

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

23300 Castle Street  
Riverside, California 92518  
(951) 782-4140  
Website: [www.fire.ca.gov](http://www.fire.ca.gov)

**PERSONAL AND CONFIDENTIAL  
NOTICE OF ADVERSE ACTION (FORMAL)**

Joseph E. Ekblad  
XXX-XX [REDACTED]  
Civil Service Classification  
California Department of Forestry and Fire Protection (CAL FIRE)  
San Diego Unit  
2249 Jamacha Road  
El Cajon, California 92019

Home Address:

**I****NATURE OF ADVERSE ACTION**

Pursuant to Government Code (G.C.) Section 19574, you are hereby notified that Adverse Action is being taken against you as follows:

You are **demoted** from your position as a **Fire Captain** to the classification of **Fire Fighter II** top step, effective start of business on May 25, 2020 through close of business May 24, 2021.

Effective start of business on May 25, 2021, you will be appointed to the classification of **Fire Apparatus Engineer** top step, for not less than one year.

Upon completion of not less than one year as a Fire Apparatus Engineer, on or after May 25, 2022, you will have **permissive** reinstatement rights to the classification of **Fire Captain** top step.

**II****STATEMENT OF CAUSES**

This Adverse Action is being taken against you for the causes specified in the following subsections of G.C. Section 19572:

- (b) Incompetency
- (c) Inefficiency
- (d) Inexcusable neglect of duty
- (e) Insubordination
- (f) Dishonesty
- (m) Discourteous treatment of the public or other employees
- (o) Willful disobedience
- (t) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the appointing authority or the person's employment.

### III

#### **CURRENT ASSIGNMENT, TRAINING, RELEVANT DUTIES AND RESPONSIBILITIES**

You are employed by the California Department of Forestry and Fire Protection (CAL FIRE) as Fire Captain in the San Diego Unit (MVU). You are currently assigned to Del Luz Fire Station.

You began your career with CAL FIRE on September 8, 2003 as a Fire Fighter I (FFI) in the Butte Unit. You worked in Butte for two fire seasons when you were hired in the San Diego Unit as a FFI working an additional two seasons. You promoted to Fire Fighter II (FFII) on June 18, 2007. You were a FFII for one year and 10 months when you were hired as a Fire Apparatus Engineer (FAE) on April 13, 2009. After approximately five years as an FAE you promoted to your current classification of Fire Captain (FC) on March 31, 2014.

As a Fire Captain your specific duties and responsibilities include, but are not limited to the following:

\*Oversight: Plans, organizes, directs and controls the employees assigned to his/her stations to meet the required objective which he/she has been charged with the authority and responsibility to implement.

\*Training continually to up-grade his/her own skills and abilities. \*Responsible to train Subordinates in skills required to combat emergencies. \*Establish a program of drills for all personnel to maintain proficiency.

\*Facility Maintenance: Responsible to see that all facilities and grounds are maintained in a safe, sanitary and well groomed state at all times. \*Project major and minor capital outlay and replacement of facilities.

\*Fire Prevention: Responsible for issuing burning permits and inspections of Hazard Reduction/Defensible Space. \*Establish an information program with staff influence. \*Have an aggressive education program. \*Investigate all fires to determine fire cause.

\*Fire Control: Responsible to suppress all fires in a safe, skilled and professional manner.  
\*As first-in Company Grade Officer he/she is the responsible incident commander and must establish strategy and tactics for resolving the situation. \*Must implement personnel and equipment to accomplish objective.

\*Equipment Maintenance: Responsible to see that all automotive and fire equipment is maintained according to required schedules and ready to respond to all emergencies.

#### IV

### **STATEMENT OF ACTS OR OMISSIONS**

This Adverse Action is being taken against you for the acts or omissions stated below:

#### **Failure to Identify Signs of Heat Illness**

On December 24, 2012, and March 27, 2010, you completed trainings entitled, "Heat Illness/Injury Policy Updates." On June 13, 2015, you completed a training entitled, "Rhabdomyolysis Awareness." On January 2, 2018, you completed CAL FIRE's, "Focus on Safety: Hydration and Rhabdomyolysis." You did not review or complete CAL FIRE's June 2019, "Focus on Safety," which contained a section on heat illness and was sent to all CAL FIRE employees for review. Each of these trainings informed you about the importance of hydrating, factors regarding heat illness, and how to identify the objective signs of person(s) suffering the effects of heat illness and treatments.

CAL FIRE's Heat Illness Prevention Plan, states in pertinent part:

Supervisors are responsible to ensure employees under their supervision understand departmental policies, procedures and requirements of this plan. Supervisors must be aware of current and expected conditions that may contribute to heat illness or injury (i.e. weather, arduous activity, etc.). Steps shall be taken to ensure appropriate water and shade provision are made, employee accountability and monitoring is established, and a plan/procedure is in place to respond to and care for an employee experiencing a heat related emergency.

Emergency Procedures:

If an employee has any symptoms of heat illness, first -aid procedures should be initiated without delay. Common early signs and symptoms of heat illness included headache, muscle cramps, and *unusual fatigue*. However, progression to more serious illness can be rapid, and can include loss of consciousness, seizures, *mental confusion*, *unusual behavior*, nausea or vomiting, hot dry skin, or unusually profuse sweating.

If the signs or symptoms are indicators of severe heat illness (such as, but not limited to, decreased level of consciousness, *staggering*, vomiting, *disorientation*,

*irrational behavior* or convulsions, the employer must implement emergency response procedures. (emphasis added)

Despite all the training, guidance, and requirements, outlined above, you failed to prevent, identify, and take immediate and appropriate measures to address a heat illness event, which involved your subordinate, FFI Yaroslav Katkov (FFI Katkov).

On July 28, 2019, you reported to work for an overtime shift. During pass down with Fire Captain Gavin Bledsoe (FC Bledsoe), FC Bledsoe told you that the previous day, he along with the crew, had engaged in a physically strenuous task of clearing brush, which resulted in them being a bit, "broke off." During an administrative interview, FC Bledsoe stated you responded to this information with, "Isn't that the point?". The previous day's strenuous activity was the indication that FFI Katkov may have been compromised. Despite this, you decided to take the crew on a hike and also implemented a new standard hike time of 30 minutes for the hike, something the crew had not been held to prior.

On July 28, 2019, you directed your crew, FFI Katkov and FFI Matthew Guerrero (FFI Guerrero), on the training hike. This hike, known as the Lippe Hike, is a 1.45 loop trail, with two prominent elevations gains and is considered moderately difficult. FFI Guerrero stated during an administrative interview that on the morning of July 28, 2019, you informed the crew that the station standard for this hike would be 30 minutes, which was a new standard not imposed on prior hikes.

During the first training hike, you and the crew were wearing full PPE's, web gear, and were each holding a hand tool. During this first hike, FFI Guerrero noted that ¼ mile into the hike, FFI Katkov started to lag behind. He also noted throughout the hike, FFI Katkov needed several breaks, which slowed the hike's pace. The hike was completed in 40 minutes and 40 seconds, which was yet another indication that FFI Katkov was physically exerted.

While walking on the road towards the fire station, FFI Guerrero noticed a car driving down the road and called to you and the FFI Katkov to move to the side of the road to avoid being hit by the car. FFI Katkov did not move out of the way, which required you to yell for him to get out of the road, which he did. His failure to see the car and/or heed the call to move out of the way, was yet another indication he was not doing well and perhaps suffering the effect of confusion due to heat illness, facts you disregarded and/or failed to notice.

At the fire station, you and the crew took a quick 20-minute break. After the break, but before you started the second hike, FFI Guerrero noted that FFI Katkov "...was just breathing fast. And it was kind strange that he kept breathing faster than you know, after 20 minutes, you'd think your breathing would have you -wouldn't be breathing hard still. And he was still kind of breathing hard. Harder than someone should be breathing after a 20-minute break." When asked if you believed FFI Katkov had recovered from the first hike before you started the second hike, you responded, "I don't know." Your lack of knowledge demonstrates you failed to assess your crew, prior to engaging in further strenuous activity.

Yet, despite the strenuous activity the day prior, the failure to meet the station's 30-minute hike time, the noted difficulties FFI Katkov had during this first hike, his failure to move out of a car's way, his lack of recovery following the break as evinced by his hard breathing at the end of the break, and your admitted lack of knowledge regarding his ability to continue, you ordered the crew to go on a second hike. This hike was clearly unnecessary given the clear signals to you that FFI Katkov was altered and not physically ready to begin another strenuous physical activity. As the Fire Captain and an Emergency Medical Technician (EMT), you should have known or assessed the mental/physical state of your crew at this moment, which you admittedly failed to do.

During this second hike, FFI Guerrero noted that it was a "slow start" again. He noted FFI Katkov was going "really slow" and looked "pretty tired." During the first downgrade portion of the hike, he noticed FFI Katkov "was really having trouble going down it." After that downhill portion, FFI Guerrero noted that [FFI Katkov] was looking pretty – pretty out of it." As the hike progressed to the next point, FFI Guerrero observed FFI Katkov "staggering, like just looked really exhausted at that point." In response, you switched the order of the hike, and placed FFI Guerrero behind FFI Katkov, which demonstrates you recognized FFI Katkov was struggling. Instead, of stopping the hike, you put him in the lead, which only added to the pressure for him to continue on with the hike despite his compromised state.

While hiking down a second decline in the hike FFI Guerrero noted, "[FFI Katkov] was – looked like he was really heavy footed – uh – off balance." When asked if FFI Guerrero was concerned at this point, he responded, "I was a little concerned." When confronted with the first steep incline, FFI Guerrero stated that FFI Katkov "started doing something kind of strange." Instead of walking up the steep switchbacks at a steady pace as would be expected FFI Katkov sprinted in quick bursts of speed, then would stop and take a short break. During these wind sprints, FFI Guerrero noted FFI Katkov was "breathing really heavily, with his hands on his waist and kind of bent over." FFI Guerrero directed him to stop these wind sprints, and to walk at a steady pace. Yet, FFI Katkov did not comply. According to FFI Guerrero, FFI Katkov was "ignoring everything [FFI Guerrero] was saying." You also were directing FFI Katkov to stop sprinting and stopping, but he failed to follow your orders.

You took FFI Katkov's hand tool from him because you were concerned that he would injure himself with it, yet not so concerned to stop the hike. You ignored his erratic behavior and his failure to follow direction, which was yet another indicator his mental state was compromise and yet another flag for you to stop the training hike and implement immediate cooling measures, which you failed to do.

Instead, you pushed on. Along a narrow portion of the trail, which you described as a "goat trail," FFI Guerrero began to notice that FFI Katkov was, "really off balance and that's where [FFI Guerrero] started getting really worried at that point." FFI Guerrero noted that FFI Katkov was presenting "disoriented." He observed FFI Katkov "falling into the hillside" and he was swaying with the balance way off. As noted by FFI Guerrero, it was only at this point that it "finally registered with Captain Ekblad, there's something wrong with him."

Yet, despite all of the above, you still continued with the hike, when you should have immediately stopped the hike and began treatment measures.

The hike progressed to yet another incline, which was so steep that it required some hikers to crawl on “all fours,” which FFI Katkov did to cover this portion of the hike. Only after FFI Katkov continued to crawl when he should have returned to his feet, did you finally determine there was an issue, and you stopped the hike. Unfortunately, your failure to take action sooner and mitigate the effects of heat illness, were too late.

FFI Katkov, fell back, and when he went to stand up, he staggered backward, his eyes rolled in the back of his head, he began to shake uncontrollably, and he lost consciousness. FFI Katkov had to be air lifted to the hospital.

Despite extensive efforts to resuscitate him, FFI Katkov died later that day. The coroner’s report listed his cause of death as, “Hyperthermia due to environmental exposure to heat.”

As the ranking company officer in charge of the crew, the safety of your crew is paramount. You failed in this duty when you failed to identify a crew member was in physical and/mental distress, and you failed to implement immediate cooling measures. Further, your actions to continue the hike, even after presented with numerous indications that FFI Katkov was unwell, demonstrates a failure to exercise sound judgment and decision making that is expected of a company officer. Your failures also resulted in the Division of Occupational Safety and Health (OSHA) to issue several citations, which totaled \$80,875 in fines.

#### False Statements During Administrative Interview

At the start of an administrative interview you were directed to answer each question honestly and fully to the best of your ability. When asked, “And you understand question will be asked of you that you must respond to truthfully and to the best of your ability?” You responded, “Yes, I do.” You violated this order when you made the following false statements:

1. When asked if you observed FFI Katkov having any difficulties during the first hike you stated, “Oh no, he was all about it.”
2. When asked if you saw any indications that FFI Katkov was struggling during the first leg of the first hike, you responded, “No.”

In truth, FFI Guerrero stated during an administrative interview, that FFI Katkov lagged behind within the first ¼ mile of the first hike. Further, he reported that throughout the first hike, FFI Katkov needed several breaks, which slowed the hike’s pace, which indicated he was struggling during the hike.

3. When asked if during the break between the first and second hike, if you had the opportunity to evaluate FFI Katkov to make sure he was good for another hike, you responded, “I don’t know why I would need to evaluate him. He – uh – he was not showing anything that would tell me that I needed to reevaluate him. He looked fine. He looked tired. He looked he just went for a hike.”

In truth, FFI Guerrero stated that FFI Katkov after the break, “...was just breathing fast. And it was kind strange that he kept breathing faster than you know, after 20 minutes,

you'd think your breathing would have you - wouldn't be breathing hard still. And he was still kind of breathing hard. Harder than someone should be breathing after a 20-minute break."

4. When asked if during the initial portion of the second hike whether FFI Katkov was struggling, you responded, "Katkov, excuse me, and -uh- he took the lead and by no means was he showing any sign of struggling whatsoever."

In truth, FFI Guerrero described a much different scene on the second hike. He described the first portion of the second hike as a "slow start" and "really slow" and that FFI Katkov looked "pretty tired." He also reported that FFI Katkov "was really having trouble going down it" and "was looking pretty – pretty out of it." And just prior to switching the order of the hike when you placed FFI Katkov in the lead, FFI Guerrero observed FFI Katkov "staggering, like just looked really exhausted at that point."

5. When asked if after the switchbacks and walking along the "goat trail" you observed FFI Katkov having issues with balance, you responded, "...he never stumbled. He did not show signs of dizziness."

In truth, FFI Guerrero described FFI Katkov as "really off balance and that's where [Guerrero] started getting really worried at that point." He also noted FFI Katkov was presenting "disoriented" and that he observed FFI Katkov "falling into the hillside" and he was swaying with his balance way off.

6. When asked what kind of changes you would recommend after looking back on this incident, your initial response was, "I wouldn't have taken a day of overtime." You subsequently stated, "[FFI Katkov] didn't show any signs or symptoms prior to that moment [when he dropped to the floor]. No staggered steps. He was tired. Being tired doesn't account for a medical response."

In truth, as outlined above, there were numerous indicators and opportunities which you failed to observe, or even validate, where earlier intervention on your part may have prevented this tragic event.

Your actions outlined above violated the following CAL FIRE personnel policies and/or forms:

1. 1082, 1412, 1833.2, 1855.5.2, 1855.5.3, 1855.5.4, Heat Illness Prevention Plan.

## V

### **MATERIALS AND DOCUMENTS**

Pursuant to State Personnel Board (SPB) Rule 52.6, a copy of all materials and documents upon which this Adverse Action is based, accompany this Action with a

cover sheet denoting each material/document.

Additionally, pursuant to G.C. Section 19574.1, you, or your designated representative, have the right to inspect any documents in the possession of, or under the control of, this Department which are relevant to this Action or which would constitute "relevant evidence" as defined by Evidence Code Section 210. If you have such a request pursuant to G.C. Section 19574.1, you should contact **Kim Nunley, Staff Services Manager I** at **(559) 243-4103**.

Work performance problems are sometimes characteristic of an outside problem. You are advised that the Department's Employee Assistance Program (EAP) is available to you 24 hours a day, 7 days a week and can be accessed by calling (866) 327-4762 or TDD (800) 327-0801. You may also visit EAP on the web at <http://www.eap.calhr.ca.gov>.

## VI

### **RIGHT TO RESPOND TO APPOINTING POWER (SKELLY HEARING)**

Pursuant to SPB Rule 52.6, you have the right to respond to this Notice of Adverse Action, either in writing or verbally, **prior to May 25, 2020**, the effective date of this Action. If you wish to respond verbally, please contact **Skelly Officer Ray Dampier**, at **(909) 553-1900**, to schedule your meeting so that it may take place **prior to** the effective date, **May 25, 2020**. You have the right to a representative at this meeting; however, at this stage of the proceedings you are not entitled to a formal hearing with examination of witnesses. You are entitled to a reasonable amount of State time to prepare your response to the charges/allegations. If you wish to respond in writing, please submit your response to **Ray Dampier**, at **Southern Region Operations Center, 23300 Castle Street, Riverside, CA 92518**. Your written response should be mailed or hand-delivered to ensure receipt **prior to May 25, 2020**, the effective date.

Whether you choose to respond verbally or in writing, the individual to whom you respond will have the authority to recommend to the appointing power the amendment, modification, or revocation of any or all of the foregoing allegations.

## VII

### **RIGHT OF APPEAL TO THE STATE PERSONNEL BOARD**

Regardless of whether you choose to respond as detailed in **Section VI** above, pursuant to G.C. Section 19575, you may appeal this Action to the SPB. **You, the employee, have thirty (30) calendar days after the effective date of this Notice of Adverse Action to file with the State Personnel Board a written answer (appeal) to the Notice of Adverse Action.** The answer shall be deemed a denial of all of the allegations of the Notice of Adverse Action not expressly admitted and a request for hearing or investigation as provided in this article. With the consent of the SPB, or its authorized representative,

an amended answer may subsequently be filed. If you fail to answer within the time specified, or after answer, withdraw your appeal, the Adverse Action taken by the appointing power shall be final. A copy of your answer and of any amended answer shall promptly be given by the Board to the appointing power.

Your appeal shall be sent to:

The State Personnel Board  
Appeals Division  
801 Capitol Mall, MS #22  
Sacramento, California 95814

You may also file your appeal **in-person** during normal business hours with the SPB which is located at 801 Capitol Mall in Sacramento, California.

Pursuant to G.C. Section 19578, the State Personnel Board, or its authorized representative, shall hold a hearing within a reasonable time. You will be notified of the time and place of the hearing. **You are responsible for notifying the State Personnel Board of any changes in your address that occur after the effective date of this Action.**

### VIII

#### SEPARATE AND DISTINCT RIGHTS

Your right to respond prior to the effective date of this Notice of Adverse Action as detailed in **Section VI** is separate and distinct from your formal State Personnel Board appeal rights as detailed in **Section VII** above. You may exercise both rights as long as you do so within the time limits provided.

  
\_\_\_\_\_  
DAN JOHNSON  
Southern Region Chief

5-6-2020  
\_\_\_\_\_  
DATE