



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

November 16, 2016

Memorandum for: Deputy Commissioner, Trials

Re: **Sergeant Fritz Glemaud**
Tax Registry No. 915804
TRB Highway District
Disciplinary Case No. 2015-14462

Detective Ian Cyrus
Tax Registry No. 932510
28 Precinct
Disciplinary Case No. 2015-13427

The above named members of the service appeared before Assistant Deputy Commissioner Jeff S. Adler on July 7, 8, 11 and 15, 2016 and were charged with the following:

DISCIPLINARY CASE NO. 2015-14462

1. Said Sergeant Fritz Glemaud, while on-duty, while assigned to Brooklyn North Vice Enforcement, inside of the 83rd Precinct, on or about October 10, 2014, did fail and neglect to document the prisoners' funds in the Command Log on three (3) occasions.

P.G. 208-02, Page 2, Paragraph 12

**ARRESTS – REMOVAL TO
DEPARTMENT FACILITY FOR
PROCESSING**

2. Said Sergeant Fritz Glemaud, while on-duty, while assigned to Brooklyn North Vice Enforcement, inside of the 81st Precinct, on or about March 12, 2015, did fail and neglect to document the prisoners' funds in the Command Log on two (2) occasions.

P.G. 208-02, Page 2, Paragraph 12

**ARRESTS – REMOVAL TO
DEPARTMENT FACILITY FOR
PROCESSING**

3. Said Sergeant Fritz Glemaud, while on-duty, while assigned to Brooklyn North Vice Enforcement, in the confines of Kings County, on April 3, 2015, did fail and neglect to properly supervise his subordinates during two (2) Buy and Bust operations pursuant to OCCB Guidelines resulting in improper premise search, unvouchered property and missing United States Currency.

P.G. 202-17

PATROL SUPERVISOR

4. Said Sergeant Fritz Glemaud, while on-duty, while assigned to Brooklyn North Vice Enforcement, in the confines of Kings County, on June 17, 2015, did wrongfully and without just cause prevent or interfere with an official department investigation during an official Department interview conducted by the Internal Affairs Bureau, to wit, said Sergeant failed to provide complete and accurate answers to multiple questions during the Department interview. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

5. Said Sergeant Fritz Glemaud, while on-duty, while assigned to Brooklyn North Vice Enforcement, in the confines of Kings County, on July 16, 2015, did wrongfully and without just cause prevent or interfere with an official department investigation during an official Department interview conducted by the Internal Affairs Bureau, to wit, said Sergeant failed to provide complete and accurate answers to multiple questions during the Department interview. *(As amended)*

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DISCIPLINARY CASE NO. 2015-13427

1. Said Detective Ian S. Cyrus, while assigned to Narcotics Borough Brooklyn North (Vice), while on-duty on or about April 3, 2015, inside of a location known to the Department in the confines of the 79th Precinct, engaged in conduct prejudicial to the good order and efficiency of the Department, in that said Detective did wrongfully take United States Currency from a business entity known to the Department while performing a buy and bust operation.

P.G. 203-10, Page 1, Paragraph 5

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P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT
OFFICIAL MISCONDUCT**

NYS Penal Law Section 195.00

3. Said Detective Ian S. Cyrus, while assigned to Narcotics Borough Brooklyn North (Vice), while on-duty on or about June 18, 2015, during an official Department investigation, conducted by the Internal Affairs Bureau, pursuant to the provision of Patrol Guide Section 206-13, did wrongfully make false and misleading statements, to wit: said Detective Cyrus provided false statements regarding his actions during a Buy and Bust operation on April 3, 2015. *(As amended)*

P.G. 206-13

**INTERROGATION OF
MEMBERS OF THE SERVICE**

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P.G. 206-13

**INTERROGATION OF
MEMBERS OF THE SERVICE**

5. Said Detective Ian S. Cyrus, while assigned to Narcotics Borough Brooklyn North (Vice), while on-duty on or about April 8, 2015 through June 12, 2015, did fail and neglect to properly safeguard six (6) Activity Logs resulting in their loss. *(As amended)*

P.G. 212-08, Page 2, Paragraph 6

ACTIVITY LOGS

In a Memorandum dated September 21, 2016, Assistant Deputy Commissioner Jeff S. Adler found Sergeant Fritz Glemaud Not Guilty of Specification Nos. 1, 4, 5 and Guilty of Specification Nos. 2 and 3 in Disciplinary Case No. 2015-14462, and Detective Ian Cyrus, Guilty of all Specifications in Disciplinary Case No. 2015-13427. Having read the Memorandum and analyzed the facts of this matter, I approve the findings and penalty for Detective Cyrus, however, I approve the findings, but disapprove the penalty for Sergeant Glemaud.

In consideration of the totality of the issues and circumstances in this matter, I deem that a greater penalty is warranted. Therefore, Sergeant Glemaud shall forfeit twenty (20) vacation days, as a disciplinary penalty.


James P. O'Neill
Police Commissioner



POLICE DEPARTMENT
 NEW YORK, N. Y. 10038
 DEPUTY COMMISSIONER TRIALS

-----X
 In the Matter of the Charges and Specifications : Case No.
 - against - : 2015 13427
 Detective Ian S. Cyrus :
 Tax Registry No. 932510 :
 28 Precinct :
 -----X

At: Police Headquarters
 One Police Plaza
 New York, New York 10038

Before: Honorable Jeff S. Adler
 Assistant Deputy Commissioner Trials

APPEARANCE:

For the Department: Javier Seymore, Esq.
 Department Advocate's Office
 One Police Plaza
 New York, NY 10038

For the Respondent: James Moschella, Esq.
 Karasyk & Moschella, LLP
 233 Broadway-Suite 2340
 New York, NY 10279

To:
 HONORABLE JAMES P. O'NEILL
 POLICE COMMISSIONER
 ONE POLICE PLAZA
 NEW YORK, NEW YORK 10038



POLICE DEPARTMENT CITY OF NEW YORK

MEMORANDUM FOR: Police Commissioner

Re: Sergeant Fritz Glemaud
Tax Registry No. 915804
TRB Highway District
Disciplinary Case No. 2015-14462

Detective Ian Cyrus
Tax Registry No. 932510
28 Precinct
Disciplinary Case No. 2015-13427

Charges and Specifications:

Disciplinary Case No. 2015-13427

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P.G. 203-10, Page 1, Paragraph 5 - GENERAL REGULATIONS-
PROHIBITED CONDUCT
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P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT PROHIBITED CONDUCT

Appearances:

For the Department: Javier Seymore, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For Respondent: James Moschella, Esq.
Det. Cyrus: Karasyk & Moschella, LLP
233 Broadway-Suite 2340
New York, NY 10279

For Respondent: Andrew Quinn, Esq.
Sgt. Glemaud: The Quinn Law Firm
Crosswest Office Center
399 Knollwood Road-Suite 220
White Plains, NY 10603

Hearing Dates:

July 7, 8, 11 and 15, 2016

Decision:

Respondent Cyrus:
Counts 1-5: Guilty

Respondent Glemaud:
Counts 2 and 3: Guilty
Counts 1, 4, and 5: Not Guilty

Trial Commissioner:

ADCT Jeff S. Adler

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on July 7, 8, 11 and 15, 2016. Respondents, through their counsel, entered a plea of Not Guilty to the subject charges. Department Advocate's Office called Sergeant Luke Gasquez, Detective Ruperto Valentin and Detective Konstantin Brandman as witnesses. Each Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent Glemaud guilty of Specifications 2 and 3, and not guilty of Specifications 1, 4, and 5, and I find Respondent Cyrus guilty of Specifications 1 5.

FINDINGS AND ANALYSIS

This case centers on several buy-and-busts that were executed on the evening of April 3, 2015 within the vicinity of the 79 precinct in Kings County. That evening, the Brooklyn North Narcotics Vice Unit, led by Respondent Glemaud, planned to hit multiple locations, all but one of which was being targeted for the sale of untaxed cigarettes. As indicated in the team's tactical plan (Dept. Ex. 2), Detective Konstantin Brandman was designated as the arresting officer. Detectives Ruperto Valentin and Michelle Martinez were assigned to the "chase auto," and Respondent Cyrus and Detective Earl Lynch were responsible for the prisoner van. Also, Detective Joseph Fernandez, who was not part of the regular team, assisted that day in the lead car with Respondent Glemaud and Detective Brandman.

After discovering that the first location on its list was closed, the team proceeded to the second location, the [REDACTED] [REDACTED] which was owned by Person A. When an undercover officer notified Respondent Glemaud that he had made a successful purchase of untaxed cigarettes, the team moved into the location in order to arrest the sellers and confiscate evidence. This process was repeated at the next location, [REDACTED] [REDACTED] after another successful buy. It is alleged that Respondent Cyrus stole a sum of currency from [REDACTED] store. At trial, the witnesses gave varying accounts of what occurred inside these two locations.

Detective Brandman testified that he entered the [REDACTED] store behind Respondent Glemaud and proceeded toward the counter. The sergeant apprehended a worker near the cash register, and Detective Brandman grabbed a second worker. (Tr. 324) Detective Brandman could not independently recall all of the details of what followed; for instance, he initially had no recollection of Respondent Cyrus being behind the counter. But with the benefit of viewing a video taken from a store camera (Dept. Ex. 1), the detective was able to recount what occurred, and confirm Respondent Cyrus' presence inside the location. (Tr. 387-388)

According to Detective Brandman, the sergeant, who was supervising him the entire time, instructed him to get the money. Detective Brandman grabbed a plastic bag in which to place the evidence, then proceeded to the register from which he recovered a sum of money; he rested the money on top of the counter without counting it, and had no idea of the amount. The detective then began recovering packs of untaxed cigarettes

which he stored inside the plastic bag. He put the plastic bag on top of the counter, near where Respondent Cyrus was standing. (Tr. 327-330, 438-439)

Detective Brandman testified that he wasn't paying much attention to what Respondent Cyrus was doing behind the counter. As will be discussed more fully below, at one point on the video it appears that Respondent Cyrus removes a sum of currency from a cigar box underneath the counter and places that money inside his jacket pocket; Detective Brandman gave no indication that he saw this occur while they were in the store. The detective did testify, though, that shortly before they left the location, Respondent Cyrus handed Detective Brandman the plastic bag containing the cigarettes, but did not hand him any money from the store. (Tr. 337, 341, 387) Before leaving the store, the detective placed the money from the register in a small paper bag, which he then placed inside the larger plastic bag. He tied up the plastic bag containing the cigarettes and the cash register money and placed the bag, unlabeled, into the trunk of the car. (Tr. 336, 340-341)

Following a positive buy at the next location, the team entered the [REDACTED] Detective Brandman testified that after sorting out who was to be arrested there, Respondent Glemaud directed him to recover the money from the register. To the detective's surprise, he saw that the register already was empty. He asked Respondent Cyrus, who was standing there, where was the money from the register, and Respondent Cyrus immediately handed him a quantity of loose bills, which the detective inferred came from the cash register. The detective placed the money, uncounted, inside a cigar box from the store, and wrote the address of the location on the box. (Tr. 344-347, 352, 399, 406, 457) Packs of cigarettes also were recovered, and the detective placed those

cigarettes, along with the box containing the cash register money, inside the trunk of the car. (Tr. 349-350) Detective Brandman insisted that the only money Respondent Cyrus handed him at that location were the loose bills he was holding next to the empty register; Respondent Cyrus did not hand him a plastic bag containing money taken from the previous location. (Tr. 350, 364, 398)

The team then proceeded to another location, [REDACTED], where a third positive buy occurred. Additional money and a large quantity of cigarettes were recovered from that store; the money was placed inside a brown paper bag, and that bag was placed inside a large plastic garbage bag along with the packs of cigarettes that were recovered. (Tr. 353-355) This turned out to be the final successful buy of the evening, and Detective Brandman and Respondent Glemaud returned to the base with the property recovered from the three stores. Detective Brandman testified that he placed the property on a desk, where Detectives Valentin and Martinez took care of the vouchering. After Respondent Glemaud approved the completed vouchers, Detective Brandman also reviewed them for accuracy. Respondent Cyrus, meanwhile, went to the 73 Precinct to deal with the prisoners and prisoner property. (Tr. 358-359, 363-364, 417-418, 445)

Detective Brandman recounted how when Respondent Cyrus was given the tactical plan before the team set out, he expressed his displeasure with the prisoner van assignment. The detective did not ask for Respondent Cyrus' help behind the counter at any of the locations, but once there he never asked him to leave. (Tr. 322, 333, 389, 392)

Detective Valentin testified that he and Detective Martinez were assigned to the chase vehicle on April 3, 2015, which meant they provided assistance to the arresting officer who was in the lead auto. It was a very busy evening, which wasn't unusual,

since the detective described his supervisor, Respondent Glemaud, as "the most active person I know." After initially entering the Marcus Garvey and DeKalb stores to help secure the locations, the detective then remained outside the stores while they were searched. Detective Valentin was responsible for making sure nobody entered the locations, and didn't observe the recovery of any property. (Tr. 253, 255, 273, 300)

Back at the base, Detective Brandman brought Detectives Valentin and Martinez the evidence to voucher, and specified which property was from which location. Respondent Glemaud oversaw the vouchering process. Detective Valentin explained that since he had been investigating the [REDACTED] store prior to that day, he asked to voucher the property from that location, while Detective Martinez handled the other two. According to Detective Valentin, the evidence from [REDACTED] that he vouchered was contained inside a cigar box, not a plastic bag, which is what he told IAB back in June of 2015. (Tr. 259-260, 262, 291-292, 307) Several vouchers were admitted into evidence: the voucher for \$200 recovered from a prisoner at [REDACTED] (Dept. Ex. 5); the voucher for the \$593 recovered from the register at [REDACTED] (Dept. Ex. 6); the voucher for the \$770 recovered from the register at [REDACTED] (Dept. Ex. 7); and the voucher for the \$902 recovered from [REDACTED] (\$282 from the register, \$620 from the person of an occupant) (Dept. Ex. 8). Also referenced at trial was a voucher for eight packs of cigarettes recovered from [REDACTED]. (Tr. 577) None of the vouchers indicate how the various items of evidence were stored for transport to the base, and the packaging itself was not vouchered.

Sergeant Luke Gasquez of IAB testified that he reviewed a complaint that had been filed by Person A, the owner of the [REDACTED] store, alleging that

approximately \$2,650 had been stolen from his store on April 3, 2015. Person A, who has numerous prior contacts with the police, did not appear to testify. According to his April 14, 2015 statement, the money was inside an unlocked cigar box underneath the counter. He explained that he contributed approximately \$100 to the box daily, and used it to pay his \$3,000 rent each month. After the police raid on April 3, Person A noticed the money was missing. Originally he suspected his workers of stealing it, but when he reviewed the video footage from the store, he saw that it was one of the officers who had taken the money. Person A then called the police to report that he had been robbed. (Tr. 36-38, 42, 56, 138-139) Sergeant Gasquez noted that his investigation determined that Person A actually paid his rent by check. Also, Person A would not provide banking statements to investigators, and when asked to submit DNA and handwriting samples for comparison with other evidence, he refused to cooperate with those requests as well. (Tr. 143-145)

As part of his investigation, Sergeant Gasquez testified that IAB conducted a review of other arrests by this team. The sergeant alleged that on two separate dates, Respondent Glemaud failed to enter prisoner currency amounts into the command logs. The logs from October 10, 2014 (Dept. Ex. 3) and March 12, 2015 (Dept. Ex. 4) were admitted to show these omissions. (Tr. 64, 67-69) The Sergeant testified that it normally is the desk officer who stamps the command log and gathers the information, though the responsibility for verifying this information ultimately rests with the supervising officer. He also acknowledged he did not know whose handwriting appears on the two exhibits, each of which may have been filled out by a different person. (Tr. 176, 180, 224)

Also, Sergeant Gasquez testified that he twice interviewed each of the Respondents. On June 17 and July 16, 2015, he interviewed Respondent Glemaud, who according to Sergeant Gasquez, did not give concise answers regarding the events of April 3. For instance, Respondent Glemaud didn't know who possessed various items of property after they were recovered, and whether he designated specific team members, including Respondent Cyrus, to search the locations. Also, Respondent Glemaud did not provide clear answers about the numerous calls and texts between him and Respondent Cyrus the day after the operation; phone records indicated that on April 4, 2015, 17 calls were placed between the two respondents, and nine text messages exchanged, though not all 17 calls were actual conversations. (Tr. 78, 91-93, 205)

On cross examination, though, the sergeant acknowledged that the answers where Respondent Glemaud allegedly was not concise involved areas where he merely stated that he had no independent memory of certain details from the Marcus Garvey store apart from viewing the video. (Tr. 183, 186) At times, the best Respondent Glemaud could do was to answer questions based on how the team generally performed its operations. (Tr. 192) The questioning Inspector, who stopped the first interview because he perceived Respondent Glemaud's answers to be non-responsive, apparently was himself mistaken in pressing Respondent Glemaud about his handling of the plastic bag, since the video revealed that he actually wasn't the one who received the bag. (Tr. 188-189) Regarding Respondent Glemaud's uncertainty as to who had the property at the end of the tour, Sergeant Gasquez confirmed that Respondent Glemaud had explained that such chain of custody responsibilities rested with the arresting officer. (Tr. 191) With respect to the calls the next day, Sergeant Gasquez acknowledged that Respondent Glemaud did

provide a work-related explanation for his communications with Respondent Cyrus and other team members. (Tr. 206, 211)

Similarly, Sergeant Gasquez interviewed Respondent Cyrus on June 18 and July 16, 2015. Sergeant Gasquez testified that in the first interview, Respondent Cyrus claimed that at the [REDACTED] location he placed the money inside his pocket in order to secure it; he did not hand it over inside the store because no one asked for it. Detective Brandman asked only for the cigarettes, which Respondent Cyrus handed over. (Tr. 104-105, 165) Respondent Cyrus added that he did eventually give the money to Detective Brandman, at the [REDACTED] store. (Tr. 107) Respondent Cyrus stated that he was the "recorder" during this operation, even though the "recorder" role normally is assigned in search warrant cases, not buy-and-busts, and the tactical plan clearly designated that he was assigned that night to the prisoner van. At the second interview, Respondent Cyrus clarified that Detective Brandman had asked him to take on the recorder role that night, even if it wasn't listed in the tactical plan. (Tr. 106-107) He also reiterated that he gave the Marcus Garvey money to Detective Brandman while they were inside the DeKalb store. (Tr. 109)

Respondent Cyrus testified that when he described himself as the "recorder", he was using that term loosely, to refer to someone who assists in the search of premises. He had done only one previous cigarette buy-and bust with this team, and was not trying to mislead IAB with his use of the word. Respondent Cyrus claimed that while still at the base, Detective Brandman had asked him to assist in the search and recovery of evidence, as they were planning to hit several locations as part of the operation. (Tr. 489-492)

Regarding the [REDACTED] location, Respondent Cyrus confirmed that he went behind the counter to search for untaxed cigarettes. He testified that he was aware that there were video cameras in the store. (Tr. 497, 500) With the aid of the video, Respondent Cyrus explained what was happening at various points during the search. At the 2:48 mark, Detective Brandman placed the plastic bag with the cigarettes on the counter in front of Respondent Cyrus and told him to hold onto it. Respondent Cyrus picked up and looked inside the bag at 3:13, and continued to search for cigarettes. At 4:31, Respondent Glemaud directed him to recover money from the cigar box in the middle cabinet under the counter, and at 4:42 Respondent Cyrus removed an unknown amount of money from that box. Respondent Cyrus returned to the lower left cabinet to continue his search, while at the same time placing the money inside a plastic bag he retrieved from the counter top. Respondent Cyrus explained that his intention was to place the bags of cigarettes and money into two separate pockets for safekeeping, and at 5:16 he finally succeeded in placing the money inside his left jacket pocket after approximately nine attempts to do so. At the same time, he handed the bag of cigarettes to Detective Brandman since the detective asked for it. Respondent Cyrus denied that he was shielding his body from the detective and Respondent Glemaud, and claimed he was only looking to the left to search the shelves for additional cigarettes. (Tr. 503-521) He acknowledged that while at the store, he never mentioned to his two colleagues that he had recovered the money. (Tr. 588, 596)

The team next went to the [REDACTED] location, where Respondent Cyrus again went inside to assist in the search for evidence. As Detective Brandman finished with a prisoner, Respondent Cyrus went to the register and removed an unknown amount of

currency, which he placed inside a bag. He maintained that he did not place any property inside a cigar box at that store. Respondent Cyrus testified that while still inside the location, he handed two bags of money to Detective Brandman, and told the detective that one was the money from [REDACTED] and the other was the money from the [REDACTED] register. (Tr. 530-534, 614)

Respondent Cyrus testified that after the operation, he went to the 73 Precinct to process prisoners. (Tr. 541, 623) He acknowledged that the next day, he and Respondent Glemaud called and texted back and forth multiple times. Respondent Cyrus believed his colleague was hoping for a ride to the airport, but the two of them never actually met up. (Tr. 547) Additionally, Respondent Cyrus testified that at the time he was suspended for this case, his memo books were in his desk drawer inside a locked office. But when he returned after his suspension, six books were gone, and he filled out a complaint report to document that they were missing. (Dept. Ex. 10)

Respondent Glemaud testified that during the buy-and-bust operation of April 3, 2015, it was his responsibility to supervise his team in order to make sure that everything was done correctly. He was in contact with the undercover officers, who provided information as to areas to search. The arresting officer was responsible for safeguarding the evidence, and any member of the team could assist in the search. Respondent Glemaud deferred to his team to work out the precise roles of the team members. (Tr. 659, 662-663, 679, 717)

More specifically, Respondent Glemaud testified that until he watched the video from the [REDACTED] location, he didn't have a precise recollection of what transpired inside, since nothing unusual stood out. From the video, he acknowledged that he

directed Respondent Cyrus to check the middle cabinet area, though he had no recollection of verbalizing any instructions to Respondent Cyrus. Respondent Glemaud also could not recall actually seeing Respondent Cyrus recover money from a cigar box and place that money in his pocket, though he noted that he was unaware of any rule restricting an officer from doing that. (Tr. 662-666, 700) Respondent Glemaud never followed up with Respondent Cyrus to see if the detective had, in fact, recovered anything from the cigar box, saying of Respondent Cyrus: "He's an investigator. He needs to investigate." (Tr. 716) He also acknowledged from the video that team members searched in the area of the deli counter, which he considered to be in the general vicinity of the main counter and therefore permissible. (Tr. 693-694) As for the [REDACTED] location, Respondent Glemaud did not have any specific recall as to what occurred inside that store. (Tr. 702)

Regarding the command logs, Respondent Glemaud testified that it generally was the responsibility of the desk officer to stamp and fill in the information, though in overly busy situations he might help the desk officer fill out the logs. Regarding Department Exhibit 3, Respondent Glemaud maintained that it was not his handwriting on those log entries. He acknowledged, though, that he did fill out the log entries for Exhibit 4, and that the amount of defendant's funds recovered, if any, was omitted. The sergeant pointed out that sometimes that section was left blank if no funds were recovered. (Tr. 670-674)

Respondent Glemaud testified regarding his two IAB interviews. When he was unable to recall certain details, such as the specific number of cigarettes recovered, or the exact amount of currency, the questioner became "argumentative." Respondent Glemaud

explained that he only was able to discuss what generally is done with recovered property, since he had no independent recollection of the details from that date. For instance, he explained to the questioner that the arresting officer usually holds on to the property after it's recovered, but he couldn't specifically recall if that was done in this particular case. (Tr. 676-678) Respondent Glemaud also stated that there was nothing unusual about his speaking with other team members the next day to make sure their work was going according to plan. He insisted that he was in no way trying to impede IAB's investigation into this matter. (Tr. 680, 683)

Respondent Cyrus Specifications:

The first two specifications against Respondent Cyrus are the most serious, alleging that he wrongfully stole money from the [REDACTED] location, an unauthorized exercise of his police function. There is no dispute that Respondent Cyrus did, in fact, take money from the cabinet and place it in his jacket pocket: he can be seen on video doing just that, and he admitted to it as well. Respondent Cyrus claimed, however, that he later gave that money to Detective Brandman, inside the [REDACTED] location. Detective Brandman denied that Respondent Cyrus did so.

Counsel for Respondent Cyrus called into question whether the actual amount taken from the cigar box was the \$2,650.00 alleged by the store owner. Issues were raised as to whether the rent was paid by check or with cash, and why would such a large sum be left in an unlocked box under the counter. The owner Person A, who was not fully cooperative with police, did not appear at trial, which hindered any further exploration into these questions. Nevertheless, even if there is uncertainty as to the exact amount taken, it is clear, from the video and Respondent's own admissions, that

Respondent Cyrus did remove a sum of currency from the cigar box. The issue here is whether Respondent Cyrus removed the money with the intent to steal it, or was he merely safekeeping the money as evidence.

Respondent Cyrus maintained that the reason he placed the money inside his pocket was for safekeeping. He intended to do the same thing with the cigarettes, until Detective Brandman asked for them. Respondent Cyrus remained composed as a witness, even on cross examination, and was steadfast in insisting that he didn't steal the money, that he gave it to the detective at the next location. However, Respondent Cyrus also has a strong interest in the outcome of this case, in which the Advocate is seeking termination, and his testimony must be viewed in that light as well.

Detective Brandman, meanwhile, was equally insistent that Respondent Cyrus never gave him the money taken from [REDACTED]. He testified that at the [REDACTED] location, the only money that Respondent Cyrus handed him was the money that Respondent Cyrus had just removed from the cash register inside that store. Counsel was correct in pointing out that as a witness, Detective Brandman seemed somewhat defensive at times, as if the questions put to him were accusatory even when they weren't. Also, the detective admitted that until he saw the video, he didn't even recall that Respondent Cyrus was behind the counter inside the [REDACTED] location, or that Respondent Cyrus handed him the bag of cigarettes at some point inside the store. Rather than rely solely on the word of Detective Brandman, this tribunal looks to see whether there is any corroboration for his account.

The vouchers in evidence aren't particularly helpful in sorting out this dispute. One voucher (Dept. Ex. 6) indicates that \$593.00 was recovered from the [REDACTED]

store, while another (Dept. Ex. 7) states that \$770.00 was recovered from the [REDACTED] location. However, since no one counted the money at the scenes, it is not certain that the amounts on the vouchers correspond correctly with the amounts actually recovered. Further, there were inconsistencies in the testimony about how the evidence at each location was packaged leading up to the vouchering. Counsel for Respondent Cyrus suggests that there may have been a commingling of funds, though there is no direct evidence of that having happened.

In order to find some clarification of what actually occurred on April 3, 2015, and to determine whether there is any corroboration that Respondent Cyrus' intent was to steal the money rather than temporarily safekeep it for the arresting officer, this tribunal looks to the videotape footage from the [REDACTED] store. The video does shed some valuable insight into what actually occurred.

Beginning about the 4:30 mark, Respondent Cyrus crouches down and looks inside the center cabinet area. A few seconds later, he can be seen removing a sum of money from a cigar box inside that cabinet. At 4:47, Respondent Cyrus stands, money in hand, and turns his back to his two colleagues, Respondent Glemaud and Detective Brandman. Respondent Cyrus then moves back to the left cabinet and crouches down, shielding himself behind the cabinet door. He reaches for an empty plastic bag resting on top of the counter, and at 5:13 Respondent Cyrus stands up, turns left as if shielding himself from his colleagues, and repeatedly attempts to jam the money into his left jacket pocket; indeed, Respondent Cyrus acknowledged that it took him approximately nine attempts before he was able to get the money inside his pocket. At the same time, Respondent Cyrus, with his right hand, passes the other bag (containing cigarettes) to

Detective Brandman without even looking at the detective. Respondent Cyrus then briefly continues to look inside the left cabinet, before joining his colleagues in exiting the location.

Nothing about Respondent's behavior on that video supports his claim that he merely is safeguarding the money. In fact, the video footage indicates just the opposite: that Respondent Cyrus is making a determined effort to conceal the money from his colleagues, shielding the currency from their view while he hastily tries to fit the money inside his jacket pocket. Respondent Cyrus' explanation that his real reason for turning to the left is to continue his search makes no sense; his focus at that moment clearly is to get the money inside his pocket, not to search the premises. Indeed, Respondent Cyrus doesn't even turn to face Detective Brandman when the latter asks for the bag of cigarettes; rather, Respondent Cyrus extends the bag in the direction of the detective without even looking at him. Further, Respondent Cyrus' claim that it also was his intention to secure the bag of cigarettes inside his other jacket pocket is implausible as well: from the moment Respondent Cyrus picks up the bag of cigarettes (3:12 mark), he makes no effort to place that bag inside his jacket pocket, and it is questionable whether he could even have fit the cigarettes in his pocket (the voucher listed eight packs, though there may have been fewer in the bag at that moment).

Equally unpersuasive is Respondent Cyrus' testimony that he didn't simply store the [REDACTED] money inside the cigar box from whence it came because they usually placed recovered money inside plastic bags. At the very next location, the money recovered from the register was stored inside a cigar box for safekeeping, so there was no valid excuse for not doing the same at the [REDACTED] location. Finally, this tribunal

does not credit Respondent Cyrus' explanation that he didn't hand the money to Detective Brandman at the same time he handed him the cigarettes because the detective did not specifically ask for the money. Since Detective Brandman, the arresting officer, clearly was collecting the evidence at that moment, the natural reaction of an innocent person would have been to hand him the recovered money as well. There is only one reasonable explanation for why Respondent Cyrus didn't hand the money to Detective Brandman while they were standing together inside the [REDACTED] location: Respondent Cyrus pocketed that money with the intention of stealing it, which is precisely what he did. Taken as a whole the record has established, by a preponderance of the credible evidence, that Respondent Cyrus intentionally stole money while engaged in an official buy-and-bust operation, and I find him guilty of Specifications 1 and 2.

Specifications 3 and 4 allege that Respondent Cyrus provided false statements during IAB interviews. Respondent Cyrus was questioned pursuant to Patrol Guide section 206 13 on June 18, 2015 and July 16, 2015. Section 203-08 of the Patrol Guide, which provides that "the intentional making of a false official statement is prohibited," specifically includes situations where, as here, a member is interviewed pursuant to section 206-13.

One area in which the Advocate suggests Respondent Cyrus was untruthful was in describing himself as the "recorder" that night, even though he actually was assigned to the prisoner van, as indicated in the tactical plan. Strictly speaking, Respondent Cyrus was not the recorder that evening indeed, there generally is no recorder designated for buy-and-bust operations as opposed to search warrant cases. There is, though, some uncertainty over whether Respondent Cyrus was using the term "recorder" loosely,

merely intending to convey that he was assisting the arresting officer in searching the premises.

However, during the two interviews Respondent Cyrus also denied that he stole money from the Marcus Garvey location, claiming that he gave the money to Detective Brandman. On this point there is no uncertainty. For the reasons just discussed, those statements were knowingly false, and I find Respondent Cyrus guilty of Specifications 3 and 4.

Specification 5 alleges that Respondent Cyrus failed to properly safeguard six activity logs. As part of its investigation IAB asked Respondent Cyrus to produce several of his activity logs, but he was unable to do so. Respondent Cyrus explained that he kept the memo books inside his desk drawer because he liked to have them on hand in case he needed them for court. At the time he was suspended, the memo books were in a locked office inside his desk drawer. However, when he later returned to his desk, he discovered that the activity logs were gone, and so he filed a complaint report (Dept. Ex. 10).

On the one hand, there is no evidence that Respondent Cyrus deliberately caused the disappearance of his activity logs. However, he did have a duty, pursuant to Patrol Guide section 212-08, to “store active and completed Activity Logs in a locker, available for inspection at all times.” This Respondent failed to do, and I find him guilty of Specification 5.

Respondent Glemaud Specifications:

Specifications 1 and 2 allege that on two separate dates, Respondent Glemaud neglected to document the amount of prisoner funds in precinct command logs. Sergeant Gasquez testified that after the April 3, 2015 incident, IAB reviewed other arrests by the

team, and discovered that the logs from October 10, 2014 and March 12, 2015, where Respondent Glemaud was the supervisory verifying officer, omitted the "Deft's Funds" information. According to Sergeant Gasquez, even if no money was recovered, a "0" should be entered on the form. Respondent Glemaud maintained that after he presents the prisoner to the front desk, it ordinarily is the responsibility of the desk officer to fill in the command log information. However, Respondent Glemaud also acknowledged that at times he fills in the command log himself so as not to over-burden the desk officer.

Respondent Glemaud admitted that it appears to be his handwriting on the March 12, 2015 command log (Dept. Ex. 4), but testified that it is not his handwriting on the October 10, 2014 log (Dept. Ex. 3). That assertion is not contradicted, and appears to the naked eye to be accurate inasmuch as the two handwritings look different. Even Sergeant Gasquez agreed that the handwriting on Dept. Ex. 3 may not be the same as that on Dept. Ex. 4. I credit Respondent Glemaud's testimony that he did not fill in the command log for October 10, 2014, and find him not guilty of Specification 1. However, since he did fill in the command log of March 12, 2015, and omitted to fill in the amount of "Deft's Funds" if any, I find him guilty of Specification 2.

Specification 3 alleges that Respondent Glemaud failed to properly supervise his team during the April 3, 2015 operation. The Advocate argues that Respondent Glemaud's failure to follow basic OCCB guidelines resulted in an improper premise search, unvouchered property, and missing currency. There is no allegation, though, that Respondent Glemaud knowingly participated in the theft of money from the Marcus Garvey store, for which Respondent Cyrus alone stands accused.

This tribunal agrees with counsel for Respondent Glemaud that the sergeant appeared to be actively involved inside each location. From the video footage of the [REDACTED] store, confirmed by the testimony of team members, Respondent Glemaud can be seen behind the counter, an active participant in assessing and overseeing the operation, and observing the recovery of property. Clearly Respondent Glemaud is far from a passive bystander in the work done by his team. Also, the credible evidence did not establish that the area searched was unreasonable, based on the information provided to the sergeant by the undercover officers.

The one area of concern this tribunal has regarding Respondent Glemaud's alleged neglect in supervising his team deals with the missing money. On the one hand, there is no indication that the sergeant was aware that Respondent Cyrus stole money from the location, and it is not realistic to expect a supervisor in his situation to see every single action of every team member during an operation such as this. However, what is troubling is that after specifically directing Respondent Cyrus to search the cigar box, Respondent Glemaud made no effort to follow-up with the detective regarding the result of that search. Respondent Glemaud acknowledged his responsibility pursuant to the OCCB manual to "closely monitor the actions of the officers assigned to the operation". And yet Respondent Glemaud, who was standing immediately beside Respondent Cyrus, inexcusably never even asked the detective what, if anything, he recovered from the cigar box. Respondent Glemaud must take some accountability for his lack of supervision in this regard, and I find him guilty of Specification 3.

Specifications 4 and 5 deal with Respondent Glemaud's two Department interviews, on June 17, 2015 and July 16, 2015. Unlike Respondent Cyrus, who was

charged with providing “false statements,” the allegation against Respondent Glemaud is that he failed to provide “complete and accurate answers” to multiple questions he was asked on those dates.

More specifically, it is alleged that Respondent Glemaud did not give concise answers when questioned as to the details of what occurred on April 3, 2015, as well as regarding the phone calls and texts the following day. However, as Respondent Glemaud reasonably explained, there was nothing unusual about that operation or the communications afterward that made the details stand out in his mind. The IAB questioner apparently became frustrated with Respondent Glemaud’s lack of precision, but this tribunal is not persuaded that this imprecision was a calculated means of avoiding the questions put to him. Rather, Respondent Glemaud testified credibly that he had no independent recollection of the events of April 3, and could only discuss what generally was done in the course of such operations. Similarly, he was limited in his ability to recall the exact details of his phone communications the following day. The record has not established, by a preponderance of the credible evidence, that Respondent Glemaud wrongfully failed to provide complete and accurate answers at his two interviews, and I find him not guilty of Specifications 4 and 5.

PENALTY RECOMMENDATIONS

In order to determine appropriate penalties, Respondents’ service records were examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent Glemaud was appointed to the Department on June 30, 1995 and Respondent Cyrus was appointed on July 1, 2003. Information from their personnel records that was considered

in making these penalty recommendations is contained in the attached confidential memoranda.

Respondent Cyrus has been found guilty of all five specifications against him, including charges that he stole money during a buy-and-bust operation, and then provided false statements to IAB about his conduct. The Advocate asks that Respondent Cyrus be dismissed from the Department, and there is precedent to support such a penalty. See *Disciplinary Case No. 11049/13* (May 22, 2015) (7-year officer with no disciplinary history dismissed from the Department for falsely reporting the amount of money recovered from a vehicle in an attempt to keep the money for himself); *Disciplinary Case No. 12548/14* (Dec. 22, 2015) (nine-year officer with no disciplinary history dismissed from the Department for stealing merchandise from a Target store); and *Disciplinary Case No. 6166/11* (Sept. 20, 2013) (20-year sergeant with no disciplinary history dismissed from Department for stealing money from a person he believed to be buying stolen electronics).

Taking into account the totality of issues and circumstances in this matter, including the serious nature of Respondent's misconduct and the legal precedent, I recommend that Respondent Cyrus be DISMISSED from the New York City Police Department.

Respondent Glemaud, who has no adverse disciplinary findings against him, has been found guilty of two specifications, the more significant of which was for his failure to supervise his team. Much less serious was the count relating to Respondent Glemaud's incomplete command log entry, in which IAB found only one such form after combing through the team's prior arrests. In *Disciplinary Case No. 83259/07* (Nov. 18,

2009), an 18-year sergeant with no prior disciplinary record pleaded guilty and forfeited ten (10) vacation days following a mitigation hearing for his failure to supervise. There, the respondent, who was supervising the officers who had stopped an arrestee, failed to ensure that a field test report and property clerk voucher were filled out. Additionally, the respondent failed to make a command log entry. After considering the totality of issues and circumstances in this matter, and taking into account Respondent Glemaud's multiple departmental recognitions and lack of adverse disciplinary history, that penalty seems appropriate here as well. Accordingly, I recommend that Respondent Glemaud forfeit ten (10) vacation days as an appropriate penalty.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials



From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE IAN CYRUS
TAX REGISTRY NO. 932510
DISCIPLINARY CASE NO. 2015-13427

Respondent was appointed to the Department on July 1, 2003. His last three annual evaluations were as follows: Respondent received a 3.0 overall rating of "Competent" in 2015, and 4.5 ratings of "Extremely Competent/Highly Competent" in 2013 and 2014. He has one medal for Excellent Police Duty. [REDACTED]
[REDACTED] [REDACTED]

In 2007, Respondent was charged with wrongfully using force against an individual and failing to make Activity Log entries regarding said alleged force incident. The force specification was dismissed and the specification relating to the Activity Log was dismissed and returned to Respondent's command for imposition of a Command Discipline.

Respondent was suspended in connection with the instant case on April 8, 2015. On May 8, 2015, he was restored to modified duty.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
SERGEANT FRITZ GLEMAUD
TAX REGISTRY NO. 915804
DISCIPLINARY CASE NO. 2015-14462

Respondent was appointed to the Department on June 30, 1995. His last three annual evaluations were as follows: Respondent received 5.0 overall ratings of “Extremely Competent” in 2012 and 2014, and a 4.5 rating of “Extremely Competent/Highly Competent” in 2013. He has thirty-two (32) medals for Excellent Police Duty, eight (8) medals for Meritorious Police Duty, one (1) Honorable Mention and one [REDACTED]

Respondent had twice been the subject of Charges and Specifications. In 2015, he was found Not Guilty of wrongfully entering an apartment without sufficient legal authority. Also, in 2015, he was charged with wrongfully stopping an individual without sufficient legal authority. However, that charge was dismissed in 2016.

Respondent was placed on Level 1 Force Monitoring on October 9, 2014 for having three or more CCRB complaints in one year. That monitoring remains ongoing. He was modified in connection with the instant case on April 8, 2015.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials