BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

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| ANNE INMAN,<br><br>Appellant,<br><br>v.<br><br>WESTERN WASHINGTON UNIVERSITY,<br><br>Respondent. | Case No. DISM-00-0047<br><br>FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF THE BOARD |

## I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and GERALD L. MORGEN, Vice Chair. The hearing was held on April 25 and 26, 2001, in the Conference Room at the Office of the Attorney General in Bellingham, Washington. LEANA D. LAMB, Member, did not participate in the hearing or in the decision in this matter.

1.2 **Appearances.** Appellant Anne Inman was present and was represented by Christopher Coker, Attorney at Law of Parr and Younglove, P.L.L.C. Wendy K. Bohlke, Assistant Attorney General represented Respondent Western Washington University.

1.3 **Nature of Appeal.** This is an appeal from the disciplinary sanction of dismissal for neglect of duty, malfeasance and gross misconduct. Respondent alleges that Appellant improperly handled University funds, failed to notify her supervisor regarding a missing deposit, and improperly executed her fiduciary role.

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1.4 **Citations Discussed.** WAC 358-30-170; Baker v. Dep't of Corrections, PAB No. D82-084 (1983); McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987); Parramore v. Dep't of Social & Health Services, PAB No. D94-135 (1995), aff'd, Thurston Co. Super. Ct. No. 95-2-03516-4; Rainwater v. School for the Deaf, PAB No. D89-004 (1989); Holladay v. Dep't of Veteran's Affairs, PAB No. D91-084 (1992).

## II. FINDINGS OF FACT

2.1 Appellant Anne Inman was an Accounting Supervisor and a permanent employee of Respondent Western Washington University (WWU). Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 251 and 358 WAC. Appellant filed a timely appeal of her dismissal on June 26, 2000.

2.2 Appellant worked for the WWU for fifteen years. She had a good work history with no record of prior disciplinary actions. Appellant began her employment as Fiscal Technician in the WWU Controllers office. She promoted to an Accounting Supervisor in 1993. Appellant worked in the Housing cashier's office of University Residences.

2.3 Kurt Willis, Associate Director, University Residences, was Appellant's direct supervisor. Appellant and Mr. Willis had a difficult working relationship. The University was aware of the problems between Mr. Willis and Appellant and hired a facilitator to assist them with improving their communication skills.

2.4 At the time of the actions giving rise to this appeal, Appellant supervised two classified staff and one part-time student employee: Dorothy Lee, Fiscal Technician; Mandy Reitman, Fiscal Technician; and Jeff Santman, Student Accounting Assistant. Appellant and her subordinates were responsible for crediting resident hall council deposits and sales proceeds to the hall's accounts.

2.5 Resident hall councils each have two accounts, a checking account through the US West Bank and a general fund account through WWU's Banner system. When a treasurer brings a deposit to the Housing cashiers, the treasurer indicates on the outside of the deposit envelope which account he/she wishes to use. Housing cashiers know how to handle each type of deposit.

2.6 When a hall treasurer makes a deposit, the treasurer can either bring the deposit into the Housing cashier office during regular business hours or place the deposit in Housing's secured night deposit drop slot after business hours. After-hours deposits are removed and processed the following workday morning by the Housing cashiers. At the end of the day, the funds are taken to the Plaza Cashier where the funds are verified and transported to the bank. The halls' US West Bank accounts are reconciled monthly using Housing's Quicken accounting software and source documents such as deposit slips and bank statements.

*Incident one (RB/RG ski trip deposit):*

2.7 On January 11, 2000, Ian Allen, the Ridgeway Beta/Gamma (RB/RG) treasurer brought $5,590 to the Housing cashier office for deposit. The funds were from ski trip deposits. The deposit consisted of $4,165 in checks and $1,425 in cash. Jeff Santman and Dorothy Lee counted the funds and placed them in four sealed envelopes with "For direct deposit US Bank" written on the outside. Ms. Lee credibly testified that the cash portion of the deposit was bulky.

2.8 The envelopes were placed in the cash drawer for deposit at the end of the day. A copy of the deposit slip was filed in the hall's account file in the Housing office.

2.9 At the end of the day, Appellant took all of the day's deposits, including the four RB/RG envelopes, to the Plaza Cashier office. Appellant did not deposit the RB/RG funds, but she did deposit the rest of the day's receipts.

2.10 Appellant stated that when she arrived at the Plaza Cashier office, the cashier told her to bring the RB/RG deposit back the following day. We do not find this testimony credible. Plaza Cashier staff credibly testified that the safe in their office remains open until Housing's deposits arrive and that the Plaza cashiers would never turn away a deposit from Housing. Furthermore, the Plaza Cashier office has a secured night depository for after hour's deposits in which Appellant could have placed the deposit.

2.11 After Appellant left the Plaza Cashier, she transferred the RB/RG funds from the deposit bag to the side pocket in a briefcase and placed the briefcase in the trunk of her car.

2.12 One of Jeff Santman's responsibilities was to meet with hall treasurers monthly to reconcile their accounts from the Quicken system. Prior to these meetings, Mr. Santman compared bank statements and deposit slips to the information in Quicken. He took the information from the bank statement and entered it into Quicken. If Housing had a deposit slip but the bank statement did not show a like deposit, then no entry was made into Quicken. Mr. Santman was responsible for the monthly reconciliations for over one year. The bank statements for the prior month's activities usually arrived at Housing mid-month.

2.13 On January 13, 2000, Mr. Santman accessed Quicken to reconcile the November and December hall council activities. At this time, he noted that the funds from the RB/RG ski trip deposit had not been posted to Quicken.

2.14 On February 9, 2000, Mr. Santman accessed Quicken to reconcile the January hall council activities. He noted that the RB/RG funds had been posted to Quicken, yet the bank statement did not show that the bank had received the deposits. He also noted that Appellant's initials were on the deposit slips indicating that she had posted the deposits to Quicken.

2.15 Mr. Santman mentioned the missing funds to Dorothy Lee. She was not overly concerned and thought that the deposits would show up on the next month's statement.

2.16 When Mr. Santman mentioned the missing RB/RG funds to Appellant, she told him that she was going to take over the reconciliation task for the hall accounts because she had not done this task in a while and because she wanted to test a new version of Quicken. As a result, Appellant took the bank statements home with her. Appellant did not complete the reconciliation task. On or around February 25, 2000, Appellant returned the unfinished hall reconciliation materials to Mr. Santman.

2.17 In mid-February, Mr. Santman asked Appellant if he should check with the bank about the missing deposit. Appellant stated that she thought the money might have been deposited into RB/RG's general fund account in the Banner system and that she would look into the situation.

2.18 On March 9, 2000, Mr. Santman opened the RB/RG bank statement for February. He again noted that the $5,590 ski trip deposit had not appeared. Mr. Santman expressed his concerns to Ms. Lee and she agreed that he should talk to Mr. Willis about the missing deposit.

2.19 After talking to Mr. Santman, Mr. Willis talked to Ms. Lee and with the Plaza Cashier staff. The following morning, he contacted University Police and Joe Melland, Manager of Student Fiscal Services, and an investigation was initiated.

2.20 On March 14, 2000, Appellant brought the briefcase and deposit to Ms. Lee. Appellant told Ms. Lee that she forgot the money was in the trunk of her car. The money in the briefcase was not in the deposit envelopes that Ms. Lee and Mr. Santman had put it in on January 11. Ms. Lee credibly testified that the cash in the briefcase was less bulky than the cash she recalled being in the deposit. Ms. Lee counted the funds and gave them to a cashier for deposit into the RB/RG general fund account.

2.21 Appellant alleges that she forgot about the funds in her trunk. We do not find this explanation credible. Appellant was a professional accountant and it is highly unlikely that she would simply forget about a deposit of this amount. Furthermore, even if she had forgotten the funds, her staff asked her about the missing deposit which undoubtedly would have caused her to remember that she had the deposit in her trunk.

*Incident 2 (Fairhaven T-shirt sale):*

2.22 On Friday, February 11, 2000, Sara Schultz, Fairhaven Hall treasurer, placed a deposit of $885 in T-shirt sales proceeds into the Housing night deposit drop slot. The deposit consisted of $420 in cash and $465 in checks. She also deposited a $50 change fund in a separate envelope.

2.23 The following Monday morning, Ms. Schultz called Mr. Santman to confirm that the deposit had been received. Mr. Santman had not seen the deposit so he asked Ms. Lee if she had seen the deposit. Ms. Lee said that there were no deposits in the safe when she opened it that morning.

2.24 When Appellant arrived at work later in the morning, she said that she had the deposit in her office. Appellant had come into the office on Saturday afternoon, found the safe unsecured,

removed the deposit from the safe, and placed the deposit in her desk drawer. Appellant then locked her desk drawer, locked her office and left.

2.25 The $50 change fund was placed back in the cashier drawer but the $885 in sale proceeds was never accounted for.

2.26 On February 17, 2000, Ms. Schultz placed a deposit of $15 cash in T-shirt sales proceeds into the Housing night deposit drop slot. On March 31, Mr. Santman and Ms. Lee determined that the deposit was missing.

*Incident 3 (SHADO Valentine-O-Grams and T-shirt sales):*

2.27 On Friday, February 11, Anna Peck, the hall treasurer for Sigma, Highland, Alpha, Delta, Omega (SHADO), placed a $118 deposit in the Housing night drop slot. The deposit consisted of a $90 change fund and $28 in proceeds from the sale of Valentine-O-Grams. On Monday, February 14, Ms. Peck came into the Housing office to drop off $20.25 in coins from the sale.

2.28 The total proceeds for the sale was $48.25. The $90 change fund was not proceeds and was to be returned to the cashier.

2.29 On February 24, 2000, Mr. Santman met with Ms. Peck to reconcile the SHADO account. They found that Appellant had posted the $118 as income into SHADO's Quicken account. The deposit did not appear on the bank statement. They discussed the $118 with Appellant and they all agreed that the posting in Quicken needed to be reversed.

2.30 Mr. Santman and Ms. Peck thought that the deposit might show up on the following month's bank statement, but it never did.

2.31 On March 3, 2000, Ms. Peck placed a deposit into Housing's night deposit drop slot. The deposit was from T-shirt sales and consisted of $334 in checks and $87 in cash and was in an envelope that indicated it was to be deposited into SHADO's general fund.

2.32 Appellant entered the office on Sunday, March 5, 2000.

2.33 On Monday, March 6, 2000, Ms. Peck came into the Housing cashier office to drop off the $70 change fund from the sale. She also got a receipt for the March 3 deposit. Ms. Peck questioned the date on the receipt because it was Sunday, March 5. The cashier attempted to locate the deposit but could not find it. Appellant then said that she already had it.

2.34 On or around April 17, 2000, Mr. Santman met with Ms. Peck to reconcile the SHADO accounts. At the time, the $48.24 deposited on February 11, 2000 and the $87 cash portion of the $421 deposited on March 3, 2000 were still missing.

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*Incident 4 (Higginson deposit slip):*

2.35 On March 8, 2000, the Higginson Hall treasurer, placed a deposit into Housing's night deposit drop slot. The deposit was from T-shirt sales. The treasurer's copy of the deposit slip showed that the deposit consisted of $198 in checks, $1 in coins and $76 in cash.

2.36 Sometime between March 8 and 11, 2000, Housing's copy of the deposit slip placed in the drop slot with the funds was altered to show a total deposit of $199. The cash portion of the deposit had been crossed off the deposit slip.

2.37 On or around April 17, 2000, Mr. Santman met with the Higgenson Hall treasurer to reconcile the hall accounts. At that time, the $76 cash portion of the $275 deposited on March 8, 2000 was still missing.

2.38 After reviewing the results of the investigation, Mr. Willis determined that:

- In regard to the RB/RG funds, Appellant knew the funds were missing, made inappropriate and fiscally improper entries into Quicken to show that the deposit had been made when it had not, and failed to notify him of the missing funds.
- In regard to the Fairhaven deposits, Appellant entered the office, accessed the safe, moved the funds to her work area when there was no need to do so, and was the last person to in possession of the missing funds. The investigation was inconclusive regarding the $15 deposit.
- In regard to the SHADO funds, Appellant made inappropriate and fiscally improper entries into Quicken to show that the deposit had been made when it had not, entered the office, accessed the safe, moved the funds to her work area when there was no need to do so, and was the last person to in possession of the missing funds.
- In regard to the Higgenson deposit, there was no evidence to link Appellant to the altered deposit slip.

2.39 Mr. Willis felt that Appellant was involved in each of these incidents and that she had behaved in a manner that was inconsistent with her responsibilities as an accounting supervisor. By memo dated May 4, 2000, to Kay Rich, Director of University Residences, Mr. Willis recommended that Appellant be dismissed.

2.40 By letter dated May 5, 2000, Ms. Rich informed Dr. Eileen Coughlin, Vice President of Student Affairs, that Appellant had improperly handled university funds, failed to notify her supervisor regarding the missing deposit, and improperly executed her fiduciary role. Ms. Rich

stated that Appellant's actions constituted gross negligence and were indicative of fraud and recommended that she be terminated immediately.

2.41 Dr. Coughlin notified Appellant of the recommendation that she be terminated and provided her an opportunity to respond to the charges. Appellant responded in writing by letter dated May 18, 2000. Dr. Coughlin considered all of the information provided to her. By letter dated May 5, 2000, Dr. Coughlin notified Appellant of her immediate termination for neglect of duty, malfeasance, and gross misconduct.

## III. ARGUMENTS OF THE PARTIES

3.1 Respondent argues that Appellant is not credible, failed to follow proper accounting procedures, and used poor judgment. Respondent contends that the Plaza Cashier office did not tell Appellant not to deposit the RB/RG ski trip funds and that even if the cashier had, Appellant should have placed the deposit in the Plaza Cashier night deposit box or that she should have placed the deposit in the Housing cashier office safe. Respondent also contends that Appellant failed to follow prudent accounting procedures when she removed the money from the original envelops prior to returning it to the University and alleges that the money she finally returned was less bulky than the original deposit. Respondent contends that on two occasions Appellant removed money from the safe when she should not have removed it. Respondent argues that even if she found the safe open when she went into the office on a weekend, she should have left the money in the safe and locked it rather than removing the money to her desk. Furthermore, Respondent contends that after Appellant removed the money from the safe, the money never showed up again. Respondent also contends that Appellant made improper entries into Quicken. Respondent argues that Appellant failed to follow proper cash handling procedures by leaving money in her trunk, removing the money from the original deposit envelopes, and removing money from the safe; failed to follow accounting procedures by making improper entries into Quicken; failed to report the missing funds

or to take action to resolve the problem; exhibited poor judgment; and failed to act as a good role model for her subordinates. Respondent contends that termination is the appropriate sanction.

3.2 Appellant admits she made a mistake and inadvertently took the ski trip deposit, placed it in her trunk, forgot about it, and then removed it from the original envelopes to count it and make sure it was all there before returning it to the University. Appellant concedes that she should be disciplined, but asserts that termination is too severe. Appellant argues that she has a fifteen year unblemished employment history with the University and that she was dealing with some serious personal issues during this time. Appellant argues that her entries into Quicken showed that she was not trying to cover up her actions, but rather, created a paper trail that establishes her involvement in the events and lends credibility to her testimony. Appellant further argues that it was not improper to make entries into Quicken using the deposit slips prior to receiving the bank statements. Appellant also argues that when she found the open safe containing deposits, she removed and secured the deposits but left the safe open because Dorothy Lee had difficulty opening the safe. Appellant agues that no one was overly concerned about the deposits not appearing on the monthly bank statements because it was not unusual for deposits to show up a month or so after they were made. Appellant contends that she did not report the missing deposits because, at that time, they were not considered missing. Appellant further contends that it was not improper for her to remove the reconciliation duty from a subordinate. Appellant asserts that a common sense approach to this case does not support the discipline and asks the Board to modify the sanction to something less than dismissal.

## IV. CONCLUSIONS OF LAW

4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter herein.

4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting the charges upon which the action was initiated by proving by a preponderance of the credible evidence that Appellant committed the offenses set forth in the disciplinary letter and that the sanction was appropriate under the facts and circumstances. WAC 358-30-170; Baker v. Dep't of Corrections, PAB No. D82-084 (1983).

4.3 Neglect of duty is established when it is shown that an employee has a duty to his or her employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987).

4.4 Respondent has met its burden of proof that Appellant neglected her duties as an Accounting Supervisor when she inappropriately placed funds in the trunk of her car and removed funds from the safe on the weekends.

4.5 Malfeasance is the commission of an unlawful act, the act of doing what one ought not to do, or the performance of an action that ought not to be done, that affects, interrupts or interferes with the performance of an official duty. Parramore v. Dep't of Social & Health Services, PAB No. D94-135 (1995), aff'd, Thurston Co. Super. Ct. No. 95-2-03516-4.

4.6 Respondent has met its burden of proof that Appellant's action of placing funds in the trunk of her car constitutes malfeasance.

4.7 Gross misconduct is flagrant misbehavior which adversely affects the agency's ability to carry out its functions. Rainwater v. School for the Deaf, PAB No. D89-004 (1989).

4.8 Respondent has met its burden of proof that Appellant actions rose to the level of gross misconduct. Appellant knowingly placed funds in the trunk of her car which adversely affected the RB/RG hall account and the department's ability to reconcile those accounts.

4.9 In determining whether a sanction imposed is appropriate, consideration must be given to the facts and circumstances including the seriousness and circumstances of the offense. The penalty should not be disturbed unless it is too severe. The sanction imposed should be sufficient to prevent recurrence, to deter others from similar misconduct, and to maintain the integrity of the program. An action does not necessarily fail if one charge is not sustained unless the entire action depends on the unproven charge. Holladay v. Dep't of Veteran's Affairs, PAB No. D91-084 (1992).

4.10 In spite of Appellant's unblemished employment history, given the fact that Appellant's fundamental duty was to be accountable for funds, her misconduct rises to a level of egregiousness that warrants dismissal. The appeal should be denied.

## V. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Anne Inman is denied.

DATED this _____ day of _____, 2001.

WASHINGTON STATE PERSONNEL APPEALS BOARD

_____
Walter T. Hubbard, Chair

_____
Gerald L. Morgen, Vice Chair

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