

D-CIVIL SERVICE-001773

Bobby Jindal
Governor

ATC

Troy Hebert
Commissioner

Alcohol & Tobacco Control

August 5, 2015

Brette Tingle
18177 Pinehurst Drive
Prairieville, LA 70769

Via Certificate of Mailing US Mail

Dear Mr. Tingle:

This is to advise you that the Appointing Authority is considering disciplinary action, to provide you with the reasons for the proposed disciplinary action, a description of the evidence supporting the proposed action, and to afford you a reasonable opportunity to respond.

The proposed disciplinary action is dismissal from your position as an ATC Enforcement Agent 4 with the Office of Alcohol & Tobacco Control. The reason(s) for this disciplinary action are (1) the use of racially inflammatory, sexual, disrespectful and threatening language, (2) falsification of payroll and attendance documents (misuse of Agency working hours and federal grant funds), (3) failure to follow directives, (4) improper recordation of an ATC employee, (5) unauthorized secondary employment, (6) avoidance of disciplinary action by falsely stating that you could not respond due to military obligations, and (7) lying to your supervisor. These reasons are more specifically detailed as follows:

(1) Use of Racially Inflammatory, Sexual, Disrespectful and Threatening Language:

You engaged in racially derogatory conversations with other ATC employees on your ATC-issued cell phone. Specifically, on December 30, 2011, you and your co-worker exchanged the following text message:

Traci Tingle – "I hate fucking niggers!!!"
Brette Tingle – "Me too!!"
Brette Tingle – "Scourge of the earth!!!"

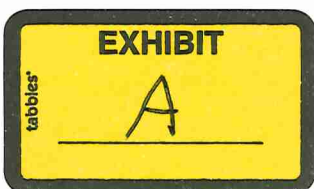
(Exhibit A attached.)

On March 10, 2012, you engaged in the following inappropriate text message conversation on your ATC-issued cell phone with your supervisor, Director Larry Hingle:

Brette Tingle – "Yuuuup! I'm bout to beat some of that Traci ass up!!!"
Brette Tingle – "They had some fine bitches out tonight on Bourbon! Where the fuck were they at during Mardi Gras!"
Larry Hingle – "Go head cousin, make me proud!!!"
Larry Hingle – "You ain't lying, they were out there last night too!"
Brette Tingle – "I beat my dick with a book on the right side do [sic] it would bend to the right. Now we look like book ends!!!"
Brette Tingle – "Well not exactly but you get my drift"
Larry Hingle – "Lol, you gonna tilt Traci's uterus!!!"

(Exhibit W attached)

On April 10, 2012, you told your supervisor, Director Larry Hingle, in a text message from your ATC-issued cell phone, "Bout to smoke a fat one and eat some brownies. That always helps!" (Exhibit X attached).



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On May 21, 2012, you sent a text message to another ATC employee whereby you refer to then ATC Agent Denitra King as "Stupid bitch!". (Exhibit Y attached).

On May 18, 2012, in text messages with another co-worker discussing the resignation of a third ATC employee, who is of Middle Eastern descent, on your ATC-issued cell phone, you exchanged the following text messages concerning the employee who resigned:

Jedd Faulk – "Where is he going?"

Brette Tingle – "Not in law enforcement. Said something spiritual. Probably joining the Jihad."

Jedd Faulk – "Yikes. Maybe he'll suicide bomb maniac's [Commissioner Hebert's] office"

Brette Tingle – "I'm hoping!!!"

(Exhibit B attached.) This conversation occurred during work hours with ATC. (Exhibit C in globo.)

On June 9, 2012, in text messages on your ATC-issued cell phone with your subordinate, Lorre Claiborne, discussing her request for sick leave, you stated, "No prob...Just notify Jeff. I'm in Mobile. Hope you feel better. Get Lex to perform some oral stimulation on you. That always helps Traci on a rainy day!...". You then further stated to her, "I feel you if I had something attached to my uterus I would pass as well." (See Exhibit Z attached).

On August 1, 2012, you sent a text message on your ATC-issued phone to another ATC employee referring to your immediate supervisor, Director Larry Hingle, as a "fucking loser." (Exhibit A attached.)

You also engaged in inappropriate text exchanges on your ATC-issued cell phone where you suggested sexual encounters between yourself and former ATC employees. These exchanges occurred on March 13, 2012 and March 24, 2012. (Exhibit A.) On March 13, 2012, you forwarded a text from another male ATC employee to a female ATC employee, as follows:

Brette Tingle - "FWD: Man, I think it would be hot to just watch the two of you go at it, well Traci anyway. To watch her suck my cock would be off the chart!!! I would love to fuck her hard and fast for as long as she would like but I'll leave that up to yall. Just let me know man."

Traci Tingle – "You must be crazy!!!"

Brette Tingle – "Well?"

Traci Tingle – "I'm having negative body issues at the moment."

Brette Tingle – "Whatever with your fine ass!!!"

Traci Tingle – "LOL"

Brette Tingle – "Shit put a skirt on with some thigh high stockings and wow!!!"

Brette Tingle - "I think it be sooo fucking hot and I think you just might really enjoy his cock sliding in and out of that mouth and pussy of yours!!!"

Traci Tingle – "I would probably enjoy it!!"

Brette Tingle- "Probably? I bet you would. I'm so wanting to eat your pussy right now. When you finish homework, go get on the bed with your pants off and legs spread. Text me and I'm going to taste it."

(Exhibit A.)

On March 24, 2012, you texted the same ATC employee on your ATC-issued cell phone, stating:

Brette Tingle – "Whatcha doing?"

Brette Tingle - "Wow you must be involved in sucking some serious cock r you got your music turned up".

(Exhibit A.)

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As a law enforcement officer sworn to uphold the law and as an ATC Enforcement Agent required to regulate businesses owned and operated by individuals of various races and nationalities, such language is offensive and unprofessional. Furthermore, the use of derogatory racial epithets by a supervisory agent is intolerable, impairs the efficiency of the public service of ATC, constitutes behavior that is manifestly detrimental to the state service, and places the integrity and impartiality of ATC in question. This behavior would undermine your credibility, as well as that of ATC, in any proceeding in which a judge or jury must decide a case in which ATC and/or you were involved, limiting the effectiveness of any investigation or action taken by ATC. (See Exhibit BB in globo for other examples of your inappropriate text messages from your ATC-issued cell phone).

(2) Falsification of Payroll and Attendance Documents: Misuse of Agency Working Hours and Federal Grant Funds:

Review of your time sheets, leave slips and GPS reports from your assigned vehicle for the 91 day period of April 3, 2012 – July 31, 2012 demonstrates that you submitted time sheets for time when you were either at your residence or commuting to or from an ATC office (see Exhibit L in globo attached).

Below are some examples of the payroll falsification and/or abuse. However, for all evidence that compromises a part of these allegations, see Exhibits L, M, and N for all documentation in support of these claims.

You worked 55 days of the 91 day review period (see Exhibit M attached). The GPS reports from your assigned vehicle indicate you were commuting to or from work during portions of the time reported on your time sheet (see Exhibit N(1) – N(7) attached). On approximately 37 of the 55 days, you reported time worked on your time sheets when your assigned vehicle was at your residence (Exhibit N).

For May 16, 2012, you submitted a timesheet showing you worked eight hours from 7:30 a.m. to 4:00 p.m. and three hours of overtime from 4:00 p.m. to 7:00 p.m. However, according to your GPS records, you were at home from 7:30 a.m. to 9:40 a.m. (Exhibit N(3)). Your GPS also shows you were at home from 11:50 a.m. – 7:00 p.m. Text messages sent and received on your ATC-issued cell phone on May 16, 2012 also reveal that you were not performing your ATC duties:

Brette Tingle at 10:06 a.m.- "forgot I had a dentist apt. when you asked me what I was doing today. Here now."

Brette Tingle at 11:30 a.m. - "I'm Done. Tried calling you but got your VM."

Unknown caller at 7:04 p.m. – "Where u at"

Brette Tingle at 7:24 p.m. - "I'm at the house missing Cody's graduation with a freaking kidney stone. I think I'm about to pass it. Been down most of the day. I should be out and about tomorrow ole buddy."

For May 17, 2012, you submitted a timesheet indicating you worked from 7:30 a.m. to 4:00 p.m. and worked overtime for ATC from 4:00 - 6:00 pm and on a Federal Drug Administration (FDA) grant from 6:00 - 11:00 pm. However, the GPS report for your state vehicle indicates your vehicle was located at your residence from 7:30 a.m. – 11:57 a.m. and 2:58 pm - 11:00 pm. Text messages sent and received on your ATC-issued cell phone on May 17, 2012 also reveal that you were not performing your ATC duties:

Unknown caller at 11:31 am – "U ok today"

Brette Tingle at 11:33 a.m. – "Yes passed it early this morning. I'm about to head out but will have that statement in my jeep on the passenger side."

Unknown caller at 11:33 a.m. – "at you house"

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Brette Tingle at 11:34 a.m. – "10-4"

Your text messages also show that you were meeting with an attorney during time you claimed to be working for ATC:

Brette Tingle text to Brett Busbin at 2:23 p.m. on May 17, 2012 – "Meeting with attorney. I'll call you in a few."

As a result of the time sheet submitted you were paid for seven hours of overtime on May 17, 2012. (Exhibit N(3)).

For May 16, 2012 – May 18, 2012, you reported that you worked a total of 37.5 hours; however, the GPS report indicates that your assigned vehicle was at your residence for approximately 22 hours of that time (Exhibit N(3)).

You knew that claiming time worked when you are at your residence or commuting to/from work is not authorized as evidenced by the following: (1) A memorandum, dated October 6, 2011, that you submitted to the Appointing Authority whereby you accuse a former ATC employee, Daimian McDowell, for violating ATC policy due to inconsistencies between his time sheets and GPS reports that are similar to those revealed by your time sheets and GPS reports (see Exhibit O attached); (2) a February 12, 2012 directive from the Appointing Authority whereby you were notified that "(o)n the days you are reporting to the office for work, you are to clock in when you get to the office" and "(n)ot when you leave home" (see Exhibit P attached); (3) email correspondence dated August 14, 2012 from you to ATC employee, Sean McGee, wherein you discuss the Appointing Authority's verbal directive limiting agents' – not supervisors – authority to work from home to one hour per day (see Exhibit Q attached), as well as repeated verbal directives from the Commissioner.

The review evidences a significant amount of time that you reported as "working" where the GPS reports from your assigned vehicle indicate you were traveling around the greater New Orleans area with no discernible stops (Exhibit L).

(3) Failure to Follow Directives

On July 31, 2012 you were directed by your immediate supervisor, ATC Enforcement Director Larry Hingle that "(b)eginning Thursday, August 2, 2012 all agents including SACs will be required to conduct mandatory FDA inspections 5 days a week for an 8 hour shift" and "(w)e have'a total of 3,500 checks that must be completed by September 13, 2012" (see Exhibit R attached).

You failed to comply with this directive by completing only 10 FDA inspections from August 2, 2012 to September 13, 2012. You should have completed approximately 137 FDA inspection during this period.

After receiving the July 31, 2012 FDA directive, you directed Region 2 agents under your leadership, to continue doing other work. You did not request a variance to the directive to allow Region 2 agents to do work other than the FDA inspections (see Exhibit S attached). Because of your failure to ensure that Region 2 agents completed their required inspections, agents from other regions had to stop their work in their region(s) in order to report to Region 2 to complete the remaining inspections by the FDA deadline.

(4) Improper Recordation of ATC Employee:

You secretly recorded a conversation between yourself and Commissioner Hebert on or about August 22, 2012 without either the prior approval of the Commissioner or without the consent of all parties to the conversation in violation of ATC Enforcement Policy. (Exhibit D attached.)

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(5) Unauthorized Secondary Employment:

You worked secondary employment with the Harbor Police Department/ Port of New Orleans from 2011 through 2015 while you were employed with ATC, without obtaining the required approval from the Commissioner in violation of Procedural Order 202. (Exhibit E in globo.) For example, you were paid \$8,594 for off duty detail work in 2012 by the Harbor Police Department. (Exhibit E.) You also failed to submit the required annual renewals for secondary employment in violation of Procedural Order 202.

On at least one occasion, you were simultaneously paid to work for the Harbor Police Department/ Port of New Orleans and ATC. (Exhibit F in globo.)

(6) Avoidance of Discipline:

Further, ATC has documentation that you worked secondary employment with the Harbor Police Department/Port of New Orleans from 2012 – 2015 while you were on military leave from ATC with the United States Coast Guard. However, during this same time period, you submitted documentation to ATC from the United States Coast Guard, your legal counsel and yourself that your military status precluded you from returning to work with ATC or from responding to any legal and administrative proceedings, as follows:

1. On February 5, 2013, you submitted a letter from the United States Coast Guard that "Mr. Tingle's critical role and current military assignment precludes his participation in your office's proceeding." (Exhibit G attached.)
2. On March 1, 2013, you submitted a second letter from the U.S. Coast Guard that you were "activated to respond to the Deepwater Horizon Oil Spill Response," which was a "national contingency to which [you were] to dedicate [your] entire energy", that you were required "to spend extended hours in the field", that you were "on duty all seven days of the week", and that "[i]t is extremely difficult for our members serving in this capacity to attend to other responsibilities". (Exhibit H attached.)
3. You further stated in a March 1, 2013 letter to ATC that your responsibilities with the U.S. Coast Guard required you "to work into the night every night." (Exhibit I attached.)
4. Your legal counsel further stated via a March 1, 2013 letter that "[w]hen one is on active military duty, he has but one master" and cannot make such a commitment to perform his ATC duties. (Exhibit I attached.)
5. Again on October 2, 2013, you submitted a letter from the United States Coast Guard stating that your "critical role and current military assignment precludes his participation in your office's proceeding." (Exhibit J attached.)

However, you continued to work with the Harbor Police Department/ Port of New Orleans, while on military leave from ATC. (Exhibit E).

(7) Lying to Supervisor:

On or about February 2012, when encountered by the Commissioner at the Port of New Orleans and asked what you were doing there, you lied and stated that you were there to check on bicycles for ATC agents, instead of acknowledging that you were working an unapproved detail. (Exhibit AA attached)

Your actions as detailed above demonstrate conduct unbecoming in violation of ATC policy. Pursuant to Procedural Order 201¹ "unbecoming conduct is that which: (a) brings the Agency or any of its subdivisions into disrepute; or (b) reflects discredit upon the Agent as an employee of the Agency; or (c) impairs the operations or efficiency of the Agency, the Agent, or state service; or (d) detrimentally affects the morale of the Agency's personnel; or (e) may reasonably be expected to destroy public respect for

¹ The ATC enforcement policy and procedural manual was revised on October 2, 2012 and the "unbecoming conduct" policy (formerly in P.O. 201) was incorporated into P.O. 601.

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Agents and/or confidence in the Office of Alcohol and Tobacco Control.” Your actions also violate Procedural Order 201 governing mechanically recording conversations – “no employee shall make a recording of the conversation of another ATC employee without the prior approval of the Commissioner or without the consent of all parties to the conversation”² – and Procedural Order 202 governing secondary employment.³

Your actions described above have impaired the efficient operations of ATC.

In determining the severity of this proposed action, the Appointing Authority takes into consideration the following:

On May 1, 2008 you received notice of a one day suspension without pay for failure to timely file your individual income tax return (see Exhibit T attached).

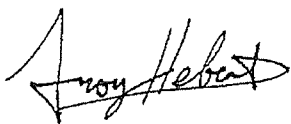
On December 16, 2004 you received notice of a three day suspension without pay for failure to follow directives and conduct unbecoming of an agent (see Exhibit U attached).

On February 11, 2003 you received an improvement letter for stealing Agency property, being untruthful during an internal investigation and demonstrating conduct unbecoming of an agent (see Exhibit V attached).

You may respond in writing and provide any reasons you believe the proposed action should not be taken. Your response must be received by August 17, 2015 at 8:30 a.m. Please address your response to Troy Hebert, Commissioner, Louisiana Office of Alcohol and Tobacco Control, 8585 Archives Avenue, Suite 305, Baton Rouge, Louisiana 70809.

If you do not wish to respond, you do not have to do so. If you do respond, your response will be considered, and the Appointing Authority may 1) decide against the proposed action, 2) modify the proposed disciplinary action, or 3) proceed with proposed disciplinary action. If disciplinary action is taken you will be notified pursuant to Civil Service Rules.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Hebert", with a stylized flourish at the end.

Troy Hebert, Commissioner

² The ATC enforcement policy and procedural manual was revised on October 2, 2012 and the “mechanically recording conversation” policy (formerly in P.O. 201) was incorporated into P.O. 601.

³ The ATC enforcement policy and procedural manual was revised on October 2, 2012 and the “secondary employment” policy (formerly in P.O. 202) was incorporated into P.O. 217.

D-CIVIL SERVICE-002508

Bobby Jindal
Governor

ATC

Troy Hebert
Commissioner

Alcohol & Tobacco Control

August 18, 2015

Brette Tingle
18177 Pinehurst Drive
Prairieville, LA 70769

Via Hand-Delivery

Dear Mr. Tingle:

Pursuant to Civil Service Rule 12.7, you were given notice by letter dated August 5, 2015 of the Appointing Authority's proposed disciplinary action including the reasons therefore, a description of the evidence supporting the proposed action, and affording you a reasonable opportunity to respond.

You responded to the letter on August 13, 2015 through your legal counsel. After considering your response, the Appointing Authority has decided to proceed with the proposed disciplinary action. Accordingly, you are hereby notified that pursuant to the authority contained in Chapter 12 of the Civil Service Rules, you will be dismissed from your position of ATC Enforcement Agent 4 with the Office of Alcohol & Tobacco Control effective 8:00 a.m. on August 19, 2015.

The reason(s) for this disciplinary action are (1) the use of racially inflammatory, sexual, disrespectful and threatening language, (2) falsification of payroll and attendance documents (misuse of Agency working hours and federal grant funds), (3) failure to follow directives, (4) improper recordation of an ATC employee, (5) unauthorized secondary employment, (6) avoidance of disciplinary action by falsely stating that you could not respond due to military obligations, and (7) lying to your supervisor. These reasons are more specifically detailed as follows:

(1) Use of Racially Inflammatory, Sexual, Disrespectful and Threatening Language:

You engaged in racially derogatory conversations with other ATC employees on your ATC-issued cell phone. Specifically, on December 30, 2011, you and your co-worker exchanged the following text message:

Traci Tingle – "I hate fucking niggers!!!"
Brette Tingle – "Me too!!"
Brette Tingle – "Scourge of the earth!!!"

(Exhibit A attached.)

On March 10, 2012, you engaged in the following inappropriate text message conversation on your ATC-issued cell phone with your supervisor, Director Larry Hingle:

Brette Tingle – "They had some fine bitches out tonight on Bourbon! Where the fuck were they at during Mardi Gras!"
Larry Hingle – "Go head cousin, make me proud!!!"
Larry Hingle – "You ain't lying, they were out there last night too!"
Brette Tingle – "I beat my dick with a book on the right side do [sic] it would bend to the right. Now we look like book ends!!"
Brette Tingle – "Well not exactly but you get my drift"
Larry Hingle – "Lol, you gonna tilt Traci's uterus!!!"

(Exhibit W attached)



D-CIVIL SERVICE-002509

On April 10, 2012, you told your supervisor, Director Larry Hingle, in a text message from your ATC-issued cell phone:

Brette Tingle - "Bout to smoke a fat one and eat some brownies. That always helps!"

(Exhibit X attached).

On May 21, 2012, you sent a text message to another ATC employee whereby you refer to then ATC Agent Denitra King as "Stupid bitch!". (Exhibit Y attached).

On May 18, 2012, in text messages with another co-worker discussing the resignation of a third ATC employee, who is of Middle Eastern descent, on your ATC-issued cell phone, you exchanged the following text messages concerning the employee who resigned:

Jedd Faulk - "Where is he going?"

Brette Tingle - "Not in law enforcement. Said something spiritual. Probably joining the Jihad."

Jedd Faulk - "Yikes. Maybe he'll suicide bomb maniac's [Commissioner Hebert's] office"

Brette Tingle - "I'm hoping!!!"

(Exhibit B attached.) This conversation occurred during work hours with ATC. (Exhibit C in globo.)

On June 9, 2012, in text messages on your ATC-issued cell phone with your subordinate, Lorre Claiborne, discussing her request for sick leave, you stated:

Brette Tingle - "No prob...Just notify Jeff. I'm in Mobile. Hope you feel better. Get Lex to perform some oral stimulation on you. That always helps Traci on a rainy day!...".

Brette Tingle - "I feel you if I had something attached to my uterus I would pass as well."

(See Exhibit Z attached).

On August 1, 2012, you sent a text message on your ATC-issued phone to another ATC employee referring to your immediate supervisor, Director Larry Hingle, as a "fucking loser." (Exhibit A attached.)

As a law enforcement officer sworn to uphold the law and as an ATC Enforcement Agent required to regulate businesses owned and operated by individuals of various races and nationalities, such language is offensive and unprofessional. Furthermore, the use of derogatory racial epithets by a supervisory agent is intolerable, impairs the efficiency of the public service of ATC, constitutes behavior that is manifestly detrimental to the state service, and places the integrity and impartiality of ATC in question. This behavior would undermine your credibility, as well as that of ATC, in any proceeding in which a judge or jury must decide a case in which ATC and/or you were involved, limiting the effectiveness of any investigation or action taken by ATC. (See Exhibit BB in globo for other examples of your inappropriate text messages from your ATC-issued cell phone).

(2) Falsification of Payroll and Attendance Documents: Misuse of Agency Working Hours and Federal Grant Funds:

Review of your time sheets, leave slips and GPS reports from your assigned vehicle for the 91 day period of April 3, 2012 – July 31, 2012 demonstrates that you submitted time sheets for time when you were either at your residence or commuting to or from an ATC office (see Exhibit L in globo attached).

Below are some examples of the payroll falsification and/or abuse. However, for all evidence that compromises a part of these allegations, see Exhibits L, M, and N for all documentation in support of these claims.

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You worked 55 days of the 91 day review period (see Exhibit M attached). The GPS reports from your assigned vehicle indicate you were commuting to or from work during portions of the time reported on your time sheet (see Exhibit N(1) – N(7) attached). On approximately 37 of the 55 days, you reported time worked on your time sheets when your assigned vehicle was at your residence (Exhibit N).

For May 16, 2012, you submitted a timesheet showing you worked eight hours from 7:30 a.m. to 4:00 p.m. and three hours of overtime from 4:00 p.m. to 7:00 p.m. However, according to your GPS records, you were at home from 7:30 a.m. to 9:40 a.m. (Exhibit N(3)). Your GPS also shows you were at home from 11:50 a.m. – 7:00 p.m. Text messages sent and received on your ATC-issued cell phone on May 16, 2012 also reveal that you were not performing your ATC duties:

Brette Tingle at 10:06 a.m.- “forgot I had a dentist apt. when you asked me what I was doing today. Here now.”

Brette Tingle at 11:30 a.m. - “I’m Done. Tried calling you but got your VM.”

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Your text messages also show that you were meeting with an attorney during time you claimed to be working for ATC:

Brette Tingle text to Brett Busbin at 2:23 p.m. on May 17, 2012 – “Meeting with attorney. I’ll call you in a few.”

As a result of the time sheet submitted you were paid for seven hours of overtime on May 17, 2012. (Exhibit N(3)).

For May 16, 2012 – May 18, 2012, you reported that you worked a total of 37.5 hours; however, the GPS report indicates that your assigned vehicle was at your residence for approximately 22 hours of that time (Exhibit N(3)).

You knew that claiming time worked when you are at your residence or commuting to/from work is not authorized as evidenced by the following: (1) A memorandum, dated October 6, 2011, that you submitted to the Appointing Authority whereby you accuse a former ATC employee, Daimian McDowell, for violating ATC policy due to inconsistencies between his time sheets and GPS reports that are similar to those revealed by your time sheets and GPS reports (see Exhibit O attached); (2) a February 12, 2012 directive

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from the Appointing Authority whereby you were notified that “(o)n the days you are reporting to the office for work, you are to clock in when you get to the office” and “(n)ot when you leave home” (see Exhibit P attached); (3) email correspondence dated August 14, 2012 from you to ATC employee, Sean McGee, wherein you discuss the Appointing Authority’s verbal directive limiting agents’ – not supervisors – authority to work from home to one hour per day (see Exhibit Q attached), as well as repeated verbal directives from the Commissioner.

The review evidences a significant amount of time that you reported as “working” where the GPS reports from your assigned vehicle indicate you were traveling around the greater New Orleans area with no discernible stops (Exhibit L).

(3) Failure to Follow Directives

On July 31, 2012 you were directed by your immediate supervisor, ATC Enforcement Director Larry Hingle that “(b)eginning Thursday, August 2, 2012 all agents including SACs will be required to conduct mandatory FDA inspections 5 days a week for an 8 hour shift” and “(w)e have a total of 3,500 checks that must be completed by September 13, 2012” (see Exhibit R attached).

You failed to comply with this directive by completing only 10 FDA inspections from August 2, 2012 to September 13, 2012. You should have completed approximately 137 FDA inspection during this period.

After receiving the July 31, 2012 FDA directive, you directed Region 2 agents under your leadership, to continue doing other work. You did not request a variance to the directive to allow Region 2 agents to do work other than the FDA inspections (see Exhibit S attached). Because of your failure to ensure that Region 2 agents completed their required inspections, agents from other regions had to stop their work in their region(s) in order to report to Region 2 to complete the remaining inspections by the FDA deadline.

(4) Improper Recordation of ATC Employee:

You secretly recorded a conversation between yourself and Commissioner Hebert on or about August 22, 2012 without either the prior approval of the Commissioner or without the consent of all parties to the conversation in violation of ATC Enforcement Policy. (Exhibit D attached.)

(5) Unauthorized Secondary Employment:

You worked secondary employment with the Harbor Police Department/ Port of New Orleans from 2011 through 2015 while you were employed with ATC, without obtaining the required approval from the Commissioner in violation of Procedural Order 202. (Exhibit E in globo.) For example, you were paid \$8,594 for off duty detail work in 2012 by the Harbor Police Department. (Exhibit E.) You also failed to submit the required annual renewals for secondary employment in violation of Procedural Order 202.

On at least one occasion, you were simultaneously paid to work for the Harbor Police Department/ Port of New Orleans and ATC. (Exhibit F in globo.)

(6) Avoidance of Discipline:

Further, ATC has documentation that you worked secondary employment with the Harbor Police Department/Port of New Orleans from 2012 – 2015 while you were on military leave from ATC with the United States Coast Guard. However, during this same time period, you submitted documentation to ATC from the United States Coast Guard, your legal counsel and yourself that your military status precluded you from returning to work with ATC or from responding to any legal and administrative proceedings, as follows:

1. On February 5, 2013, you submitted a letter from the United States Coast Guard that “Mr. Tingle’s critical role and current military assignment precludes his participation in your office’s proceeding.” (Exhibit G attached.)

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2. On March 1, 2013, you submitted a second letter from the U.S. Coast Guard that you were "activated to respond to the Deepwater Horizon Oil Spill Response," which was a "national contingency to which [you were] to dedicate [your] entire energy", that you were required "to spend extended hours in the field", that you were "on duty all seven days of the week", and that "[i]t is extremely difficult for our members serving in this capacity to attend to other responsibilities". (Exhibit H attached.)
3. You further stated in a March 1, 2013 letter to ATC that your responsibilities with the U.S. Coast Guard required you "to work into the night every night." (Exhibit I attached.)
4. Your legal counsel further stated via a March 1, 2013 letter that "[w]hen one is on active military duty, he has but one master" and cannot make such a commitment to perform his ATC duties. (Exhibit I attached.)
5. Again on October 2, 2013, you submitted a letter from the United States Coast Guard stating that your "critical role and current military assignment precludes his participation in your office's proceeding." (Exhibit J attached.)

However, you continued to work with the Harbor Police Department/ Port of New Orleans, while on military leave from ATC. (Exhibit E).

(7) Lying to Supervisor:

On or about February 2012, when encountered by the Commissioner at the Port of New Orleans and asked what you were doing there, you lied and stated that you were there to check on bicycles for ATC agents, instead of acknowledging that you were working an unapproved detail. (Exhibit AA attached)

Your actions as detailed above demonstrate conduct unbecoming in violation of ATC policy. Pursuant to Procedural Order 201¹ "unbecoming conduct is that which: (a) brings the Agency or any of its subdivisions into disrepute; or (b) reflects discredit upon the Agent as an employee of the Agency; or (c) impairs the operations or efficiency of the Agency, the Agent, or state service; or (d) detrimentally affects the morale of the Agency's personnel; or (e) may reasonably be expected to destroy public respect for Agents and/or confidence in the Office of Alcohol and Tobacco Control." Your actions also violate Procedural Order 201 governing mechanically recording conversations – "no employee shall make a recording of the conversation of another ATC employee without the prior approval of the Commissioner or without the consent of all parties to the conversation"² – and Procedural Order 202 governing secondary employment.³ The above-cited procedural orders were promulgated under former Commissioner Painter and were in effect during the time of the events of your employment with ATC that are the subject of the current disciplinary action. As such, you were bound by those procedural orders and were required to act in accordance with those orders at all times.

Your actions described above have not only impaired the efficient operations of ATC but have also jeopardized its mission and called into question the integrity of other ATC agents.

In determining the severity of this proposed action, the Appointing Authority takes into consideration the following:

On May 1, 2008 you received notice of a one day suspension without pay for failure to timely file your individual income tax return (see Exhibit T attached).

¹ The ATC enforcement policy and procedural manual was revised on October 2, 2012 and the "unbecoming conduct" policy (formerly in P.O. 201) was incorporated into P.O. 601.

² The ATC enforcement policy and procedural manual was revised on October 2, 2012 and the "mechanically recording conversation" policy (formerly in P.O. 201) was incorporated into P.O. 601.

³ The ATC enforcement policy and procedural manual was revised on October 2, 2012 and the "secondary employment" policy (formerly in P.O. 202) was incorporated into P.O. 217.

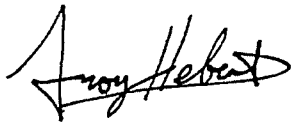
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On December 16, 2004 you received notice of a three day suspension without pay for failure to follow directives and conduct unbecoming of an agent (see Exhibit U attached).

On February 11, 2003 you received an improvement letter for stealing Agency property, being untruthful during an internal investigation and demonstrating conduct unbecoming of an agent (see Exhibit V attached).

You have the right to appeal this action to the State Civil Service Commission within 30 calendar days following the date you receive this notice. The appeal procedure is contained in Chapter 13 of the Civil Service Rules, which is available from the Department of State Civil Service or your Human Resource office.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Hebert". The signature is stylized with a large initial "T" and a cursive "Hebert".

Troy Hebert, Commissioner