's Response only after deliberating as to whether the Respondent is guilty of the charges.

The Respondent's Motion is **denied**. The Board's written Findings and Decision in the Respondent's prior Police Board case are sufficient for the Board to understand his prior disciplinary history.

10. The Police Board has considered the facts and circumstances of the Respondent's conduct, the evidence presented in defense and mitigation, and the Respondent's complimentary and disciplinary histories.

The Respondent plainly violated the rules that govern when an officer is on the medical roll. He was out operating his snow-plowing business while off work with a back injury, generating over \$100,000 in revenue while at the same time receiving his full salary and benefits as a police officer. Based on the facts and circumstances of this case, a severe penalty is in order.

This is not the first time the Respondent has engaged in serious misconduct as a Chicago police officer. His disciplinary history, made part of the record as Hearing Officer Exhibit No. 1, includes a 30-day suspension in 2012 (Police Board Case No. 11 PB 2762).

Nonetheless, the Board finds that discharging the Respondent from the Chicago Police Department is not warranted. There was no evidence introduced by the Superintendent that the work the Respondent performed while operating his snow-plowing business aggravated his injury

or interfered with his recovery, and there is no evidence that the Respondent attempted to remain on the medical roll longer than necessary or that he attempted to cover up his misconduct.

Based on the seriousness of the Respondent's violation of the policy prohibiting working secondary employment while on the medical roll, taken together with the Respondent's disciplinary history that includes a 30-day suspension, the Board finds that a suspension of eighteen (18) months is a more fitting penalty in this particular case.

[The remainder of this page is left blank intentionally.]

POLICE BOARD DECISION

The Police Board of the City of Chicago, having read and reviewed the record of proceedings in this case, having viewed the video-recording of the testimony of the witnesses, having received the oral report of the Hearing Officer, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts the findings set forth herein by the following votes:

By votes of 7 in favor (Lori E. Lightfoot, Ghian Foreman, Eva-Dina Delgado, Michael Eaddy, Rita A. Fry, John H. Simpson, and Rhoda D. Sweeney) to 0 opposed, the Board finds the Respondent **guilty** of violating Rule 2, Rule 6, Rule 23, and Rule 24.

As a result of the foregoing, the Board, by a vote of 7 in favor (Lightfoot, Foreman, Delgado, Eaddy, Fry, Simpson, and Sweeney) to 0 opposed, hereby determines that cause exists for suspending the Respondent from his position as a police officer with the Department of Police, and from the services of the City of Chicago, for a period of eighteen (18) months.

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer John P. Loconsole, Star No. 18919, as a result of having been found **guilty** of all charges in Police Board Case No. 16 PB 2899, be and hereby is **suspended** from his position as a police officer with the Department of Police, and from the services of the City of Chicago, for a period of eighteen (18) months, **from February 3, 2016, to and including August 2, 2017.**

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Lori E. Lightfoot, Ghian Foreman, Eva-Dina Delgado, Michael Eaddy, Rita A. Fry, John H. Simpson, and Rhoda D. Sweeney.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 15th DAY OF SEPTEMBER, 2016.

Police Board Case No. 16 PB 2899
Police Officer John P. Loconsole

Attested by:

/s/ LORI E. LIGHTFOOT
President

/s/ MAX A. CAPRONI
Executive Director

DISSENT

The following members of the Police Board hereby dissent from the Findings and Decision of the majority of the Board.

[None]

RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2016.

EDDIE T. JOHNSON
Superintendent of Police