

Draft-Only
Clemortee R Marable
AWP-010, Human Resource Management Office

to: Andy Richards

04/17/2008 02:39 PM

Andy,

This is only a draft in progress and I wanted your thoughts so far. As for the douglas factors I will add the items you considered, and I have a few already listed on the draft. I would like to discuss this further, since I have a few questions regarding the sequence of events. Please give me a call.

Thanks, Ros



Lewis 14-Day Proposal.doc

Lewis-FAA Case
8/2012 FLRA filing
Ex. # **31.1**

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F11-0319
RCVD 4-25-11



U.S. Department
of Transportation
**Federal Aviation
Administration**

Concord International Airport
Address
Concord, CA zip
phone

April XX, 2008

Mr. Jeffrey Lewis
Air Traffic Control Specialist
Concord Airport Traffic Control Tower (ATCT)
Concord, CA

Dear Mr. Lewis:

This is notice that I propose to suspend you for fourteen (14) consecutive calendar days from your position as an Air Traffic Control Specialist, AT-2152-FH, at \$106, 024 at the Concord Air Traffic Control Tower (ATCT), no earlier than fifteen (15) calendar days from receipt of this notice for such cause as will promote the efficiency of the Federal service. The reason and specification are set out below:

Background: On January 20, 2007, while in the performance of your duties and in the presence of coworkers you started pronouncing words in a manner to mock the speech of African Americans. A coworker asked you to change the subject and not to talk in that manner.

On January 21, 2007, while in the presence of coworkers you made an inappropriate comment by stating "You're trying to keep a nigger down". Your coworker stated to you that he did not want to hear any more of that type of talk. Another coworker told you not to use that word in the tower ever again.

On February 6, 2007 Front Line Manager (FLM) Patricia Hardy placed you on notice that an allegation of misconduct regarding your behavior had been received and informed you that the allegation would be investigated. You then signed the Notice to the Respondent and left the office. A few minutes later you returned to Ms. Hardy's office and started yelling, demanding the notification back. When Ms. Hardy refused you continued to yell and then lunged at FLM Hardy. Ms. Hardy called for assistance, since she was fearful of her safety. When the coworker arrived, you continued to yell in a threatening manner. When the coworker told you to calm down, you angrily stated we are all adults here and I can say what I want and continued the unacceptable behavior.

On February 13, 2007 during a meeting with Manager Jason Ralph and a union representative, you requested to make comments on the notification letter you were being issued. After being instructed to sign the letter or give it back, you got in Manager Ralph's face and stated in a loud voice what are you going to do now? Jason instructed you to leave the building now and do not come back until tomorrow. You left the building and walked to your car, you then returned to Manager Ralph's office and began to bang on the door. Manager Ralph and FLM Patricia Hardy were in a closed door teleconference with Human Resources. You began pounding on the door and yelling at Manager Ralph. Manager Ralph instructed you several times to leave the building. After the fifth instruction from Manager Ralph, you left the building and drove away.

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On February 16, 2007, management was made aware that you were confronting your coworkers attempting to find out who made the allegations against you to the Accountability Board. Manager Ralph called a meeting and directed you not to interfere with witnesses or individual you believed were responsible for calling the Administrator's Hotline. You became hostile and approached Manager Ralph in a threatening manner, waving your hands and pointing in his face. Manager Ralph felt threatened and terminated the meeting, instructing you to leave his office. You failed to follow his **direct order/ instructions** and the law enforcement was contacted. The facility locks were immediately changed to ensure the safety of the employees.

On March XX, 2007 per Order AB...an investigation was requested based on Accountability Board cases # 20070097 and 20070098. Special Agents Jim Austin conducted an official investigation regarding the alleged statements made by you on several occasions and your conduct towards management and other employees after these incidents were reported to the Administrator's Hotline.

Reason: Inappropriate behavior in the workplace

Specification # 1: On January 20, 2007, while in the performance of your duties and in the presence of coworkers you started pronouncing words in a manner to mock the speech of African Americans. CPC William Marks asked you to change the subject and not to talk in that manner.

Specification # 2: On January 21, 2007, after you walked into the cab and signed into work, CIC John Crabtree asked you to relieve him from the ground control position. You responded to John and stated, "You're trying to keep a nigger down." CPC James Swanson immediately told you don't ever say that again and it is not appropriate. You then referenced a program that had that vocabulary in it. CIC John Crabtree responded and told you that he had not seen that show and you should watch something else. CIC Crabtree then stated that you should not use that word in the tower ever, ever again.

Specification # 3: On February 6, 2007 Front Line Manager (FLM) Patricia Hardy issued you a Notice to Respondent and informed you of the allegations of your use of racially derogatory language in the workplace. You signed the statements and received a copy and you then left the building. You returned to Ms. Hardy's office and started yelling demanded the notification back. When Ms. Hardy that the notice was just to advise him the incident was being investigated, you continued to yell and then lunged at FLM Hardy, and shouted, "Give me back that paper right now!" Ms. Hardy told you she was not returning the paper and called the union representative for assistance, since she was fearful of her safety. You continued to stomp around the office. When William Marks arrived he attempted to calm you down, you continued to stomp about the office, ranting and raving about how you were not being treated fairly. When Mr. Marks took you outside the office, you angrily stated, "We are all adults here and I can say what I want!"

Specification # 4: On February 13, 2007 during a meeting with Manager Jason Ralph and a union representative, you requested to make comments on the notification letter you were being issued. After being instructed to sign the letter or give it back, you got in Manager Ralph's face and stated in a loud voice, "What are you going to do now?" You then poked your finger at Manager Ralph and stated, "I cannot work for you!" Manager Ralph instructed you not to poke your finger in his face. You then waved your hand in front on Manager Ralph's face. Manger Ralph then instructed you to leave the building now and do not come back until tomorrow. You

left the building and walked to your car, you then returned to Manager Ralph's office and began to bang on the door. As you banged on the office door, Manager Ralph and FLM Patricia Hardy were in a closed-door teleconference with Human Resources. You began pounding on the door and yelling at Manager Ralph. Manager Ralph instructed you several times to leave the building. After the fifth instruction from Manager Ralph, you left the building and drove away. Your loud banging on the office of Manager Ralph, was also heard by CPC William Marks.

Specification # 5: On February 16, 2007, management was made aware that you were confronting your coworkers attempting to find out who made the allegations against you to the Accountability Board. Manager Ralph called a meeting and directed you not to interfere with witnesses or individual you believed were responsible for calling the Administrator's Hotline. You became hostile and approached Manager Ralph in a threatening manner, waving your hands and pointing in his face. Manager Ralph felt threatened and terminated the meeting, instructing you to leave his office. Manager Ralph directed you five separate times to leave the office. You then left the building and went to your car. Approximately two minutes later you returned to the facility and Manager Ralph directed you to leave the facility. You ignored his directions and returned to Manager Ralph's office and attempted to gain entry. Manager Ralph contacted local law enforcement, but a sweep of the building confirmed that you were no longer on the premises. The facility locks were immediately changed to ensure the safety of the employees.

Reason: Providing misleading information during an official investigation.

Specification #1: On March 23, 2007, during an official investigation conducted by Special Agent Jim Austin when asked did you return to the tower demanding the letter back and yell at Patricia Hardy, you stated no, you demanded nothing and you did not yell at her.

Specification #2: When asked by Special Agent Austin, did you approach Manager Ralph and shout and poke your fingers towards his face, you stated "No, we were standing and having a discussion. You added that you pointed out that he was turning up the corners of his mouth.

Specification #3: When asked did Manager Ralph tell you to stop pointing your finger towards his face, you stated absolutely no, especially as I did not continue to point.

Specification #4: When asked did Manager Ralph tell you to leave the building, you stated, No, that you had asked for sick leave.

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."

<p>Lewis-FAA Case 8/2012 FLRA filing Ex. # 31.4</p>

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."

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.

Your past disciplinary record.

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

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.

Potential for your rehabilitation, effectiveness of a lesser sanction.

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.

<p>Lewis-FAA Case 8/2012 FLRA filing Ex. # 31.5</p>

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,

Ontario ATCT

Receipt Acknowledged:

Jeffrey Lewis

Date

cc: AWP-16a,

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