

DECEMBER 2, 2009

REGULAR MEETING

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton B. Goodlett Place, San Francisco, at 5:34 p.m., in a Regular Meeting.

PRESENT: Commissioners Marshall, Mazzucco, Lee, Onek, Pan Hammer
Commissioner Marshall welcomed Commissioner Jim Hammer who introduced himself and gave a brief bio.

ADOPTION OF MINUTES

- Regular Meetings of September 23rd, 30th, & October 7, 2009

Motion by Commissioner Onek, second by Commissioner Mazzucco.
Approved 6-0.

APPROVAL OF CONSENT CALENDAR

- Request of Captain Denis O'Leary for approval to accept a \$50.00 gift certificate to Toast Restaurant from Sheriff Robert T. Doyle, Marin County Sheriff's Office
- Request of the Chief of Police to accept a donation of a 10-year Paint/quarter horse gelding from Mr. Von D. Vaughn, valued at \$7,500.00, for use of the Police Mounted Unit

Motion by Commissioner Mazzucco, second by Commissioner Onek.
Approved 6-0.

RESOLUTION NO. 117-09

APPROVAL OF THE REQUEST OF CAPTAIN DENIS O'LEARY TO ACCEPT A \$50.00 GIFT CERTIFICATE TO TOAST RESTAURANT FROM SHERIFF ROBERT T. DOYLE, MARIN COUNTY SHERIFF'S OFFICE

RESOLVED, that the Commission hereby approves the request of Captain Denis O'Leary to accept a \$50.00 gift certificate to Toast Restaurant from Sheriff Robert T. Doyle, Marin County Sheriff's Office.

AYES: Commissioners Marshall, Mazzucco, Hammer, Lee, Onek, Pan

RESOLUTION NO. 118-09

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO ACCEPT A DONATION OF A 10-YEAR OLD PAIN/QUARTER HORSE GELDING FROM MR. VON D. VAUGHN, VALUED AT \$7,500.00, FOR USE OF THE POLICE MOUNTED UNIT

RESOLVED, that the Commission hereby approves request of the Chief of Police to accept a donation of a 10-year old Pain/Quarter Horse gelding from Mr. Von D. Vaughn, valued at \$7,500.00, for use of the Police Mounted Unit.

AYES: Commissioners Marshall, Mazzucco, Hammer, Lee, Onek, Pan

PUBLIC COMMENT

Lea Militello, President Pride Alliance, addressed the Commission to welcome Commissioner Hammer to the Commission.

Richard Hamlin discussed concerns regarding officers not taking accountability.

Christine Harris discussed concerns about being stalked by undercover officers and concerns regarding Sgt. Raymond Beazley.

Judy Falcker discussed concerns regarding being attacked, stalking, electromagnetic weapons, food tainting and how officers treated her negatively after reporting the incidents to the police.

Miki Shock discussed concerns regarding the unsolved homicide of Mr. Victor Bach in the Mission District.

Barry Corngold, President SF Cab Association, discussed illegal cabs and limos and the lack of enforcement and staffing of the Taxi Detail.

John Barry, former Taxi Commissioner, discussed illegal cabs and limos. Carl McMurlough, Medallion Holder Association, asked that funds be released for staffing of the Taxi Detail for enforcement to stop illegal taxi cabs and limos.

Barry Tarranto discussed concerns regarding staffing to monitor illegal cabs and limos because it is a public safety issue.

Hung Su Kim, SF Taxi Coalition, discussed concerns regarding illegal taxis and limos and the lack of enforcement and asked that under the reorganization that illegal taxi enforcement be made a priority.

REPORTS TO THE COMMISSION

a. Chief's Report

- **Update on significant policing efforts by Department members**
- **Presentation of the Department's 90-day Progress Report**

Chief Gascón reported regarding arrest made in stabbing incident on Muni. The Chief also spoke about the NIJ Conference in Los Angeles.

Chief Gascón then presented the 90-day Progress Report.

Commissioner Lee asked about the restructuring and the promotion aspect and asked about the criteria review committee. Chief Gascón stated the he is putting together a working group which includes the police employee groups and people from the outside including Attorney Connie Rice from Los Angeles who is an expert in litigations and diversity issues. Ms. Rice has volunteered to become an advisor to the group. Chief Gascón stated that the task is to come up with a recommendation for a new testing process for the SFPD and to be able to implement it by the time of the next Civil Service test scheduled in October 2010. The group is to evaluate the current system, look for best practices around the country, and to come back with recommendations as to, not only to a testing system, but also in mentoring and employee development system that will allow the Department to improve the quality of promotional opportunities within the Department. Commissioner Lee asked that the Public Advocacy Group be invited to be part of this advisory group.

Commissioner Pan thanked the Chief for the upcoming OIS Report and asked that this item be presented to the Commission with significant notice to the public as to when it will be presented. Commissioner Pan also acknowledged the work done in regards to safety on Muni.

Commissioner Onek talked about the community advisory group and about attending the monthly meeting at the Ingleside and asked how will this be done in the other districts. Chief Gascón stated that the structure will be done uniformly in all the districts and that Captain Lazar has been tasked to work with the other nine district captains to help replicate the Ingleside model.

Commissioner Hammer asked the Chief to talk a little bit about the limited technology of the department. Chief Gascón explained that in order to have a good Compstat process is to have a good Records Management System where all police contacts are entered into a database, stored, and then having a system that can come in and take information out of storage, analyze the information, and digest the information and provide a product that is workable. What the Department has is the Cable System where the officers will write the report and then a clerk enters the report into the system and then there is the Oracle database where about 87 percent of reports are being input. However, the two systems do

not connect with one another. Another problem is that many of the officers do not have access to email. What is being done is Oracle is assessing the system and is getting ready to put an interim solution that will give the Department the opportunity to take what is in the Oracle database that exists in the Cable system and create an interim data warehouse from which the Department can extract information from. Chief Gascón is also looking to establish a Police Foundation where the department can get private funding for help and he is also trying to seek grant funding and help from the Federal Government. The Chief also stated that he is working with Senator Feinstein's office in trying to get help for funding.

Commissioner Mazzucco also commended the Chief for having the promotional ceremony yesterday. Commissioner Mazzucco also talked about disciplines and about creating a master calendar for disciplines for the next few weeks for the remaining cases. This is to have the officers and counsels, along with MCD and OCC, come to the Commission meeting to talk about the possibility of settling cases with the Commission's intervention. Commissioner Mazzucco also commended the Chief for all that he's done within the first 90-days.

Commissioner Marshall asked for an update on the PERF recommendations and implementation. Chief Gascón stated that he can have an update by March 2010.

OCC Director's Report

- Review of recent activities

Director Hicks talked about three things: (1) Budget reduction of \$105,000; (2) Mediations; and (3) Pending cases. Director Hicks stated that due to the \$105,000 budget reduction, she will need to propose the elimination of two of the six clerical positions, an investigator, and portions of the OCC's professional services, materials, supplies, overtime, temporary services, and telephone budgets. She stated the impact will be extremely painful and there are more budget cuts slated for 2010/11 fiscal year budget.

Commissioner Pan would like budget numbers be submitted to the Commission for reference.

Commissioner Onek asked about violating the Charter if the number of investigators go below the Charter requirements. Director Hicks stated that the OCC currently has 21 investigators so there will be no Charter violation but the OCC cannot afford to drop below that number.

Director Hicks reported that the OCC opened 937 cases to date and closed 943 as of November 30, 2009. The OCC sustained 47 cases to date with 386 pending cases from 2009 and 2 pending cases from 2008.

Director Hicks went on to talk about mediation. She stated that officers are beginning to turn down mediation because of a POA board member saying that mediations count toward the EIS threshold, thinking that EIS is discipline. Director Hicks suggested that the Commission remove mediated cases as EIS indicators for two reasons. She stated that mediations are conducted by skilled mediators, a panel of two, one an attorney and one not an attorney. During a mediation, the complainant and the officer both have the opportunity to speak with one another frankly; the officer is educated on the impact of his conduct and the complainant is educated on the rationale for the officer's conduct. Second, the officer can only go to mediation three times in a two-year period, and no more than once every six months. After an officer has three mediations in a two year period, then the officer must sit out from mediations for a year. If the officer is sustained, then he cannot participate in mediation for a year. Director Hicks stated that this year the OCC mediated 74 cases. From January to October, only three officers declined to mediate but in November, four officers declined to mediate.

Commissioner Mazzuco asked Director Hicks if she is in agreement with the POA to remove mediation as an EIS indicator. Commissioner Mazzuco asked that the Commission act quickly in taking care of the situation in removing mediation as an EIS indicator.

Chief Gascón stated that he would like to engage in dialogue about this and stated that mediation is a great tool but stated that it is important to go slowly on this because one of the things the whole EIS system is set up is to create clear indicators of patterns and warning systems. Chief Gascón stated that the Department needs to know if people are engaging in certain conduct and is being repeated. Chief Gascón stated that in some areas he might agree but there also might be areas of concern.

Commissioner Marshall stated that the EIS is not a discipline system. It is a professional development system.

Director Hicks stated that she fully agrees with Commissioner Marshall that the EIS is not a discipline system. She stated that what triggers this is the fact that an officer will have to sit down with someone about said behavior in addition to having voluntarily submitted to mediation. Director Hicks also stated that she hears the Chief as far as treating this very carefully to determine what cases are we mediating, the frequency with which the officer mediates, and all of those things certainly need to be considered, but she would recommend at looking carefully at not double counting cases for EIS and for mediations because this is voluntary.

Commissioner Onek suggested having a meeting with the Chief, the OCC, the POA, or other interested parties to try and work this out and come up with a compromise because mediation has been a very successful program. Commissioner Onek also asked about the impact of the upcoming budget cuts to the mediation program. Director Hicks stated that the next round of budget cuts will impact every category on staff and yes, the program could be impacted.

Commissioner Hammer asked if there are any written rules as to which cases can go to mediation. Director Hicks explained that there are categories that are ineligible for mediation. Commissioner Hammer stated that there should be a hearing and that this matter should be discussed.

Commissioner Marshall requested that the Department, OCC, and the POA meet and discuss this matter and get report back to the Commission.

Commission Reports

- **Commission President's Report**
- **Commissioners' Reports**

Commissioner Mazzuco reported that, along with Commissioners Marshall and Hammer, they will meet to come up with a master calendar for disciplines to handle the remaining disciplinary cases. He went on to welcome Commissioner Hammer to the Commission.

Commissioner Onek stated that he thinks all the cases that are going to settle have already been settled and stated that for the remaining cases, hearing dates need to be set in order to move the cases. Commissioner Onek also commended the Chief for the promotional ceremony and welcomed Commissioner Hammer to the Commission.

Commissioner Hammer stated that the discussion will not only be settlements but that he will ask counsels to bring their calendars because trial dates will be set.

PUBLIC COMMENT

None

ROUTINE ADMINISTRATIVE BUSINESS

- a. Commission Announcements**
- **Assignment of disciplinary charges filed in Disciplinary Case No. ALW C09-186, to an individual Commissioner for the taking of evidence on a date to be determined by the Commissioner (Resolution No.119-09, Assigned to Commissioner James Hammer)**
- b. Scheduling of items identified for consideration at future Commission meetings**

Community meetings will be calendared within the next few weeks.

PUBLIC COMMENT

None

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE REQUEST OF THE CHIEF OF POLICE TO APPLY FOR RETROACTIVELY, ACCEPT AND EXPEND FUND FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) TO IMPLEMENT THE “SOBRIETY CHECKPOINT MINI-GRANT PROGRAM”

Motion by Commissioner Mazzucco, second by Commissioner Hammer. Approved 6-0.

APPROVAL TO AUTHORIZE THE CHIEF OF POLICE TO ACCEPT AND EXPEND FUNDS FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) TO IMPLEMENT THE “SOBRIETY CHECKPOINT MINI-GRANT PROGRAM”

RESOLVED, that the Police Commission hereby approves to authorize the Chief of Police to accept and expend funds from the California Office of Traffic Safety (OTS) to implement the “Sobriety Checkpoint Mini-grant Program” including any augmentations, extensions and modifications.

AYES: Commissioners Marshall, Mazzucco, Hammer, Lee, Onek, Pan
ABSENT: Commissioner DeJesus

PUBLIC COMMENT

None

DISCUSSION AND POSSIBLE ACTION TO TAKE OFF CALENDAR INDEFINITELY THE DISCIPLINARY CHARGES FILED IN CASE NO. RMW C08-030. MEMBER INVOLVED RETIRED FROM THE DEPARTMENT, EFFECTIVE SEPTEMBER 16, 2009. SAID DISCIPLINARY CHARGES WILL BE PLACED BACK ON CALENDAR SHOULD SAID MEMBER BE WITHIN THE JURISDICTION OF THE POLICE COMMISSION IN THE FUTURE
(Resolution 120-09)

Motion by Commissioner Mazzucco, second by Commissioner Pan. Approved 6-0.

Commissioner Pan asked about accountability for officers who retire and asked what authority, if any, does the Commission have after retirement of an officer on disciplinary charges. Deputy City Attorney Linda Ross stated that she will look into this matter.

PUBLIC COMMENT

None

DISCUSSION AND POSSIBLE ACTION TO TAKE OFF CALENDAR INDEFINITELY THE DISCIPLINARY CHARGES FILED IN CASE NO. ALW C08-048. MEMBER INVOLVED RETIRED FROM THE DEPARTMENT, EFFECTIVE DECEMBER 5, 2009. SAID DISCIPLINARY CHARGES WILL BE PLACED BACK ON CALENDAR SHOULD SAID MEMBER BE WITHIN THE JURISDICTION OF THE POLICE COMMISSION IN THE FUTURE

(Resolution 121-09)

6-0. Motion by Commissioner Pan, second by Commissioner Onek. Approved

PUBLIC COMMENT
None

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO CLOSED SESSION

(Taken out of order)

None

VOTE ON WHETHER TO HOLD CLOSED SESSION

6-0. Motion by Commissioner Pan, second by Commissioner Onek. Approved

CLOSED SESSION (7:40 p.m. to 8:12 p.m.)

a. **PERSONNEL EXCEPTION: Discussion and possible action to accept or reject stipulated disposition on disciplinary charges filed in Case No. JWA C04-137** (Resolution No. 123-09)

Present: Commissioners Marshall, Mazzucco, Lee, Hammer, Onek, Pan, Chief Gascón, Deputy City Attorney Blits, Lt. Reilly, Attorney Worsham, Attorney Mazzola, & member involved

Motion by Commissioner Hammer, second by Commissioner Lee to reject stipulated disposition.

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION

Motion by Commissioner Mazzucco, second by Commissioner Pan for non disclosure. Approved 6-0.

DISCUSSION AND POSSIBLE ACTION TO ACCEPT OR REJECT STIPULATED DISPOSITION OF DISCIPLINARY CHARGES FILED AGAINST PATROL SPECIAL OFFICER HANLEY CHAN IN CASE NOS. ALW C08-091, JWA C09-039, ALW C09-070, ALW C09-120, ALW C09-152, ALW C09-192, ALW C09-193, & ALW C09-221

APPROVAL TO ACCEPT STIPULATED DISPOSITION IN THE MATTER OF PATROL SPECIAL OFFICER HANLEY CHAN (FILE NOS. ALW C08-091, JWA C09-039, ALW C09-070, ALW C09-120, ALW C09-152, ALW C09-192, ALW C09-193, AND ALW C09-221)

The hearing of Patrol Special Officer Hanley Chan, Star No. 2683, was called it having been set for this date. Patrol Special Officer Hanley Chan was charged, in properly verified complaints by Chief Heather J. Fong, former Chief of Police, and by Chief George Gascón, Chief of Police of the San Francisco Police Department in violating the Rules and Procedures, as follows:

File No. ALW C08-091:

SPECIFICATION NO. 1

Falsely representing himself as a San Francisco Police Officer, conduct which undermines the good order, efficiency and discipline of the Department and which brings discredit on the Department (a violation of Rule 3.18 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 2

Entering a facility outside the jurisdiction of San Francisco, while off-duty and carrying a concealed weapon on his person, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 1.06(A) of the Rules and Procedures of Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 3

Acting in a Rude and Discourteous manner, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 4.09 of the Rules and Procedures of Patrol Special Officers and Their Assistants and Rule 14 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 4

Carrying a concealed weapon without a license and carrying a loaded firearm in a public place, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

File No. JWA C09-039:

SPECIFICATION NO. 1

Knowingly accepting a new subscriber outside of one's assigned beat (a violation of Section 3.08 A of the Rules and Procedures for Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 2

Listing a Police Station as one's place of business (a violation of Section 3.15 C of the Rules and Procedures for Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 3

Operating a private security or investigative business in conjunction with Patrol Special services (a violation of Section 3.16 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 4

Representing oneself as a Police Officer (a violation of Section 3.18 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 5

Working a second security job outside the confines of one's beat while on duty (a violation of Section 4.11 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 6

Failure to truthfully answer questions posed by a police officer during an investigation (a violation of Section 4.04 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

File No. ALW C09-070:

SPECIFICATION NO. 1

Modifying his personal vehicles to give the impression that the cars were official law enforcement vehicles, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 5.07 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 2

Being in possession of "Hot Sheets" printouts, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 4.23 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 3

Failing to strictly obey and promptly execute the lawful orders of a police officer, conduct which undermines the good order, efficiency and discipline of the Department and which brings discredit on the Department (a violation of Rule 4.03 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 4

Engaging in conduct which undermines the good order, efficiency and discipline of the Department and which brings discredit on the Department (a violation of Rule 4.20 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

File No. ALW C09-120:

SPECIFICATION NO. 1

Displaying his Duty Weapon and Department Issued Patrol Special Officer Star while Off-Duty at a Firing Range, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 5.06 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

File No. ALW C09-152:

SPECIFICATION NO. 1

Failure to Provide Residence Address to the Department (a violation of Rules 4.16 of the Rules and Procedures for Patrol Specials and Their Assistants).

SPECIFICATION NO. 2

Failure to Obey and Promptly Execute the Lawful Orders of a Police Officer (a violation of Rule 4.03 of the Rules and Procedures for Patrol Specials and Their Assistants).

File No. ALW C09-192:

SPECIFICATION NO. 1

Displaying a Personal Photograph While in Uniform on a Political Website, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 5.06 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

File No. ALW C09-193:

SPECIFICATION NO. 1

Failure to Provide a Client List and List of Fees Charged, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 4.15 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 2

Failure to Obey the Lawful Order of a Police Officer, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 4.03 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

File No. ALW C09-221:

SPECIFICATION NO. 1

Failure to Provide Evidence of Workers' Compensation Insurance and Automobile Liability Insurance, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 3.03(D)(1) and (3) of the Interim Rules and Procedures for Patrol Special Officers and Their Assistants).

SPECIFICATION NO. 2

Failure to Obey the Lawful Order of a Police Officer, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 4.03 of the Interim Rules and Procedures for Patrol Special Officers and Their Assistants).

Ms. Ashley Worsham, Attorney at Law, appeared on behalf of the Management Control Division and the San Francisco Police Department.

Patrol Special Hanley Chan appeared in person and was represented by Mr. Lou Silver, Attorney at Law.

The stipulated agreement states as follows:

“In the Matter of Patrol Special Officer Hanley Chan

File Numbers (1) ALW C09-120; (2) ALW C09-152; (3) JWA C09-039; (4) ALW C09-070;

(5) ALW C08-091; (6) ALW C09-192; (7) ALW C09-193; and (8) ALW C09-221

Agreed Disposition

This settlement agreement (“Agreement”) is made between Patrol Special Officer Hanley Chan, (“Chan”), No. 2683, and the San Francisco Police Department (the “Department”) arising out of the disciplinary matters designated San Francisco Police Commission (the “Commission”) File Numbers: (1) ALW C09-120; (2) ALW C09-152; (3) JWA C09-039; (4) ALW C09-070; (5) ALW C08-091; (6) ALW C09-192; (7) ALW C09-193; and (8) ALW C09-221 (herein after the “Chan case”). Chan and the Department are also referred to herein as “the Parties.”

WHEREAS Chan is a Patrol Special Officer and sole owner of Beat number 72 in the Northern District, in the City and County of San Francisco. Beat 72 has the following boundaries: “Starting from Sacramento Street (but not including Ellis Street); from the West side of Larkin Street between Ellis Street and Post Street to the East side of Franklin Street; Also from the north side of California Street to the north side of Sutter Street, and from the East side of Octavia Street to the East side of Franklin Street.”

WHEREAS Chan is an independent operator and neither a member of the San Francisco Police Department nor an employee of the City and County of San Francisco.

WHEREAS Chan is subject to and governed by the Interim Rules and Procedures for Patrol Special Officers and Their Assistants, Adopted by the San Francisco Police Commission December 10, 2008 (herein after the “Rules and Procedures”).

WHEREAS The Police Commission has delegated to the Chief of Police and the Police Department the authority to implement and administer the Rules and Procedures within their capabilities and resources.

WHEREAS on or about May 23, 2008, through October 9, 2009, then Chief of Police Heather J. Fong and Chief of Police George Gascón filed the Chan cases with the Commission accusing Chan of a violations of Rules and Procedures for Patrol Special Officers and Their Assistants, adopted November 30, 1994 and Amended November 10, 1999, and the Interim Rules and Procedures for Patrol Special Officers and Their Assistants Adopted by the San Francisco Police Commission December 10, 2008. The Chan cases, are incorporated herein by this reference and attached as Exhibit A; and

WHEREAS the parties wish to resolve the Chan cases now pending before the Commission,

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

A. Chan shall Resign From the Patrol Special Program

Chan shall resign from his position of Patrol Special Officer effective November 10, 2009.

Chan's resignation from his position of Patrol Special Officer has the same effect as the revocation of his appointment.

B. The Department shall Retain Jurisdiction Over All Disciplinary Cases Involving Chan, Pending the Sale of Beat 72

The Department and the Commission shall retain jurisdiction over all disciplinary matters involving Chan pending the sale of Beat 72. Upon satisfactory proof that Chan has sold Beat 72 and no longer retains any proprietary rights in Beat 72, the Department will dismiss the Chan cases.

The Department may request a formal hearing on all charges involving Chan, including but not limited to the Chan cases, should Chan engage in conduct which is in violation of the Rules and Procedures pending the sale of Beat 72.

C. Chan Shall Sell and Relinquish Any Proprietary Interest in Beat 72

Chan agrees to:

1. Sell Beat 72 and divest himself of any future proprietary interest in Beat 72. The Sale of this Beat shall be completed within six to nine months.
2. Appear before the Commission every three months from the date this Agreement is fully executed by the parties and approved by the Commission to provide a status update regarding the sale of Beat 72. (Proposed status dates are as follows: Wednesday March 3, 2010, Wednesday June 2, 2010, and Wednesday September 1, 2010).
3. Waive his right to contest the authority of the Commission to assume control of, and sell, Beat 72 should Chan fail to sell Beat 72 by September 1, 2010.

D. Chan May, Three (3) Years from Date of this Agreement, Re-Apply to Become a Patrol Special Officer

Chan may reapply to become a Patrol Special Officer three years from the date of this Agreement is fully executed by the parties and approved by the Commission.

There are no assurance, promises or guarantees implied by this Agreement with regards to future employment as a Patrol Special Officer.

E. Waiver of Rights by Chan

Chan hereby waives any and all rights he may have to: 1) any judicial and administrative due process in the Chan cases; 2) discipline imposed and accepted in this agreement, including but not limited to sections A, B, C, and D; 3) contest the severity of any and all future discipline imposed by the Commission in accordance with sections A and B.

F. Police Commission Approval

The parties agree that should the Police Commission reject this Agreement in whole or in part, Chan may rescind the Agreement at his option, and may assert his right to a trial before the Police Commission on the Chan cases.

G. Entire Agreement

The parties agree that this Agreement is a full and complete resolution of all charges that the Chief could bring against Chan with respect to the Chan cases.

H. Right to Representation

Chan acknowledges that he has the right to consult with an attorney concerning the waivers and promises contained in this Agreement. Chan acknowledges that he has had an opportunity to discuss this agreement and his rights and obligations with his attorney prior to executing this Agreement. Chan acknowledges that he has voluntarily and freely entered into this negotiated Agreement and that he understands and agrees to each and every term set forth herein, including but not limited to the waivers set forth in section E of this Agreement.”

The Commission took the matter under submission and the following resolution was adopted:

RESOLUTION NO. 122-09

DECISION - HEARING OF PATROL SPECIAL OFFICER HANLEY CHAN(FILE NOS. ALW C08-091, JWA C09-039, ALW C09-070, ALW C09-120, ALW C09-152, ALW C09-192, ALW C09-193, AND ALW C09-221)

WHEREAS, on various dates in 2008 and 2009, Chief Heather J. Fong, former Chief of Police, and Chief George Gascón, Chief of Police of the San Francisco Police Department, made and served charges against Patrol Special Officer Hanley Chan, as follows:

File No. ALW C08-091:

SPECIFICATION NO. 1

Falsely representing himself as a San Francisco Police Officer, conduct which undermines the good order, efficiency and discipline of the Department and which brings discredit on the Department (a violation of Rule 3.18 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (1) At all times herein mentioned Hanley Chan, Star number 2683, (referred to as “the accused”) was and is a Patrol Special Officer.
- (2) Patrol Special Officers are defined as “A private patrol person, appointed by the Police Commission, who contracts to perform security duties of a private nature for private persons or businesses within the geographical boundaries set forth by the Police Commission. A Patrol Special is the owner of a beat. A Patrol Special is responsible for knowing and obeying the rules and procedures of the Patrol Special Officers and Assistant Patrol Special Officers.”

- (3) On April 13, 2008 at 1300 hours, the accused went to the Jackson Arms Shooting Range in South San Francisco with his friend Mr. Lonnie Holmes and two other friends for shooting practice.
- (4) The accused was off-duty at the time he went to the Jackson Arms Shooting Range located at 152 Utah Avenue in South San Francisco.
- (5) Prior to entering the Jackson Arms Shooting Range, the accused placed his loaded firearm in his hip holster and entered the Jackson Arms Shooting Range facility. The accused, who was wearing civilian clothes at the time, was also wearing a jacket that concealed the firearm prior to entering the Range facility.
- (6) It is the policy of the Jackson Arms Shooting Range facility, that no one may enter the facility, including off-duty sworn police officers, with a concealed firearm on their person.
- (7) During the registration process, the accused entered the "hot box" which is the location where people unload and load their firearms. At this time, a Jackson Arms Shooting Range employee, Danny Nguyen who is a reserve officer with the San Mateo Police Department, noticed that the accused was wearing a concealed firearm on his person, specifically his pants belt.
- (8) Realizing the accused entered the facility wearing a concealed firearm, Danny Nguyen asked the accused for his police identification.
- (9) The accused informed Danny Nguyen that he did not have his police identification but did produce his Patrol Special Officer star.
- (10) In addition to producing his Patrol Special Officer Star, the accused began to recite the names of police officers from the San Francisco Police Department in an effort to divert attention from the fact he did not possess police identification as required. The accused further stated that Captain Casciato was his immediate supervisor and mentioned the name of an ex-SFPD officer, Brian Normandy.
- (11) The accused then stated that he was a San Francisco Police Officer assigned to Northern Station.
- (12) During the encounter, the accused's attitude became disrespectful, persistent and confrontational and he continued to provide numerous excuses for why he did not have a police officer identification card with him.
- (13) While the accused was speaking with Danny Nguyen, the manager of the Jackson Arms Range Facility, Mrs. Liza Normandy noticed the exchange and approached the counter.
- (14) Mrs. Normandy was familiar with the accused and knew he was not a police officer. She has known him for approximately seven years through the accused's use of the facility.
- (15) Having overheard the conversation the accused was having with Danny Nguyen, Mrs. Normandy thought it was possible that the accused had become a police officer since the last time she saw him. As such, she asked the accused what Department he was with.
- (16) The accused did not respond to the question.
- (17) Danny Nguyen then allowed the accused to enter the Range for shooting. However, as a result of the accused's reluctance to be forthcoming regarding his identification, they contacted Lieutenant Normandy from the South San Francisco Police Department.

- (18) Lt. Normandy arrived at the Jackson Arms Shooting Range at approximately 1520 hours. He was on duty and dressed in full uniform. The accused was identified and summoned to the Front Desk.
- (19) The accused responded to the front desk and Lt. Normandy asked him to step outside to the parking lot to discuss the matter.
- (20) At the time, Lt. Normandy noticed that the accused was not dressed in uniform, but was wearing SFPD-style uniform pants, a black t-shirt and a blue windbreaker, and his star was displayed on the right side of his belt.
- (21) The accused immediately identified himself and claimed he was "SFPD out of Northern Station." Lt. Normandy asked the accused for his police identification and the accused claimed he did not have it with him and then tried to tell Lt. Normandy that it was common practice for other SFPD officers not to carry their ID cards.
- (22) Lt. Normandy noticed the accused's star/badge and asked to see it. The star/badge was six-point silver star, which was clearly marked as a Patrol Special Officer badge with the star/badge #2683.
- (23) Once Lt. Normandy realized the accused was a Patrol Special Officer, he admonished the accused to stop lying to him. Lt. Normandy was aware that Patrol Special Officers were not allowed to carry concealed weapons off-duty.
- (24) The accused attempted to assert that the City Charter allowed him to carry a concealed weapon; however, when the accused was confronted about whether or not that privilege extended to "off-duty" status, the accused admitted he was not on-duty and outside the jurisdiction of San Francisco.
- (25) The accused then stated that he carried his "sidearm" concealed because he had "made many enemies in San Francisco."
- (26) Lt. Normandy then asked the accused if he possessed a Concealed Carry Weapon permit ("CCW permit"). The accused admitted that he did not have a CCW permit to carry the weapon.
- (27) The accused then stated that as a Patrol Special Officer and beat owner, he had the privilege to carry a concealed weapon. However, the accused finally admitted that that privilege applied only when he was "on-duty."
- (28) The accused then tried to assert that he was carrying his weapon at the time because he was going to work after leaving the shooting range. Lt. Normandy informed the accused that his explanation was not valid and could be considered a violation of California Penal Code sections 12025 and 12031.
- (29) The accused was also informed that his statements could be considered a willful attempt to *Impersonate a Police Officer*, in violation of Penal Code Section 538, subsection (d).
- (30) Lt. Normandy documented this incident in South San Francisco Police Report number 08-2943 and noted in the report that he found the accused to be "less than truthful and willfully evasive" and that the accused tried to rationalize his behavior.
- (31) The accused admitted, during his interview with the Management Control Division, that he did in fact characterize himself as a "police officer assigned to Northern police Station" and that he may "have missed on the Patrol Special part ..." According to the accused, he assumed the personnel at the Jackson Arms Shooting Range were aware of his Patrol Special Officer status.
- (32) The accused also admitted that during his conversation with Mrs. Normandy, she stated "Oh you work for the Police Department now?"

The accused responded by saying, “Yes, I’m assigned to Northern Police Station.” Mrs. Normandy asked again, “So you’re with the Police Department?” And the accused responded by saying, “Always have been, hello.” (*The accused’s tone was described as being sarcastic.*)

- (33) The accused further admitted that he secured his loaded firearm on his person prior to entering the Jackson Arms Shooting Range and intended to enter the facility in order to do some “hip shooting.”
- (34) On April 13, 2008, the accused, who is employed as a Patrol Special Officer and is not a sworn member of the San Francisco Police Department, falsely identified himself as a member of the San Francisco Police Department on three different occasions to three different people. Specifically, the accused falsely represented, to Danny Nguyen, Mrs. Liza Normandy and Lt. Normandy, that he was a member of the San Francisco Police Department, assigned Northern Station. The accused engaged in conduct which violates the standards of the Department and the Rules and Procedures for Patrol Special Officers and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from employment; such conduct violates Rule 3.18 of the Rules and Procedures for Patrol Special Officers and Their Assistants, which states:

“PEACE OFFICER STATUS

Patrol Specials and Assistant Patrol Specials shall not represent that they exercise peace officer powers.”

SPECIFICATION NO. 2

Entering a facility outside the jurisdiction of San Francisco, while off-duty and carrying a concealed weapon on his person, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 1.06(A) of the Rules and Procedures of Patrol Special Officers and Their Assistants).

- (35) The allegations incorporated in Specification No. 1, paragraphs (1) through (34) are incorporated by reference as though fully set forth herein.
- (36) On April 13, 2008, the accused, while off-duty, entered the Jackson Arms Shooting Range, wearing a jacket which concealed a loaded firearm that was attached to his pants belt. When interviewed by the Management Control Division, both Mrs. Normandy and Danny Nguyen described the accused as wearing a jacket that concealed the loaded firearm. It wasn’t until the accused entered the “Hot Box” (shooting area) of the Jackson Arms Shooting Range that Danny Nguyen noticed the accused was wearing a firearm. The accused engaged in conduct violates the standards of the Department and the Rules and Procedures for Patrol Special Officers and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from employment; such conduct violates Rule 1.06(A) of the Rules and Procedures for Patrol Special Officers and Their Assistants, which states:

“FIREARMS

- A. *Patrol Specials are authorized to carry a loaded firearm while on duty in uniform, or en route to or from being on duty, if they comply with all training and other provisions within Penal Code Section 12031©)(1).”*

SPECIFICATION NO. 3

Acting in a Rude and Discourteous manner, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 4.09 of the Rules and Procedures of Patrol Special Officers and Their Assistants and Rule 14 of Department General Order 2.01 of the San Francisco Police Department).

- (37) The allegations incorporated in Specifications No. 1 and 2, paragraphs (1) through (36) are incorporated by reference as though fully set forth herein.
- (38) The accused, when questioned on three different occasions at the Jackson Arms Shooting Range on April 13, 2008, was rude, discourteous and disrespectful. Danny Nguyen described the accused as “intolerable and confrontational.” Mrs. Normandy described the accused as being “disrespectful, persistent and intolerable.” Furthermore, in his written police report, Lieutenant Normandy described the accused as “less than truthful and willfully evasive” and stated that he was very disrespectful and should have been booked. The accused engaged in conduct which violates the standards of the Department and the Rules and Procedures for Patrol Special Officers and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from employment; such conduct violates Rule 4.09 of the Rules and Procedures for Patrol Special Officers and Their Assistants and Rule 14 of Department General Order 2.01 of the San Francisco Police Department¹, which states:

“Rule 4.09 of the Rules and Procedures for Patrol Special Officers and Their Assistants:

CONDUCT TOWARD THE PUBLIC:

Patrol Specials and Assistant Patrol Specials shall, in the performance of their services, be polite, civil and orderly in conduct and deportment, maintain patient decorum and command of temper and refrain from the use of harsh, violent, coarse, profane or uncivil language; and shall, when requested, state their name, star number, and area of responsibility in a courteous manner.

Rule 14 of DGO 2.01 of the San Francisco Police Department:

PUBLIC COURTESY. *When acting in the performance of their duties, while on or off duty, members shall treat the public with courtesy and respect and not use harsh, profane or uncivil language. Members shall also address the public using pronouns and titles of respect appropriate to the individual’s gender identity as expressed by the individual. When requested, members shall promptly and politely provide their name, star number and assignment.”*

SPECIFICATION NO. 4

Carrying a concealed weapon without a license and carrying a loaded firearm in a public place, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

- (39) The allegations incorporated in Specifications No. 1, 2, and 3, paragraphs (1) through (38) are incorporated by reference as though fully set forth herein.
- (40) The accused entered the Jackson Arms Shooting Range, wearing a jacket which concealed a loaded firearm. The accused admitted that he does not have a permit to carry a concealed weapon and when questioned about his peace officer status, the accused falsely misrepresented himself as a member of the San Francisco Police Department on three separate

¹ Rule 3.12, subsection (b) of the Rules and Procedures for Patrol Special Officers and Their Assistants states, in regards to the discipline process, that Pursuant to these Rules and Procedures, Patrol Specials and their Assistants shall obey all written orders of the Department that are not clearly inapplicable to their respective assignments. Rule 14 of DGO 2.01 is clearly applicable.

occasions to three different people. Patrol Special Officers have no authority to carry a concealed weapon. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from employment; such conduct violates Rule 9 of Department General Order 2.01, which states:

“MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct by an officer either within or without he state that tends to undermine the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action.”

File No. JWA C09-039:

SPECIFICATION NO. 1

Knowingly accepting a new subscriber outside of one’s assigned beat (a violation of Section 3.08 A of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (1) At all times herein mentioned Hanley Chan, Star Number 2683, (referred to as “the Accused”) was and is a Patrol Special Officer.
- (2) Patrol Special Officers (PSOs) are defined as “A private patrol person, appointed by the Police Commission, who contracts to perform duties of a private nature for private persons or businesses within the geographical boundaries set forth by the Police Commission. A Patrol Special is the owner of a beat. A Patrol Special is responsible for knowing and obeying the rules and procedures of the Patrol Special Officers and Assistant Patrol Special Officers.”
- (3) All references to the Rules and Procedures for Patrol Special Officers and Their Assistants in this document are to the Rules adopted November 30, 1994, as amended November 10, 1999, which were in effect at all times relevant to the Specifications set forth herein.
- (4) On or about November 6, 2008, the Accused met with Mary Molly Mullaney, the events manager at SOMARTS Cultural Center, which is located inside a beat owned by PSO Calvin Wiley. The Accused offered to provide security services for the SOMARTS Cultural Center for an event on or about November 22, 2008. He also stated that off-duty Police Officers would be providing the security.
- (5) The Accused did provide security at the November 22, 2008 event but did not employ any off-duty Police Officers as promised. He also attended the event in person. The Accused never secured the permission of the beat owner, PSO Calvin Wiley, to do so.
- (6) The Accused engaged in conduct which violates the standards of the Department and the Rules and Procedures for Patrol Specials and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from their position. Such conduct violates Section 3.08 A of the Rules and Procedures for Patrol Special Officers and Their Assistants, which states:

“Patrol Specials shall neither solicit nor accept new subscribers in areas outside the confines of their beat.”

SPECIFICATION NO. 2

Listing a Police Station as one’s place of business (a violation of Section 3.15 C of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (7) The allegations incorporated in Specification No. 1, paragraphs (1) through (6) are incorporated herein by reference as though fully set forth herein.
- (8) During his contacts with Ms. Mullaney at the SOMARTS Cultural Center, the Accused presented her with a business card that gave his name and star number, and stated "Assigned to Northern Station," "1125 Fillmore Street, San Francisco, CA 94115," "Station: 415 335-4047." This address is the true address of Northern Station, but the phone number rings directly to the Accused, not Northern Station.
- (9) The Accused engaged in conduct which violates the standards of the Department and the Rules and Procedures for Patrol Specials and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from their position. Such conduct violates Section 3.15 C of the Rules and Procedures for Patrol Special Officers and Their Assistants, which states:

"Patrol Special Officers and their Assistants shall not list any police station or public facility, including but not limited to a Police District Station, as their place of business or as a location where they may be contacted."

SPECIFICATION NO. 3

Operating a private security or investigative business in conjunction with Patrol Special services (a violation of Section 3.16 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (10) The allegations incorporated in Specification No. 1, paragraphs (1) through (9) are incorporated herein by reference as though fully set forth herein.
- (11) The Accused, throughout the dates mentioned in these Specifications, owned and operated a company called "Security Intelligence Specialists." This company maintained a website advertising security services, and listing the Accused's cell phone number as the phone number for the business. This company was also registered with the State of California as belonging to the Accused.
- (12) The accused admits that he provided security services under the auspices of Security Intelligence Specialists at the November 22, 2008, event at the SOMARTS Cultural Center. He also admits to offering to provide security services under the auspices of Security Intelligence Specialists for a January 9, 2009 event at the United Irish Cultural Center (UICC).
- (13) The Accused engaged in conduct which violates the standards of the Department and the Rules and Procedures for Patrol Specials and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from their position. Such conduct violates Section 3.16 of the Rules and Procedures for Patrol Special Officers and Their Assistants, which states:

"Patrol Specials and Assistants shall neither operate nor be employed by any private patrol or an investigative business in conjunction with Patrol Special services."

SPECIFICATION NO. 4

Representing oneself as a Police Officer (a violation of Section 3.18 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (14) The allegations incorporated in Specification No. 1, paragraphs (1) through (13) are incorporated herein by reference as though fully set forth herein.

- (15) Between December 18, 2008, and January 9, 2009, Teresa Moore of the UICC met with the Accused with respect to providing security services for an event on January 18, 2009. The Accused presented her with a business card stating that he was with Security Intelligence Specialists, and stated that he was an off-duty Police Officer. He also stated that security would be provided by other off-duty Police Officers.
- (16) Ms. Moore subsequently contacted the Park and Taraval Stations, and learned that the Accused was a Patrol Special Officer, not a Police Officer. She cancelled the January 18, 2009 event as a result.
- (17) Ms. Moore met with the Accused on or about January 15, 2009 to advise him that the January 9 event was cancelled. She told the Accused that he was not an off-duty Police Officer, but he again insisted that he was. After continued questioning by Ms. Moore, the Accused stated that he was a “special officer,” and again insisted that he was an off-duty Police Officer.
- (18) The Accused engaged in conduct which violates the standards of the Department and the Rules and Procedures for Patrol Specials and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from their position. Such conduct violates Section 3.18 of the Rules and Procedures for Patrol Special Officers and Their Assistants, which states:

“Patrol Specials and Assistants shall not represent that they exercise peace officer powers.”

SPECIFICATION NO. 5

Working a second security job outside the confines of one’s beat while on duty (a violation of Section 4.11 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (19) The allegations incorporated in Specification No. 1, paragraphs (1) through (18) are incorporated herein by reference as though fully set forth herein.
- (20) The Accused attended the November 22, 2008, event at the SOMARTS Cultural Center, while his security company was providing security. That event took place outside of his beat. The Accused was also on-duty on his beat at the same time that he attended the SOMARTS Cultural Center event.
- (21) The accused engaged in conduct which violates the standards of the Department and the Rules and Procedures for Patrol Specials and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from their position. Such conduct violates Section 4.11 of the Rules and Procedures for Patrol Special Officers and Their Assistants, which states:

“Patrol Specials and Assistants shall patrol their subscribers’ locations with their beat constantly and diligently within the limits of their contractual obligations.”

SPECIFICATION NO. 6

Failure to truthfully answer questions posed by a police officer during an investigation (a violation of Section 4.04 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (22) The allegations incorporated in Specification No. 1, paragraphs (1) through (21) are incorporated herein by reference as though fully set forth herein.

- (23) When interviewed during the investigation of this matter, the Accused denied that he told Ms. Mullaney and Ms. Moore that security would be provided by off-duty Police Officers. Both witnesses state that he did.
- (24) When interviewed during the investigation of this matter, the Accused denied that he told Ms. Moore that he was a Police Officer. Ms. Moore states that he did.
- (25) The Accused engaged in conduct which violates the standards of the Department and the Rules and Procedures for Patrol Specials and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from their position. Such conduct violates Section 4.04 of the Rules and Procedures for Patrol Special Officer and Their Assistants, which states:

“Patrol Specials and Assistants shall, when called upon by a police officer or by one specifically assigned by lawful authority to conduct an investigation involving a police matter, truthfully answer all questions propounded. All reports, statements and declarations made orally or in writing in the foregoing matters shall contain truth without evasion.”

File No. ALW C09-070:

SPECIFICATION NO. 1

Modifying his personal vehicles to give the impression that the cars were official law enforcement vehicles, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 5.07 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (1) At all times herein mentioned Hanley Chan, Star Number 2683, (Referred to as “the accused”) was and is a Patrol Special Officer, currently suspended by the Department.
- (2) Patrol Special Officers are defined as “A private patrol person, appointed by the Police Commission, who contracts to perform security duties of a private nature for private persons or businesses within the geographical boundaries set forth by the Police Commission. A Patrol Special is the owner of a beat. A Patrol Special is responsible for knowing and obeying the rules and procedures of the Patrol Special Officers and Assistant Patrol Special Officers.”
- (3) On Thursday, March 5, 2009, Lieutenant Curtis Lum #2128 and Officer Gasanyan #4224 of the Youth Services Unit responded to the residence of the accused to serve him with a Chief’s Order in connection with MCD case number C036-09.
- (4) There was no answer to repeated knocks at the door and Lt. Lum and Officer Gasanyan were unable to locate the accused. However, they did see a grey Ford Taurus, with California license plate number 5ETU923 attached, parked in the accused’s driveway.
- (5) While walking by the vehicle, they observed a laminated placard attached to the front dashboard of the vehicle. The placard read: “San Francisco Police Department Authorized Vehicles Official Use Only.” The placard had a picture of the seal of the City and County of San Francisco and a picture of a Patrol Special patch on the front.
- (6) In addition to the placard being visible to anyone who walked by the Ford Taurus, there was a “Hot Sheet” dated June 20, 2007, taped to the passenger side dashboard. In the rear dashboard area was a Patrol Special cap with the emblem facing outward towards the rear window and on the backseat was a Patrol Special jacket with the patches exposed and a police-type handheld radio in the pocket.

- (7) Lt. Lum returned to the Youth Services Unit and reviewed the annual update form that the accused was required to fill out on October 21, 2008.
- (8) The annual update form requires all Patrol Special Officers to list the vehicles used for their patrol special duties.
- (9) The accused listed a BMW and a Mercedes Benz on the form but did not list the Ford Taurus with California plates 5ETU923 that was parked in the accused's driveway.
- (10) On Friday, March 6, 2009, Lt. Lum and Officer Gasanyan responded to the accused's residence a second time in an attempt to serve the Chief's order. There was no answer at the front door.
- (11) On this date, there was a different grey Ford Taurus parked in the driveway. This Ford Taurus had a California license plate of 5ZYG886.
- (12) On the driver's side dashboard of this Ford Taurus, there was a laminated placard that stated, "San Francisco Police Department Authorized Vehicles Official Use Only." The placard had a picture of the City and County of San Francisco Seal and a picture of a San Francisco Patrol Special patch.
- (13) In addition to the official San Francisco Police Department placard, there was a "Hot Sheet" dated September 1, 2006 taped to the passenger side dashboard. Furthermore, there was a laptop computer mounted to the center passenger side dashboard.
- (14) Lt. Lum reviewed the accused's annual update form and noticed that the accused did not list his grey Ford Taurus with California license plates 5ZYG886, as a vehicle he uses in his employment as a Patrol Special Officer.
- (15) On Tuesday, October 21, 2008, Patrol Special Officers and their Assistants had their semi-annual range re-qualification. Commander Tong, Officer Gasanyan, along with the accused and twenty-three other patrol special officers and their assistants were present for the re-qualification.
- (16) Lt. Lum ordered the patrol special officers and their assistants to completely fill out the annual update form which requires them to list all the vehicles used for their patrol special duties.
- (17) The accused filled out the form listing his duty vehicles as his BMW and Mercedes Benz even though the accused only uses the BMW and Mercedes Benz to travel to and from his employment. The accused signed and dated the form, but did not list the grey Ford Taurus with California plates 5ETU923 or the grey Ford Taurus with California plates 5ZYG886.
- (18) The accused owns a security company called Security Intelligence Specialist with a business address of 1335 Fairfax Avenue, #B, San Francisco, California, 94124. The business website of the accused's security company is www.sfpatrolspecpolice.com.
- (19) A record's check for both grey Ford Taurus' shows the registered owner to be San Francisco Patrol Special Police with an address of 1335 Fairfax Avenue, #B, San Francisco, California, 94124, the same address as the accused's security business.
- (20) The accused was interviewed by the Management Control Division of the San Francisco Police Department on March 31, 2009. When questioned about the origination of the laminated placard, the accused stated that he obtained the placard some time in year 2003 or 2004 from an officer assigned to Ingleside Station. The accused stated that he used the placard to park his vehicle at Ingleside Station while he worked there. According

to the accused, the placards have been in the vehicles since the year 2003 or 2004.

- (21) On March 5, 2009 and March 6, 2009, Lt. Lum observed two different grey Ford Taurus' with a laminated placard that read, "San Francisco Police Department Authorized Vehicles Official Use Only." On March 5, 2009, the placard was observed in the grey Ford Taurus with California plates 5ETU923 and on March 6, 2009, the same placard was seen in a different grey Ford Taurus with California plates 5ZYG866. The accused by modifying his personal vehicles to give the impression that the cars were official law enforcement vehicles engaged in conduct which violates the standards of the Department and the Rules and Procedures for Patrol Special Officers and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from employment. Such conduct violates Rule 5.07 of the Rules and Procedures for Patrol Special Officers and Their Assistants which states:

"VEHICLE MODIFICATION.

Patrol Specials and Assistant Patrol Specials shall not alter any duty vehicle in any way to allow it to be mistaken for an official law enforcement vehicle, and:

- A. Shall obtain the approval of the Chief of Police before modifying the color scheme of any duty vehicle or placing any lettering, emblems, or decals thereon.*
- B. Shall not equip any duty vehicle with any additional emergency lighting equipment or any siren."*

SPECIFICATION NO. 2

Being in possession of "Hot Sheets" printouts, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 4.23 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (22) The allegations incorporated in Specification No. 1, paragraphs (1) through (21) are incorporated by reference as though fully set forth herein.
- (23) On March 5, 2009 and March 6, 2009, Lt. Lum and Officer Gasanyan both observed two different "Hot Sheets" with different dates in two different grey Ford Taurus' belonging to the accused. One "Hot Sheet" was dated June 20, 2007 and another "Hot Sheet" was dated September 1, 2006. Both had been taped to the dashboards in each of the accused's vehicles.
- (24) During his Management Control Division interview, the accused admitted that he attached both "Hot Sheets" to the front passenger console of both his Ford Taurus vehicles. According to the accused, he obtained the "Hot Sheets" from a desk inside Northern Station and placed them in his vehicles in order to look for stolen vehicles while on duty as a Patrol Special Officer.
- (25) When questioned about his use of "outdated Hot Sheets," the accused said that he used the "Hot Sheets" in 2006 to look for stolen cars while on duty in 2006. The accused further stated that he was unaware that he could not have access to CLETS, CABLE or Department computer terminals or files, and that he did not consider the "Hot Sheets" to be CLETS material.
- (26) On March 5, 2009 and March 6, 2009, Lt. Lum and Officer Gasanyan observed two different "Hot Sheets" in both of the accused's grey Ford Taurus'. The accused, by being in possession of "Hot Sheets," which he mounted to the dashboard of both his cars, along with SFPD placards, modified his personal vehicles to give the impression that the cars were official law enforcement vehicles. The accused, by being in possession of "Hot Sheets" engaged in conduct which violates the standards of the

Department and the Rules and Procedures for Patrol Special Officers and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from employment. Such conduct violates Rule 4.23 of the Rules and Procedures for Patrol Special Officers and their Assistants which states:

“ACCESS T INFORMATION:

The use of facilities does not include the use of direct access to CLETS, CABLE or Department computer terminals or any criminal files.”

SPECIFICATION NO. 3

Failing to strictly obey and promptly execute the lawful orders of a police officer, conduct which undermines the good order, efficiency and discipline of the Department and which brings discredit on the Department (a violation of Rule 4.03 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (27) The allegations incorporated in Specification No. 1 and Specification No. 2, paragraphs (1) through (26) are incorporated by reference as though fully set forth herein.
- (28) On October 21, 2008, the accused was ordered to complete his annual update form. The accused was required to list all vehicles used for his patrol special duties.
- (29) The accused filled out the form and listed two vehicles: his BMW and Mercedes Benz. The accused did not list either of his grey Ford Taurus.
- (30) When the accused was questioned about this omission during his Management Control Division interview, the accused stated that he was aware of the fact that he was required to list all vehicles that would be used in the performance of his duties. The accused further admitted that he uses both grey Ford Taurus' in the performance of his patrol special duties.
- (31) The accused stated that the reason he did not list both grey Ford Taurus' is due to the fact he has an on-going case with the Management Control Division and the form itself did not have enough space on it with which to list two additional vehicles.
- (32) On October 21, 2008, the accused was given a direct order to list all vehicles used in the performance of his duties as a patrol special officer. This direct order was given by Lieutenant Curtis Lum #2128, a sworn member of the San Francisco Police Department. The accused, by failing to strictly obey and promptly execute Lt. Lum's lawful order regarding filling out the annual update form, engaged in conduct which violates the standards of the Department and the Rules and Procedures for Patrol Special Officers and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from employment. Such conduct violates Rule 4.03 of the Rules and Procedures for Patrol Special Officers and their Assistants which states:
- “ORDERS OF POLICE OFFICERS.*
- Patrol Specials and Assistant Patrol Specials shall strictly obey and promptly execute the lawful orders of police officers.”

SPECIFICATION NO. 4

Engaging in conduct which undermines the good order, efficiency and discipline of the Department and which brings discredit on the Department (a violation of Rule 4.20 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (33) The allegations incorporated in Specification numbers 1, 2, and 3, paragraphs (1) through (32) are incorporated by reference as though fully set forth herein.
- (34) The accused registered both his grey Ford Taurus' with the California Department of Motor Vehicles using the registered owner name of "SF Patrol Special Police" however, the accused never sought, nor was he granted permission by the Department or Police Commission to register his vehicles in this manner.
- (35) The accused registered his grey Ford Taurus' with the California Department of Motor Vehicles but did not register the vehicles with the Department despite being ordered to do so. This deliberate omission couples with the visible SFPD placard, and "Hot Sheets" is conduct which violates the standards of the Department and the Rules and Procedures for Patrol Special Officers and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or dismissal from employment. Such conduct violates Rule 4.20 of the Rules and Procedures for Patrol Special Officers and Their Assistants, which states:

"CONDUCT.

Any conduct by a Patrol Special Officer or an Assistant while on patrol which constitutes a breach of the peace or a failure to perform his or her contractual duties, or any conduct by a Patrol Special or Assistant Patrol Special while working which undermines his or her ability to discharge contractual duties which reflects discredit upon the Department (though such offense are not specifically defined or laid down in these rules and procedures) shall be considered misconduct subjecting the Patrol Special or Assistant Patrol Special to disciplinary action as herein set forth."

File No. ALW C09-120:
SPECIFICATION NO. 1

Displaying his Duty Weapon and Department Issued Patrol Special Officer Star while Off-Duty at a Firing Range, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 5.06 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (1) At all times herein mentioned Hanley Chan, Star Number 2683, (Referred to as "the accused") was and is a Patrol Special Officer, currently suspended by the Department.
- (2) Patrol Special Officers are defined as "A private patrol person, appointed by the Police Commission, who contracts to perform security duties of a private nature for private persons or businesses within the geographical boundaries set forth by the Police Commission. A Patrol Special is the owner of a beat. A Patrol Special is responsible for knowing and obeying the rules and procedures of the Patrol Special Officers and Assistant Patrol Special Officers." (See *Interim Rules and Procedures for Patrol Special Officers and Their Assistants, Adopted by the San Francisco Police Commission December 10, 2008*).
- (3) On Thursday, April 20, 2009, Mr. Gregory Love, Chief of Police of the Broadmoor Police Department (hereinafter "Chief Love") contacted the Management Control Division of the San Francisco Police Department regarding the accused's conduct.
- (4) Chief Love expressed that he had on-going problem with the accused and the accused's most recent conduct regarding an appointment the accused applied for and a current election the accused is involved in.

- (5) According to Chief Love, the accused interviewed for an open position on the Broadmoor Police Commission. Someone other than the accused was hired and the accused was upset by the decision not to hire him.
- (6) Shortly after being denied a position on the Broadmoor Police Commission, the accused decided to run for one of two vacant positions on the Broadmoor Police Commission. The accused actively campaigned for the position and passed out business card advertising his campaign.
- (7) Chief Love was subsequently contacted by a member of the Daly City Council who expressed concern regarding business cards the accused was using in his campaign for the vacant seat on the Broadmoor Police Commission.
- (8) According to the member of the Daly City Council, the accused gave her a campaign card at a fundraiser and after reading the card, she felt the cards were misleading.
- (9) The card displayed the accused's name written on the top with large bold-faced, block letters. (Approximately 22-26 point fonts similar to the word typed here **HANLEY**) centered directly below his name were the words "Broadmoor Police Commission in approximately 12 point font. Just below this, in significantly smaller font were the words hanley@voteforhanleychan.com-www.voteforhanleychan.com. (The actual font appears to be hanley@voteforhanleychan.com) which is 9 point font.
- (10) The most visible portion of the campaign cards were the accused's name and Broadmoor Police Commission which easily gave the impression that the accused was already a member of the Broadmoor Police Commission.
- (11) Chief Love and the Daly City Council member felt the cards were misleading and meant to deceive the public. As such, Chief Love also contacted the San Mateo District Attorney's Office regarding possible fraudulent behavior by the accused. This matter is still pending with the San Mateo District Attorney's Office.
- (12) Chief Love conducted a basic computer search of the accused using an internet search engine. That search revealed several photographs and two videos of the accused that caused him great concern.
- (13) In several of the photographs, the accused is shown with rifles and other assault-type weapons. The photographs appear to have been taken at a private party and show the accused with five other men posing with these weapons.
- (14) Chief Love stated that in one of the videos he viewed on the internet, the accused is shown shooting an assault-type weapon at an outdoor shooting range.
- (15) The accused is clearly visible on the video and can be heard describing a process known as "bump fire." Bump fire is a process where the shooter can manipulate an assault rifle to shoot in rapid fire mode.
- (16) In one of the videos, the accused can be seen wearing his Department - issued Patrol Special Officer Star on the belt loop of his pants and next to his star, is his duty weapon in his holster. The accused is also wearing a dark blue t-shirt with the San Francisco Patrol Special Patch on the left breast.
- (17) On May 1, 2009, the assigned Management Control Division Investigator ran an internet search on the accused using the Google search engine.
- (18) The search located both videos on the accused's MySpace account. This account is accessible by the public and the video can be viewed by anyone with access to the internet.

- (19) On May 21, 2009, the accused was interviewed by the Management Control Division.
- (20) During his interview, the accused admitted he was the person depicted in the videos. The accused stated that he was off-duty at the time and the videos were shot by a friend at a shooting range in Los Angeles, California in 2006.
- (21) The accused admitted that he was wearing his Department issued Patrol Special Officer Star and his duty weapon while at the range while the video was being filmed.
- (22) The accused further stated that his handgun is registered to him and that he possesses a guard card and license to carry the handgun. The accused stated that he was not aware of any Department policy that prohibited him from carrying his duty weapon while off-duty.
- (23) The accused, by actively participating in a video that is accessible to the public and shows him shooting an assault-type weapon while off-duty and wearing his Department issued Patrol Special Officer Star and duty weapon, engaged in conduct which violates Rule 5.06 of the Rules and Procedures for Patrol Special Officers and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or revocation of his appointment. Rule 5.06 of the Rules and Procedures for Patrol Special Officers and Their Assistants states:

“UNIFORM AND EQUIPMENT ITEMS DISPLAY OFF DUTY.

Patrol Specials and Assistant Patrol Specials shall not wear or use any uniform or equipment item, including weapons, except en route to and from their beats, and while on-duty as a Patrol Special Officer or Assistant Patrol Special Officer in the City and County of San Francisco.”

File No. ALW C09-152:

SPECIFICATION NO. 1

Failure to Provide Residence Address to the Department (a violation of Rules 4.16 of the Rules and Procedures for Patrol Specials and Their Assistants).

- 1) At all times herein mentioned Hanley Chan, Star Number 2683, was and is a Patrol Special Officer (hereinafter referred to as a “PSO”) subject to the Rules and Procedures for Patrol Specials and Their Assistants (hereinafter referred to as the “Rules”) issued by the San Francisco Police Commission (hereinafter referred to as the “Commission”). At all times herein mentioned, PSO Chan was suspended from his duties as a Patrol Special Officer pursuant to Rule 3.12 E.
- (2) As a PSO, Chan was and is responsible for knowing and obeying the Rules issued by the Commission, even when he was suspended.
- (3) At all times herein mentioned, PSO Chan was supervised by Lieutenant Curtis Lum #2128, the Program Administrator for the Patrol Special Program. Lieutenant Lum was a sworn member of the San Francisco Police Department (hereinafter referred to as the “Department”) at all times herein mentioned.
- (4) The allegations incorporated in paragraphs (1) through (3) are incorporated by reference as though fully set forth herein.
- (5) In April, 2009, Lieutenant Lum became aware that PSO Chan was running for election to the Police Commission in Broadmoor, California. This caused Lieutenant Lum to believe that PSO Chan had moved, but had failed to properly notify the Department of his new home address.

- (6) On April 17, 2009, Lieutenant Lum was speaking to PSO Chan in Lieutenant Lum's office. During the conversation, Lieutenant Lum asked PSO Chan if he had recently moved. PSO Chan replied that he had. Lieutenant Lum then gave PSO Chan an address update form, and instructed PSO Chan to fill it out and return it, which PSO Chan said he would do.
- (7) Approximately three weeks later, Lieutenant Lum had not yet received the address update form. He called PSO Chan's attorney, Lou Silver, and asked him to tell PSO Chan to return the form immediately.
- (8) On or about May 16, 2009, Lieutenant Lum received an update form from PSO Chan dated March 28, 2009, but postmarked May 16, 2009. The form listed PSO Chan's home address as 32 Moonlight Court, South San Francisco, California, 94080. This was the same home address that Chan had given to the Department prior to his conversation with Lieutenant Lum on April 17, 2009. For this reason, it did not appear that PSO Chan had given the Department his new address. The form also listed a separate mailing address of 1355 Fairfax Avenue #B, San Francisco, California, 94124. It failed to list any addresses in Broadmoor, California, nor did it list the license plate numbers for PSO Chan's on-duty vehicles, his home phone number, his social security number, nor his email, as required.
- (9) Given these discrepancies, Lieutenant Lum tried to contact PSO Chan to determine his true home address. From May 19 through June 4, Lieutenant Lum called PSO Chan eleven times at three different phone numbers, including the one number listed on the May 16, 2009 contact form. On each occasion, he left messages directing PSO Chan to call him back about the address issue.
- (10) On May 26, 2009, Lieutenant Lum sent PSO Chan an email to his last known email address asking him to confirm his current home address.
- (11) On June 3, 2009, Lieutenant Lum sent a certified letter to PSO Chan at his Fairfax Avenue address directing PSO Chan to contact Lieutenant Lum to confirm his current home address and to confirm if the Moonlight Court address was correct. In the letter, he reminded PSO Chan that Rule 4.16 required him to update his new address with the Department within 24 hours of the change.
- (12) On June 5, 2009, PSO Chan replied to Lieutenant Lum's email of May 26, 2009, stating that he "still use(s) that address ..." but not specifying which address he was referring to. Lieutenant Lum sent a reply email that same day to PSO Chan directing him to clearly state his home address, and reminding PSO Chan of his obligation to inform the Department about his change of address within 24 hours of the change, but received no response.
- (13) The Post Office returned a Return Receipt for Lieutenant Lum's letter of June 3 showing that delivery was confirmed on June 6, 2009.
- (14) On June 12, 2009, Lieutenant Lum went to the Fairfax Avenue address, but found that it was the business office of Crime Watch and San Francisco Fire Prevention, both of which organizations denied affiliation with PSO Chan.
- (15) Lieutenant Lum then traveled on or about June 12, 2009 to the Broadmoor, California, Police Department, where Police Chief Gregory Love told Lieutenant Lum that PSO Chan lived at 7800 El Camino #3103 in Broadmoor. This was an address that PSO Chan had never previously provided to the Department. Lieutenant Lum tried to find PSO Chan at that address that day, but was unsuccessful.
- (16) Lieutenant Lum never received a reply to his letter of June 3, 2009, nor a direct answer to his emails. He has never received any update forms

indicating the new home address PSO Chan referred to in his April 17, 2009 meeting with Lieutenant Lum.

(17) On July 10, 2009, PSO Chan was interviewed in this matter by the Management Control Division (hereinafter referred to as "MCD"). He stated that he decided to not give his new address to Lieutenant Lum because he decided that he was not required to do so. He also claimed that he was then living at both the El Camino address in Broadmoor, and also the Moonlight Court address in South San Francisco.

(18) Any reasonable PSO must know that these actions and omissions would be cause for discipline or termination from appointment as a Patrol Special Officer. Such conduct is Conduct Unbecoming an Officer in violation of Rule 4.16 of the Rules, which states:

"CHANGE OF ADDRESS/TELEPHONE NUMBER. Shall report in writing to the Secretary of the Police Commission and to the Program Administrator any change of residence, new address and/or telephone numbers, to include business and pager numbers of the Patrol Special Officer and all Assistants, within twenty-four (24) hours after the change has been made. This information is confidential and will be used for official purposes only."

SPECIFICATION NO. 2

Failure to Obey and Promptly Execute the Lawful Orders of a Police Officer (a violation of Rule 4.03 of the Rules and Procedures for Patrol Specials and Their Assistants).

(19) The allegations incorporated in paragraphs (1) through (18) above, are incorporated by reference as though fully set forth herein.

(20) By failing to complete and properly update his home address with the Department as instructed by Lieutenant Lum on April 17, May 26, June 3, and June 5, 2009, PSO Chan failed to promptly execute the orders of a police officer. Moreover, as indicated in his interview with MCD, PSO Chan consciously chose to withhold his new home address in Broadmoor from Lieutenant Lum, the Patrol Special Program Administrator, despite being ordered to provide it.

(21) Any reasonable PSO must know that these actions and omissions would constitute insubordination and failure to follow orders, and would be cause for discipline or termination from appointment as a Patrol Special Officer. Such conduct is Conduct Unbecoming an Officer, a violation of Rule 4.03 of the Rules, which states:

"ORDERS OF POLICE OFFICERS. Patrol Specials and Assistant Patrol Specials shall strictly obey and promptly execute the lawful orders of police officers."

PENALTIES:

(22) If the Specification are sustained after trial by the Police Commission, the penalty is up to and including termination from appointment as a Patrol Special Officer.

File No. ALW C09-192:

SPECIFICATION NO. 1

Displaying a Personal Photograph While in Uniform on a Political Website, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 5.06 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (1) At all times herein mentioned Hanley Chan, Star Number 2683, (referred to as “the accused”) was and is a Patrol Special Officer in the City and County of San Francisco. The accused is currently suspended by the Department from engaging in any patrol special duties.
- (2) Patrol Special Officers are defined as “A private patrol person, appointed by the Police Commission, who contracts to perform security duties of a private nature for private persons or businesses within the geographical boundaries set forth by the Police Commission. A Patrol Special is the owner of a beat. A Patrol Special is responsible for knowing and obeying the rules and procedures of the Patrol Special Officers and Assistant Patrol Special Officers.” (See *Interim Rules and Procedures for Patrol Special Officers and Their Assistants, Adopted by the San Francisco Police Commission December 10, 2008*).
- (3) On Friday, August 14, 2009, Mr. Gregory Love, Chief of Police of the Broadmoor Police Department (hereinafter “Chief Love”) contacted Lieutenant Curtis Lum #2128 of the San Francisco Police Department and informed him that the accused had posted a photo of himself, in uniform, on a political website.
- (4) The website, www.voteforhanleychan.com is a political website being use to support the accused’s candidacy for Commissioner on the City of Broadmoor’s Police Commission.
- (5) On August 14, 2009, the website clearly showed the accused wearing his San Francisco Patrol Special Uniform, including his patch and six-point star. The color photograph extends across the entire top portion of the website. Next to the color photograph it reads, “Hanley Chan for Broadmoor Police Commission.”
- (6) The website provides a brief biography of the accused’s personal history and work experience. The words, “Patrol Special Hanley Chan” appear at the bottom of the website.
- (7) On September 2, 2009, the accused was interviewed by the Management Control Division.
- (8) During his interview, the accused admitted he was the person depicted in the photograph. The accused stated that the photograph was taken approximately six years ago while he was off-duty.
- (9) According to the accused, the picture was “photo shopped” to make it appear as if he was standing above the skyline of Daly City.
- (10) During his interview, the accused said that the photograph referenced above was one of several photographs he provided to his brother in order to create a website for him.
- (11) The accused authorized his brother to create the website but did not authorize him to use a picture of him in his Patrol Special uniform on the website.
- (12) The accused admitted during his Management Control Division interview, that when he saw the photo of himself in uniform on his political website, he knew it was a violation of the Rules and Procedures for Patrol Special Officers and their Assistants. According to the accused, he requested that his webmaster remove the photograph from the website.
- (13) On September 2, 2009, a review of the website revealed the same photograph of the accused in his uniform. However, the San Francisco patch and star are now blurred out.
- (14) The accused, by displaying a personal photograph on a political website, which depicts him in uniform and clearly shows his San Francisco Patch and star, engaged in conduct which violates Rule 5.06 of the Rules and

Procedures for Patrol Special Officers and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or revocation of his appointment. Rule 5.06 of the Rules and Procedures for Patrol Special Officers and their Assistants states:

“UNIFORM AND EQUIPMENT ITEMS DISPLAY OFF DUTY.

Patrol Specials and Assistant Patrol Specials shall not wear or use any uniform or equipment item, including weapons, except en route to and from their beats, and while on-duty as a Patrol Special Officer or Assistant Patrol Special Officer in the City and County of San Francisco.”

PENALTIES:

- (15) The accused currently has five separate Police Commission charges pending before the Police Commission. The Department requests that all of the accused's matters be consolidated in one proceeding. If found guilty after trial and hearing by the Police Commission, the recommended penalty is revocation of the accused's appointment.

File No. ALW C09-193:

SPECIFICATION NO. 1

Failure to Provide a Client List and List of Fees Charged, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 4.15 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (1) At all times herein mentioned Hanley Chan, Star Number 2683, (referred to as “the accused”) was and is a Patrol Special Officer in the City and County of San Francisco. The accused is currently suspended by the Department from engaging in any patrol special duties.
- (2) Patrol Special Officers are defined as “A private patrol person, appointed by the Police Commission, who contracts to perform security duties of a private nature for private persons or businesses within the geographical boundaries set forth by the Police Commission. A Patrol Special is the owner of a beat. A Patrol Special is responsible for knowing and obeying the rules and procedures of the Patrol Special Officers and Assistant Patrol Special Officers.” (See *Interim Rules and Procedures for Patrol Special Officers and Their Assistants, Adopted by the San Francisco Police Commission December 10, 2008.*)
- (3) On Friday, January 9, 2009, Lieutenant Curtis Lum #2128 sent a copy of the Interim Rules and Procedures for Patrol Special Officers and their Assistants to the accused.
- (4) Lt. Lum also sent the accused a letter which stated that the accused, “shall also send a complete list of fees charged to each client in the prior quarter of the Police Commission.”
- (5) On March 13, 2009, Lt. Lum sent the accused a second letter, dated March 12, 2009, directing him to comply with Rule 4.15 of the *Interim Rules and Procedures for Patrol Special Officers and Their Assistants, Adopted by the San Francisco Police Commission December 10, 2008.*
- (6) The letter, dated March 12, 2009 specifically stated, “Per rule 4.15, Record of Clients, you are required to submit to the Police Commission:
(1) A complete list of the clients on their beat, and (2) A complete list of fees charged to each client in the prior quarter.”
- (7) The letter also informed the accused that he was (1) not in compliance with this requirement, (2) that the items were now overdue, (3) that the items should be sent immediately to the Police Commission, (4) and failure to do so would result in administrative action.

- (8) On May 28, 2009, Lt. Lum sent the accused a third letter dated May 27, 2009. This letter was signed by Deputy Chief Kevin Cashman, Commanding Officer of the Field Operations Bureau and sent via certified mail.
- (9) The letter, dated May 27, 2009, was specifically addressed to the accused and ordered the accused to provide a complete client list and record of fees within 72 hours of receipt of the letter.
- (10) Included in this letter was the following language:

“If you do not provide a complete client list and record of fees within 72 hours of receipt of this letter, corrective action under Section 3.12 of the Interim Rules will be initiated. Under that section, corrective action may include reprimand, fine or referral by charges to the Commission for possible suspension or revocation of appointment.”
- (11) The certified letter, addressed to the accused, was signed for and received on May 29, 2009.
- (12) On August 13, 2009, Lt. Lum interviewed the accused regarding his failure to comply with Rules 4.03 and 4.15 of the *Interim Rules and Procedures for Patrol Special Officers and Their Assistants, Adopted by the San Francisco Police Commission December 10, 2008*.
- (13) During this interview the accused admitted that he received the letters dated January 9, 2009, and March 12, 2009 but denied receiving the letter dated May 27, 2009.
- (14) Lt. Lum specifically asked the accused if he received the letter dated January 9, 2009 and if complied with the directive in the letter. The accused admitted that he received the letter and that he had not complied with the directive from Lt. Lum.
- (15) Lt. Lum specifically asked the accused if he received the letter dated March 12, 2009 and if he complied with the directive in the letter. The accused admitted that he received the letter and that he had not complied with the directive from Lt. Lum.
- (16) Lt. Lum specifically asked the accused if he received the letter dated May 27, 2009 and if he complied with the directive in the letter. The accused replied by stating, “I don’t believe I received that one.”
- (17) Lt. Lum showed the accused the signed certified mail receipt dated May 29, 2009 and the accused still maintained that he had not seen the letter dated May 27, 2009.
- (18) Lt. Lum asked the accused repeatedly during the interview if he intended to comply with Rule 4.15. The accused stated that he was not going to violate his clients’ constitutional rights and that they did not want their information divulged due to privacy issues. The accused repeatedly stated throughout the interview that he would not violate his clients’ rights by divulging the information.
- (19) The accused, by refusing to provide a complete list of clients on his beats and a complete list of fees charged to each client in the prior quarter, engaged in conduct which violates Rule 4.15 of the Interim Rules and Procedures for Patrol Special Officers and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or revocation of his appointment. Rule 4.15 of the Rules and Procedures for Patrol Special Officers and their Assistants states:

“*RECORD OF CLIENTS. Within 30 days after adoption of these Interim Rules and annually thereafter no later than January 31st of each year, Patrol Specials shall submit to the Police Commission: (1) a complete list of clients on their beats, and (2) a complete list of fees charged to each*

client in the prior quarter. Notification in writing shall be made to the Police Commission of any additions or deletions of subscribers within their beats. Notification shall include the subscriber's name, address and telephone number. This information is confidential and will be used for official purposes only."

SPECIFICATION NO. 2

Failure to Obey the Lawful Order of a Police Officer, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 4.03 of the Rules and Procedures for Patrol Special Officers and Their Assistants).

- (20) Each allegation incorporated in Specification No. 1, paragraphs (1) through (19) is incorporated by reference as though fully set forth herein.
- (21) The accused was sent three letters directing him to comply with the requirements of Rule 4.15 of the *Interim Rules and Procedures for Patrol Special Officers and Their Assistants, Adopted by the San Francisco Police Commission December 10, 2008*. Two letters were sent by Lt. Lum and one letter was sent by Deputy Chief Kevin Cashman.
- (22) The accused acknowledged receiving two letters sent by Lt. Lum. The third letter was sent via certified mail to the accused's address. The letter was signed for on May 29, 2009.
- (23) The accused refused to comply with direct lawful orders, from Lt. Lum and Deputy Chief Cashman, and provide a complete list of clients and fees charged to those clients in the prior quarter.
- (24) The accused, by refusing to provide a complete list of clients on his beats and a complete list of fees charged to each client in the prior quarter, engaged in conduct which violates Rule 4.03 of the Interim Rules and Procedures for Patrol Special Officers and Their Assistants. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or revocation of his appointment. Rule 4.03 of the Rules and Procedures for Patrol Special Officers and their Assistants states:

"ORDERS OF POLICE OFFICERS. Patrol Specials and Assistant Patrol Specials shall strictly obey and promptly execute the lawful orders of police officers."

PENALTIES:

- (25) The accused currently has five separate Police Commission charges pending before the Police Commission. The Department requests that all of the accused's matters be consolidated in one proceeding. If found guilty after trial and hearing by the Police Commission, the recommended penalty is revocation of the accused's appointment.

File No. ALW C09-221:

SPECIFICATION NO. 1

Failure to Provide Evidence of Workers' Compensation Insurance and Automobile Liability Insurance, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 3.03(1)(1) and (3) of the Interim Rules and Procedures for Patrol Special Officers and Their Assistants).

- (1) At all times herein mentioned Hanley Chan, Star Number 2683, (Referred to as "the accused") was and is a Patrol Special Officer in the City and County of San Francisco. The accused is currently suspended by the Department from engaging in any patrol special duties.
- (2) Patrol Special Officers are defined as "A private patrol person, appointed by the Police Commission, who contracts to perform security duties of a

private nature for private persons or businesses within the geographical boundaries set forth by the Police Commission. A Patrol Special is the owner of a beat. A Patrol Special is responsible for knowing and obeying the rules and procedures of the Patrol Special Officers and Assistant Patrol Special Officers.” (See *Interim Rules and Procedures for Patrol Special Officers and Their Assistants, Adopted by the San Francisco Police Commission December 10, 2008.*)

- (3) In January, 2009, Lt. Curtis Lum #2128 attempted to obtain proof of insurance from the accused.
- (4) Rule 3.03(I) of the Interim Rules and Procedures for Patrol Special Officers and Assistant Patrol Special Officers requires Patrol Special Officers to provide evidence of workers’ compensation, commercial general liability and commercial automobile liability insurance. A copy of the interim rules and procedures for Patrol Special Officers and their Assistants was sent to the accused on January 9, 2009.
- (5) Lt. Lum originally gave the accused a due date of January 31, 2009 to provide proof of insurance pursuant to Rule 3.03(I). From January, 2009 until August 27, 2009, Lt. Lum made numerous attempts via email, mail and personal contact to get the accused to comply with the direct order.
- (6) In response to the due date of January 31, 2009, which had come and past, the accused sent Lt. Lum an email on February 27, 2009 stating that he was out of town and would provide the required documents by March 10, 2009.
- (7) The accused failed to provide proof of insurance by March 10, 2009. Lt. Lum made several unsuccessful attempts to obtain the documents following the second deadline of March 10, 2009. However, the accused would not return Lt. Lum’s phone calls and he rarely responded to emails.
- (8) On June 9, 2009, Lt. Lum sent the accused a letter, dated June 8, 2009, directing him to provide the proof of insurance.
- (9) On July 10, 2009, Lt. Lum personally contacted the accused, showed him the letter dated June 8, 2009 and asked him if he had received it. The accused acknowledged that he had received the letter but stated that he could not locate the paperwork and was having difficulty contacting his insurance agent.
- (10) On July 22, 2009, Lt. Lum informed the accused, via email, that if he did not have proof of insurance, as required by Rule 3.03(I), by July 29, 2009, he would forward the case to Management Control Division of the San Francisco Police Department.
- (11) On July 23, 2009, the accused provided proof of General Liability insurance only. At this time, the accused was again informed that he also needed to provide proof of automobile liability and workers’ compensation insurance.
- (12) On August 6, 2009, the accused contacted Lt. Lum regarding another matter and Lt. Lum asked for proof of insurance again. The accused stated that he was still having trouble contacting his insurance agent and requested an extension until August 27, 2009. The accused was informed that this would be the last extension granted.
- (13) On August 10, 2009, Lt. Lum emailed the accused to reiterate the final deadline of August 27, 2009 to provide proof of workers’ compensation insurance and automobile liability insurance.
- (14) On August 13, 2009, Lt. Lum received a telephone call from Assistant Patrol Special Roberto Ortega #2608. He stated that on July 16, 2009 he was working for the accused. On this date, he was on-duty, and in full

uniform when a civilian noticed that the left side of his face appeared to be drooping. The civilian also told Assistant Patrol Special Officer Ortega that he might be having a stroke.

- (15) Assistant Patrol Special Officer Ortega finished his shift and shortly thereafter noticed that his face was drooping and he could not move his left arm. He went to the hospital on July 17, 2009 and was diagnosed as having suffered a stroke.
- (16) According to Assistant Patrol Special Officer Ortega, he notified his employer, the accused, on July 17, 2009. The accused visited with him in the hospital and told him he would research a workers' compensation claim for him.
- (17) A few weeks later, the accused visited Assistant Patrol Special Officer Ortega at his residence and informed him that he did not have workers' compensation insurance because it was too expensive.
- (18) On August 26, 2009, the accused faxed Lt. Lum proof of workers' compensation insurance from TWIW Insurers. According to the paperwork, the policy was effective August 21, 2009 through August 21, 2010 and an agent from TWIW confirmed that the accused obtained the policy on August 21, 2009.
- (19) On September 18, 2009, the accused was interviewed by the Management Control Division and admitted that he did not obtain workers' compensation insurance until August 21, 2009.
- (20) The accused, by failing to obtain and provide proof of workers' compensation insurance and automobile insurance violated Rule 3.03(D)(1) and (3) of the Interim Rules and Procedures for Patrol Special Officers and their Assistants. Furthermore, the accused admitted that he did not obtain the required insurance until August 21, 2009. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or revocation of his appointment. Rule 3.03(D)(1) and (3) of the *Interim Rules and Procedures for Patrol Special Officers and Their Assistants*, Adopted by the San Francisco Police Commission on December 10, 2008 states:

“3.03 QUALIFICATION/REQUIREMENT FOR PATROL SPECIAL OFFICERS

Patrol Specials at the time of appointment shall:

(1) Present evidence of insurance in the following amounts:

- (1) For Patrol Special Police Officers who employ any person or persons, Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000.00 each accident, injury, or illness.*
- (3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000.00 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.”*

SPECIFICATION NO. 2

Failure to Obey the Lawful Order of a Police Officer, conduct which undermines the good order, efficiency and discipline of the Department (a violation of Rule 4.03 of the Interim Rules and Procedures for Patrol Special Officers and Their Assistants).

- (21) Each allegation incorporated in Specification No. 1, paragraphs (1) through (20) is incorporated by reference as though fully set forth herein.

(22) Numerous attempts were made to contact the accused and obtain proof of insurance. The accused ignored multiple telephone calls, barely responded to emails and requested at least three extensions to provide the requested information. Almost six months passed before the accused provided proof of insurance. The accused, by failing to comply with Lt. Lum's direct orders to provide proof of insurance, engaged in conduct which violates Rule 4.03 of the Interim Rules and Procedures for Patrol Special Officers and Their Assistants, Adopted by the San Francisco Police Commission December 10, 2008. Any reasonable Patrol Special Officer must know that such conduct is cause for discipline or revocation of his appointment. Rule 4.03 of the Interim Rules and Procedures for Patrol Special Officers and their Assistants states:

“ORDERS OF POLICE OFFICERS. Patrol Specials and Assistant Patrol Specials shall strictly obey and promptly execute the lawful orders of police officers.”

PENALTIES:

(23) The accused currently has seven separate Police Commission charges pending before the Police Commission with a trial date of November 10, 2009. The Department requests that all of the accused's matters be consolidated in one proceeding. If found guilty after trial and hearing by the Police Commission, the recommended penalty is revocation of the accused's appointment.

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A, Section A 8.343 of the Charter of the City and County of San Francisco on December 2, 2009 where the matter was submitted to the Police Commission for decision; therefore be it

RESOLVED, that based on the stipulated agreement between the parties, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following:

A. Patrol Special Officer Hanley Chan shall Resign From the Patrol Special Program

PSO Chan shall resign from his position of Patrol Special Officer effective November 10, 2009.

PSO Chan's resignation from his position of Patrol Special Officer has the same effect as the revocation of his appointment.

B. The Department shall Retain Jurisdiction Over All Disciplinary Cases Involving Patrol Special Officer Hanley Chan, Pending the Sale of Beat 72

The Department and the Commission shall retain jurisdiction over all disciplinary matters involving PSO Chan pending the sale of Beat 72. Upon satisfactory proof that PSO Chan has sold Beat 72 and no longer retains any proprietary rights in Beat 72, the Department will dismiss the PSO Chan cases.

The Department may request a formal hearing on all charges involving PSO Chan, including but not limited to the PSO Chan cases, should PSO Chan engage in conduct which is in violation of the Rules and Procedures pending the sale of Beat 72.

C. Patrol Special Officer Hanley Chan Shall Sell and Relinquish Any Proprietary Interest in Beat 72

Patrol Special Officer Hanley Chan agrees to:

1. Sell Beat 72 and divest himself of any future proprietary interest in Beat 72. The Sale of this Beat shall be completed within six to nine months.
2. Appear before the Commission every three months from the date this Agreement is fully executed by the parties and approved by the Commission to provide a status update regarding the sale of Beat 72. (Proposed status dates are as follows: Wednesday March 3, 2010, Wednesday June 2, 2010, and Wednesday September 1, 2010).
3. Waive his right to contest the authority of the Commission to assume control of, and sell, Beat 72 should PSO Chan fail to sell Beat 72 by September 1, 2010.

D. Patrol Special Officer Hanley Chan May, Three (3) Years from Date of this Agreement, Re-Apply to Become a Patrol Special Officer

PSO Chan may reapply to become a Patrol Special Officer three years from the date of this Agreement is fully executed by the parties and approved by the Commission.

There are no assurance, promises or guarantees implied by this Agreement with regards to future employment as a Patrol Special Officer.

If this decision is subject to review under Code of Civil Procedure §1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, §1094.6.

AYES: Commissioners Marshall, Mazzucco, DeJesus, Lee, Onek, Pan
(These proceedings were transcribed in shorthand form by Ms. Anna Greenley, CSR.)

PUBLIC COMMENT

Dan Diuz, Lower Polk Area, commended PSO Chan.
Ann Grogan commended PSO Chan.
Unidentified commended PSO Chan.

PUBLIC COMMENT ON ALL MATTER PERTAINING TO CLOSED SESSION

None

VOTE ON WHETHER TO HOLD CLOSED SESSION

Motion by Commissioner Pan, second by Commissioner Mazzucco.
Approved 6-0.

CLOSED SESSION continued (8:40 to 9:50 p.m.)

b. PERSONNEL EXCEPTION: Hearing on the Appeal of the Chief's Suspension and possible action to sustain or not sustain the Chief's Action as filed in Case No. ALW D09-174

Present: Commissioners Marshall, Mazzucco, Lee, Hammer, Onek, Pan, Chief Gascón, Deputy City Attorney Blits, Lt. Reilly, Attorney Worsham, Attorney Hinckley, and member involved.

Continued to December 16, 2009.
(These proceedings were taken in shorthand form by Ms. Anna Greenley, CSR)

c. CONFERENCE WITH LEGAL COUNSEL: Anticipated Litigation City as Defendant (Number of potential cases: 1)

Continued to a later date.

**VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL
DISCUSSION HELD IN CLOSED SESSION**

Motion by Commissioner Pan, second by Commissioner Mazzucco for non disclosure. Approved 5-0.

ADJOURNMENT

Motion by Commissioner Pan, second by Commissioner Hammet. Approved 5-0.

Thereafter, the meeting was adjourned at 9:06 p.m.

Lieutenant Joseph Reilly
Secretary
San Francisco Police Commission

1497/rct