STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Carl Lynch,

Appellant,

v.

Case Nos. 2016-WHB-06-0121
2016-INV-06-0122

Department of Public Safety,

Appellee,

ORDER

These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

After a thorough examination of the entirety of the records, including a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that case number 16-WHB-06-0121 is **DISMISSED**, in accordance with O.A.C. 124-9-05 and case number 16-INV-06-0122 is **DISMISSED** for lack of a justiciable issue.

Casey - Aye
Tillery - Aye
McGregor - Aye

Terry L. Casey, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes (the original/a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, October 26, 2016.

Clerk

NOTE: *Please see the reverse side of this Order* ***or*** *the attachment to this Order for information regarding your appeal rights.*

NOTICE

Where applicable, this Order may be appealed under the provisions of Chapters 124 and 119 of Ohio Revised Code. An original written Notice of Appeal or a copy of your Notice of Appeal setting forth the Order appealed from and the grounds of appeal must be filed with this Board fifteen (15) days after the mailing of this Notice. Additionally, an original written Notice of Appeal or a copy of your Notice of Appeal must be filed with the appropriate court within fifteen (15) days after the mailing of this Notice. At the time of filing the Notice of Appeal or copy of your Notice of Appeal with this Board, the party appealing must provide a security deposit to the Board. In accordance with administrative rule 124-15-08 of the Ohio Administrative Code, the amount of deposit is based on the length of the digital recording of your hearing and the costs incurred by the Board in certifying your case to court. The length of the digital recording, the costs incurred, the corresponding amount of deposit required, and the final date that the Notice of Appeal or copy of your Notice of Appeal and the Deposit will be accepted by this Board are listed at the bottom of this Notice. If a full or partial transcript of the digital recording has been prepared prior to the filing of an appeal, the costs of a copy of that certified transcript will be accepted by this Board; transcript costs will be listed at the bottom of this Notice.

IF YOU ELECT TO APPEAL THIS BOARD'S FINAL ORDER, THEN YOU MUST PROVIDE THE DEPOSIT LISTED BELOW AT THE TIME YOU FILE YOUR NOTICE OF APPEAL OR COPY OF YOUR NOTICE OF APPEAL WITH THIS BOARD. Please note that the law provides that you have fifteen (15) calendar days from the mailing of the final Board Order to file your Notice of Appeal or copy of your Notice of Appeal both with this Board and with the Court of Common Pleas. The fifteenth day is the date that appears at the bottom of this Notice.

METHOD OF PAYMENT: for all entities other than State agencies, payment of the deposit must be by money order, certified check, or cashier's check. State agencies are required to use the Intra-State Transfer Voucher (ISTV) system (OBM Form 7205), which must be processed prior to the filing of an appeal. To initiate an ISTV, State agencies may call the State Personnel Board of Review Fiscal Office at 614/466-7046.

IF YOU MAINTAIN YOU CANNOT AFFORD TO PAY THE DEPOSIT LISTED BELOW, THEN YOU MUST COMPLETE THE BOARD'S "AFFIDAVIT OF INDIGENCE" FORM. YOU CAN OBTAIN THAT FORM BY CALLING 614/466-7046. THE COMPLETED AFFIDAVIT MUST BE RECEIVED BY THIS BOARD ON OR BEFORE November 2, 2016. You will be notified in writing of the Board's determination. If the Board determines you are indigent, you will be relieved of the responsibility to pay the deposit to the Board. However, if the Board determines you are NOT indigent, then YOU MUST FILE YOUR NOTICE OF APPEAL OR A COPY OF YOUR NOTICE OF APPEAL AND PAY THE DEPOSIT BY THE DATE LISTED BELOW.

If you have any questions regarding this notice, please contact the Board at 614/466-7046.

Case Number: 2016-WHB-06-0121, 0122

Transcript Costs: N/A Administrative Costs: $25.00

Total Deposit Required: * $25.00

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: November 10, 2016

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Carl Lynch	Case Nos. 16-WHB-06-0121 16-INV-06-0122
Appellant	
v.	August 2, 2016
Department of Public Safety	
Appellee	Jeannette E. Gunn *Administrative Law Judge*

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

The above referenced appeals come on pursuant to a review of the information contained in the record. In each of the above referenced matters, Appellant was ordered to provide the Board with supplemental information to establish a *prima facie* case.

A Procedural Order and Questionnaire in SPBR Case No. 16-WHB-06-0121 was issued by the Board on June 30, 2016. Appellant was ordered to provide the Board with his response no later than July 18, 2016; he was advised that failure to complete and return the questionnaire by the due date would result in the Board taking appropriate action.

With regard to SPBR Case No. 16-INV-06-0122, Appellant was notified by correspondence dated June 29, 2016, that his initial request for investigation had failed to allege with particularity any violation of civil service law to which Appellee might be required to respond. Appellant was instructed to provide the Board with allegations specifically identifying the requirements of civil service law which he believed to have been violated by Appellee; he was advised that failure to do so by July 18, 2016, would result in the dismissal of his appeal.

To date, Appellant has failed to respond to either the Board's June 30, 2016, Procedural Order and Questionnaire, or the Board's June 29, 2016, correspondence.

Pursuant to O.A.C. 124-9-05, this Board has the authority to order evidence taken in the form of questionnaires at any time prior to hearing. O.A.C. 124-9-05(C) provides that the failure to respond to a questionnaire may result in dismissal of a

case. As Appellant has failed to respond as ordered by this Board to its June 30, 2016, Procedural Order and Questionnaire, I respectfully **RECOMMEND** that SPBR Case No. 16-WHB-06-0121 be **DISMISSED**, in accordance with O.A.C. 124-9-05.

O.A.C. 124-7-05(A) provides that investigations shall be conducted by an exchange of correspondence between the Board and the parties, with the Board's decision based on information received within the response time allowed. Based on the information contained in the record, I find that Appellant has failed to establish a cause of action over which this Board may exercise investigatory jurisdiction. Therefore, I respectfully **RECOMMEND** that SPBR Case No. 16-INV-06-0122, be **DISMISSED** for lack of justiciable issue.

Jeannette E. Gunn
Administrative Law Judge