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**STATEMENT FROM DOI REGARDING REINSTATEMENT OF FIRED FERRY WORKER**

On October 13, 2005, Arbitrator Tia Schneider Denenberg reinstated with full back pay and no penalty Staten Island Ferry Mate Steven Lupo, who had been fired by the Department of Transportation in July 2004 for violating DOT's Code of Conduct by neglecting or refusing his duties; departing from an assigned work area and post without a supervisor's authorization; refusing to obey a supervisor's orders; engaging in conduct prejudicial to good order and discipline of DOT; engaging in conduct unbecoming to the City and DOT; and for failing to report an arrest to the DOI Inspector General and to the Office of the DOT Advocate. Lupo's termination was the result of findings of an investigation conducted by DOI that were shared with the DOT in 2004.

DOI's investigation was sparked by a Spring 2004 anonymous letter written by a ferry commuter who was alarmed by ferry crew behavior, particularly on a 3:30 PM ferry to Staten Island. The letter described ferry employees sitting and talking during the entire ferry ride, and in particular, a mate who was always talking to a woman. The letter also expressed concern that, given the October 2003 ferry crash, such behavior would be taking place. Thus, in May and June 2004, DOI investigators took 23 undercover ferry trips and observed on 11 of those trips that Lupo was sitting and talking with other ferry workers or passengers, chatting on his cell phone, and reading the newspaper. On four 3:30 PM trips to Staten Island, Lupo was seen chatting with the same female passenger, and another female passenger on one 2:30 PM trip. Lupo's conversations lasted from several minutes to almost the entire trip. Moreover, on three of the four days that Lupo was seen engaged in this behavior, he did not perform any duties to assist in passenger debarkation. In fact, on one occasion, he escorted the female passenger (from the 3:30 PM trip) off the boat and talked with her for approximately five minutes in the terminal. On another occasion, Lupo and that same female passenger remained seated on the boat, even as other passengers, including the DOI undercover investigator, were made to disembark. In total, Lupo spent 155 minutes idle during runs that entailed a total of 275 minutes.

In her decision, the Arbitrator did not dispute the DOI findings. She wrote, "There is no dispute that [Lupo] was, at various points in the observed runs, sitting, eating, reading a newspaper, and talking to a passenger and to deckhands." The Arbitrator accepted (or did not question) these actions based on the testimony of Lupo's captain, who indicated that he knew about Lupo's conduct and that it was standard and customary – that that was how the Ferry unit did business. That is exactly why DOI undertook this undercover investigation: To help DOT reform its Ferry unit in the wake of the crash in October 2003.

DOI strongly disagrees with this opinion. Furthermore, it is even more surprising that the Arbitrator recommended reinstatement without any kind of penalty for Lupo. When an Arbitrator disregards evidence like that discovered in this case, it severely hampers DOT's ability to refashion its Ferry Division and divest itself of chronic slackers.

*DOI is one of the oldest law-enforcement agencies in the country. The agency investigates and refers for prosecution City employees and contractors engaged in corrupt or fraudulent activities or unethical conduct. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City.*

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