

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER ROY TAN,) **No. 12 PB 2798**
STAR No. 18617, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
RESPONDENT.) **(CR No. 1042833)**

FINDINGS AND DECISION

On June 20, 2012, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Roy Tan, Star No. 18617 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct:

- 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 14: Making a false report, written or oral.

The Police Board caused a hearing on these charges against the Respondent to be had before Thomas E. Johnson, Hearing Officer of the Police Board, on September 5 and 6, 2012.

Following the hearing, the members of the Police Board read and reviewed the record of proceedings and viewed the video-recording of the testimony of the witnesses. Hearing Officer Johnson made an oral report to and conferred with the Police Board before it rendered its findings and decision.

POLICE BOARD FINDINGS

The Police Board of the City of Chicago, as a result of its hearing on the charges, 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 written charges, and a Notice stating when and where a hearing on the charges was to be held, were served upon the Respondent more than five (5) days prior to the hearing on the charges.

3. Throughout the hearing on the charges the Respondent appeared in person and was represented by legal counsel.

4. The Respondent, Police Officer Roy Tan, Star No. 18617, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that:

On or about January 19, 2011, at approximately 1814 hours, Police Officer Roy Tan knowingly committed the act of retail theft at Micro Center computer store, located at 2645 North Elston Avenue, Chicago, by removing price tags from lower-priced merchandise and affixing them on higher-priced merchandise and subsequently purchasing the merchandise, in violation of 720 ILCS 5/16-25(a)(2).

The Police Board credits the testimony of Henry Nichols, the Micro Center loss prevention manager, who testified that he personally observed Officer Tan remove the SKU stickers from the adapter item pictured in Superintendent Exhibit No. 3 and the adapter item pictured in Superintendent Exhibit No. 4, and switch them, so that the price charged for Superintendent Exhibit No. 3 was reduced from \$69.99 to \$14.99. The Board also believes Mr.

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Nichols when he testified that he personally observed Officer Tan remove a \$8.99 SKU sticker from a box of blue ray discs and place it over a more expensive box of blue ray discs that is pictured in Superintendent Exhibit No. 6, so that Superintendent Exhibit No. 6 could be purchased for \$8.99 instead of \$39.99. The Board further finds Mr. Nichols to be truthful in testifying that Officer Tan apologized to him once he was in the store security office and offered Mr. Nichols a ride in a police helicopter if he would excuse the incident. Mr. Nichols would not have any knowledge that Officer Tan was a police helicopter pilot unless Officer Tan made this offer to Mr. Nichols himself. Mr. Nichols's testimony is further supported by the testimony of Jomari Carrion, a store sales clerk, who convincingly testified that she personally observed Officer Tan with a SKU sticker in the palm of his hand. Officer Tan's self-serving denial of any theft is undermined by the apology he made to Mr. Nichols and the disinterested testimony of Mr. Nichols and Ms. Carrion.

The Board recognizes that the Police Department erred in destroying the actual items stolen by Officer Tan. Nonetheless, there are photographs of these items, and in a retail-theft case photographs are sufficient evidence of the items stolen under 725 ILCS 5/115-9(a). *People v Mikolajewski*, 272 Ill.App.3d 311 (1st Dist. 1995), cited by Respondent, confirms that photographs of stolen evidence are sufficient to support a conviction. ("Evidence that the stolen comforters were displayed, held, stored, or offered for sale by Kohl's is enough to establish the crime. Presence of the comforters in court, either in person or through photographs, was not required to prove the retail theft." *Mikolajewski*, at 317.) The *Mikolajewski* court remanded the case with instructions to convict the defendant of misdemeanor theft only because the photographs did not supply evidence of the price of the merchandise, and so there was

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insufficient evidence to support a felony theft verdict. In the present case, unlike *Mikolajewski*, there is no felony charge, and so the argument that the photographs are insufficient evidence fails.

The Board has considered Respondent's arguments of prejudice as a result of not having the actual merchandise present at the hearing, and his request that the Board draw an adverse inference about the theft of the merchandise. The Board finds, however, that there was no prejudice demonstrated by the Respondent, and in light of the statute cited above, finds that the Police Department's destruction of the property does not warrant an adverse inference.

5. The Respondent, Police Officer Roy Tan, Star No. 18617, 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,

in that:

On or about January 19, 2011, Police Officer Roy Tan knowingly committed the act of retail theft, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

6. The Respondent, Police Officer Roy Tan, Star No. 18617, charged herein, is **guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that:

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Count I: On or about January 26, 2011, after being told that it was an official Chicago Police Department report and that any deviation from the truth could result in charges being filed against him, Police Officer Roy Tan gave a formal statement wherein he falsely stated that he did not place an \$8.99 price tag on a Verbatim BluRay Disc Three Pack over the \$39.99 price tag of the item.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference. Inasmuch as the Board finds that Officer Tan did commit retail theft of the property in question, and further specifically believes the testimony of Mr. Nichols and Ms. Carrion that Officer Tan switched the stickers on Superintendent Exhibit Nos. 3 and 6, the Board finds Officer Tan's statements to the Department to be false.

7. The Respondent, Police Officer Roy Tan, Star No. 18617, charged herein, is **guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that:

Count II: On or about January 26, 2011, after being told that it was an official Chicago Police Department report and that any deviation from the truth could result in charges being filed against him, Police Officer Roy Tan gave a formal statement wherein he falsely stated that he did not place a \$14.99 price tag on the D-Link Xtreme Desktop Express Adapter.

See the findings set forth in paragraph nos. 4 and 6 above, which are incorporated here by reference.

8. The Police Board has considered the facts and circumstances of the Respondent's conduct, the evidence presented in defense and mitigation, and the Respondent's complimentary and disciplinary histories, copies of which are attached hereto as Exhibit A.

The Police Board determines that the Respondent must be discharged from his position

due to the serious nature of the conduct of which it has found him guilty. The Respondent knowingly committed the act of retail theft, and he then made false official statements in an effort to cover up his illegal actions. The Respondent exhibited a significant lack of integrity, honesty, and trustworthiness, and his conduct is incompatible with continued service as a police officer.

The Board finds that the Respondent's conduct is sufficiently serious to constitute a substantial shortcoming that renders his continuance in his office detrimental to the discipline and efficiency of the service of the Chicago Police Department, and is something which the law recognizes as good cause for him to no longer occupy his office.

POLICE BOARD DECISION

The Police Board of the City of Chicago, having read and reviewed the record of proceedings in this case, having viewed the video-recording of the testimony of the witnesses, having received the oral report of the Hearing Officer, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts the findings set forth herein by the following votes.

By a unanimous vote, the Board finds the Respondent guilty of violating Rule 1.

By a unanimous vote, the Board finds the Respondent guilty of violating Rule 2.

By a unanimous vote, the Board finds the Respondent guilty of violating Rule 14.

As a result of the foregoing, the Police Board, by a vote of 8 (Carney, Davis, Conlon, Foreman, Fry, McKeever, Miller, Rodriguez) to 1 (Ballate), hereby determines that cause exists for discharging the Respondent from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

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NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Roy Tan, Star No. 18617, as a result of having been found **guilty** of charges in Police Board Case No. 12 PB 2798, be and hereby is **discharged** from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF OCTOBER, 2012.

/s/ Demetrius E. Carney

/s/ Scott J. Davis

/s/ William F. Conlon

/s/ Ghian Foreman

/s/ Rita A. Fry

/s/ Susan L. McKeever

/s/ Johnny L. Miller

/s/ Elisa Rodriguez

Attested by:

/s/ Max A. Caproni
Executive Director
Police Board

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DISSENT

I concur with the majority's findings regarding the Respondent's guilt. However, based on the Respondent's complimentary record and the lack of any prior disciplinary record, I find that a suspension is a more appropriate penalty on the facts of this particular case.

/s/ Melissa M. Ballate

RECEIVED A COPY OF
THE FOREGOING COMMUNICATION
THIS ____ DAY OF _____, 2012.

SUPERINTENDENT OF POLICE

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Report Date: 19 Jun 2012
 Report Time: 0639 Hrs

Information Services Division
 Data Warehouse
 Produced by: PC0U989

Chicago Police Department
Personnel Division

**Only for active personnel*



Complimentary History

Name	Title	Star	Unit	Datal Unit	Emp Number
TAN, ROY	9161	18617	004	376	[REDACTED]

Achievements

Total No.

PRESIDENTIAL ELECTION DEPLOYMENT AWARD 2008	1
COMPLIMENTARY LETTER	1
DEPARTMENT COMMENDATION	1
EMBLEM OF RECOGNITION - PHYSICAL FITNESS	2
LIFE SAVING AWARD	1
2009 CRIME REDUCTION AWARD	1
ATTENDANCE RECOGNITION AWARD	1
HONORABLE MENTION	2
TOTAL AWARDS	10

FOR USE WITH POLICE BOARD

CR# 1042833



NOTE: THIS REPORT IS FOR OFFICIAL LAW ENFORCEMENT / AUTHORIZED USE ONLY. THE INFORMATION IS CURRENT AS OF THE DATE AND TIME OF THE REPORT. THIS



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CHICAGO POLICE DEPARTMENT
 Sustained Complaints History Report

<u>Social Sec. #</u>	<u>Name</u>	<u>Star #</u>	<u>Emp. #</u>	<u>Rank</u>	<u>Description</u>	<u>Unit</u>
[REDACTED]	TAN ROY	18617	[REDACTED]	9161	POLICE OFFICER	376
<u>Sex</u>	<u>Race</u>	<u>Appointed Date</u>	<u>No. Of CR's</u>	<u>No. Of SPAR's</u>		
M	ASIAN/PACIFIC ISLANDER	01-MAY-2006	0	0		

FOR USE WITH POLICE BOARD #12-2798