

**CERTIFICATION OF PERSONNEL BOARD RECORDS**

I certify that attached hereto is a true and correct copy of the Findings of Fact, Conclusions of Law and Recommended Order and Final Order in the case of **DAVID STEPHANSKI VS. CABINET FOR HEALTH AND FAMILY SERVICES (APPEAL NO. 2014-031)** as the same appears of record in the office of the Kentucky Personnel Board.

Witness my hand this 19<sup>th</sup> day of November, 2014.

  
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**MARK A. SIPEK SECRETARY**  
**KENTUCKY PERSONNEL BOARD**

Copy to Secretary, Personnel Cabinet

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2014-031

DAVID STEPHANSKI

APPELLANT

**FINAL ORDER**  
**SUSTAINING HEARING OFFICER'S**  
VS. **FINDINGS OF FACT, CONCLUSIONS OF LAW**  
**AND RECOMMENDED ORDER AS ALTERED**

CABINET FOR HEALTH AND FAMILY SERVICES  
J.P. HAMM, APPOINTING AUTHORITY

APPELLEE

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The Board at its regular November 2014 meeting having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated September 30, 2014, and being duly advised,

**IT IS HEREBY ORDERED** that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be altered as follows:

A. **Delete** Conclusion of Law paragraph 3 and substitute the following:

3. As a result of the Appellant's actions or inactions, the Agency was obligated to pay a \$500 insurance deductible which could have been paid by the SSA upon timely notice of said expense. However, it must be realized that the Bob Hook dealership probably went beyond what it was specifically authorized to do in repairing damage to the truck, again presumably in an effort on its part to satisfy its customer. This action by the Dealership without specific authorization by the Appellant is somewhat understandable and should not be entirely laid at the feet of the Appellant.

**IT IS HEREBY ORDERED** that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be, and they hereby are approved, adopted and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **SUSTAINED to the extent** therein.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

SO ORDERED this 19<sup>th</sup> day of November, 2014.

**KENTUCKY PERSONNEL BOARD**

  
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**MARK A. SIPEK, SECRETARY**

A copy hereof this day sent to:

Hon. Tim Salansky  
David Stephanski  
J. P. Hamm

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2014-031

DAVID STEPHANSKI

APPELLANT

VS.

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER**

CABINET FOR HEALTH AND FAMILY SERVICES  
J.P. HAMM, APPOINTING AUTHORITY

APPELLEE

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This matter came on for an evidentiary hearing on August 19, 2014, at 9:30 a.m., at 28 Fountain Place, Frankfort, Kentucky, before R. Hanson Williams, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

Appellant, David Stephanski, was present at the hearing and was not represented by legal counsel. Appellee, Cabinet for Health and Family Services, was present and was represented by the Hon. Tim Salansky. Also present as Agency representative was Terry Brogan, Executive Staff Advisor.

**BACKGROUND**

1. This matter involved the appeal filed by the Appellant involving a five-day suspension by letter dated January 2, 2014. A copy of which is attached hereto as **Recommended Order Attachment A**. In summary, the Appellant was suspended for lack of good behavior and unsatisfactory performance of duties in that it is alleged that: (1) He failed to report damage to state property after receiving notification and failed to document any investigation into the accident; (2) he failed to obtain authorization for repairs to an Agency-owned vehicle damaged in an accident; and (3) provided false and misleading information to a supervisor and to a vendor regarding damage to the state-owned vehicle.

2. The burden of proof was placed on the Appellee by a preponderance of the evidence to show that the suspension herein was appropriate under all the surrounding circumstances and neither excessive nor erroneous.

3. Appellee's first witness was **Steven Veno**. He has been Commissioner of the Department of Income Support (DIS) for the past one and a half years. He has been employed with the state for thirty-six years. The DIS includes the Division of Child Support and the Division of Disability Determination Services (DDS).

4. Veno explained that in 2013 he was the Appellant's second-line supervisor; with Rachel Auxier being his first-line supervisor.

5. The witness went on to explain that DDS is funded 100 percent by the Social Security Administration (SSA). The function of DDS is to determine eligibility regarding disability for SSA purposes. The witness explained that by failing to timely report assumed damage to a box truck, which occurred in August 2013, that there were budget problems caused for DDS with the SSA. He stated that DDS needed to have any expenses paid by SSA by the end of September 2013 and the Appellant's lack of reporting caused this to go over into the following budget year. The DDS operated the next budget year on a zero-based budget.

6. The witness then identified Cabinet's Exhibit A-1, a Purchase Requisition Form, filled out by the Appellant on November 15, 2013, requesting that a repair bill from Bob Hook Chevrolet in the amount of \$2,593.75 be paid. The witness explained that prior to November 15, 2013, that no one had been notified by the Appellant of any damages to the truck. He stated that these damages could have been paid by SSA if reported prior to September 30, 2013.

7. He also explained that in November, he was not quite sure how this bill would be paid, since the only option at that point was to use general fund money which was allocated to child support enforcement.

8. As a result of this failure to report the damage, this witness asked for Major Disciplinary Action (MDA) through the Office of Human Resource Management. He stated that office determined the level of discipline. He also added that, to his knowledge, the Appellant had suffered prior disciplinary action on February 4, 2011, in the form of a verbal warning given by the previous Commissioner for failure to complete a project timely.

9. On cross-examination, the witness admitted that he was not aware that the box truck in question was not under the state fleet requirements, but rather was under the responsibility of DDS, since they had purchased the truck. However, the witness said that the Appellant would have been required to report the damage to a supervisor, even if the truck was under warranty, as the Appellant believed.

10. The witness also confirmed that he was not aware that the appropriate people in the Division of Finance had told the Appellant to take the truck to the dealer to see if the warranty would cover the expense.

11. On redirect, the witness testified that the DDS was responsible for the repairs to the box truck, and not the State Fleet Management Insured Division.

12. Appellee called as its next witness, the Appellant, **David Stephanski**. He testified that he has been a Systems Consultant II with the Cabinet and DDS since July 2011.

13. The witness explained that there were actually two accidents involving the box truck. The first occurred on or about August 22, 2013, when two employees under the Appellant's supervision were involved in an incident wherein the driver had to "hit the brakes," causing the cords securing the cargo to break, causing the load to shift. This resulted in the cargo ripping the box of the truck from the bed of the truck, causing an approximate two and a half inch seam. The second accident involving the truck occurred on or about September 20, 2013, while the truck was parked in Louisville, Kentucky, and was then struck on the rear, causing damage to the lift gate.

14. The witness explained that he made no report regarding the August 22 incident, claiming that any report of damage was vague. However, he did confirm he had reported the lift gate damage in September 2013. The witness also claimed that he had reasonably not assumed the damage to the box truck resulted from the August incident. He also stated that as supervisor, he was responsible for getting the damage repaired because he believed the truck was under warranty.

15. The witness explained that maintenance employees, Underwood and Redding, both told him of the August 22 incident, but that he was never aware of the extent of the damage caused by the load shift. He maintains that he never saw the two and a half inch seam until sometime later in the fall. He then pointed to Cabinet's Exhibit A-2, a December 4, 2013 report made by him regarding the August 22 incident. The witness then testified that after the September 20, 2013 lift gate incident, he subsequently delivered the truck to Bob Hook Chevrolet to have the lift gate repaired. He was aware at that time that the insurance of the auto owner who had struck the truck would be responsible for the lift gate repair. He maintains that when taking the truck to Bob Hook, he also asked them to look at the damage to the seam caused by the August 22 incident. He maintains that he did not authorize them to fix that damage, but when later calling the dealership to check on the status of the repairs to the lift gate, he was told that both had been fixed and that he could pick up the truck. As it turned out, the cost to repair the seam damage was not covered by warranty.

16. Upon being asked by the dealership who would pay for that repair, the Appellant maintains that he told them that he would see that the repair cost would be put into the system to be paid.

17. The witness maintained that until he received the final charge from Bob Hook for \$6,630.75 (lift gate repair plus seam damage repair), he believed the warranty plus the other driver's auto insurance would pay the entire amount. As a result, he testified that he saw no reason to alert anyone in DDS about these damages. He was not aware of any federal money or budget implications that would be involved in this. However, the witness did admit that sometime between August 22 and September 20, 2013, he did see the gap in the box truck and was aware that the screws had pulled out.

18. The witness also maintained that his two employees had not told him that something had slammed into the bulkhead, but rather was only informed that the bungee cords had loosened and that the load had shifted.

19. The witness also identified Cabinet's Exhibit B, a string of e-mails from the Office of Administrative and Technology Services, Fixed Assets Branch, in the Cabinet, stating that DDS was responsible for the repairs and directing him to take it to the dealer to get it repaired. However, it is clear these e-mails only refer to the damage to the lift gate.

20. The Appellant was then directed to Cabinet's Exhibit C, the December 9, 2013 note from him to Commissioner Venio. In this note, the Appellant explained that he had seen the seam problem in the box truck a few weeks before dropping off the truck at the dealership; however, with all that was going on, he had forgotten about it until the truck was again hit on September 20, 2013, causing the lift gate damage. It was only after delivering furniture in Louisville on September 20, that he again saw the seam damage and remembered he needed to get it fixed. In this note, he also admitted that he did not recall reporting the initial problem with the seam the first time he saw it. He explained that he asked the dealer to look at that as well as the lift gate damage at the same time.

21. Appellant then explained that he had made recordings of three telephone conversations he had with the Bob Hook dealership regarding repairs to the truck. These recordings were then played for the Hearing Officer.

22. The first call was on September 25, in which the Appellant informs the dealership that there were two problems with the truck, those being the seam in the box truck and the lift gate. During this call, he informed the dealer that he knew the seam damage was not caused by the driver hitting the lift gate.

23. The second call was on October 18, 2013, when the Appellant called to check on the status of the repairs. He was informed that the parts had been ordered for the gate and then asked about the box seam. He did not directly ask them to fix it, but repeats that he had told them at the drop off to look and see if it was covered under warranty.

24. The third call was November 14, 2013, in which the dealer informed him that the box truck was ready and that repairs had been made to the damaged seam and the lift gate. He was then asked where they could send the information to have the repair cost paid. There was no mention in this conversation of whether a warranty would cover this, as the dealer had already made the repairs.

25. Again, to be clear, the costs for repair to the box truck seam damage were \$2,593.75. The witness then explained to the dealership that he needed a separate bill for the repair cost to the bulkhead seam damage, as he did not intend to claim that was caused by the accident on September 20, 2013. He explained that he did not wish to "stick" an old lady's insurance company with damage which was pre-existing.

26. The witness also explained that because of previous experience in the financial area in state government, he was familiar with zero-based budget. He explained that he knew that the expenditures must be pre-approved if possible.

27. The witness also confirmed that sometime in September 2013, he was informed by Cabinet employee, Doug Lefevers, to submit any existing expenses for payment, since they must be paid before the end of September. The Appellant then explained that in September, he did not know that the repair cost for the box truck seam was going to be an expense. Rather, he was not aware until November when he talked with the dealership.

28. The Appellee's next witness was **Galen Linville**. He previously worked with the Cabinet for three years as an Investigator involving disciplinary actions. His only role in the disciplinary action against the Appellant was to gather information and make recommendations to the Appointing Authority.

29. This witness explained that his interviews with employees Underwood and Redding revealed that they had reported the August 22, 2013, box truck incident to the Appellant shortly after it occurred. In his opinion, he believed that the Appellant had provided false and misleading information to both his supervisor and to the Bob Hook dealership regarding the damage and when and how it occurred.

30. On cross-examination, the witness explained that nowhere in the process of having these repairs made to the truck, had he uncovered any "authorization" given to the Appellant to have the repairs made. However, he likewise admitted there was nothing which did not authorize him to have the repairs made.

31. Finally, the witness stated that regardless of whether the Appellant had authorization to have the repairs made, even if not, that would have made a minimal difference in the level of discipline which he recommended. The Appellee then closed.

32. Appellant called as his first witness, **Bias Redding**. This witness, at the time of the evidence herein, worked for the Cabinet and DDS through ADDECO a temporary hiring agency.

33. The witness testified that on August 22, 2013, while riding in the box truck, he heard a thud in the back of the truck and, upon inspection, saw the bungee cords holding the cargo load had snapped. He maintains that it was only weeks later that he saw the two and a half inch seam in the cab, and this occurred while he and others were taking the truck to the dealership.



34. The witness then identified Appellant's Exhibit 1, his February 12, 2014 statement regarding the damage to the box truck. However, this statement stated that he had become aware of the seam damage in the truck approximately two to three weeks after the August 22 incident.

35. On cross-examination, the witness was then directed to Cabinet's Exhibit A-4, his December 9, 2013 statement detailing that on August 22, 2013, he heard a loud pop and observed that the front panel of the enclosed truck was bent toward the cab. This statement indicates he reported to the Appellant. The witness then explained that prior to giving this statement he was told by the Appellant that he needed to get with the other witness, Underwood, to make sure their statements coincided.

36. The witness again commented on Appellant's Exhibit 1, his February 12, 2014 statement and maintained that he had assumed no damage initially on August 22, 2013. However, the witness commented on his second statement by stating that it was only later that he saw the two and a half inch gap in the seam, when it was pointed out to him by the Appellant.

#### **FINDINGS OF FACT**

1. A state box truck under the responsibility of the Appellant was involved in an incident on August 22, 2013. During this incident, cargo inside the truck shifted, causing an approximate two and one-half inch seam between the cab and the front wall of the box truck. This incident was reported to the Appellant by two subordinates. The Hearing Officer finds that subordinate Redding was not aware of the extent of the damage on that day and, as a result, the information he conveyed to the Appellant was vague as to that point.

2. Appellant admits he did not report the incident, or the damage therein, to anyone at the Division of Disability Determination Services (DDS) prior to September 30, 2013, the end of the fiscal year.

3. The Appellant did report damage to the lift gate of the same truck, which occurred on September 20, 2013, as a result of an accident in Louisville, Kentucky. The damage to the lift gate was paid for by the other driver's auto insurance company.

4. The Appellant did ask the auto dealership, Bob Hook Chevrolet, to look at the damage to the seam cause by the August 22 incident. Although he did not specifically direct the dealership to repair any such damage found, the dealership did repair the damage and asked for payment of \$2,593.75.

5. The Hearing Officer finds that the Appellant did fail to notify any superiors at DDS as to the damage suffered to the box truck on August 22, 2013. Although he was not fully aware of the extent of the damage, and his office was exceedingly busy at the time, nevertheless, Appellant had the duty to inform the superiors of the fact there might be damage.

6. The Hearing Officer further finds that because of the Appellant's failure to notify his supervisors in a timely fashion, the Agency was responsible for payment of a \$500 deductible payment to Bob Hook Chevrolet, which could have been paid by the SSA had this been known prior to September 30, 2013. The Hearing Officer realizes that the Appellant's argument is that he was not aware of any such expense which would be forthcoming from this unknowing damage; yet, the Hearing Officer feels that had the Appellant acted in a timely manner, as far as inspecting the truck for damage, this expense could have been avoided by DDS.

7. The Hearing Officer finds that the Appellant did not provide any false or misleading information to any supervisor at DDS or to the Bob Hook Dealership regarding damage to the state-owned vehicle. In fact, Appellant made it clear to the dealership that the lift gate damage was the result of an entirely separate incident.

8. The Hearing Officer finds that the Appellant did fail to specifically obtain authorization for repairs to the Agency-owned vehicle damaged in the August 22, 2013 incident. However, the Hearing Officer also recognizes that the Appellant mistakenly believed the August 22 damages would be covered by warranty and also realizes that the Appellant failed to specifically request that the Dealership fix the seam damage. Instead, the Appellant merely asked the dealership to see what damage had occurred and was caught unaware upon finding the dealership had repaired said damage.

### **CONCLUSIONS OF LAW**

1. The Hearing Officer concludes as a matter of law that the Appellee has carried its burden of proof by a preponderance of the evidence to show that the Appellant failed to report damage to state property after having received notification of same. His lack of notification constituted unsatisfactory performance of duties pursuant to 101 KAR 1:345.

2. The Hearing Officer concludes as a matter of law that the Appellee has failed to carry its burden of proof to show that the Appellant failed to obtain authorization for repairs to the Agency owned vehicle and further concludes that the Appellee failed to carry its burden of proof in showing that the Appellant provided false and misleading information to a supervisor or a vendor.

3. As a result of the Appellant's actions or inactions, the Agency was obligated to pay a \$500 insurance deductible which could have been paid by the SSA upon timely notice of said expense. However, it must be realized that the Boob Hook dealership probably went beyond what it was specifically authorized to do in repairing damage to the truck, again presumably in an effort on its part to satisfy its customer. This action by the Dealership without specific authorization by the Appellant is somewhat understandable and should not be entirely laid at the feet of the Appellant.

**RECOMMENDED ORDER**

The Hearing Officer recommends to the Personnel Board that the appeal of **DAVID STEPHANSKI VS. CABINET FOR HEALTH AND FAMILY SERVICES (APPEAL NO. 2014-031)** be **SUSTAINED to the extent** that the five-day suspension be reduced to a three-day suspension, that Appellant be reimbursed the amount of two-days pay that was withheld from him, to reimburse Appellant for any leave time he used attending the hearing and any pre-hearing conferences at the Board, and to otherwise make him whole. [KRS 18A.105, 18A.095(25), and 200 KAR 12:030.]

**NOTICE OF EXCEPTION AND APPEAL RIGHTS**

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

**Any document filed with the Personnel Board shall be served on the opposing party.**

Each party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

**ISSUED** at the direction of **Hearing Officer R. Hanson Williams** this 30<sup>th</sup> day of September, 2014.

**KENTUCKY PERSONNEL BOARD**

  
**MARK A. SIPEK**  
**EXECUTIVE DIRECTOR**

A copy hereof mailed this date to:

Hon. Tim Salansky  
David Stephanski



**CABINET FOR HEALTH AND FAMILY SERVICES  
OFFICE OF HUMAN RESOURCE MANAGEMENT**

**Steven L. Beshear**  
Governor

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**Audrey Tayse Haynes**  
Secretary

January 2, 2014

David A. Stephanski

Re: Five (5) Day Suspension

Dear Mr. Stephanski:

Based on the authority of KRS 18A.095 and 101 KAR 1:345, you are hereby notified that you are officially suspended from duty and pay for a period of five (5) working days. The effective dates of your suspension are January 6, 2014; January 7, 2014; January 8, 2014; January 9, 2014; and January 10, 2014.

In accordance with 101 KAR 1:345, Section 1, you are being suspended from your position as a Systems Consultant IT with the Department for Income Support, Division of Disability Determination Services, for the following specific reason:

**Lack of Good Behavior and Unsatisfactory Performance of Duties.** As reported by Commissioner Steven Veno, you failed to report damage to state property once you had received notification of an accident and you failed to document any investigation into the accident.

Specifically, on August 22, 2013, Maintenance Supervisor James Underwood, a temporary employee hired through ADECCO, and Maintenance Supervisor Bias Redding, also a temporary employee hired through ADECCO, were travelling on US 421 in Frankfort, Kentucky in a box truck owned by the Department for Income Support (DIS), Division of Disability Determination Services (DDS) to deliver recycled paper to the Energy and Environment Cabinet's Waste Management site. Mr. Underwood was operating the vehicle. Mr. Underwood provided a signed statement on December 6, 2013, documenting that as the vehicle approached the intersection of US 421 and Schenkel Lane, a vehicle in front of them suddenly stopped causing Mr. Underwood to "hit the brakes", and "After inspection of the vehicle following the accident, the cords and straps (utilized to secure the cargo) were broken due to the accident causing the load to shift. The subsequent damage to the vehicle was the weight of the recycled paper ripping the box of the truck from the bed of the truck, (about 2.5 inches)."

On December 9, 2013, Mr. Redding provided a statement regarding this incident. Mr. Redding states, "On August 22, 2013, James Underwood and I (Bias Redding) were delivering two bins of recycle papers, in the DDS enclosed truck, to the State Government Recycling Building located at 115 Northgate Drive, Frankfort, KY to be shredded. We fasten the recycle bins tightly down with bungee cords that were in the back of the truck. As we drove down US 421 N/Wilkinson Blvd I heard a loud pop. When we arrived at our designated (sic) we found were (sic) the bungee cords had snapped apart and the front panel of the enclosed truck was bent toward the cab. We reported this to our supervisor." On December 11, 2013, Mr. Underwood and Mr.

Redding provided hand-written signed statements attesting that you were informed of the August 22, 2013, incident on the next day, August 23, 2013.

On September 20, 2013, another accident occurred with the box truck. The truck was parked at 410 West Chestnut Street in Louisville, Kentucky and was struck on the rear of the vehicle causing damage to the lift gate. At the time of this incident, you had failed to report the damage from the accident that occurred on August 22, 2013. Of note, you failed to report the August 22, 2013, incident to anyone within DDS until November 15, 2013, when you submitted an invoice (reference #378567) from Bob Hook Chevrolet at 4144 Bardstown Road in Louisville, Kentucky. The invoice detailed the repair work to the lift gate (a total of \$4,105.00, which was paid by the insurance company of the person who caused the damage) and the box truck repair (a total of \$2,593.75). Of note, on November 14, 2013, in your telephone conversation with Ms. Johnson at Bob Hook Chevrolet, on your own and without authorization, you assured her that DDS would take care of the additional seam repair costs despite the fact that you had failed to report the damage to your supervisor.

On December 9, 2013, you provided a signed statement to the notification of a request for major disciplinary action regarding the damage and repair of the box truck. In your statement, you admitted, "I will admit that I do not recall reporting the initial problem with the seam the first time I saw it. The maintenance staff told me what happened after I asked them about it I still did not think it was our fault and that just by having the paper rolling to the bulkhead that this could happen."

Your actions violate the Cabinet for Health and Family Services' Personnel Procedure 2.1, Employee Conduct. Further, your actions constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

**Lack of Good Behavior and Unsatisfactory Performance of Duties.** As reported by Commissioner Steven Veno, you failed to obtain authorization for the repairs of an agency owned vehicle that was damaged in an accident.

Specifically, on August 23, 2013, you were advised by Maintenance Supervisor James Underwood, a temporary employee hired through ADECCO, and Maintenance Supervisor Bias Redding, also a temporary employee hired through ADECCO, of damage to a box truck owned by DIS. Of note, the repairs for this damage were performed by Bob Hook Chevrolet in Louisville, Kentucky, at a cost of \$2,593.75.

On September 3, 2013, the DDS conducted a Leadership Team Meeting and one of the agenda topics was Zero-Based Budget which was initiated by the Social Security Administration in the DDS Administrator's Meeting in the Atlanta Regional Office on August 27-29, 2013. According to a December 9, 2013, email from Policy Advisor Rachel Auxier, this budget directive requires that, in order to drive down costs, "nothing was to be hidden – everything on the table." Ms. Auxier further explained that, "Administrators were advised, "don't ask for it if you can't spend it." and that, "DDS Administrators were advised that there was very little flexibility in the budget."

On September 27, 2013, Ms. Auxier and Internal Policy Analyst IV (IPAIV) Doug LeFevers were contacted by Karen Kilam from the Atlanta Regional Office and directed to provide any additional budget requests that could be purchased using available fiscal year 2013 funding. Ms. Auxier states that, "The Branch Managers and David Stephanski were contacted regarding items that they wanted to purchase using the excess funding. Mr. Stephanski made no mention of the fact that he had an outstanding cost that would be incurred by repair of the bulkhead of the Box Truck. Had this expense been reported, sufficient funds could have been obligated out of the FY13 (Fiscal Year 2013) funds to cover the full costs of the bulkhead repair."

On November 14, 2013, in your telephone conversation with Ms. Johnson at Bob Hook Chevrolet, on your own and without authorization, you assured her that DDS would take care of the additional seam repair costs despite the fact that you had failed to report the damage to your supervisor.

Your action violates the Cabinet for Health and Family Services' Personnel Procedure 2.1, Employee Conduct. Further, your actions constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

**Lack of Good Behavior.** As reported by Commissioner Steven Veno, you provided false and misleading information to your supervisor and to a vendor regarding damage to a state owned vehicle.

On September 25, 2013, you spoke via telephone with the Service Department of Bob Hook Chevrolet regarding having damages to the box truck repaired. You were advised at that time to bring the truck in and they (Bob Hook Chevrolet) would take a look at it. On October 18, 2013, you contacted the body shop to check on the progress of the repair work. You were advised by Ms. J. Johnson in the body shop that the repairs would take another week or two because the work had to be subbed out and that parts had to be ordered. On November 14, 2013, you again telephoned Bob Hook Chevrolet body shop and spoke with Ms. Johnson. You received confirmation that the box truck had been repaired. You advised Ms. Johnson that you were going to send them information as to where to send the invoice for payment. During the recorded conversation, you asked, "Was there a cost for the repair inside the box?" to which the Ms. Johnson responded, "Oh yeah, definitely." She went on to explain that she inspected the truck and pointed out that the truck must have had a load when it was hit to which you responded, "Oh no, the truck was completely parked and there was nothing in it." When Ms. Johnson expressed surprise at this information, you responded, "We're not really sure how that happened. Umm, I drive the truck 90% of the time. I have two other guys that drive the truck. They've each driven it maybe once or twice. Unfortunately they work for me. They say they never saw it before either." The representative stated, "There's no way it came like that from the factory." You responded, "Whatever that was, you know, I don't, because of the way, I don't know, because of the way it was designed, I don't know, I looked at the screws and they were all only like an inch long and they had all pulled out and I thought well that looks like that's really not well put together so I wasn't sure how to take that. So I was kind of leaving up to you all for you all to tell me what happened there. I can't, I, I don't think I could in good conscious say that that was part of the accident because the vehicles, the truck, was parked on the side of the road and a car tried to pull around us and she caught the side of her van into our tailgate and, it, it, I was standing there with my hand on the little device that makes it go up and down and, I mean, it didn't even move my hand off the truck so, you know, she just, it's not, has nothing to do with the accident." You further admitted, "The lift gate I know is going to have to go to this person. Uhh, the other one I can't, I, I would feel very bad if I tried to charge a ninety-two year old lady for something like that, umm, I just don't see how...but yeah, you could see daylight through the bottom through the crack through the bottom of it so....I knew that was something bad I just don't know how it happened. I really have no idea how it happened. Easily something could have rolled around in the back of the truck when they hit a stop sign, a stop light or something. I don't know."

In your December 9, 2013, signed statement you admitted, "I had seen the problem a few weeks before dropping the truck off (at Bob Hook Chevrolet on September 30, 2013) however with all that was going on at the office I had forgotten about it until the truck was wrecked." Your signed statement contradicts the information you provided via telephone to Bob Hook Chevrolet. Further, in Mr. Underwood's and Mr. Redding's signed statements dated December 11, 2013, they attest that you were notified of the damage on August 23, 2013, the day after the accident occurred and therefore you knew or should have known about the damage, including how the damage was inflicted.

On December 10, 2013, you provided another signed statement regarding the damage to the box truck and the seam repair. In your statement, you falsely claimed, "In addition to the original statement sent yesterday, I wanted to add that the problem with the seam was not fully disclosed until Bias (Mr. Redding) and I rode

together on a trip to Louisville. This was in late October or early November. I had asked him with the premise of no repercussion to tell me what happened." However, Mr. Redding and Mr. Underwood have provided signed statements attesting that you were advised on August 23, 2013, of the damage to the box truck from the incident on August 22, 2013.

Your actions violate the Cabinet for Health and Family Services' Personnel Procedure 2.1, Employee Conduct. Further, your actions constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

You previously received the following action(s):


<u>DATE</u>	<u>ACTION</u>	<u>REASON</u>
March 4, 2011	Verbal Warning	Unsatisfactory Performance of Duties

Further incidents in violation of policy may lead to further and more severe disciplinary action, up to and including dismissal.

For your information, the Kentucky Employee Assistance Program (KEAP) is a voluntary and confidential assessment and referral service for state employees. This service may help you with any personal problems that may be affecting your job performance. KEAP can be reached at 1-800-445-5327 or (502) 564-5788.

As you are an employee with status, you may appeal this action to the Personnel Board within sixty (60) days after receipt of this notice, excluding the day of receipt. To appeal, you must complete the attached form and direct it to the address indicated on the form. Copies of KRS 18A.095 and 101 KAR 1:365 concerning appeal and hearing procedures are enclosed.

Sincerely,



Howard J. Klein  
Appointing Authority

HJK:gil

Attachments

cc: Secretary Tim Longmeyer, Personnel Cabinet  
Executive Director Mark Sipek, Personnel Board  
Commissioner Steven Veno, Department for Income Support  
Policy Advisor Rachel Auxier, Disability Determination Services  
Cabinet Personnel File