

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST )  
POLICE OFFICER JOHN AGUINAGA, ) No. 06 PB 2601  
STAR No. 8576, DEPARTMENT OF POLICE, )  
CITY OF CHICAGO, )  
RESPONDENT ) (CR No. 303462)

FINDINGS AND DECISION

On March 22, 2006 the Superintendent of Police filed charges with the Police Board of the City of Chicago against Police Officer John Aguinaga, Star No. 8576 (hereinafter sometimes referred to as "Respondent"), for violating the following rules:

- Rule 1: Violation of any law or ordinance.
- Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 15: Intoxication on or off duty.

Prior to an evidentiary hearing on these charges against Police Officer John Aguinaga, Star No. 8576, the parties entered into a Settlement Agreement and Stipulation (a copy of which is attached as Exhibit A) and submitted it to the Police Board of the City of Chicago.

The Police Board of the City of Chicago, as a result of its review of the charges and the proposed Settlement Agreement and Stipulation, finds and determines that:

1. The Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.

2. The charges were filed in writing and a Notice, stating the time, date and place, when and where a hearing of the charges was to be held, together with a copy of the original charges, was served upon the Respondent more than five (5) days prior to his entering into the Settlement Agreement and Stipulation.

3. The Respondent was represented by counsel of his choice.

4. Prior to an evidentiary hearing on the charges, the parties entered into a Settlement Agreement and Stipulation and submitted it to the Police Board of the City of Chicago.

5. The Respondent Police Officer John Aguinaga, Star No. 8576, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance.

Count I: On or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrah's Boulevard, East Chicago, Indiana, Police Officer John Aguinaga committed the offense of Public Intoxication, in that he was in a public place in a state of intoxication caused by his use of alcohol, in violation of Title 7.1, Article 5, Chapter 1, Section 3 of the Indiana State Code.

Count II: On or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrah's Boulevard, East Chicago, Indiana, Police Officer John Aguinaga committed the offense of Disorderly Conduct, in that he was recklessly, knowingly, or intentionally engaging in fighting or tumultuous conduct, in violation of Title 35, Article 45, Chapter 1, Section 3(1) of the Indiana State Code.

Count III: On or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrah's Boulevard, East Chicago, Indiana, Police Officer John Aguinaga committed the offense of Resisting Law Enforcement, in that he knowingly or intentionally forcibly resisted, obstructed, or interfered with a law enforcement officer while the officer was lawfully engaged in the execution of his duties as an officer, in violation of Title 35, Article 44, Chapter 3, Section 3(a) of the Indiana State Code.

6. The Respondent Police Officer John Aguinaga, Star No. 8576, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Count I: On or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrah's Boulevard, East Chicago, Indiana, Police Officer John Aguinaga was in a public place in a state of intoxication.

Count II: On or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrah's Boulevard, East Chicago, Indiana, Police Officer John Aguinaga resisted being placed in a squad car after being arrested, and/or had to be restrained.

Count III: On or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrah's Boulevard, East Chicago, Indiana, Police Officer John Aguinaga used profanities, threatening language, and/or disparaging racial comments, such as one or more of the following: "Fuck you motherfuckers, I don't need your help"; "Spics"; that he would "fuck them up"; and "You don't know what I have."

Count IV: On or about February 2, 2005, at approximately 0249 hours, Police Officer John Aguinaga submitted to a Breathalyzer test, which disclosed that he had a blood alcohol content of 0.16.

7. The Respondent Police Officer John Aguinaga, Star No. 8576, charged herein, is **guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

On or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrah's Boulevard, East Chicago, Indiana, Police Officer John Aguinaga used profanities, made threats, and/or uttered disparaging racial comments directed at employees of Harrah's Casino, East Chicago Police Officers, and/or Indiana State Troopers, such as one or more of the following: "Fuck you motherfuckers, I don't need your help"; "Spics"; that he would "fuck them up"; and "You don't know what I have."

8. The Respondent Police Officer John Aguinaga, Star No. 8576, charged herein, is **guilty** of violating, to wit:

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

On or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrah's Boulevard, East Chicago, Indiana, Police Officer John Aguinaga resisted being escorted from the premises of Harrah's Casino, and/or resisted being placed in a squad car after being placed under arrest.

9. The Respondent Police Officer John Aguinaga, Star No. 8576, charged herein, is **guilty** of violating, to wit:

Rule 15: Intoxication on or off duty.

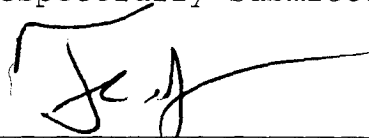
On or about February 2, 2005, at approximately 0249 hours, Police Officer John Aguinaga submitted to a Breathalyzer test, which disclosed that he had a blood alcohol content of 0.16.

By reason of the findings of fact that the Respondent is guilty of violating Rules 1, 2, 8, 9, and 15, cause exists for the suspension of the Respondent from his position as a police officer with the Department of Police, and from the services of

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the City of Chicago, for a period from March 24, 2006 to and  
including June 22, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. E. Johnson', written over a horizontal line.

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THOMAS E. JOHNSON  
Hearing Officer

DECISION

The Police Board of the City of Chicago, having read and reviewed the proposed Settlement Agreement and Stipulation, hereby adopts all findings herein and approves the Settlement Agreement and Stipulation; and

**IT IS HEREBY ORDERED** that the Respondent, Police Officer John Aguinaga, Star No. 8576, as a result of having been found **guilty** of charges in Police Board Case No. 06 PB 2601, be and hereby is **suspended** from his position as a police officer, and from the services of the City of Chicago, for a period from 24 March 2006 to and including 22 June 2006.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20<sup>th</sup> DAY OF JULY 2006.

*Demetri J. Curry*  
*Scott Davis*  
*Chynler Goldbaum*  
*John J. ...*  
*William ...*  
*Christy ...*  
*...*

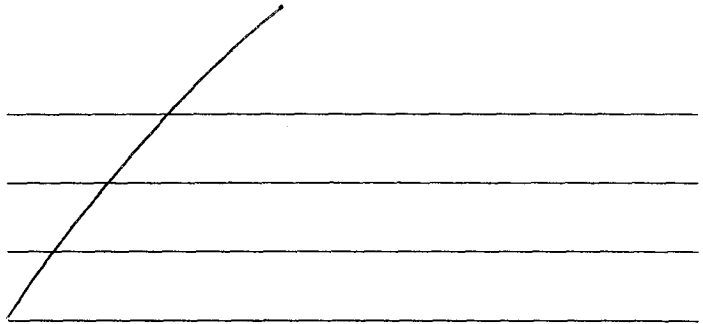
*Max A. ...*

Executive Director  
Police Board

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**D I S S E N T**

The following members of the Police Board hereby dissent from the decision of the majority of the Board.



RECEIVED A COPY OF

THE FOREGOING COMMUNICATION

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2006.

\_\_\_\_\_  
SUPERINTENDENT OF POLICE

**BEFORE THE POLICE BOARD OF  
THE CITY OF CHICAGO**

IN THE MATTER OF	)	
CHARGES AGAINST	)	
JOHN P. AGUINAGA,	)	06 PB 2601
	)	
Respondent.	)	

SETTLEMENT AGREEMENT AND STIPULATION

Respondent, Police Officer John P. Aguinaga, by his attorney, Thomas Needham, and the Superintendent of Police, Philip J. Cline, by his attorney, Mara S. Georges, Corporation Counsel of the City of Chicago, herein stipulate and agree to the following:

1. On March 22, 2006, the Superintendent filed charges with the Police Board of the City of Chicago (the "Police Board") seeking discharge against the Respondent, Police Officer John Aguinaga, Star Number 8576. The Superintendent alleges that, (1) on or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrah's Boulevard, East Chicago, Indiana, John Aguinaga was in a public place in a state of intoxication, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department; (2) on or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrah's Boulevard, East Chicago, Indiana, John Aguinaga resisted being placed in a squad car after being arrested and/or had to be restrained, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department; (3) on or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrah's Boulevard, East Chicago, Indiana, John Aguinaga used profanities, threatening language, and/or disparaging racial comments, such as one or more of the following: "Fuck you motherfuckers, I don't need your help," "Spics," that

**Ex. A**



he would “fuck them up,” and “You don’t know what I have,” thereby impeding the Department’s efforts to achieve its policy and goals and/or bringing discredit upon the Department; (4) on or about February 2, 2005, at approximately 0249 hours, John Aguinaga submitted to a Breathalyzer Test which disclosed that he had a blood alcohol content of .16, thereby impeding the Department’s efforts to achieve its policy and goals and/or bringing discredit upon the Department; (5) on or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrahs Boulevard, East Chicago, Indiana, John Aguinaga used profanities, made threats, and/or uttered disparaging racial comments directed at employees of Harrahs Casino, East Chicago Police Officers, and/or Indiana State Troopers, such as one or more of the following: “Fuck you motherfuckers, I don’t need your help,” “Spics,” that he would “fuck them up,” and “You don’t know what I have,” thereby disrespecting or maltreating any person while on or off duty; (6) on or about February 1, 2005, at approximately 2101 hours, in the vicinity of 777 Harrahs Boulevard, East Chicago, Indiana, John Aguinaga resisted being escorted from the premises of Harrahs Casino and/or resisted being placed in a squad car after being placed under arrest, thereby engaging in any unjustified verbal or physical altercation with any person, while on or off duty; and (7) on or about February 2, 2005, at approximately 0249 hours, John Aguinaga submitted to a Breathalyzer Test which disclosed that he had a blood alcohol content of .16, thereby being intoxicated on or off duty.

2. Police Officer John Aguinaga was suspended without pay on March 24, 2006.
3. The parties, through their attorneys, have advised the Police Board that they desire to resolve this case without the burden and delay of further litigation, and that an agreement has been reached by the parties which is set forth herein. It is agreed that neither this

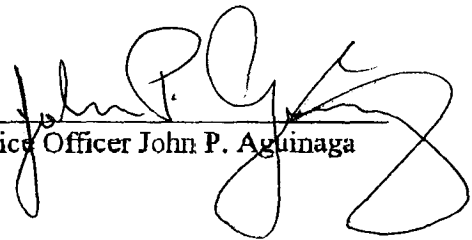
Stipulation and Settlement Agreement nor any of its terms shall be offered or received in evidence in any civil or administrative action or proceedings, or used in any manner whatsoever, as an indication of wrongdoing, or of the legal position in these proceedings, of the Chicago Police Department, the Superintendent of Police, or any of his or its officers, agents, or employees of the City of Chicago including the respondent herein. The parties expressly state that they are entering into this Stipulation and Settlement Agreement solely for the purpose of avoiding further expense, inconvenience and the distraction of burdensome litigation.

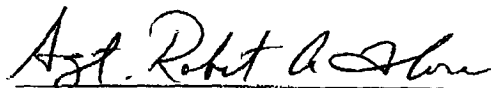
4. The parties have agreed upon the imposition of a 90-day suspension to resolve this matter. Therefore, in consideration of the provisions of this Stipulation and Settlement Agreement, the Superintendent recommends to the Police Board that Police Officer John Aguinaga be suspended for the period from March 24, 2006 up to and including June 22, 2006. Police Officer John Aguinaga will be reinstated effective June 23, 2006.
5. In consideration of the provisions of this Stipulation and Settlement Agreement, the respondent agrees to hold harmless, release and forever discharge the City of Chicago, its departments, officers, agents and employees from any actions, claims, causes of actions, demands, losses, damages or conditions of reinstatement arising out of the suspension herein referred to.
6. The parties expressly understand that the terms and obligations of this Stipulation and Settlement Agreement are subject to and conditioned upon acceptance and adoption by the Police Board. In the event that this Stipulation and Settlement Agreement is not accepted by the Police Board, it shall be deemed null and void, and this matter shall be returned to the Police Board's calendar for hearing, and no facts or admissions referenced

in this agreement shall be used against either party.

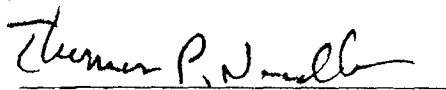
- 7. If the Police Board enters an order accepting and adopting the provisions of this Stipulation and Settlement Agreement, the respondent waives any and all forms of review of that order, in any forum whatsoever.
- 8. The parties further agree that this Stipulation and Settlement Agreement, and all of its terms, contains the entire agreement between the parties, and shall be binding on the parties, their representatives, successors and assigns.

City of Chicago  
Department of Police

  
 Police Officer John P. Aguinaga

By:   
 for Philip J. Cline  
 Superintendent of Police

Mara S. Georges  
Corporation Counsel of the City of Chicago

  
 Thomas P. Needham  
 Attorney for Respondent

By:   
 Kathleen O'Neill  
 Assistant Corporation Counsel