RATIONALE ON FINDINGS

LUKE WALDEN, #34898

B.F. NO. 31674

C.F. NO. 21-001144

WEDNESDAY, FEBRUARY 14, 2024

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MS. AMIN: SO NOW THE BOARD IS NOW READY IN THE MATTER OF LUKE WALDEN, BOX 31674. THE BOARD WILL NOW PROVIDE THE RATIONALE ON ITS FINDINGS.

THIS CASE WAS HEARD DURING TWO HEARING DATES AND INCLUDES THE TESTIMONY FROM THE FOLLOWING FIVE WITNESSES: JOHN JIZMEJIAN, LUKE WALDEN, GREG FIELD, FADIL BIRAIMAH, AND ERIC BIXLER. THE BOARD ADMITTED INTO EVIDENCE DEPARTMENT'S EXHIBITS 1 THROUGH 18, ACCUSED EXHIBITS A THROUGH E, AND BOARD EXHIBIT NO. 1.

THE BOARD HAS CONSIDERED AND CAREFULLY REVIEWED AND WEIGHED ALL OF THE EVIDENCE INTRODUCED. ALTHOUGH OUR RATIONALE INCLUDES CITATIONS TO THE RECORD TO HIGHLIGHT PARTICULAR TESTIMONY OR EXHIBITS, THE BOARD'S FINDINGS AND CONCLUSIONS ARE NOT BASED SOLELY ON THOSE SPECIFIC RECORD CITATIONS BUT RATHER ON THE BOARD'S REVIEW OF THE ENTIRE RECORD OF THIS CASE.

FURTHER, THE BOARD NOTES THAT ITS FINDINGS OF FACT ENCOMPASS THE CREDIBLE TESTIMONY AND EVIDENCE

PRESENTED AT THE HEARING, AS WELL AS LOGICAL INFERENCES DRAWN THEREFROM. A CREDIBILITY DETERMINATION MAY RELY ON A VARIETY OFF FACTORS, INCLUDING THE CONTEXT OF THE WITNESS' TESTIMONY, THE WITNESS' DEMEANOR, THE WEIGHT OF THE RESPECTIVE EVIDENCE, ESTABLISHED OR ADMITTED FACTS, INHERENT PROBABILITIES, AND REASONABLE INFERENCES THAT MAY BE DRAWN FROM THE RECORD AS A WHOLE. CREDIBILITY FINDINGS NEED NOT BE AN ALL-OR-NOTHING PROPOSITION. INDEED, NOTHING IS MORE COMMON IN ALL KINDS OF ADJUDICATORY DECISIONS THAN TO BELIEVE SOME, BUT NOT ALL, OF A WITNESS' TESTIMONY.

THE DEPARTMENT HAS THE BURDEN TO PROVE BY A PREPONDERANCE OF THE EVIDENCE FOR COUNT 1 THAT "ON OR ABOUT MARCH 17, 2021, YOU, WHILE OFF DUTY, ATTEMPTED TO OBTAIN A FIREARM SILENCER."

THE ESSENCE OF THE PARTIES' POSITION IS THAT, ON THE ONE HAND, THE DEPARTMENT ALLEGES THAT WALDEN ATTEMPTED TO PURCHASE A FIREARM SILENCER, WHEREAS DETECTIVE WALDEN MAINTAINED THAT HE INTENDED TO PURCHASE A HIGH-PERFORMANCE FUEL FILTER. DETECTIVE WALDEN EXPLAINED THAT HE IS A CAR ENTHUSIAST, WHO REBUILDS CARS AND HAS A NUMBER OF PENDING AND INCOMPLETE PROJECTS. AMONG OTHER THINGS, HE IS ALSO A WELDER AND HAS BEEN QUALIFIED AS A GUN EXPERT FOR THE

PURPOSES OF TESTIFYING IN STATE COURT PROCEEDINGS.

GREG FIELD, A SENIOR AUTOMOTIVE SUPERVISOR, TESTIFIED THAT THE ITEM CONFISCATED BY CBP CANNOT BE USED AS A FUEL FILTER BECAUSE IT HAS NO FILTRATION COMPONENT INSIDE IT. HE BELIEVED THAT, ACCORDING TO THE ONLINE SEARCHES, THE ITEM PURCHASED, WHICH WAS A NAPA 4003, INTENDED USE IS AS A FIREARM SILENCER.

BOARD EXHIBIT 1 DEPICTS A FEW OF THE URL WEBSITES DETECTIVE WALDEN SEARCHED PRIOR TO THE SUBJECT PURCHASE. MR. FIELD BELIEVED THEM NOT TO BE FUEL FILTERS.

MR. BIRAIMAH, THE FIREARM ANALYST, EXPLAINED THAT THE NAPA 4003 IS A CODE WORD FOR SUPPRESSORS KNOWN TO FIREARM BUYERS. HE FURTHER EXPLAINED THAT FUEL FILTERS AND SOLVENT TRAPS CANNOT BE INTERCHANGEABLY USED. MR. BIRAIMAH EXAMINED THE CONFISCATED ITEM AND DETERMINED IT TO BE A FIREARM SUPPRESSOR COMPATIBLE WITH A NUMBER OF FIREARMS. AND UPON EXAMINING DETECTIVE WALDEN'S LIST OF PURCHASED FIREARMS, MR. BIRAIMAH FOUND A NUMBER OF THOSE FIREARMS COULD BE USED IF MODIFIED.

ERIC BIXLER TESTIFIED THAT ONE OF DETECTIVE WALDEN'S RESPONSIBILITIES WAS TO IDENTIFY SUPPRESSORS, AND THAT DETECTIVE WALDEN WOULD HAVE BEEN AWARE OF THE CONFISCATED ITEM'S PURPOSE AS A SUPPRESSOR.

IN CONCLUSION, THE BOARD FINDS YOU UNANIMOUSLY GUILTY ON COUNT 1.

THIS CONCLUDES THE RATIONALE FOR THE FINDINGS PHASE OF THIS BOR CASE.

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RATIONALE ON PENALTY

LUKE WALDEN, #34898

B.F. NO. 31674

C.F. NO. 21-001144

THURSDAY, FEBRUARY 15, 2024

MS. AMIN: THIS IS THE BOARD'S RATIONALE OF THE DISCIPLINARY FINDINGS IN THE MATTER OF LUKE WALDEN, BOX FILE NO. 31674

THE BOARD HAS COMPLETED ITS DELIBERATIONS FOR PENALTY AND WE WILL RENDER A UNANIMOUS DECISION. THE BOARD HAS GIVEN CAREFUL CONSIDERATION TO AN APPROPRIATE PENALTY IN THIS MATTER. WE HAVE REVIEWED DETECTIVE WALDEN'S PERFORMANCE HISTORY, DISCIPLINARY HISTORY, COMMENDATIONS AND WE HAVE HEARD FROM HIS FIVE CHARACTER WITNESSES. WE ALSO HEARD FROM TWO DEPARTMENT WITNESSES.

IN ADDITION, WE RECEIVED INTO EVIDENCE ACCUSED EXHIBIT F, WHICH WAS ORDER OF WITHDRAWAL OF THE IMMEDIATE TEMPORARY SUSPENSION OF RESPONDENT'S POST CERTIFICATES, DATED DECEMBER 4, 2023.

DETECTIVE WALDEN'S RECORD SHOWS 24 YEARS OF SERVICE WHERE HE HAS RECEIVED TWO MAJOR COMMENDATIONS AND 155 MINOR COMMENDATIONS FROM CITIZENS, THE BUREAU, AREA AND OTHERS. HIS DISCIPLINARY HISTORY CONSISTED

OF MINOR SUSTAINED ADMONISHMENT FOR A TRAFFIC COLLISION IN 2002.

WE HEARD FROM THE FOLLOWING CHARACTER WITNESSES: RETIRED DETECTIVE JAMES MCSORLEY WHO WAS WITH THE DEPARTMENT FOR 30 YEARS AND WORKED AS DETECTIVE WALDEN'S CO-SUPERVISOR IN THE GND DEPARTMENT IN 2015; RETIRED LIEUTENANT JESSE KANE, WHO WAS ON THE JOB FOR 28 YEARS; DETECTIVE CRAIG MARQUEZ, WHO HAS BEEN ON THE JOB FOR 28 YEARS, WAS WITH GND FOR FOUR YEARS, AND WORKED WITH DETECTIVE WALDEN ON THE GUN UNIT; RETIRED LIEUTENANT SCOTT MCNIEL, WHO WAS EMPLOYED BY LAPD FOR NEARLY 27 YEARS, HE WORKED WITH GND AS A DETECTIVE III, AND WAS WALDEN'S DIRECT SUPERVISOR FOR TWO YEARS; LASTLY, WE HEARD FROM DETECTIVE HUGO AYON, WHO WORKS GND ON THE FBI TASK FORCE, AND HAS BEEN ON THE JOB FOR 24 YEARS.

WE ALSO HEARD FROM THE FOLLOWING DEPARTMENT WITNESSES: DETECTIVE III MICHAEL HACKMAN, WHO IS THE OFFICER IN CHARGE OF ANALYSIS AND REGULATORY COMPLIANCE. DURING HIS TESTIMONY HE EXPLAINED THE PROCESS OF THE POST LICENSURE AND REGULATORY PROCEDURE, AND THAT THIS BOARD IS COMPLETELY INDEPENDENT AND SEPARATE FROM THE POST. ON THE ONE HAND THE BOARD IS AN EMPLOYMENT ACTION, WHEREAS THE POST IS A LICENSURE-BASED PROCESS. HE ALSO EXPLAINED

STANDARD OF REVIEW FOR POST IS OF A CLEAR AND CONVINCING, WHEREAS THE BOARD IS BY A PREPONDERANCE OF THE EVIDENCE.

WE ALSO HEARD FROM CAPTAIN YASIR GILLANI WHO HAS BEEN ON THE DEPARTMENT FOR 25 YEARS AND IS A COMMANDING OFFICER OF RISK MANAGEMENT. HE EXPLAINED THAT THERE IS A CONCERN AND POSSIBLY A NEGATIVE EFFECT OF THE MISDEMEANOR CONVICTION AND OUR GUILTY FINDING IN THIS CASE. HE ALSO EXPLAINED THAT ONCE A PERSON IS PLACED ON BRADY, IT MAY AFFECT HIS ABILITY TO TESTIFY, HOWEVER, THAT WOULD BE UP TO THE DA'S DEPARTMENT TO DETERMINE HIS ABILITY TO TESTIFY. ONCE ON BRADY, IT'S NOT A DONE DEAL AND IT IS POSSIBLE TO BE REMOVED FROM A BRADY LIST.

THE CHARACTER WITNESSES HAVE A COLLECTIVE EXPERIENCE OF MORE THAN 136 YEARS OF SERVICE AND HAVE UNANIMOUSLY COMMENDED WALDEN ON HIS POSITIVE WORK ETHIC. DETECTIVE AYON EXPLAINED THAT HE IS A PERSON OF INTEGRITY WHO EARNED EVERYONE'S TRUST THAT HE WAS A GREAT COP. DETECTIVE AYON, HAVING BEEN TOLD OF THE GUILTY FINDING IN THIS CASE, SAID THAT HE WOULD BE HAPPY TO HAVE HIM WORK FOR HIM.

WALDEN WAS FOUND GUILTY OF WHILE OFF-DUTY, ATTEMPTED TO OBTAIN A FIREARM SILENCER. THE BOARD OF RIGHTS MANUAL, 12TH EDITION, PAGE 3, STATES THAT,

"IN THE EVENT THAT A FINDING OF GUILTY IS MADE, PENALTIES PERMITTED BY SECTION 1070, MUST BE IMPOSED. THE NATURE AND EXTENT OF THE PENALTY SHOULD BE COMMENSURATE WITH THE PARTICULAR CONDUCT FOR WHICH THE ACCUSED HAS BEEN FOUND GUILTY."

WHEN ASSESSING THE PENALTY, THERE IS AN EXAMINATION OF MOTIVATION, DAMAGE, KNOWLEDGE, INTENT AND HISTORY. THE BOARD BELIEVES THAT YOU SHOULD HAVE KNOWN NOT TO ATTEMPT TO MAKE THE PURCHASE. HOWEVER, TO YOUR CREDIT, YOU HAVE A LONG HISTORY OF GOOD WORK WITH THE DEPARTMENT AND THAT THIS OUTWEIGHS THE POTENTIAL HARM CAUSED BY YOUR MISTAKE. THE BOARD DOES NOT BELIEVE THAT THERE IS ANY IMMEDIATE HARM TO HEALTH OR SAFETY TO THE PUBLIC AS A RESULT OF THIS GUILTY FINDING.

THIS BOARD FURTHER BELIEVES THAT THE SEVERITY OF THE PUNISHMENT SHOULD BE REDUCED FOR A LONG-TERM EMPLOYEE WITH A GOOD WORK RECORD AND WITHOUT HAVING SIGNIFICANT SUSTAINED PRIOR COMPLAINTS. DETECTIVE WALDEN HAS PROVIDED 24 YEARS OF SERVICE TO THE LAPD AND THE LOS ANGELES COMMUNITY AND WE TRUST HE WILL HAVE MANY FUTURE YEARS OF SERVICE TO OUR COMMUNITY, HOPEFULLY UNBLEMISHED.

THEREFORE, IT IS THE UNANIMOUS

RECOMMENDATION OF THIS BOARD TO THE CHIEF OF POLICE THAT THE PENALTY IMPOSED BE A SUSPENSION OF 30 DAYS.

THIS CONCLUDES THE BOARD OF RIGHTS.

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