



U.S. Department
of Transportation
Federal Aviation
Administration



ITEM A

April 22, 2008

Mr. [REDACTED]
Air Traffic Control Specialist
[REDACTED] Airport Traffic Control Tower (ATCT)
[REDACTED]

Dear Mr. [REDACTED]

This is notice that I propose to remove you from your position as an Air Traffic Control Specialist, AT-2152-FH, at \$106, 024 at the [REDACTED] Air Traffic Control Tower (ATCT), no earlier than 30 calendar days from receipt of this notice. This proposal to remove you from the Federal government is made for such cause as will promote the efficiency of the Federal service. The following information is presented in support of this proposed action:

Background: On March 11, 2008, while you were working Local Control (LC), a controller from the Southern California Terminal Radar Approach Control (SCT), called and praised LC for working so well with them during the arrival rush of air traffic. You responded to the controller by stating, "We have plenty of KY." Other coworkers in the cab and the radar assistant on the line at SCT overheard your inappropriate comment. Later during the shift, a coworker in the cab asked, "What was the name of the other name that they called the Westwind aircraft?" You responded by stating, "Jew canoe, a circumcised jet commander." Coworkers in the cab heard your inappropriate comment.

Reason: Making disparaging, disrespectful, and other inappropriate statements to others in the workplace.

Specification #1: On March 11, 2008, while working Local Control (LC), after working a busy period in which you had to sequence quite a few airplanes, the SCT Norton Sector controller called LC on the facility's recorded landline, which you answered, and he said "I jammed you". You told the SCT controller that it was okay because you have lots of KY and the SCT controller acknowledged by laughing. The rest of the communications were air traffic control related. This exchange took place in the immediate work area where operational duties were being performed and in the presence of Front Line Manager (FLM) [REDACTED] and Certified Professional Controllers (CPC) [REDACTED] and [REDACTED].

Specification #2: On March 11, 2008, about an hour or so after the first incident, you were working Ground Control (GC) and taxied a Westwind turbojet aircraft to Runway 26L. While the aircraft was enroute to the runway, CPC [REDACTED] asked, what was the other name that they called the Westwind aircraft, and you responded by saying, "They call it the Jew Canoe, a circumcised jet commander." These comments were made in the immediate work area where operational duties were being performed and in the presence of FLM [REDACTED] and CPCs [REDACTED] and [REDACTED].

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After the workload had subsided, [REDACTED] your supervisor, recorded on a memo the comments that you made, discussed why they were inappropriate with you and had you acknowledge the memo by signing it.

On March 19, 2008, during your investigative interview and in the presence of your union representative, you said the comment about having lots of KY was not used in a sexual connotation. You said it was used in reference to making the planes slide better on final. You went on to say the one person that jams you the most is [REDACTED], CPC in training at SCT. As for the comments you made about the Westwind turbojet aircraft, you said that you were answering a question posed by [REDACTED] who wanted to know the other thing they call the aircraft. You answered the question by describing the aircraft as a Jew Canoe and circumcised jet commander. You said you first heard of the two names from two Jewish friends that flew with you years ago that used those names.

During an interview with Mr. [REDACTED], he admitted asking the question because he wanted to know what other type aircraft the company made other than the Westwind. He said he did not know that you were going to use the terms "Jew Canoe and circumcised challenger". Mr. [REDACTED] said your responses to his question were shocking.

During an interview with Ms. [REDACTED], she said she winced when she heard your comments and indicated that the comments were "not out of character" for you. Mr. [REDACTED] said during his interview that he found your comments to be inappropriate and told you later on during the shift.

Your statements of "having lots of KY", "Jew Canoe", and "circumcised jet commander" was inappropriate for the workplace, disrespectful, and disparaging to others. Furthermore, the stereotypical views you expressed could have a detrimental effect on a particular gender, race, religion, or ethnicity. Your explanation for these comments does not justify your inappropriate language. These unacceptable comments are against FAA policy, rules and regulations and undermine the FAA's capacity to maintain a productive and hospitable work environment. Your conduct is inappropriate for the workplace and will not be tolerated or condoned.

In selecting this proposed penalty, I have taken into consideration the following factors:

The nature and seriousness of the offense in its relation to your duties, position and responsibilities, including whether the offense was intentional or technical or inadvertent or was committed maliciously or for gain or was frequently repeated.

An employee's conduct on the job has a direct bearing on proper and effective accomplishment of official duties and responsibilities. Employees are expected to approach their duties in a professional and business like manner and maintain such an attitude throughout the workday.

The Human Resource Policy Manual (HRPM) ER-4.1, Standards of Conduct paragraph 2.c "respond promptly to directions and instructions received from their supervisor."

The Human Resource Policy Manual (HRPM) ER-4.1, Standards of Conduct paragraph 2.d states, "employees must observe the following basic on-the-job rules: Exercise courtesy and tact at all times in dealing with fellow workers, supervisors, contract personnel and the public. Support and assist in creating a productive and hospitable work environment." 6

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The Human Resource Policy Manual (HRPM) ER-4.1, Standards of Conduct paragraph 2.h states, Observe and abide by all laws rules regulations and other authoritative policies and guidance, written and unwritten.

You have been placed on notice several times in the past regarding your inappropriate behavior and language.

Your past disciplinary record.

You previously received disciplinary action for inappropriate language and behavior. Your disciplinary record reflects the following:

On December 1, 2005, you received a ten-day (10) suspension for, "Use of inappropriate language in the workplace, which was abusive to another employee" and "Failure to carryout instructions."

On September 17, 2006 you served a thirty-day (30) suspension for, "Use of Inappropriate Language in the Workplace, which was abusive to another employee."

On February 02, 2008, you received another thirty-day (30) suspension for, "Inappropriate Behavior in the workplace."

Consistency of the penalty with any applicable agency table of penalties.

The FAA HROI, Table of Disciplinary Offenses and Penalties, indicates the penalty for a third offense of making disparaging, disrespectful, or other inappropriate statements to or about others is a 30-day suspension to removal. Therefore, after consideration of all available information, I find that this proposal for a removal is within the suggested range.

The clarity with which you were on notice of any rules that was violated in committing the offense or had been warned about the conduct in question.

You were briefed at least once annually on the HRPM Standards of Conduct, ER 4.1, which includes the employee responsibilities, and also on the FAA Table of Disciplinary Offenses and Penalties. You have been placed on verbal and written notice several times in the past regarding your behavior and the rules and policies you violated. As such, you were aware that it is the policy of the FAA to assure an environment free of intimidation and inappropriate language in the workplace and that all employees are expected to exercise courtesy and tact at all times.

Your past work record, including length of service, and performance on the job.

I took into consideration that you have been employed with the Federal Aviation Administration (FAA) for approximately nineteen (19) years and your last performance appraisal of "Meets standards". However, your long-term tenure and performance did not mitigate my decision on this level of action. In fact, I could see no reason to take any lesser level action in that you have been placed on clear notice of the unacceptability of your actions.

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Potential for your rehabilitation, effectiveness of a lesser sanction.

I considered that you completed an anger management class at the Kaiser Department of Psychiatry on April 4, 2007, in addition to the prior briefings, and disciplinary actions you received. You continue to use inappropriate language in the workplace and fail to follow the FAA policies that you are fully aware of. I can see no reason to take any lesser action, in that you have been placed on clear notice of the unacceptability of your actions. Your unacceptable comments are detrimental to the workplace environment and reduce management's confidence in your ability to positively contribute to the organization.

The material relied on to support this action is attached and listed below. Provided you are otherwise in a duty status, you and your representative, if an FAA employee, will be given up to 16 hours of duty time to prepare and present your reply.

You may respond to this notice, personally, in writing, or both, and furnish affidavits and other documentary evidence in support of your answer within fifteen (15) calendar days from the date you receive this letter. Full consideration will be given to any reply that you submit. In making this response, you have the right to be represented by a representative of your choosing. As soon as possible after your reply is received, or after expiration of the fifteen (15)-calendar day limit, if you do not reply, I will issue a written decision on the proposed removal.

The FAA has a free, confidential Employee Assistance Program (EAP) specifically designed to assist employees and/or members of their family to effectively deal with the challenges faced in daily life. You may seek assistance through this confidential program by contacting the 24-hour EAP Hotline at 1-800-234-1327 or visiting the EAP website at www.magellanhealth.com.

If you need help understanding this notice or your rights, you may contact Rosslyn Marable, Employee Relations Specialist at (310) 725-7865, AWP-16a.

Sincerely,



Air Traffic Manager
ATCT

Receipt Acknowledged:



4/22/08
Date

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Enclosures:

Record of Admonishment between FLM [REDACTED] and [REDACTED], dated March 11, 2008
Witness Statement from FLM [REDACTED], dated March 18, 2008
Record of Weingarten Meeting with CPC [REDACTED], dated March 20, 2008
Witness Statement from CPC [REDACTED], dated March 20, 2008
Record of Visit with CPC [REDACTED], dated March 18, 2008
Record of Visit with CPC [REDACTED], dated March 18, 2008
Record of Visit with CPC [REDACTED], dated March 20, 2008
Standards of Conduct, HRP ER 4.1
Table of Disciplinary Offenses and Penalties
Notification of Annual Standards of Conduct Briefings, dated January 4, 2007
Proposal and Letter of Decision 10-day Suspension, dated November 8, 2005
Proposal and Letter of Decision 30-day Suspension, dated December 29, 2006
Proposal and Letter of Decision 30-day Suspension, dated December 28, 2007

cc: AWP-16a, [REDACTED]

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