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BEFORE THE
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JOSHUA PAUL ENEA** [redacted] **Basic Certificate No. 139743** **Intermediate Certificate No. 125223** Respondent.	Case No. 2307454 **ACCUSATION**

Complainant alleges:

PARTIES

1. Manuel Alvarez, Jr. (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the California Commission on Peace Officer Standards and Training (Commission).

2. On March 1, 2010, the Commission issued Basic Certificate Number 184287 to Joshua Paul Enea (Respondent). On May 2, 2014, the Commission issued Intermediate Certificate Number 140935 to Respondent (collectively, Certification). The Certification was in full force and effect at all relevant times to the charges brought in this Accusation.

JURISDICTION

3. This Accusation is brought before the Commission under the authority of the

following laws. All section references are to the Penal Code (Code) unless otherwise indicated.

4. Code section 830 states:

> Any person who comes within the provisions of this chapter and who otherwise meets all standards imposed by law on a peace officer is a peace officer, and notwithstanding any other provision of law, no person other than those designated in this chapter is a peace officer. The restriction of peace officer functions of any public officer or employee shall not affect his or her status for purposes of retirement.

5. Code section 830.1, subdivision (a), states in relevant part: ". . . a police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city, . . . is a peace officer."

6. Code section 13510.1 states:

> (a) The commission shall establish a certification program for peace officers described in Section 830.1, 830.2 with the exception of those described in subdivision (d) of that section, 830.3, 830.32, or 830.33, or any other peace officer employed by an agency that participates in the Peace Officer Standards and Training (POST) program. A certificate or proof of eligibility issued pursuant to this section shall be considered the property of the commission.
>
> (b) Basic, intermediate, advanced, supervisory, management, and executive certificates shall be established for the purpose of fostering professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officer members of city police departments, county sheriffs' departments, districts, university and state university and college departments, or by the California Highway Patrol.
>
> . . .
>
> (e) The commission shall assign each person who applies for or receives certification a unique identifier that shall be used to track certification status from application for certification through that person's career as a peace officer.
>
> (f) Notwithstanding any other provision of law, the commission shall have the authority to suspend, revoke, or cancel any certification pursuant to this chapter. This authority extends to any certificate or proof of eligibility issued by the commission including, without limitation, any certificate or proof of eligibility that is invalid, inactive, expired, or canceled.
>
> . . .
>
> (i) As used in this chapter, "certification" means any and all valid and unexpired certificates issued pursuant to subdivision (b), including basic, intermediate, advanced, supervisory, management, and executive certificates or any proof of eligibility issued by the commission pursuant to this section.

7. On June 5, 2024, Respondent was notified that his certification would be cancelled.

8. Respondent timely appealed the cancellation under title 11, California Code of Regulations, section 1202, subdivision (c)(4).

9. This Accusation is filed pursuant to title 11, California Code of Regulations, section 1202, subdivision (c)(4), to initiate proceedings for a formal hearing before an administrative law judge in accordance with the Administrative Procedure Act, as prescribed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

STATUTORY PROVISIONS

10. Code section 13510.8, subdivision (a)(3) states in relevant part:

> The commission may cancel the certificate or proof of eligibility of a peace officer if the commission determines that there was fraud or misrepresentation made by an applicant at any time during the application process that resulted in the issuance of the certification.

REGULATORY PROVISIONS

11. California Code of Regulations, title 11, section 1202, subdivision (a) states in relevant part:

> (a) Proof of Eligibility (POE) and Basic Certificates
>
> ...
>
> (6) Basic Certificate Award Requirements
>
> Applicants for the award of a Basic Certificate shall:
>
> (A) Satisfy requirements specified in subsection 1202(b)(1).
>
> (B) Possess a valid POE.
>
> (C) Complete the current employing agency's probationary period of not less than 12 months.
>
> (D) Be currently employed as a full-time peace officer appointed to an eligible POST participating agency.
>
> ...

12. California Code of Regulations, title 11, section 1202, subdivision (b) states in relevant part:

> (b) Professional Certificates-Peace Officers
>
> (1) Certificate Award Requirements
>
> ...

(B) Applicants for professional certificates must be appointed as a full-time peace officer to an eligible POST participating agency and possess a valid Basic Certificate.

...

(C) Applicants must meet certificate specific eligibility criteria listed below in subsections 1202(b)(5)-(10)

...

(5) Applicants for Intermediate Certificate Award shall:

(A) Satisfy the requirements specified in subsection 1202(b)(1),

(B) Possess a Basic Certificate, ...

...

13. California Code of Regulations, title 11, section 1202, subdivision (c) states:

(c) Certificate Cancellation

(1) Cancellation Reasons

POST shall cancel any certificate(s), including the Proof of Eligibility and Basic Certificate, for the following reasons:

(A) The certificate was obtained through misrepresentation, fraud, or

(B) The certificate was issued as a result of administrative error on the part of POST or the employing agency.

(2) Notification Requirement

Department personnel who possess information that a certificate was obtained through misrepresentation, fraud, or administrative error shall notify POST immediately.

(3) Investigation of Circumstances

The Executive Director may initiate an investigation of the circumstances under which the certificate was issued. The Executive Director has the authority to approve or deny certificate cancellation.

(4) Cancellation Appeal

An individual whose certificate has been cancelled may appeal the cancellation to the Commission.

At the Commission's discretion, a hearing shall be held either before the Commission or before a qualified hearing officer. The hearing officer shall prepare a proposed decision in such form that it may be adopted as the decision in the case. All hearings shall be conducted in conformance with the Administrative Procedures Act (Government Code section 11400 et seq.). At the conclusion of the appeal hearing, the Commission shall render a decision to uphold or overturn the decision to cancel the certificate.

(5) Cancellation Recorded

When the decision to cancel is upheld through the appeal process, the POST Profile record shall indicate the appropriate reason for the cancellation.

(6) Return of Certificate

Upon notification of cancellation, the individual to whom a cancelled certificate was issued shall return the certificate to POST.

FACTUAL ALLEGATIONS

14. Respondent began employment as a police officer with the San Francisco Police Department (SFPD) on September 24, 2007. On March 26, 2007, Respondent signed a Personal History Statement – Peace Officer (Personal Statement) as part of his application to be a peace officer. The following admonition was printed on the first page of the instructions for the Personal Statement:

> **Disqualification**
>
> . . . *deliberate misstatements or omissions* can and often will result in your application being rejected, regardless of the nature or reason for the misstatements/omissions. (Emphasis in original.)

15. Respondent signed page 24 of the Personal Statement, which read as follows:

> **Section 11: Certification**
>
> I hereby certify that I have personally completed and initialed each page of this form and any supplemental page(s) attached, and that all statements made are true and complete to the best of my knowledge and belief. I understand that any misstatement of material fact may subject me to disqualification; or, if I have been appointed, may disqualify me from continued employment.

16. Respondent falsely answered "no" in response to the following two questions on the Personal Statement:

> Question 72: Undetected Acts - Part 1
>
> Within the past seven years OR at any time after you were first employed in law enforcement, have you ever committed any of the following misdemeanors?
>
> . . .
>
> y) Any other act amounting to a misdemeanor within the past seven years.
>
> Question 73: Undetected Acts – Part 2
>
> *At any time in your life* have you ***ever*** committed any of the following? (Emphasis in original.)

. . .

f) Accessing and/or possessing child pornography

. . .

v) Any other act amounting to a felony

17. On February 1, 2017, Respondent used SKOUT and KIK (social media websites) to chat with a person he believed to be a 14-year-old girl named "Briana." Respondent described himself as a 35-year-old man and asked "Briana" if she liked to date older men. Respondent also asked "Briana" for pictures.

18. "Briana" was the undercover profile used by the SFPD Special Victims Unit (SVU) Internet Crimes Against Children (ICAC) in connection with investigations of crimes against children. The ICAC was able to identify Respondent by reviewing pictures associated with the username Respondent used to chat with "Briana."

19. On February 2, 2017, the SFPD obtained a search warrant for Respondent's cellphone records, his home, and his SKOUT account. On February 7, 2017, a second search warrant was obtained for Respondent's home, person, cellphones, vehicles, and electronic devices. On February 8, 2017, Respondent's home was searched, and his cellphones, thumb drives, hard drives, and laptop computers were seized. A San/Disk and USB were recovered from Respondent's locker in the SFPD Northern Station.

20. The ICAC investigation revealed that Respondent had accessed child pornography from November 2005 to February 2006. The contents of Respondent's electronic devices, including those retrieved from Respondent's locker, revealed that, between 2005 and 2011, Respondent obtained or modified approximately 1,331 images depicting children as young as 10 years old posed in highly suggestive and sexualized clothing and poses. Some of the pictures showed minor females' nude breasts, buttocks, anuses, and vaginas. Fourteen of the photographs on Respondent's electronic devices contained images of children identified by the National Center for Missing or Exploited Children (NCMEC) as victims of exploitation from prior child pornography cases. One photograph found on Respondent's devices was initially stored on Respondent's electronic device on November 2, 2005, and showed a sexually underdeveloped

female performed fellatio on an adult man. The child was identified and estimated to be between 6 and 10½ years old when the image was taken.

21. On February 8, 2017, in *The People of the State of California v. Enea, Joshua*, Contra Costa County Superior Court case number 05001909688, Respondent was charged with possession of child pornography in violation of Penal Code section 311.11, subdivision (a) (felony) and obscene matter in violation of Penal Code section 311.2, subdivision (a) (misdemeanor). On December 8, 2021, Respondent entered a plea of *nolo contendre* to the count of obscene matter. He was sentenced to 30 days in jail and one year of formal supervised probation under terms and conditions for sex offenders.

CAUSE FOR DISCIPLINE
(Certificate Obtained Through Fraud or Misrepresentation)

22. Respondent has subjected his Certification to cancellation under Code section 13510.8, subdivision (a)(3) and California Code of Regulations, title 11 section 1202, subdivision (c)(1)(A) because he made deliberate misstatements or omissions when he responded "no" to Questions 72 and 73 on the Personal Statement regarding whether he had ever accessed or possessed child pornography or engaged in any criminal conduct. In fact, Respondent had accessed and possessed child pornography and child erotica before he signed his Personal Statement on March 26, 2007, as alleged in paragraphs 14 through 21, above.

23. As a result of Respondent's deliberate misstatements or omissions, the SFPD was unaware that Respondent possessed child pornography and child erotica before Respondent applied for a peace officer position and signed his Personal Statement. Because the SFPD was unaware of Respondent's misstatements of material fact, the SFPD hired Respondent to serve as a full-time peace officer. But for Respondent's deliberate misstatements or omissions, Respondent would not have been appointed as a full-time peace officer and would not have met the criteria set forth in California Code of Regulations 1202, subdivisions (a)(6) and (b)(1) for issuance of his Certification.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this

Accusation, and that following the hearing, the Commission issue a decision cancelling the Basic and Intermediate Certificates issued to Respondent Joshua Paul Enea or taking other appropriate disciplinary action according to evidence.

DATED: 09/17/2024

MANUEL ALVAREZ, JR.
Executive Director
Commission on Peace Officer Standards and Training
State of California
Complainant

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STATE OF CALIFORNIA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

In the Matter of the Accusation Against: JOSHUA PAUL ENEA, **Respondent.**	**COMMISSION'S ORDER ADOPTING AND DESIGNATING DECISION AS A PRECEDENTIAL DECISION** POST Case No. 2307454

The Commission on Peace Officer Standards and Training (Commission) has reviewed the Proposed Decision filed by the Administrative Law Judge in the matter referenced above.

IT IS RESOLVED AND ORDERED THAT:

1. The attached Proposed Decision of the Administrative Law Judge is ADOPTED in full;

2. The Commission designates the adopted Proposed Decision as a precedential decision pursuant to Government Code section 11425.60;

3. The precedential decision shall be designated as POST Dec. No. 26-01 in the Commission's precedential numbering system; and

4. The precedential decision shall be uploaded and maintained in the Commission's records and on the Commission's website.

The foregoing Order was made and adopted by the Commission during its meeting on March 4, 2026, as reflected in the record of the meeting and Commission minutes.

Dated: 3/4/26

Chairperson or Designee
Commission on Peace Officer Standards and Training

BEFORE THE
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JOSHUA PAUL ENEA,

Basic Certificate No. 139743

Intermediate Certificate No. 125223

Respondent.

Agency No. 2307454

OAH No. 2025010955

PROPOSED DECISION

Administrative Law Judge Michael C. Starkey, State of California, Office of Administrative Hearings, heard this matter on August 25 and 27 and October 6, 2025, in Oakland, California, and via videoconference.

Deputy Attorney General Julianne Mossler represented complainant Manuel Alvarez, Jr., Executive Director of the California Commission on Peace Officer Standards and Training.

Attorney Scott Burrell represented respondent Joshua Paul Enea, who was present.

The record was held open for post-hearing briefs. Complainant's closing brief, respondent's closing brief, and complainant's reply were received and marked for identification as Exhibits 23, I, and 24, respectively. Complainant's declaration with attached excerpts from a hearing transcript was received and marked as Exhibit 25.

The record closed and the matter was submitted on November 6, 2025.

FACTUAL FINDINGS

Jurisdictional Matters

1. On March 1, 2010, the California Commission (Commission) on Peace Officer Standards and Training (POST) issued Basic Certificate Number 139743 to respondent Joshua Paul Enea. On May 2, 2014, the Commission issued Intermediate Certificate Number 125223 to respondent. These certificates are temporarily suspended.

2. On September 17, 2024, complainant Manuel Alvarez, Jr., Executive Director of the Commission, issued an accusation. Complainant alleges that respondent in 2007 made deliberate misstatements or omissions in his application to become a police officer when he denied that he had ever accessed child sexual abuse

material (CSAM).[1] or engaged in criminal conduct. Complainant alleges that these statements were false and resulted in the issuance of the certifications; and that these facts constitute cause to cancel the certificates issued to respondent.

3. Respondent timely filed a notice of defense and this proceeding followed.

Background

4. The Commission sets minimum standards for the selection and training of peace officers in California. It also maintains a certification program for peace officers. Certificates issued by the Commission include: basic, intermediate, advanced, supervisory, management, and executive; all for the purpose of fostering the professionalization, education, and experience necessary to adequately accomplish general police service duties. A basic certification is a requirement for most peace officer positions in California.

Child Sexual Abuse Material (CSAM)

5. CSAM is defined as an image:

> "the production of which involves the use of a person under 18 years of age, [and depicting] a person under 18 years of

---

[1] Relevant statutes, the pleadings and much of the evidence refer to "child pornography." However, "child sexual abuse material" (CSAM) is the modern and preferred term for "child pornography" and will be used in this proposed decision.

> age personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4.

(Pen. Code, § 311.11, subd. (a) [all further statutory references are to the Penal Code unless stated otherwise].)

6. Subdivision (d) of section 311.4 defines sexual conduct to include:

> . . . sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals or pubic or rectal area for the purpose of sexual stimulation of the viewer . . . .

7. "Obscene matter" is defined as:

> matter, taken as a whole, that to the average person, applying contemporary statewide standards, appeals to the prurient interest, that, taken as a whole, depicts or describes sexual conduct in a patently offensive way, and that, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(§ 311, subd. (a).)

Respondent's Personal History Statement

8. On March 26, 2007, as part of the application process to become a San Francisco Police Department (SFPD) officer, respondent completed and signed a Personal History Statement – Peace Officer (Personal Statement).

9. The first page of the instructions for the Personal Statement stated:

> The information you provide in this Personal History Statement will be used in the background investigation to assist in determining your suitability for the position of California Peace Officer, in accordance with POST Regulation 1002.
>
> ¶ . . . ¶
>
> **Disqualification**
>
> There are very few **automatic** bases for rejection. Even issues of prior misconduct, such as prior illegal drug use, driving under the influence, theft or even arrest or conviction are usually not, in and of themselves, automatically disqualifying. However, deliberate misstatements or omissions can and often will result in your application being rejected, regardless of the nature or reason for the misstatements/omissions. In fact, the number one reason individuals "fail" background investigations is because they deliberately withhold or misrepresent job-relevant information from their prospective employer.

BOTTOM LINE: Be as complete, honest and specific as possible in your responses.

(Emphasis in original.)

10. Respondent signed the Personal Statement directly underneath the following statement:

> I hereby certify that I have personally completed and initialed each page of this form and any supplemental page(s) attached, and that all statements made are true and complete to the best of my knowledge and belief. I understand that any misstatement of material fact may subject me to disqualification; or, if I have been appointed, may disqualify me from continued employment

11. Respondent answered "no" in response to the following two questions:

> 72: UNDETECTED ACTS - PART 1
>
> Within the past **seven** years **OR** at any time after you were first employed in law enforcement, have you ever committed any of the following misdemeanors?
>
> ¶ . . . ¶
>
> Y) Any other act amounting to a misdemeanor within the past seven years.
>
> ¶ . . . ¶

73. UNDETECTED ACTS - PART 2

At any time in your life have you **ever** committed any of the following?

¶ . . . ¶

F) Accessing and/or possessing [CSAM]

¶ . . . ¶

V) Any other act amounting to a felony

(Emphasis in original.)

Respondent's Interactions with "Briana"

12. On February 1, 2017, respondent used SKOUT and KIK (social media websites) to chat with a person he believed to be a 14-year-old girl named "Briana." "Briana's" account had a profile picture of a female who appeared to be under the age of 18 years old. Only a fraction of the numerous chat messages are described below.

13. Respondent began chatting with "Briana" at 10:59 a.m. "Briana" first responded at 11:27 a.m.

14. In the fifth message between them, "Briana" reported that she was in "school" and asked respondent "How old r u?" Respondent replied "35." "Briana" replied "Cool I'm 14." Respondent continued to chat with "Briana."

15. At approximately 1:00 p.m.:

Respondent: "What you doing"

"Briana": "In class R u really 35?"

Respondent: "Yea Sorry :/"

"Briana": "lol it's ok Do u care that I'm 14?"

Respondent: "What are you looking for"

"Briana": "What r u looking for ? lol"

Respondent: "Dating, friends, chat, bored"

16. At approximately 2:22 p.m. respondent asked "Briana" what part of the city she lived in. She replied "the Sunset" and respondent asked "Off Lincoln." "Briana" told respondent she was near the beach.

17. At approximately 3:43 p.m., "Briana" stated "Gotta get the kitchen clean b4 mom leaves for work." Respondent replied "What time does she leave." The chat continued sporadically.

18. At 5:15 p.m., respondent offered to help "Briana" with her homework. The chat continued.

19. At approximately 7:12 p.m., "Briana" and respondent continued the chat on KIK, a different website. "Briana" stated that she was going to talk to a girlfriend soon.

"Briana": And don't worry I'm not telling her about u"

Respondent: "Lol aww why"

"Briana": "Um . . . because you're a lil older than me lol"

Respondent: "lol oh yea that's right"

20. At approximately 9:07 p.m. "Briana" stated that she was "getting ready for bed." Shortly thereafter "Briana" asked if respondent had a "gf" to which he replied that he was single [sad face emoji]. Respondent stated that he misses "having someone" and "Cuddling kissing going out."

21. At approximately 9:54 p.m. "Briana" and respondent chat more about "loving cuddling and kissing."

22. At approximately 10:23 p.m. "Briana" stated: "I'm goin [SIC] to bed, gn [smiley face emoji]." Respondent replied "Awww your going to bed already."

23. On February 2, 2017, at 7:34 a.m., "Briana" wrote "Mornin" and the chat continued. Respondent and "Briana" both indicated that they thought about cuddling with each other during the previous night. The flirtation continued.

Respondent: "Aww really what else"

"Briana": "You tell me [winking tongue out emoji]"

Respondent: "I was asking you [winking tongue out emoji]"

"Briana": "Nope lol"

Respondent: "Why nope lol"

"Briana": "I like guys that take control [winking tongue out emoji] and tell me"

Respondent: "Cuddle, kiss etc"

"Briana": "With me? [winking smiley face emoji]"

Respondent: "You like"

"Briana": "Yes"

24. Respondent then asked "Briana" about the last times she kissed or cuddled. "Briana" stated a couple of weeks earlier. Respondent asked where. "Briana" replied that school was about to start and asked if they can chat later. Respondent said "ok."

25. At approximately 11:20 a.m., "Briana" asked respondent if he was a firefighter and he responded "You like guys in uniform"? "Briana" replied "Yes" to which respondent replied "Yay." After more flirtatious exchanges, respondent asked "Briana" if she had dated "older guys."

"Briana": "Yes Not as old as u lol"

Respondent: "How old"

"Briana": "17, 22"

Respondent: "I am an old fart lol"

"Briana": "Loi U seem cool I like that you're a firefighter [open mouth smiley face emoji]"

Respondent: "Awww thx [winking tongue out emoji] Why is that"

"Briana": "It's sexy"

Respondent: "Awww thx Glad you like"

"Briana": "I do What do u like about me?"

Respondent: "Your cool. [Smiley face w/sunglasses emoji] Where you at"

26. At approximately this time, respondent removed his picture from his avatar in the chat. Shortly thereafter, the following exchange occurred:

"Briana": "[two open mouth smiley face emoji] Can I ask u a question ?"

Respondent: "Sure"

"Briana": "What r u looking for with me? [open mouth smiley face emoji]"

Respondent: "What do you want. [winking tongue out emoji]"

"Briana": "I asked first"

Respondent: "Just looking for friend, dating etc cuddling"

"Briana": "I'd like that"

Respondent: "Yea Pic"

"Briana": "Will u send one too?"

Respondent: "Sure"

27. "Briana" then sent respondent a picture of a female SFPD officer, taken when the officer was 14 years old.

28. "Briana" was the undercover profile used by the SFPD Special Victims Unit (SVU), Internet Crimes Against Children unit (ICAC), in connection with investigations of crimes against children. ICAC routinely used photos of SFPD officers—taken when they were preadolescent—in sting operations where an officer poses as a minor. Unbeknownst to the officer posing as "Briana," the officer depicted in the photo sent to respondent was a former SFPD partner of respondent.

29. Respondent did not reply to the photo. "Briana" sent three "?" messages to respondent and received no response.

30. The officer posing as "Briana" later reported that respondent deleted his KIK and SKOUT chat accounts immediately after "Briana" sent respondent the photo of his former partner.

SFPD Investigations

31. On February 1, 2017, after the officer posing as "Briana" recognized respondent as the individual who continued to chat flirtatiously with "Briana" after she multiple times identified herself as 14 years old, two SFPD officers began a criminal investigation of respondent (respondent was later charged with two criminal offenses and convicted of one of them; see Factual Findings 58 & 59).

32. On February 2, 2017, the investigators executed search warrants for respondent's phone records and his SKOUT account records. Later that day, they received a response to the warrant from SKOUT which stated: that it only retained records pertaining to the previous five days; respondent had an account since 2011;

during the last five days, he had exchanged several nude and/or sexual photos with other SKOUT members, none of which appeared to depict underage individuals; many of the chats had moved to other platforms; and there was one instance where respondent was solicited to pay for specific acts of prostitution and his response was "I can get all that for half [of] what your [SIC] asking."

33. On February 7, 2017, based on the initial investigation, respondent was disarmed, ordered not to wear an SFPD uniform, reassigned, and prohibited from all computer use.

34. On February 8, 2017, the investigators executed search warrants for respondent's house, person, cellular phones, vehicles, and electronic devices. A search of respondent's vehicle yielded a brown external hard drive (Brown Hard Drive) (a portable device to store and transfer electronic data) and several other hard drives, computers, and electronic storage devices (together, the Seized Devices).

35. The officers briefly interviewed respondent. Before receiving representation and requesting an attorney, he confirmed that he used the KIK account used to chat with "Briana."

36. Based on respondent's chat with "Briana" and the presence of a 13-year-old female (his stepdaughter) in his household, the investigators began an initial review of the seized items. After observing images of what appeared to be minor females in provocative poses and various states of nudity or undress, the investigators obtained a search warrant for CSAM. The investigators then took the Seized Devices to the Regional Computer Forensics Laboratory (RCFL), an office of the Federal Bureau of Investigations, located in Menlo Park.

37. On February 23, 2017, RCFL reported, among other things, that the user of the Seized Devices performed 10 searches on the Bing search engine on a laptop on July 12, 2016. Seven of the search terms included "little girl," "very young little girl," "petite girl," "tiny girl," or a variant thereof, along with sexual terms. The other three searches included terms such as "small," "little" or "lil," combined with sexual terms. All ten of the searches appear related to CSAM.

38. On March 28, 2017, Christopher Beauchamp was assigned to the investigation, to determine whether respondent had committed violations of administrative rules governing SFPD officers. Beauchamp is a lieutenant with SFPD, but was at that time a sergeant assigned to SFPD's internal affairs unit.

39. Beauchamp testified at hearing. In 2017, he was an experienced investigator, but he admits that he is not an expert in CSAM or computer forensics. At the conclusion of his investigation, on September 13, 2017, Beauchamp issued a 148-page report, which was received in evidence.

40. Beauchamp personally reviewed the contents of the electronic devices seized from respondent, including the Brown Hard Drive, a black/silver USB drive found in respondent's SFPD locker, and respondent's mobile phone. In his report, Beauchamp described the images found on these devices in graphic detail. These devices contained:

- Approximately 1,300 photographic images and videos of pubescent or prepubescent girls in lewd or unnatural poses on the Brown Hard Drive; some semi-nude, some in bathing suits. (Beauchamp defined "prepubescent" as prior to the development of secondary sexual characteristics, such as pubic hair or breasts, typically age 9 to 12 years; and

"pubescent" as ages 13 to 18 years). Many of these photos were from numerous different websites with names and other content suggesting a primary focus on displaying erotic or pornographic images of minors.

- Photographic images on respondent's mobile phone of respondent, including images of his penis, and images of him nude and clothed.

- Photographic images on respondent's mobile phone, apparently taken surreptitiously, mostly of women, including SFPD academy recruit officers, and including 70 images of mostly minor females in various settings in bathing suits or "short shorts," 16 of which appear to have been taken at a water park where respondent was employed in 2006 and 2007, prior to becoming an SFPD officer. These apparently surreptitiously taken photographs also include two taken in 2016 of respondent's wife (asleep with her left breast exposed); 27 of a female neighbor in shorts and a tank top, apparently taken through a hole in their fence in April 2017; and four pictures of a young female that appeared to be 12 to 14 years of age taken in 2012 in a frozen yogurt shop in Brentwood (found on the black/silver USB drive in respondent's locker).

- Fourteen images on respondent's mobile phone that showed that he was accessing or modifying pictures from the website "primejailbait.com," while on duty for the SFPD, on five different dates in 2015 and 2016.

- Twelve image or video files of CSAM, and two other image files which are likely CSAM, as explained below.

41. Beauchamp also reported that:

- Respondent's mobile phone had a "notes" file containing approximately 64 names with associated phone numbers and email addresses. SFPD investigators were able to confirm that six of the names were sex workers and that respondent had communicated with more than one regarding paying for sexual acts. One told an investigator that she knew respondent and had met him once while he was on duty.

- In 2016, respondent accessed the website transgenderdate.com from his mobile phone, while on duty, 323 times.

- One adult female whose contact information and images were found on respondent's mobile phone informed investigators that he sometimes tried to get her to "sext" him while he was on duty, but also a few times sent her unsolicited videos of himself ejaculating.

42. Brian Rodriguez, an experienced RCFL Forensic Examiner, examined the Seized Devices, including the Brown Hard Drive, and issued a report dated July 10, 2017.

43. Rodriguez used a tool to compare the files on the Seized Devices to "known hashes of child exploitation material." This search yielded "an immense amount of child-erotica files" (of which Rodriguez was already aware). In Beauchamp's report, an SFPD officer who worked in the SFPD SVU ICAC unit explained that "child erotica files" are images or videos that depict minors in sexually suggestive poses, but not totally nude and not performing sexual acts, thus the images do not constitute CSAM and are not illegal. He further explained that the chest is not considered genitals. The search also revealed 54 files of particular interest to Rodriguez, as follows: zero "Child Abuse Material (CAM) 'illegal' files"; 54 "Child-Exploitive (non-CAM) / Age

Difficult files"; and zero "CGI / Animation Child-exploitive files." Rodriguez examined the 54 files and located three images that appeared to be CSAM. The "original" files were not located on the Seized Devices, but Rodriguez "was alerted to their presence by a thumb.db file located on" the Brown Hard Drive.

44. Rodriguez explained that a "thumbs.db" file is a

> hidden Windows file which maintains a catalog of image thumbnails, even if the original images have been deleted. Thumbs.db is often used to determine if image files once existed in a folder and is only created if the files in the folder are viewed in "thumbnail" or "filmstrip" mode. It could not be determined if the images had been deleted from this folder on this evidence item, or if this entire folder (including the Thumbs.db file) had been copied from other media.

45. In testimony in a preliminary hearing in respondent's criminal matter, Rodriguez further explained that a thumbnail is the image a user sees in a folder of images or videos, instead of just a list of file names.

46. One of the SFPD investigators sent many of the images found on the Seized Devices to the National Center for Missing & Exploited Children (NCMEC), which uses a program to compare images against databases of known CSAM. On June 8, 2017, NCMEC issued a child identification report, stating that six of the image files and eight of the video files from the seized devices appeared to contain child victims identified by law enforcement. The files corresponded to two known series of CSAM, as described in Factual Findings 47 and 48.

47. Two still image files (apparently the same image) from the Brown Hard Drive were from a series of CSAM images known as the "Angeli" series. A Special Agent of the Federal Bureau of Investigation (FBI), assigned to the Cyber Crime Squad, reviewed this image and confirmed that it was of the child victim from that series, whom the agent had personally interviewed. The child victim was no older than 10.5 years at the time the image was created. The image from the Brown Hard Drive depicts the child victim, who had no secondary sexual characteristics, performing fellatio on an adult male who had his hands on the back of her head. Each of these electronic files was a thumbs.db file.

48. Eight video files and four still image files from the Brown Hard Drive were from a series of CSAM images known as the "Ukrainian" series apparently related to a CSAM prosecution in Europe. Beauchamp reports that SFPD investigators made three inquiries to the European police authority listed in the NCMEC report, but received no response. Beauchamp independently determined that these images originated from a defunct website which stated that the girls depicted were 11 and 12 years old. In one video a girl states that she is 14 years old. The girls evidenced some secondary sexual characteristics.

49. Daniel Heaton testified at hearing. Heaton is deputy for the Sacramento County Sheriff's Office. For the last five years, he has been assigned to its ICAC unit. He investigates crimes related to CSAM and is also sworn as a task force officer for similar work for the United States Department of Homeland Security.

50. Heaton reviewed the Ukrainian Series images found on the Brown Hard Drive. He reports that all but one were videos, and that one was a "thumbnail" of one of the videos. Heaton opines that these images meet the definition of CSAM because

they depict scantily clad, prepubescent children in "sexually explicit or coy" poses, with breasts or nipples sometimes exposed, and the images focus on the subjects' genitalia.

51. Beauchamp also observed that two other image files on the Brown Hard Drive depicted what appeared to be minor females with no secondary sexual characteristics. One image shows a female's legs spread apart, and the image is focused on her naked groin. The other image depicts an erect penis outside a vaginal opening, with what appears to be ejaculate on the female's vagina and leg. Beauchamp reports that this female had no pubic hair and appeared to be either very petite or a minor. However, these files were not confirmed to match known images of CSAM. Each of these electronic files was a thumbs.db file.

52. In testimony in a preliminary hearing in respondent's criminal matter, Rodriguez explained that, if the thumbs.db files were transferred onto respondent's device without the original images, the person who received the thumbs.db files might never have known that the original files existed. Rodriguez used forensic tools to extract the images from the thumbs.db files found on the Seized Devices. He explained that the average computer user would not be able to see the image from a thumbs.db file if the original image was deleted or never existed on the device. He opined that a thumbs.db file is an indicator of what image might have been on a device, but conceded that to determine whether or not a user knowingly possessed the image, it "would probably be better to have the original file." Rodriguez explained that he could not make a determination whether the original images were ever on any of respondent's devices.

53. Rodriguez also explained that the "create date" of an electronic image file generally shows when the file was created, but does not mean that it was created on that date on the device upon which it is found. The evidence at hearing established

that the "modified date" generally shows the last time the file was saved on the device. Accordingly, if an image or video file was copied from one device to another, it might bear a "created date" prior to the transfer, but its "modified date" would be no earlier than the transfer (but perhaps later). The last accessed date generally shows the last time a file was opened or used. However, Rodriguez warned that such "dates are really hard to hang your hat on" and "times and dates on computers are very subjective." Beauchamp also testified that, although he has no "technical knowledge" of how the dates work, he is aware that there is a potential for them to "not make sense" and they can be changed on computer devices.

54. The "created date" of the Angeli series files found on the Brown Hard Drive was November 2, 2005; the "modified date" was February 28, 2010, and the "last accessed date was April 27, 2011.

55. The "created date" of each of the Ukrainian series files found on the Brown Hard Drive was September 5, 2009. The "modified date" for most of these files was February 13, 2006, but for two of the files it was February 27, 2006. No information regarding a "last accessed" date for these files was proven. Notably, the "modified date" for each of these files is earlier in time than the "created date."

56. The "created date" of the two likely CSAM image files discussed in Factual Finding 51 was November 2, 2005; the "modified date" was February 28, 2010, and the "last accessed date was April 27, 2011.

57. Heaton opined that it is not uncommon for the "created date" of an electronic image file to be later in time than the "modified date." He explained that if files are modified on one device and then downloaded onto another device, they may acquire a new "created date" but retain the earlier "modified date."

Criminal Conviction

58. On February 8, 2017, in the Superior Court of California, County of Contra Costa, respondent was charged with violating Penal Code sections 311.11, subdivision (a) (possession of CSAM) (a felony) and 311.2, subdivision (a) (possession of obscene matter) (a misdemeanor).

59. On December 8, 2021, upon his plea of *nolo contendere*, respondent was convicted of the misdemeanor obscene matter offense, and the felony CSAM charge was dismissed. Imposition of sentence was suspended and respondent was placed on court probation for a term of one year, on numerous conditions, including that he serve 30 days in jail, stay away from all minors (other than his son), and numerous other "sex offender conditions of probation."

Revocation of Respondent's EMT Certificate

60. In February 2018, after a hearing that proceeded as a default because respondent did not appear, the Medical Director of the Contra Costa County Emergency Medical Services Agency revoked the Emergency Medical Technician Certificate previously issued to respondent, based on a finding that respondent possessed CSAM on the Seized Devices.

Respondent's Evidence

61. Respondent testified at hearing.

62. Respondent is 45 years old. He was married from 2009 through approximately 2023 or 2024. He has one son and one stepdaughter.

63. Respondent is a high school graduate and started working as an emergency medical technician (EMT) for the Stockton Fire Department shortly after he graduated from high school in 2002. He also worked as an EMT for an ambulance company and a water park. In 2006, respondent began applying for law enforcement positions because he understood that the City of Stockton was headed into bankruptcy and he would be laid off from his position with the fire department. Respondent reports that he had completed 12 units at a community college, but did not complete a college degree program before being accepted to the SFPD academy.

INTERACTIONS WITH "BRIANA"

64. Regarding his interactions with "Briana," respondent testified as follows:

- He was using the SKOUT platform. He was "going through profiles" and saw a photograph with a very familiar face. He decided to engage with this profile and "see if the person recognizes me." He initiated a chat with "Briana" in an "adult" room (for persons over the age of 18 years) on the platform.

- He noticed that the profile picture looked younger than 18 years and looked like a female officer who was his former patrol partner.

- He did not provide his address, ask to meet with "Briana," or request explicit photographs of her.

- The reason he asked "Briana" the whereabouts of her mother is because he was just making general conversation, but also trying to see if "Briana" would reveal herself to be his former SFPD partner.

- Respondent did not delete his chat account.

- He abruptly stopped chatting with "Briana" after he received the photograph from her because the photograph was of his former partner, but "Briana" was not acknowledging that she was his former partner.

65. Respondent was later asked about his communications to "Briana" about "cuddling" or "kissing." He testified that these were "things I like to do and missed doing" at that time because he had grown apart from his wife.

66. Respondent's testimony that he recognized "Briana's" profile photograph and suspected throughout the chatting that "Briana" was not a 14-year-old girl is not at all plausible, given the contents of the messages and respondent's lengthy, flirtatious communications with "Briana" over a period of approximately 24 hours. Rather, the evidence shows that respondent believed he was chatting with a 14-year-old girl and that he abruptly terminated the chat only after he received the photograph that caused him to realize that he was actually chatting with an SFPD officer and that his deeply inappropriate attempts to groom a 14-year-old girl might have serious repercussions. Respondent's lack of candor regarding his communications with "Briana" severely diminishes the credibility of any of his testimony that was not corroborated by other evidence.

THE BROWN HARD DRIVE

67. Respondent admits that he owned the portable Brown Hard Drive. He reports that he acquired it when he worked for the ambulance company because he was "doing scheduling, contracts, policies and procedures" and needed a place to store such documents. He has not denied owning the Brown Hard Drive before completing the Personal Statement on March 26, 2007. He reports that he would

sometimes leave the Brown Hard Drive plugged into the ambulance company's desktop computer for days at a time and many other people had access to it.

68. Respondent reports that he sometimes took the Brown Hard Drive home and people in his home had access to it. He reports that he had a roommate who was a coworker at the ambulance company and the water park and later had other roommates after he bought a house in Stockton. He reports that he had a desktop computer set up in an unlocked spare bedroom/home office and the Brown Hard Drive was often plugged into this computer. Respondent reports that his roommates did not have much money and he allowed them to use his computer. He further reports that due to the different locations of his three jobs, he sometimes would stay with his parents and be away from the Stockton house for multiple days at a time. Respondent reports that he never checked to see if anyone else uploaded or downloaded material to or from the drive.

69. The evidence established that one of respondent's brothers, Matthew Enea, was convicted in 2000 of impersonating a public officer and possession of CSAM, both misdemeanor offenses and sentenced to 180 days in jail; and convicted in 2002 of sex with a minor (felony) and failure to register as a sex offender (misdemeanor) and sentenced to 240 days in jail. Respondent testified that he was unaware of these criminal convictions until he read about them during discovery in his own criminal case, at some point after he was charged in 2017.

70. Respondent reports that Matthew Enea and respondent's other brother stayed in respondent's residence frequently because they had jobs in the Central Valley and split time staying with respondent in Stockton and his parents in the Bay Area. Respondent reports that Matthew Enea started staying with him in 2003 and that, in 2007, he moved into an apartment in Las Vegas, but still frequently stayed at

respondent's house. Respondent reports that both brothers had access to and used his computers and the Brown Hard Drive. Respondent reports that, if he had known of Matther Enea's criminal convictions, he would not have allowed him to have free access to the Brown Hard Drive, or any of his computing devices.

71. Respondent reports that he later moved into a house in Antioch and his wife, son, and stepdaughter lived there with him, but he also had guests.

JULY 12, 2016, SEARCHES FROM RESPONDENT'S LAPTOP

72. Respondent denies performing the 10 internet searches apparently for CSAM discussed in Factual Finding 37. Respondent reports that he uses the Google search engine and has never used the Bing search engine, "unless by accident."

73. Respondent also reports that after he got married, his brother-in-law would frequently stay in respondent's home in Antioch for extended periods of time. Respondent reports that this brother-in-law typically spent many hours on respondent's laptop "locked in his room" while he stayed at respondent's home. Respondent reports that his brother-in-law was a guest in his home in Antioch on July 12, 2016. To corroborate this claim, respondent offered train tickets showing that his brother-in-law travelled from Bakersfield (his home) to Antioch on June 19, 2016, and returned to Bakersfield on July 16, 2016.

SEXUALLY EXPLICIT IMAGES

74. Respondent admits that he viewed adult sexual materials "quite a lot" and occasionally viewed images of people younger than 18 years of age in erotic poses. Respondent admits that he sometimes took photographs of people younger

than 18 years of age that he did not know, but reports that the photographs did not involve any sexual conduct.

75. Respondent testified that, when he completed the Personal Statement on March 26, 2007, he answered all the questions truthfully and he had never knowingly possessed or searched for CSAM materials at that time. Respondent also reports that during the 2007 background check, he passed a polygraph examination during which he also denied possessing CSAM materials. He recalls that he was accepted to the police academy in September 2007.

76. Respondent denies downloading the Angeli images. He testified that he never heard of them before the criminal prosecution and never viewed any images of their description.

77. Respondent did not directly accuse his brother Matthew Enea or his brother-in-law of downloading the images or conducting the internet searches at issue, but he did testify that his brother Matthew Enea had a sexual interest in children and his brother-in-law may also have had this interest as well.

78. On cross examination, respondent admitted viewing child erotica. He testified that while viewing pornography, "other stuff" would come up, like "popups" or other websites depicting people under the age of 18 years, "but not nude." Respondent testified that he does not believe viewing those images constituted a misdemeanor offense that would require him to answer yes to Question 72(Y) on the Personal Statement. Respondent later testified that his viewing and possessing of child erotica "probably" began in 2012 or later.

79. Respondent reports that he is not "100 percent" sure which images form the basis for his criminal conviction. When asked if he would allow himself to be

convicted of a crime his brother committed, he testified that he would not want to, but it was a long time ago and he does not have the information to defend something that happened that long ago.

80. Regarding the photographs of females (including minors) in bathing suits taken at a water park in 2006 or 2007 (see Factual Finding 40), respondent admitted that he "probably" did not have permission to take the photographs and he does not recall showing them to the subjects.

81. Respondent was not asked about the information recovered from his mobile phone that showed that he was accessing or modifying pictures from the website "primejailbait.com," while on duty in 2015 and 2016. (See Factual Finding 40.) He did not indicate that any other person had access to his mobile phone.

82. Respondent testified that it was "fair to say" that CSAM and images of child exploitation victimize children and a person who victimizes children is not fit to be a law enforcement officer.

83. At hearing, respondent testified that he did not recognize the four pictures of a young female that appeared to be 12 to 14 years of age taken in 2012 in a frozen yogurt shop, that were found on a black/silver USB drive in respondent's SFPD locker. Respondent did not explain why he had this device at work or claim that anyone else had access to it.

RESPONDENT'S FUTURE PLANS

84. Respondent reports that he has considered applying for jobs as a traffic collision investigator or as a drug recognition expert and, depending on the employer, he might need his POST certifications to be hired in such positions. He also reports

that it is "very possible" that he would return to law enforcement if allowed to keep his POST certifications.

Ultimate Findings

85. Respondent denies intentionally possessing CSAM or committing a misdemeanor when he completed the Personal Statement on March 26, 2007. He argues that the Angeli image files were only thumbs.db files that required special forensic tools to view the image and the actual or original images were not found on any of respondent's devices. Respondent does not deny that he possessed the Ukrainian image files or that they are CSAM, but argues that the evidence does not establish that he possessed these images on March 26, 2007, when he completed the Personal Statement. Respondent argues that the remainder of the materials, called child erotica by the investigators, while distasteful, are not illegal and therefore do not show that he falsely denied possessing CSAM or committing a misdemeanor in the previous seven years when he completed the Personal Statement on March 26, 2007.

86. The Angeli images found on respondent's Brown Hard Drive are thumbs.db files of CSAM. The two images described in Factual Finding 50 did not match known CSAM image files, but based on the contents are more likely than not CSAM.

87. These four electronic files are thumbs.db files, typically automatically created by the user's computer when a user are views the "original" or associated image or video file in "thumbnail" or "filmstrip" mode. If only the thumbs.db file exists on a device, a typical user would be unable to view the image. It is possible, but unlikely that thumbs.db files could exist on an electronic storage device even though the "original" or associated image or video file was never stored on that device. So,

respondent is correct to the extent that the evidence does not show that it is certain that the "original" or associated Angeli images or the two images described in Factual Finding 50 were ever stored on his Brown Hard Drive. However, considering the totality of the evidence, it is more likely than not that these four "original" or associated CSAM images were stored on respondent's Brown Hard Drive at the time it was seized in 2017.

88. Pursuant to Heaton's unrebutted testimony and other evidence, the Ukrainian images and videos found on Respondent's Brown Hard Drive were CSAM and most of them were not thumbs.db files, but rather the "original" or associated CSAM images and videos.

89. It appears that Beauchamp and complainant at least initially believed that the numerous "create dates" and "modified dates" earlier in time than March 27, 2007, proved to a certainty that these CSAM files were stored on respondent's Brown Hard Drive prior to March 27, 2007. The evidence shows that these "create dates" and "modified dates" are probative but not by themselves reliable indicators of when a file is stored on a particular device, pursuant to the unrebutted expert opinions of Rodriguez and Heaton.

90. However, the evidence shows that: respondent owned and regularly used the Brown Hard Drive prior to March 27, 2007, apparently years prior. Four CSAM files were stored on the device at the time it was seized in 2017, and a dozen other CSAM files very likely had been stored on the device but later deleted, as shown by the existence of the related thumbs.db files. Respondent surreptitiously photographed minor females in bathing suits without their consent at a water park in 2006 and/or 2007 and surreptitiously photographed a minor female in a yogurt shop in 2012, as well as his neighbor through a hole in her fence in 2017. On five occasions in 2015 and

2016, respondent accessed the website "primejailbait.com" from his mobile phone while on duty for the SFPD. By 2017 respondent was engaging in a broad array of illicit sexual activities, including paying sex workers for sexual acts, and sending unsolicited videos of himself ejaculating. In 2017, respondent chatted with "Briana," whom he believed to be a 14-year-old girl, throughout a 24-hour period, stating that he was interested in dating, cuddling, and kissing, asking where she lived and when her mother would not be present, all in a manner that strongly suggests a careful, cautious effort to groom "Briana" for sexual contact. By February 2017, respondent had more than 1,300 child erotica images on his Brown Hard Drive, apparently collected from numerous different sources. Many of these activities constitute misdemeanor criminal offenses.

91. In this context, it is more likely than not that respondent viewed or possessed CSAM before March 26, 2007, and it is more likely than not that respondent committed one or more acts "amounting to a misdemeanor" within the seven years prior to March 26, 2007. Accordingly, respondent's denial, in his March 26, 2007, Personal Statement, that he had ever accessed or possessed CSAM, or in the preceding seven years committed a misdemeanor, were false. Respondent's implications that both his brother Matthew Enea and his brother-in-law used his devices to store and/or search for CSAM are somewhat plausible, given Matthew Enea's CSAM-related criminal convictions and the train tickets showing respondent's brother-in-law was staying in respondent's home on the date of the 2016 CSAM searches. However, the only evidence that Matthew Enea had access to respondent's devices is respondent's testimony, and respondent was not a credible witness. It is more likely that at least some of the CSAM material in respondent's possession was his own.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant is required to prove cause for cancellation of respondent's certificates, which are essentially licenses. The parties disagree regarding the standard of proof.

2. Respondent initially argued that section 13510.85, subdivision (a)(5), specifies clear and convincing evidence as the standard of proof in this proceeding.

3. Section 13510.85 relates to "serious misconduct" investigations. Subdivisions (a)(4) & (5) specify that the board shall use the clear and convincing evidence as the standard of proof for recommendations of revocation of a certificate, and that the commission shall use the clear and convincing evidence as the standard of proof for decisions to adopt such recommendations. Notably, in subdivision (a)(6), the Legislature provided for a formal hearing before an administrative law judge, but did not specify a standard of proof.

4. Complainant correctly pointed out that this proceeding is not a "serious misconduct" proceeding to revoke respondent's certificates, and does not arise under section 13510.85. Rather, this is a proceeding to cancel respondent's certificates under section 13510.8, subdivision (a)(3), and California Code of Regulations, title 11, section 1202, subdivision (e)(1)(A). (See Legal Conclusions 8 & 9.) Section 13510.8 does not specify a standard of proof. Complainant cited Evidence Code section 115 for the proposition that "Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence." Complainant also argued that, pursuant to the statutory interpretive principle *expressio unius est exclusio alterius* (expression of

some things in a statute necessarily means the exclusion of other things not expressed), the Legislature's decision to specify the clear and convincing evidence standard solely for serious misconduct revocation proceedings shows an intent to require proof by a preponderance of the evidence in cancellation proceedings. (See *Gikas v. Zolin* (1993) 6 Cal.4th 841, 852.)

5. Respondent then argued that the clear and convincing evidence standard applies because he has a "fundamental vested right" in his certificates and to work in his chosen profession. In response, complainant argues that the preponderance standard applies because respondent's certificates are occupational or vocational licenses, not professional licenses, citing respondent's testimony that he has only completed high school and 12 units at a community college when he became a police officer.

6. Where the standard of proof in a licensing matter is not set by statute, it depends on whether the license is determined to be a professional license (clear and convincing evidence) or a non-professional license (preponderance of the evidence). (*See San Benito Foods v. Veneman* (1996) 50 Cal.App.4th 1889, 1892-95.). That determination depends on the amount of education, training, or work entailed in obtaining the license at issue. (*Ibid.*)

7. Based on the small amount of education, training, or work entailed in obtaining the certificates at issue, and the fact that the Legislature specified a clear and convincing evidence standard for some aspects of revocation of a certificate but not for cancellation, the applicable standard of proof is a preponderance of the evidence. This standard was applied in making the factual findings.

Cause for Cancellation

8. Section 13510.8, subdivision (a)(3), states:

> The commission may cancel the certificate or proof of eligibility of a peace officer if the commission determines that there was fraud or misrepresentation made by an applicant at any time during the application process that resulted in the issuance of the certification.

9. California Code of Regulations, title 11, section 1202, subdivision (e)(1)(A),[2] states:

> POST shall cancel any certificate(s), including the Proof of Eligibility and Basic Certificate, for the following reasons:
>
> (A) The certificate was obtained through misrepresentation, fraud.

10. In this context, misrepresentation includes false statements without the intent to deceive.

11. Cause for cancellation of respondent's basic and intermediate certificates exists, for obtaining these certificates through material misrepresentations. (§ 13510.8, subd. (a)(3); Cal. Code Regs, tit. 11 § 1202, subd. (e)(1)(A); Factual Finding 91.)

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[2] This subdivision was formerly enumerated as "(c)(1)(A)" and is referred to as such in the accusation.

Determination of Discipline

12. Cause for cancellation of respondent's certificates having been established, the next issue is what action is required to protect the public. Section 13510.8, subdivision (a)(3), states that the Commission *may* cancel respondent's certificates for misrepresentation during the application process, whereas California Code of Regulations, title 11 section 1202, subdivision (e)(1)(A), states that the Commission *shall* cancel his certificates for this reason. In this case, the outcome is necessarily the same because the evidence establishes that respondent is not fit to hold either certificate. Public protection requires cancellation of both certificates.

ORDER

Basic Certificate Number 139743 and Intermediate Certificate Number 125223, issued to respondent Joshua Paul Enea, are cancelled.

DATE: 12/08/2025

Michael C. Starkey

MICHAEL C. STARKEY
Administrative Law Judge
Office of Administrative Hearings