



CITY OF STOCKTON

OFFICE OF THE CITY MANAGER

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August 24, 2011

Ron Hittle

NOTICE OF INTENT TO REMOVE FROM CITY SERVICE

This letter serves as formal notice that the City of Stockton intends to remove you from your position as Fire Chief, and thereby separate you from City employment, effective September 30, 2011. The City intends to remove you because of incompatibility of management styles, change in administration, and your apparent inability and/or unwillingness to implement City goals and policies, as indicated by the findings in the confidential investigative report attached as Exhibit A.

As the City has previously informed you, the amendment of Charter section 1602 by Measure H in November 2010 made you an "at will" employee. As such, you are not entitled to a pre-deprivation hearing under *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, nor are you entitled to appeal your removal to the Civil Service Commission. Nonetheless, the City will provide you a full opportunity, consistent with *Skelly* guarantees, to respond before your removal to the allegations set forth below. In providing this opportunity, the City reserves its right to continue to assert in the ongoing litigation between you and the City that you are an "at will" employee.

If you wish to respond orally, a meeting has been scheduled for you with Deputy City Manager Michael Locke on September 15, 2011 at 9:00 a.m. Although the meeting will be informal, you may have a representative present. If you wish to respond in writing, your response should be addressed to Deputy City Manager Michael Locke at City Hall, 425 N. El Dorado Street, Stockton, CA 95202. Any written response must be received by September 15, by 5:00 p.m.



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Nothing in the Firefighters Procedural Bill of Rights Act (FBOR) (Gov. Code, § 3250 et seq.) requires the City to prove specific allegations to remove you for incompatibility of management styles. Nevertheless, to assist you in preparing your response, the following is a summary of the conduct discovered by the City within the last year that supports the City's conclusion, along with the City policy violated:

- 1) On August 5 and 6, 2010, you used City time and resources to attend a religious leadership event. This conduct violated City Manager Directive No. FIN-08 and Article C, Section 11 of the Fire Department Procedures Manual.
- 2) On August 5 and 6, 2010, you approved the attendance on City time of Deputy Chief Paul Willette, Division Chief Matt Duaine, and Fire Marshal Jonathan Smith at the same religious leadership event. This conduct violated City Manager Directive No. FIN-08 and Article C, Section 11 of the Fire Department Procedures Manual.
- 3) From 2004 through 2008, the City retained Integrated Services Group to provide consulting services to the fire department. At no time did you disclose to the City your personal relationship with the firm's owner, George Liepart, or the fact that the two of you were engaged in a project to build a church school. Nor did you properly investigate complaints that in 2005 Liepart solicited donations from fire department employees for the church school project. This conduct violated City policy against conduct adverse to the welfare and/or good reputation of the City.
- 4) Despite receiving information in 2009 that the Integrated Services Group website contained an endorsement by you under a photograph of you in your Fire Chief uniform, you failed to investigate whether the information was true. This tacit endorsement of Liepart's firm violated City policy against conduct adverse to the welfare and/or good reputation of the City.
- 5) You failed to disclose to the City that you co-owned a cabin with Captain Dave Macedo, also President of International Association of Firefighters Local 456 (Union), and Division Chief Duaine. This violated your duty as a department head to disclose any actual or potential conflict of interest. Furthermore, this relationship raises questions as to why you failed to

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- investigate Duaine's improper reporting of compensatory time on his timesheets for May and August 2010.
- 6) On March 29 and 30, 2011, you presented Deputy City Manager Laurie Montes with a Union proposal to put firefighters on a leave of absence instead of laying them off. This conduct was contrary to a department head's duty to further the goals and policies of the City.
 - 7) Your failure to recommend appropriate discipline for misconduct by Captains Tony Moudakis and John Loverin violated Article 3, section 9 of the Fire Department Rules and Regulations, which requires you to "see that proper discipline is maintained."
 - 8) After the Union released confidential patient information to the media in 2007, you failed to address the issue with employees to prevent a recurrence. When confidential patient information was again released by the Union on September 9, 2010 you failed to address preventative measures with employees. This conduct violated Article 3, section 9 of the Fire Department Rules and Regulations.
 - 9) Between July 13, 2010 and October 2010 you failed to prevent members of the public from perceiving that firefighters were engaged in Union activities while on-duty. These activities included: wearing Union t-shirts that closely resembled official City firefighter shirts while riding on a fire engine owned by the Union; using City equipment to clean the Union hall while on-duty; and asking permission for on-duty personnel to set up for a Union-sponsored retirement dinner. This conduct raises doubts about your ability to be an effective department head and to further the goals and policies of the City.
 - 10) In the fall of 2010, you told Fire Department Internal Affairs Investigator Mark Lujan that firefighters were "upset" with him for displaying a "Yes on Measure H" sign on his lawn. This conduct raises doubts about your ability to be an effective department head and to further the goals and policies of the City.

Pursuant to the FBOR, you have an opportunity for administrative appeal in the event you are removed from City service. The appeal, if you choose to pursue one, will be conducted in conformance with the formal hearing procedures of the

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Administrative Procedure Act (Gov. Code, § 11500 et seq.) as required by the FBOR. Under those procedures, your appeal will be heard by an administrative law judge from the State Office of Administrative Hearings, who will issue a proposed decision that the City may adopt, modify, or reject.


fr BOB DEIS
CITY MANAGER

cc: Michael Locke, Deputy City Manager
Randy E. Thomas

ATTACHED DOCUMENTS

- EXHIBIT A Confidential Investigative Report dated August 8, 2011
- EXHIBIT B City Manager Directive No. FIN-08
- EXHIBIT C Fire Department Procedures Manual, Article C, section 11
- EXHIBIT D Fire Department Rules and Regulations, Article 3, section 9