

BROWARD COUNTY POLICE BENEVOLENT ASSOCIATION



DATE: May 7, 2015
TO: Frank Fernandez
Chief of Police
FROM: Jeff Marano
BOPBA President
RE: Step # 1, Association Grievance

This is an Association Grievance being filed pursuant to Article 15 Grievance Procedure and Arbitration. The basis of this grievance is Article 2 Non-Discrimination.

ARTICLE 2 (1)

Article 2 (1) states, in summary, that " No employee covered by this Agreement will be discriminated against by the City because of membership in the PBA, or for participating in authorized activity as required in this Agreement on behalf of the PBA."

FACTUAL BACKGROUND

It has come to the attention of the Broward County Police Benevolent Association, ("PBA") that one of our members has been discriminated against on account of his membership with the PBA. Specifically, Police Officer Ryan Ostrowsky, a PBA member, received an unsatisfactory "Observed Behavior Report" as a result of a minor traffic incident that was initially deemed "non-preventable" and then, by some unknown reason, this conclusion was changed to "preventable". In contrast, Chief Frank Fernandez, a non-PBA union member, was involved in a similar traffic incident and nothing was done to him.

While at first blush, this assertion may appear tenuous, but a careful review of the two incidents shows the following. On December 4, 2014, Chief Fernandez (a non-PBA member) was involved in a motorcycle accident where *he collided with another motorcycle* operated by Officer John Herl. This resulted in a city-owned motorcycle sustaining minor damage to the front fender amber light lens. The incident was deemed non-preventable, the lens was replaced, and Chief Fernandez was never disciplined or counseled.

In stark contrast, on January 18, 2015, while reversing his patrol vehicle in a parking space, Officer Ostrowsky's vehicle made contact with a *tree*. This resulted in the vehicle sustaining minor damage to its passenger side brake light. This was a simple incident without requiring any level of concern. In fact, on February 4, 2015, Officer Ostrowsky received an official notice from Acting Major Strauss that the City determined that the incident was non-preventable and issued a memorandum stating same. (See Attached Exhibit "A") On February 23, 2015, however, the City reversed its decision and determined that Officer Ostrowsky's incident was preventable. (See Attached Exhibit "B") An explanation for the reversal was never provided.

One must then ask: Why, if the two incidents are almost identically the same, does a PBA member get disciplined but a non-PBA member gets a pass? In our view, the answer is quite simple. With the exception of Chief Fernandez, every sworn law enforcement officer working at the Hollywood Police Department is a PBA member. And in this instance, the non-PBA gets off without as much as a warning! This unfair and disparate treatment clearly violates Article 2 of the Collective Bargaining Agreement.

REMEDY REQUESTED

To immediately rescind Officer Ostrowsky's "preventable" findings and replace it with the original findings of "non-preventable". Any and all other remedy deemed appropriate by the arbitrator.

*The PBA reserves the right to amend this grievance at subsequent steps.

CITY OF HOLLYWOOD, FLORIDA
INTEROFFICE MEMORANDUM
POLICE DEPARTMENT

DATE: February 4, 2015
TO: Officer Ryan Ostrowsky #3393
FROM: David Strauss
Acting Major *MAJOR DS 2039*
Patrol Division West District
SUBJECT: Non-Preventable Accident

ISSUE:

Employee Accident/Injury on January 18, 2015. Case #R331501-008840.

EXPLANATION:

Based on the information provided, it has been determined that you did everything within reason to prevent the accident/injury.

It is therefore deemed Non-Preventable.

RECOMMENDATION:

For information only.

- c. Lieutenant Mike Whiting
A/Sergeant Nicola Williams

EXHIBIT "A"

Nicola Williams

From: Nicola Williams
Sent: Friday, February 27, 2015 6:59 AM
To: David Strauss
Subject: RE: Ostrowsky Accident

Ok.

Thank you

From: David Strauss
Sent: Friday, February 27, 2015 6:57 AM
To: Nicola Williams
Subject: RE: Ostrowsky Accident

Your are right. I will advise Obrien.
Traffic had it as one of the preventable accidents on their new spread sheet.

thanks
Dave

Major David Strauss
Patrol Division - West District
Hollywood Police Department
954.967.4277/954.967.4300
dstrauss@hollywoodfl.org

From: Nicola Williams
Sent: Friday, February 27, 2015 6:41 AM
To: David Strauss
Cc: Derik Alexander
Subject: RE: Ostrowsky Accident

Good Morning Major,

Are you referring to the Traffic Crash in the attached memo? If this is the crash you're referring to, I received a memo on February 4, 2015 advising this traffic crash was deemed Non-Preventable.

Thank you

Sgt. Williams

From: David Strauss
Sent: Thursday, February 26, 2015 5:33 PM
To: Nicola Williams
Cc: Derik Alexander
Subject: Ostrowsky Accident

Sgt. Williams

Please complete a unsatisfactory observed behavior for Officer Ostrowsky's accident.

thanks

Dave

Major David Strauss
Patrol Division - West District
Hollywood Police Department
954.967.4277/954.967.4300
dstrauss@hollywoodfl.org

Nicola Williams

From: David Strauss
Sent: Wednesday, March 04, 2015 9:37 AM
To: Nicola Williams; Ryan Ostrowsky
Cc: Derik Alexander; Chris O'Brien
Subject: FW: Ostrowsky Accident
Attachments: SharpScan@HOLLYWOODFL.ORG_20150303_153615.pdf; Ostrowsky Traffic Crash Memo 3315-01-008840.pdf

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Officer Ostrowsky

Please disregard the first attached memo you received (#2) Attached (#1) is the corrected preventable accident memo. You have 10 days from receiving it to request an appeal.

thanks
Dave

Major David Strauss
Patrol Division - West District
Hollywood Police Department
954.967.4277/954.967.4300
dstrauss@hollywoodfl.org

From: David Strauss
Sent: Tuesday, March 03, 2015 4:54 PM
To: Paul Andrianis; Chris O'Brien; Alicia Fernandez-Davis; Rose Mone
Subject: Ostrowsky Accident

Rose

Can you advise if Officer Ostrowsky's accident on January 18th was preventable or non-preventable? I sent out a memo to him last month for a non-preventable accident. I got a different memo (preventable) that I signed today from Major Andrianis. I need to know which one is correct so that I can advise him correctly.

thanks
Dave

Major David Strauss
Patrol Division - West District
Hollywood Police Department
954.967.4277/954.967.4300
dstrauss@hollywoodfl.org

**CITY OF HOLLYWOOD, FLORIDA
INTEROFFICE MEMORANDUM
POLICE DEPARTMENT**

DATE: February 23, 2015
TO: Officer Ryan Ostrowsky #3393
FROM: Major David Strauss
Patrol Division West District
SUBJECT: Preventable Accident

ISSUE:

Employee Accident/Injury on January 18, 2015. Case #R331501-008840.

EXPLANATION:

Based on the information provided, it has been determined that you did not do everything within reason to prevent the accident/injury. It is therefore deemed Preventable.

This is your first preventable accident within 36 months.

RECOMMENDATION:

Appeal of the preventable decision shall be made to the Patrol Division Commander's Office within ten (10) days of your receipt of this notice.

- c. Lieutenant Selina Hightower
Lieutenant Mike Whiting
Sergeant Nicola Williams

EXHIBIT "B"