

**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2025-009**

## PHILLIP THURMAN

**APPELLANT**

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

## **PUBLIC PROTECTION CABINET**

**APPELLEE**

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The Board, at its regular September 2025 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated August 20, 2025, and being duly advised,

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

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 18<sup>th</sup> day of September, 2025.

## KENTUCKY PERSONNEL BOARD

Dr. G. M.

## **GORDON A. ROWE, JR., SECRETARY**

Copies hereof this day emailed and mailed to:

Phillip Thurman  
Hon. Jennifer Wolsing  
Hon. Rosemary Holbrook (Personnel Cabinet)  
Alice Cooper

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
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V.

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
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PUBLIC PROTECTION CABINET

APPELLEE

\* \* \* \* \*

This matter came on for an evidentiary hearing on June 3 and 4, 2025, at 9:30 a.m. EDT each day at 1025 Capital Center Drive, Suite 105, Frankfort, KY, before the Hon. Roland P. Merkel, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Phillip Thurman, was present in person, without legal representation (*pro se*). The Appellee, Public Protection Cabinet, was present by its agency representative, Max Fuller, and represented by the Hon. Jennifer Wolsing, attorney.

This appeal was filed January 23, 2025. The issue is whether the three (3) day suspension of the Appellant, Phillip Thurman, from duty and pay as an Administrative Specialist III in the Public Protection Cabinet, Department of Housing, Buildings and Construction, Licensing Branch, for the period of beginning of business January 14, 2025, through January 16, 2025, was excessive or erroneous or in compliance with KRS 18A.095 and 101 KAR 1:345. The burden of proof was on the Appellee to prove its case by a preponderance of evidence.<sup>1</sup>

At the beginning of the first day of evidentiary hearing the Rule separating witnesses was invoked and employed throughout the course of the proceedings. The parties announced they were ready to proceed and each presented an opening statement.

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<sup>1</sup> As set out in the 02-27-2025 *Interim Order*.

**BACKGROUND**  
**DAY 1: June 3, 2025**

1. **Angela Eldridge** was the first witness called by the Appellee.<sup>2</sup> In November of 2024, she was employed by Chapman Engineering as an Administrative Assistant or Office Clerk (10:14).<sup>3</sup> Her duties include scheduling and dispatching of service calls and obtaining journeyman licenses for employees. (10:25).

2. On November 19, 2024, she spoke by telephone with the Appellant, Phillip Thurman, who was employed by the Public Protection Cabinet, Department of Housing, Buildings and Construction (DHBC) (10:45).

3. Telephone conversations between Eldridge and the Appellant concerning an application for a Journeyman's license for a company employee, Michael Broyles, began prior to November 19, 2024. During those conversations, she had been told there were things she still needed to complete and that Mr. Broyles did not have enough experience at that point for the license. The Appellant advised her that, once Broyles achieved the required amount of experience, Eldridge should submit everything else that was needed to finish the process (12:55).

4. From the end of October (2024) through November 6, Eldridge's attempts to speak directly with the Appellant were unsuccessful. She had called the Appellant every day and could not get a call back. She left a message with an individual in the "front office." (13:20, 14:56). She obtained DHBC Supervisor David Moore's contact information and began to email Moore (13:40). She identified Appellee's Exhibit 1 as a copy of the November 6 through November 19, 2024 email chain in which she participated with the Appellant and Moore. Moore

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<sup>2</sup> By prior agreement of the parties and in compliance with KRS 13B.080(7), Ms. Eldridge's testimony was taken remotely.

<sup>3</sup> As the *Background* testimony of the witnesses is divided between the two days ("Day 1" and "Day 2") citations to the record in this part of the *Background* refers to the video record for Day 1.

emailed the Appellant asking him to contact Eldridge. The Appellant thereafter emailed Eldridge asking her to call him (13:45).

5. Eldridge made telephone contact with the Appellant on November 19, 2024. The Appellant got very upset during the call and talked over her. She told him she was finalizing everything the Appellant had told her to accomplish from past conversations and that she needed the application expedited to secure the license for their employee (14:00). The Appellant “talked over” Eldridge and called her a “liar,” and said that she did not know how to do her job (14:15).

6. Once the conversation had escalated to that point, Eldridge told the Appellant to contact his supervisor who had everything she needed; she was no longer going to contact the Appellant. She then got off the call (14:25).

7. She alleged the Appellant called her “a liar”; he said there was no way to contact a “front office” and there was no voicemail available in which to leave a message (15:30). She had replied asking how had it been possible for her to obtain the supervisor’s name and email address if she did not speak to anyone? The Appellant still called her a liar (15:50). She categorized the Appellant’s tone as “very rude and unprofessional” and he told her she did not know how to follow directions (15:56, 16:10).

8. She testified that conversation was “...very upsetting as I did everything I was asked to do...going by the directions Mr. Thurman gave to me, I followed those to a “T” and then to be told I don’t follow directions and don’t know how to do my job was very upsetting and made me not want to contact that office anymore. (17:05-17:26).

9. Moore emailed Eldridge to advise that from November 19 forward he would be handling her matter (11:45). David Moore finalized everything as requested by Eldridge (16:27).

10. **Megan Howard-Whitt** was the next witness. She has been employed by DHBC since November of 2022 as a Records Custodian and Paralegal Consultant. (20:35). She processes Open Records requests and assists the legal staff with research and drafting. (20:50).

She has a prior employment history in customer service, including employment as a paralegal, part-time pharmacy technician, food service worker, and a gas station attendant. She also worked a front desk while attending college (21:13).

11. She had been at work (DHBC) on November 19, 2024. She normally wears headphones while she works. On November 19, 2024, she overheard a telephone conversation that was loud enough for her to hear through the music in her headphones. It seemed to her to be a very heated discussion (22:55, 23:09). She heard the Appellant tell someone they needed additional documentation. He was very loud, “kind of aggressive,” and it “definitely wasn’t a normal tone you would have on the phone” in an office setting (23:36, 23:50). He was speaking rapidly and in an argumentative manner. She could only hear the Appellant’s part of the conversation. She did not recall him having called anyone a “liar” (24:12, 25:18, 27:40).

12. That day she was asked to write a summary of what it was she witnessed. She identified Appellee’s Exhibit 2 as the November 19, 2024 statement she drafted and emailed to Commissioner Max Fuller that same day (21:50).

13. The next witness was **Molly Smith**. For the past two years, Smith has been employed by DHBC as General Counsel (29:25). She was at work on November 19, 2024 and asked that day to write a summary of her observations of an incident involving the Appellant. (29:54, 30:04).

14. She identified Appellee’s Exhibit 3 as the November 19, 2024 summary she wrote and emailed to Max Fuller (30:37). She had been working at her desk that day when she heard the Appellant getting “louder and louder” while he was on the phone. It distracted Smith, who then paid attention to what he was saying (31:05). She heard the Appellant’s voice become increasingly disrespectful (31:30). She was not the Appellant’s supervisor so she did not intervene. However, she walked out her door and looked at the Appellant hoping he would see

that he was calling attention to himself. He did not see Smith. Smith returned to her desk (31:48).

15. As the Appellant's conversation continued, Smith got up again and walked up and down the aisles hoping to get his attention. She did not know whether the Appellant noticed her. She went back to her desk because there was nothing else she could do. (32:15-32:32).

16. Later that afternoon, she approached Fuller and told him she had overheard the Appellant's conversation, which gave her concern. Fuller said he had already been approached several times about this incident. He asked Smith to write up what she witnessed and send it to him in an email. She did so, again identifying Appellee's Exhibit 3 as that statement (32:35, 32:45).

17. The Appellant's tone on the telephone had been "very disrespectful" and "dismissive" toward whomever he had been talking to. (33:20). Smith admitted there are many times callers to the office are rude to the state employees but, as state employees, the job requires one to remain calm and professional (34:20).

18. **Linda Keeton** offered her testimony. She has been employed by DHBC since September 1, 2022 as a Staff Attorney III. (37:50). The office is located on the first floor of Mayo-Underwood Building, 500 Mero Street, Frankfort, KY (47:55). She had been at work on November 19, 2024 when she overheard the Appellant on a telephone call. (38:40). She was asked to write a summary of her observations. (39:08).

19. She identified Appellee's Exhibit 4 as the statement she wrote that day. (39:45). She overheard the Appellant on a telephone call with someone who had submitted an application. The Appellant stated in the call he had not received all the documents he needed to verify an applicant's experience (40:02). The Appellant said, "we don't have a front office. We have a lobby that is staffed by people who are employees of the owner of the building," and that if "she dropped them off a month ago, we would have them by now." (41:08, 42:00). He told

the caller she either wasn't paying attention, wasn't listening, or wasn't telling the truth about dropping the application off; that she was a "liar" (42:18, 44:20). He told the caller the documents could be resubmitted either by mail or emailed (42:39).

20. The Appellant's tone of voice was normal at the beginning of the call and then grew louder. His voice remained loud during the remainder of the call. His attitude was "unprofessional." "He actually called her a liar at one point." (43:25, 43:42, 43:52).

21. Keeton testified, "We are public servants. People come to us when they need help"; that the Appellant's job is to help someone get what they need to get a license for an HVAC journeyman (44:44). "He was less than helpful at that point." (45:02).

22. The next witness was **Brian Raley**. Since 2019, Raley has been employed by the Public Protection Cabinet, Office of Administrative Services (50:33). He is currently the Executive Director of Administrative Services and oversees human resources and the budget. He also performs other duties relevant to the Cabinet (50:55, 51:03). He is the appointing authority designee (see Hearing Officer Exhibit 1).

23. He identified Appellee's Exhibit 5 as the suspension letter he authored and had delivered to the Appellant on January 13, 2025. His signature appears on page 2 of the letter. It was his decision to issue the three (3) day suspension (51:48, 52:05).

24. He understood the Appellant received a telephone call from a licensee. As that conversation continued, the Appellant became agitated and gave inappropriate responses to the licensee. The Appellant had other avenues available to him instead of the behavior he exhibited: he could have placed the caller on hold or transferred the call to a supervisor (52:26).

25. The Appellant had a disciplinary history prior to the subject incident: a verbal reprimand, a written reprimand, and a one (1) day suspension.(53:18).

26. The verbal reprimand had been issued because the Appellant had caused a disturbance in the office. (56:37). He gave unprofessional responses to a telemarketer who had

called him. He stated to that individual he hoped the telemarketer died in a car wreck on the way home. (56:05).<sup>4</sup>

27. The written reprimand had been issued after the Appellant was very loud and aggressive when he shouted at a supervisor. He told her she was a “liar.” This was an inappropriate outburst for the office environment.

28. Raley approved a one (1) day suspension after the Appellant had not given appropriate responses to a licensee. He had the opportunity to help the licensee but chose a different path.

29. All of the prior disciplinary history was considered by Raley when he determined a three (3) day suspension was appropriate. Such previous attempts at corrective and disciplinary action did not seem to correct the Appellant’s behavior. Raley felt another suspension might give the Appellant the opportunity to reflect and change his behavior. (58:25). He had reviewed comparable disciplinary cases that occurred within PPC. In 2021, an employee in HVAC had been suspended four (4) days for causing an outburst in the office. (59:40).

30. Raley was the sole decision-maker in the three (3) day suspension given to the Appellant. He received some recommendations of the appropriate severity of the discipline from the Agency. The Agency has an “HR liaison” who deals with local HR issues and generally writes a summary or calls Raley with advice. Raley examined that advice and called “legal” to obtain legal advice. He spoke with someone at the Agency to make certain everyone was “on the same page” when it came to the issuance of discipline (1:02:10, 1:02:38).

31. The suspension letter also referenced the Appellant’s 2024 Performance Plan. (1:04:25). He read into evidence the following paragraph from page 2 of the suspension letter (Appellee’s Exhibit 5) (1:07:33):

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<sup>4</sup> This telephone call occurred in the office through Appellant’s personal cellphone.

“As a reminder, the standard “Customer Service” core competency within your 2024 performance plan states that all employees honor “the organization’s commitments to customers by providing helpful, courteous, accessible, responsive, and knowledgeable service and information to external and internal customers.”

The Appellant’s behavior on November 19, 2024, did not fulfill the “Customer Service” requirements (1:08:00); Performance Plans are a part of an employee’s training which sets guidelines to be followed by the employee. (1:05:50).

32. **Diane Roberts** next offered her testimony. Roberts has been employed twenty (20) years with the Division of Plumbing. She is currently an Administrative Supervisor (1:12:28). During November of 2024, she held the position of Administrative Specialist Senior. Her duties under both position titles were to: take care of licensing, examinations, permitting issues and resolutions, and talk to the public on a regular basis. She was at work on November 19, 2024, observed some of the incident involving the Appellant, and was requested to write a summary of her observations. (1:13:10).

33. She identified Appellee’s Exhibit 6 as her written statement of what she had observed on November 19, 2024. Roberts was on the telephone with a customer when she heard the Appellant’s voice grow louder as he spoke with a customer on his telephone. That caused a disruption to the environment in which they worked. (1:14:10). One could tell by the Appellant’s tone that he was frustrated with a customer; his voice volume intensified and he became increasingly harsh. He got very upset (1:14:40). She could hear the Appellant say, “No, you don’t understand”; “I’ve told you what’s necessary to get the activation processed”; “You talk to whoever you need to. I’m sure they’re gonna tell you the same thing.” (1:15:03).

34. She observed the Appellant’s tone of voice as “pretty severe,” which came across as rude and harsh. When a customer is upset, one generally tries to calm that person and help them understand what the regulations and requirements say based on the concerns they raised; tell them you’re trying to help them accomplish their goal. If one is not able to communicate,

then the call should be passed on to a supervisor. (1:15:25, 1:16:10). It did not appear to Roberts that the Appellant took the proper steps in the November 19, 2024 telephone call (1:16:38).

35. After the Appellant hung up, he immediately came to Roberts. He was very distraught and appeared visibly shaken. He wanted to show Roberts the application. He asked Roberts if she knew where David, his direct supervisor, was. The Appellant then reviewed the application with Roberts. (1:16:46).

36. There were no further witnesses for the Appellee and the Appellee closed its case-in-chief. Counsel for the Appellee stated she would agree that any of the Appellant's witnesses could testify remotely. The Appellant stated that his witnesses were not available that day but assured the Hearing Officer he and his two (2) witnesses would be present in-person the following morning. Day 1 of the evidentiary hearing was concluded and testimony from the Appellant and his witnesses would begin the following morning.

**BACKGROUND**  
**DAY 2: June 4, 2025**

37. The first witness called to testify by the Appellant was **Lisa Hulette**. Hulette experienced the same training that the Appellant had in the Licensing Branch. (3:44).<sup>5</sup> She was taught to tell people what they had to present in order to get their license. "If they did not have the information we needed, then we would not issue or renew their license." (3:53). "Our supervisor was very firm, sometimes very rude. We were to do what she told us or she would yell at us." (4:20). "Customers could not tell us what they needed. We had to tell them what we needed from them." (5:07).

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<sup>5</sup> As the *Background* testimony of the witnesses is divided between two days ("Day 1" and "Day 2") citations to the record in this part of the *Background* refers to the video record for Day 2.

38. At one point, the telephone number 573-2002 was the line to the Licensing Branch. Hulette did not know who currently answers that line subsequent to the Branch having been split up. (6:09). However, on November 19, 2024, it was the Licensing Branch that answered that number. It mainly had been answered by Deborah Dyals, whose primary duty was to answer phones. If Dyals was unable to answer, it would roll over to Hulette. (6:35). If Dyals and Hulette were both unable to answer, the call would roll over to other people. (6:58). If no one answered the call, it would go into voicemail. “We all had access to that in-box.” It would also come through our email. A call to that number would not go to the Appellant. (7:20).

39. Neither the Licensing Branch nor the Department of Housing, Buildings and Construction have a “front office.” (7:51).

40. Hulette did not witness the November 19, 2024 telephone call between the Appellant and Eldridge. (9:02).

41. The rule for employees is to remain “very professional” when dealing with customers. (9:38). She was never instructed to raise her voice if she became frustrated with a caller. (9:45).

42. Tina Quire, who had been a supervisor, had retired in August of 2024. She was not employed by the PPC or on the premises where Appellant was stationed on November 19, 2024. (10:30).

43. The next witness for Appellant was **Deborah Dyals**. She testified that employees were instructed to go by the guidelines and tell customers what was needed to acquire a license. (13:00). “One was to instruct customers about the documents that were needed in order for them to receive a license.” (13:50). “If the customer didn’t understand, one was to try to explain as best as we could.” (13:58).

44. “A lot of times one had to be firm.” (14:08). “Sometimes people argued with us.” (14:18). “We were to smooth it over as best as we could; be precise about what was

required for a license.” (14:25). “If that didn’t work, we were to transfer the call to a supervisor.” (14:38). “We did not have a supervisor in November of 2024 as we were in transition.” (14:58).

45. “If a caller got aggravated, we pretty much had to de-escalate the situation.” (15:45). “It is inappropriate to be rude to a caller. Everyone seemed to be professional when dealing with a caller.” (15:55). “Sometimes we’ve been “cussed at” and just have to cut them off on the call.” (16:17).

46. The Appellant, **Phillip Thurman**, testified on his own behalf. Hulette and Dyals are both employees of the Public Protection Cabinet (17:29). During November of 2024, neither one of them worked in the same office as the Appellant. (17:51).

47. The Appellant testified that the telephone number, 573-2002, was a general number that went to the Licensing Branch and not to the Appellant. (18:12). The Appellant did not handle that number’s in-box and has no idea what others may have done with telephone messages and emails that came through that number. (18:35).

48. He denied ever having called anyone a “liar” on the telephone or in person at the office. (19:10). He was taught to be “aggressive” with customers; “they don’t tell you what they need to get a license; you tell them what you need” and “you either get it or they don’t get a license.” (19:19).

49. On the November 19, 2024 telephone call, Eldridge “got loud with me”; “I probably did get loud back at her.” (19:35).

50. “We do not accept an explanation of one’s experience if it is written on the application for licensing. This information has to be in a letter from the Master that they worked under for that company.” The Appellant stated he told Eldridge that the applicant’s experience was one year short. (20:17).

51. The Appellant had spoken on the telephone with Eldridge four (4) or five (5) times, not just on that day. He characterized her demeanor on the phone as aggressive every single time they talked. (20:35). He stated that, up to that point (November 19, 2024), he had never been aggressive with anyone on the telephone. (21:47).

52. He would not have sent the application back as Eldridge stated because applications are sent back only if the person's application had been denied. The application is held up to one (1) year to allow the applicant time to send additional information. (20:58-21:16).

53. He disagreed with his witnesses' (Hulette and Dyals) testimony when they stated "professionalism" is what one needs to have when on the telephone with customers; or that one is not supposed to get loud with customers. He has heard people in licensing get loud "all the time." (24:10, 24:18). He agreed with his witnesses' testimony that one is not to have a negative or argumentative tone with callers. (24:31).

54. The Appellant agreed he was a public servant in his employment position. He has been a public servant since he was sixteen (16) years old. (27:18). Being a public servant means that you try to help people as best as you can, but sometimes people get aggressive. (27:24). There are different ways you have to handle people. "That person just pushed buttons that day." (27:24, 27:40).

55. The Appellant called no other witnesses and closed his presentation-in-chief. The Appellee called no witnesses in rebuttal. The Hearing Officer saw no need for submission of briefs in this case. Each of the parties presented their respective closing arguments, after which the case was submitted to the Hearing Officer for his Recommended Order.

### **FINDINGS OF FACT**

1. Phillip Thurman, the Appellant, is employed by the Public Protection Cabinet, Department of Housing, Buildings and Construction (DHBC), Licensing Branch, as an

Administrative Specialist III with a workstation at 500 Mero Street, Frankfort, Kentucky. (T: Keeton: D1: 47:55). He held this position and was at work on November 19, 2024, when he engaged in a telephone conversation with Angela Eldridge, Administrative Assistant/Officer Clerk for Chapman Engineering. (Appellee's Exhibit 5; T: Eldridge: D1:10:14, 10:45). The Appellant is a classified employee with status.

2. Eldridge submitted to the Licensing Branch, on behalf of employee Michael Broyles, an application for a Journeyman's license. Eldridge and the Appellant engaged in a number of telephone calls prior to November 19, 2024, as the application was incomplete and the subject employee had an insufficient number of hours of experience. (T: Eldridge: D1:12:55).

3. From the end of October 2024 through November 6, 2024, Eldridge made several unsuccessful attempts to make telephone contact with the Appellant. She obtained contact information from someone at the office for David Morris, DHBC Supervisor and began to email him about her inability to contact the Appellant regarding the status of Broyle's application.

There was an email chain between Eldridge and Moore on November 6, 2024 (Appellee's Exhibit 1, pp 2-4). Eldridge set out in detail the difficulties she encountered. Moore emailed a response, requesting that Eldridge "Email me a copy of everything you have and I will contact you for payment once I have everything entered." (Appellee's Exhibit 1, p 2).

4. Subsequently, the Appellant emailed Eldridge asking her to call him. (T: Eldridge: D1: 13:45). Eldridge made telephone contact with the Appellant on November 19, 2024. That call became heated and escalated to the point that Eldridge told the Appellant to contact his supervisor as he had everything he needed. She then got off the call. (T: Eldridge: D1: 14:00, 14:15, 14:25).<sup>6</sup>

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<sup>6</sup> Ms. Eldridge also testified Mr. Moore was the one who finalized the application as she had requested (T: Eldridge: D1: 16:27).

5. The November 19, 2024 telephone conversation caught the attention of several of the Appellant's co-workers:

A. Megan Howard-Whitt, Records Custodian and Paralegal Consultant, heard the Appellant's voice (T: Howard-Whitt: D1: 21:50) during the above described phone conversation. She works on the other side of the cubicle wall from the Appellant (Appellee's Exhibit 2). She wears headphones at work and did so on November 19, 2024, while she listened to music. The Appellant was loud enough for her to hear through the music. The Appellant was very loud and "kind of aggressive," using a tone of voice that was not "normal"; he was argumentative and told the caller they needed additional information. (T: Howard-Whitt: D1: 22:55, 23:09, 23:36, 23:50).

That same day Howard-Whitt was asked to submit a written statement of her observations of the incident. She identified Appellee's Exhibit 2 as the November 19, 2024 statement she wrote and emailed to Commissioner Max Fuller (T: Howard-Whitt: D1: 21:50). The substance of her written statement supported her testimony (Appellee's Exhibit 2).

B. Molly Smith, General Counsel, was at her desk on November 19, 2024, when she heard the Appellant on the telephone getting "louder and louder" (T: Smith: D1: 31:05). The Appellant became increasingly disrespectful to the person on the phone (T: Smith: D1: 31:30).

Later that afternoon, she approached Max Fuller to relate what she had observed. Fuller asked her to write up her observations and send him the statement by email; she did so. Smith identified Appellee's Exhibit 3 as the November 19, 2024 statement she wrote and emailed to Fuller (Appellee's Exhibit 3; T: Smith: D1: 32:35, 32:45). The Appellant's tone of voice on the phone call was "very disrespectful" and dismissive of the caller (T: Smith: D1: 33:20). The substance of her written statement supported her testimony (Appellee's Exhibit 3).

C. Linda Keeton, Staff Attorney III also heard the Appellant's November 19, 2024 telephone conversation with Eldridge. The Appellant told the caller that he had not received all the documents needed to verify the applicant's experience (T: Keeton: D1: 40:02). He told the caller "we don't have a front office" and that, if she dropped off documents a month ago, "we would have them by now" (T: Keeton: D1: 41:08, 42:00). He told the caller she either wasn't paying attention, wasn't listening, or wasn't telling the truth. He called her a "liar" (T: Keeton: D1: 42:18, 44:20).

She identified Appellee's Exhibit 4 as her written statement of observations on November 14, 2024. The substance of her written statement supported her testimony (Appellee's Exhibit 4).

D. Diane Roberts, Administrative Supervisor who, on November 19, 2024, held the position of Administrative Specialist Senior, also observed some of the Appellant's November 19, 2024 telephone conversation with Eldridge (T: Roberts: D1: 1:12:28, 1:13:10). She heard the Appellant get very upset on the telephone. His voice volume intensified and he became increasingly harsh, "pretty severe". His behavior caused a disruption to the work environment (T: Roberts: D1: 1:14:10, 1:14:40, 1:15:25).

When the Appellant ended the phone call, he immediately met with Roberts. To her, the Appellant appeared distraught and visibly shaken. They reviewed the subject application together (T: Roberts: D1: 1:16:46).

She identified Appellee's Exhibit 6 as the statement she wrote on November 19, 2024, and emailed to Max Fuller and David Moore, DHBC Supervisor. The substance of her written statement supported her testimony (Appellee's Exhibit 6).

6. Brian Raley is the Executive Director of Administrative Services for the Public Protection Cabinet, Office of Administrative Services. He oversees human resources, performs other relevant duties and is the appointing authority designee (T: D1: 50:33, 50:55, 51:03,

Hearing Officer Exhibit 1). The matter of Phillip Thurman's November 19, 2024 telephone conversation with a customer was brought to his attention for consideration of disciplinary action.

7. The documentation he reviewed included:

A. A written complaint from Angela Eldridge of Chapman Heating and Cooling. The complaint described the nature and tenor of her conversations with Phillip Thurman regarding a Chapman employee's, Michael Broyles, application for Journeyman's status (attached as Exhibit A to Appellee's Exhibit 5 - the January 13, 2025 letter of suspension);

B. Written statements from DHBC staff, Megan Howard-Whitt, Molly Smith, Diane Roberts and Lyndsay Semones (attached as Exhibit B to Appellee's Exhibit 5 - the January 13, 2025 letter of suspension), which Raley believed supported Eldridge's complaint.

8. Raley also reviewed the Appellant's prior disciplinary and corrective actions in order to assess possible progressive disciplinary action in this matter, including:

A. A verbal reprimand dated February 13, 2024 (attached as Exhibit C to Appellee's Exhibit 5 - the January 13, 2025 letter of suspension). The reprimand was based on a January 29, 2024 telephone call the Appellant had taken at work from a spam caller on his personal telephone. The conversation got heated. The Appellant spoke in a "loud, unprofessional manner" at his workstation and then told the caller he hoped "they died in a car wreck on their way home."<sup>7</sup>

B. A written reprimand dated March 13, 2024 (attached as Exhibit D to Appellee's Exhibit 5 - the January 13, 2025 letter of suspension). This reprimand was based upon a March 6, 2024 conversation Appellant had with his supervisor, Tina Quire. During the

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<sup>7</sup> That incident contradicts Appellant's testimony that up to November 19, 2024 he had never been "aggressive" with anyone on the telephone (T: Thurman: D2: 21:47). He also testified however, that he had been trained at the job to be "aggressive with customers"; that the employee is to tell the customer what is needed, not the other way around; "you either get it or they don't get a license" (T: Thurman: D2: 19:19).

conversation, the Appellant made comments described as “loud” and “aggressive. He yelled, “you’re the worst supervisor I ever had”; “you’re disrespectful”; he called Quire a “liar.” The behavior was cited as having caused “a disruption in the office that was inappropriate and created a hostile work environment” in violation of PPC policy (PPC-001) and provisions of the Employee Handbook.

C. A one (1) day suspension dated May 13, 2024 (attached as Exhibit E to Appellee’s Exhibit 5 - the January 13, 2025 letter of suspension). On April 2, 2024, the Appellant responded to an email inquiry from a representative of Tri-State Roofing and Sheet Metal Co. of West Virginia asking about a possible “eta” on their application status. On May 1, 2024, he responded to his supervisor’s email asking about the status of HVAC apprenticeship applications. Both of the Appellant’s email responses, as well as reported responses to Facebook comments during work hours, were deemed “unprofessional, inappropriate, and constitutes a lack of good behavior and an unsatisfactory performance of your duties.”

9. Raley also reviewed comparable disciplinary cases that occurred within the PPC. In 2021, an employee in HVAC had been suspended four days for causing an outburst in the office (T: Raley: D2: 59:40).

10. Raley also considered how the Appellant’s behavior comported with the “Customer Service” requirements of the Appellant’s 2024 Performance Plan. One element of the Plan cited in the suspension letter was read into evidence at the hearing:

“As a reminder, the standard “Customer Service” core competency within your 2024 performance plan states that all employees honor “the organization’s commitments to customers by providing helpful, courteous, accessible, responsive, and knowledgeable service and information to external and internal customers.” (Appellee’s Exhibit 5, page 2).

11. After consideration of the Appellant’s disciplinary and corrective history and comparable past cases, and conclusion that the Appellant’s behavior did not comport to the 2024 Performance Plan, Raley determined previous corrective and disciplinary actions had not

rectified his behavior. He felt that another suspension might give the Appellant the opportunity to reflect and change his behavior. (T: Raley: D2: 58:25). He considered some recommendations of the measure of severity of discipline from the Agency and consulted with legal personnel (T: Raley: D2: 1:02:10, 1:02:38).

12. Raley, in his sole decision-making authority, decided the matter required issuance of a three (3) day suspension. The January 13, 2025 suspension letter was issued by Raley and delivered to the Appellant.

13. The Appellant timely filed his appeal of the three (3) day suspension with the Kentucky Personnel Board.

14. The testimony of witnesses Megan Howard-Whitt, Molly Smith, Linda Keeton, and Diane Roberts are found to be credible, as their testimony was consistent with previous written statements each gave their employer on the same day of the incident.

15. The testimony of witness Angela Eldridge is found to be credible as it was significantly consistent with her contemporaneous and immediately subsequent email communications (Exhibits) with the Agency.

16. In his testimony, the Appellant, Phillip Thurman, made the following admissions:

A. He was “taught” to be aggressive with customers (T: Thurman: D2: 19:19).

B. On the November 19, 2024 telephone call with Ms. Eldridge, “I probably did get loud back at her.” (T: Thurman: D2: 19:35).

C. He agreed with witness testimony that a person working in DHBC should not have a negative or argumentative tone with callers (T: Thurman: D2: 24:31).

17. The Appellant’s credibility wavered throughout his testimony. The evidence shows some of the Appellant’s testimonial assertions were contradicted by one or more witnesses, specifically his testimony:

A. Having denied ever having called anyone a liar on the telephone or in-person at the office (T: Thurman: D2: 19:10).

B. That up to that point [November 19, 2024], he had never been aggressive with anyone on the telephone (T: Thurman: D2: 21:47) [bracketed information supplied].

C. He disagreed with witness testimony that one needs to have professionalism when one is on the telephone with a customer (T: Thurman: D2: 24:10).

D. He disagreed with witness testimony that one is not supposed to get loud with customers because the people in licensing get loud “all the time” (T: Thurman: D2: 24:18).

18. Brian Raley was a credible witness.

19. Lisa Hulette was a credible witness. However, during her testimony, she admitted she did not witness the November 19, 2024 telephone call between the Appellant and Eldridge (T: Hulette: D2: 9:02). She did state that employees are to remain “very professional” when dealing with customers (T: Hulette: D2: 9:38) and, although she experienced the same training as the Appellant in the Licensing Branch, she was never instructed to raise her voice if she became frustrated with a caller (T: Hulette: D2: 3:44, 9:45).

20. Deborah Dyals was a credible witness. She testified that sometimes employees had to be “firm” with customers; when customers argued, the employee was to try to “smooth it over” as best as they could and de-escalate the situation (T: Dyals: D2: 14:08, 14:25, 15:45).

### **CONCLUSIONS OF LAW**

1. A classified employee with status shall not be suspended except for cause. KRS 18A.095(1). Appointing authorities may discipline employees for lack of good behavior and for the unsatisfactory performance of duties. 101 KAR 1:345, Section 1. A suspension shall not exceed 30 days. 101 KAR 1:345, Section 4(1).

2. The Appellant, Phillip Thurman, was issued a three (3) day suspension from duty

and pay as an Administrative Specialist III in the Public Protection Cabinet, Department of Housing, Buildings and Construction, Licensing Branch, by letter dated January 13, 2025, for the period beginning at the start of business on January 4, 2025, and continuing through January 16, 2025. The notice of discipline was issued and signed by Brian Raley, Public Protection Cabinet Designated Appointing Authority (Appellee's Exhibit 5; Hearing Officer Exhibit 1). That suspension was based on allegations of a lack of good behavior and an unsatisfactory performance of duties (101 KAR 1:345, Section 1).

3. At the time of his suspension, the Appellant was a classified employee with status.

4 The issue is whether the three (3) day suspension of the Appellant was excessive or erroneous or in compliance with KRS 18A.095 and 101 KAR 1:345. The burden of proof was on the Appellee, Public Protection Cabinet, to prove its case by a preponderance of the evidence. KRS 13B.090(7).

5 "Preponderance of evidence" means: "...evidence which as a whole, shows that the facts sought to be proved is more probable than not. With respect to burden of proof in civil actions, means greater weight of evidence, or evidence which is more credible and convincing to the mind." *Black's Law Dictionary, 5<sup>th</sup> Edition*, p. 1064. The ultimate burden of persuasion in all administrative hearings is met by a preponderance of evidence in the record. Failure to meet the burden of proof is grounds for a recommended order from the hearing officer. KRS 13B.090(7).

6. The credibility of the Appellee's witnesses was strong and convincing. There was no doubt that the Appellant's telephone conversation with Angela Eldridge on November 19, 2024, caught the attention of several of the Appellant's co-workers: Megan Howard-Whitt, Molly Smith, Linda Keeton, and Diane Roberts. The co-workers, per request, wrote up their respective observations of the incident on the same day as the incident and emailed the

statements to Commissioner Max Fuller (Appellee's Exhibits 2, 3, 4, and 6). Their testimony at hearing was consistent with their emailed statements.

7. The Appellant, in his own testimony, made several admissions about his behavior on the telephone with Eldridge:

- He was "taught" to be aggressive with customers (T: Thurman: D2: 19:19);
- That when he spoke with Eldridge on November 19, 2024, "I probably did get loud back at her." (T: Thurman: D2: 19:35);
- That a person working in DHBC should not have a negative or argumentative tone with callers (T: Thurman: D2: 24:31).

8. The Appellant's testimony was contradicted by one or more witnesses. Specifically, his claims that:

- *He never called anyone a liar on the telephone or in-person at the office.* This was contradicted by Angela Eldridge and attorney Linda Keeton, as well as the March 13, 2024 written reprimand he received based, in part, on the Appellant having called his supervisor, Tina Quire, a "liar" at a decibel level heard by others in the office that "caused a disruption....that was inappropriate and created a hostile work environment..." (Attachment to Appellee's Exhibit 5).
- *Up to November 19, 2024, he had never been aggressive with anyone on the telephone.* This was contradicted by the testimony of: (1) Angela Eldridge, who stated the Appellant "talked over" her, called her a "liar," told her she did not know how to do her job, and that she did not know how to follow directions; that his

tone of voice through the conversation elevated to a point of being “very rude and unprofessional”. (2) Megan Howard-Whitt who, working in the cubicle next to the Appellant, could hear his “kind of aggressive” tone on the telephone through the music in the headphones she wore at work. (3) Molly Smith, whose work was disrupted hearing the Appellant’s voice grow louder and increasingly “very disrespectful” and “dismissive” toward a person on the phone. (4) Dianne Roberts, whose work was also disrupted by the Appellant’s tone of voice on his telephone conversation. The tone was “pretty severe” and came across as rude and harsh. And while telephone calls from tele-marketers may at times understandably be annoying, being overheard by co-workers while telling such individual he “hoped they died in a car wreck on their way home” certainly constituted past aggressive telephone behavior.

- *One need not display professionalism when on the telephone at work with a customer.* This was not only contradicted by the Appellee’s witnesses, but also by the Appellant’s witnesses (neither of whom had been witness to the November 19, 2024 telephone call): (1) Deborah Dyals: testified sometimes employees had to be “firm” with customers; when customers argued, the employee is to try to “smooth it over” as best as they could and try to de-escalate the situation. (2) Lisa Hullette: testified employees are to remain “very professional” dealing with customers; that she

was never trained to raise her voice if she became frustrated with a caller.

9. Brian Raley, Appellee's Designated Appointing Authority, gave reasonable and proper consideration to matters relevant to the decision to issue disciplinary action and the level of such discipline, by examining witness statements, Policies and Procedures, the Appellant's past disciplinary history and comparing the nature of those incidents with the current incident, past discipline that may have been issued to other similarly situated employees of the Cabinet, and in consulting with his chain of command as well as legal department.

10. The Appellee, Public Protection Cabinet, has shown by a preponderance of the evidence that there was just cause for disciplinary action and that the three (3) day suspension was in compliance with KRS 18A.095 and 101 KAR 1:345, and was neither excessive nor erroneous.

### **RECOMMENDED ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer recommends to the Kentucky Personnel Board that the appeal of **PHILLIP THURMAN V. PUBLIC PROTECTION CABINET, (APPEAL No. 2025-009)** be DISMISSED.

### **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 fifteen (15) 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)

Phillip Thurman  
Recommended Order  
Page 24

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).

**The parties are strongly encouraged to send any exceptions and/or requests for oral argument by email to: [PersonnelBoard@ky.gov](mailto:PersonnelBoard@ky.gov).**

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.

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

ISSUED at the direction of the Hearing Officer Roland P. Merkel this 20<sup>th</sup> day of August, 2025.

**KENTUCKY PERSONNEL BOARD**

  
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**GORDON A. ROWE, JR.  
EXECUTIVE DIRECTOR**

A copy hereof was mailed and emailed to:

Phillip Thurman, Appellant (pro se)  
Hon. Jennifer Wolsing, Attorney for Appellee  
Hon. Rosemary Holbrook, Personnel Cabinet