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BEFORE THE CIVIL SERVICE COMMISSION
FOR THE CITY OF SEATTLE

2	VALERIEN LANDICHO,)	
3	Appellant)	CSC No. 12-01-012
4)	
5	vs)	FINDINGS, CONCLUSIONS AND DECISION
6	HUMAN SERVICES DEPARTMENT,)	
7	CITY OF SEATTLE)	
8	Respondent)	

9 **BACKGROUND:**

10 Valerien Landicho was employed by the City of Seattle as a Principal Accountant
11 from 2000 until 2013. In that capacity, he supervised staff and was responsible for
12 reviewing the accuracy of their timesheets. From 2007 to 2012, Mr. Landicho reviewed
13 and approved hours on the timesheets of Ms. Sukhi Roberts.

14 The City of Seattle Human Services Department (“HSD”) conducted an
15 investigation of Ms. Roberts’ timesheets and Mr. Landicho’s review and approval of
16 those timesheets and concluded that Mr. Landicho’s conduct did not meet workplace
17 expectations, and violated payroll policies as well as City of Seattle Personnel Rules.

18 Mr. Landicho received a Disciplinary Determination Memo for a two week
19 suspension on December 4, 2012; and, filed a Notice of Appeal with the Seattle Civil
20 Service Commission (“the Commission”) on December 5, 2012.

21 In his Notice of Appeal, Mr. Landicho explained that the two week disciplinary
22 suspension was excessive; and, that he was appealing the HSD’s allegations that: (1) he
23 did not demonstrate the highest standards of ethical behavior and honesty in his work
24 on behalf of the City; and, that (2) he did not refrain from falsifying records maintained
25 by HSD.

26 Mr. Landicho believes that the two week suspension, which he served without pay
27 from December 10, 2012 to December 21, 2012, was excessive. He asks the
28 Commission to reverse the disciplinary suspension and remove it from his employment
29 record; and, to compensate him for the two weeks of lost wages.

30 **ISSUE PRESENTED:**

31 Was there “Justifiable Cause” for the two week disciplinary suspension?

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BURDEN OF PROOF:

1. HSD has the burden of proving, by a preponderance of the evidence, that there was Justifiable Cause to suspend Mr. Landicho for two weeks without pay. (Civil Service Rule 5.31).
2. Personnel Rule 1.3.2 (D) includes a five part standard for Justifiable Cause. HSD must prove that:
 - a. Mr. Landicho was informed of or reasonably should have known the consequences of his conduct;
 - b. The rule, policy or procedure that Mr. Landicho violated is reasonably related to HSD’s safe and efficient operations;
 - c. A fair and objective investigation produced evidence of Mr. Landicho’s violation of the rule, policy or procedure;
 - d. The rule, policy or procedure, and penalties for their violation, are applied consistently; and that,
 - e. The suspension is reasonably related to the seriousness of the Mr. Landicho’s conduct and his previous disciplinary history.
3. Personnel Rule 1.3.3.A defines “Major Disciplinary Offenses.” The definition includes a non-exclusive list of offenses where a verbal warning or written reprimand will not be appropriate in the absence of mitigating circumstances, and includes:
 7. Falsifying or destroying the business records of the employer at any time or place without authorization; or
 15. A knowing or intentional violation of the City Code of Ethics or other ordinance, the Personnel Rules, or the employing unit’s adopted policies, procedures and workplace expectations; or,
 18. Other offenses of parallel gravity.
4. Personnel Rule 1.3.3.B provides guidance for determining the level of discipline to impose, based on their relevance to the employee’s conduct.
5. The factors that should be considered include:
 - a. The employee’s employment history, including any previously imposed disciplinary action.
 - b. The extent of injury, damage or disruption caused by the employee’s offense.
 - c. The employee’s intent; and,
 - d. Whether the offense constituted a breach of fiduciary responsibility or of the public trust.

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FINDINGS OF FACT

1. Mr. Landicho has been employed as a Principal Accountant with the City of Seattle since July, 2000 and supervised 2.5 staff, including Ms. Sukhi Roberts, Accounting Technician II. (Exhibit 3, Multiple Witness Testimony).
2. As a Supervisor, Mr. Landicho was responsible for reviewing the accuracy of his subordinates' time sheets, as a part of the payroll process. (Exhibits 5 & 6, Multiple Witnesses' Testimony)
3. In April 2007, Ms. Roberts, was having back and shoulder problems and, on the advice of her doctor, requested Wednesdays off to rest her back. (Exhibit 12, Multiple Witnesses' Testimony).
4. HSD employees recorded their work hours and time on HSD's own payroll system, the "Labor Collection System ("LCS") from 2007 to November, 2011. The LCS was built with payroll rules specific to HSD, to minimize the amount of employee errors that deal that may arise from pay codes, fund sources and hours. Other City Departments do not have the same restrictions (Exhibit 13 & 14, Multiple Witnesses' Testimony).
5. The City's normal hours of operation are from 8:00 am to 5:00 pm, each day from Monday through Friday, except on days designated as City Holidays. HSD could also establish work schedules that vary from the statutory schedule as long as business operations continue as required by municipal law. (Personnel Rule 9.1.3).
6. The HSD Payroll Reference Guide states that, in 2007, HSD offered two types of alternative schedule: a 4/40, where employees work four 10-hour days each week with every Monday or every Friday off; or a 9/80, where employees works eight 9-hour days and one 8-hour day with every other Monday and Friday off. (Exhibit 19)
7. Alternative work schedules may be implemented as work management alternatives when it benefits the City of Seattle by improving employee recruitment and retention or otherwise suits the City's business needs. (Personnel Rule 9.1.4)
8. If HSD determines that a position's work can be effectively carried out and accounted for under certain conditions, the department or its designated

- 1 representative may approve an employee's request for a flex time work
2 schedule with designated core work hours, or a compressed workweek schedule
3 that may include a 4/10 workweek, or a 9/80 workweek. HSD's decision
4 regarding the establishment of an alternative work schedule is final and not
5 subject to appeal. (Personnel Rule 9.1.5.A, B and D).
6
- 7 9. Unless HSD approves otherwise, an employee who is appointed to a position
8 with an alternative schedule shall either work his or her assigned hours or
9 submit a request and/or relevant documentation supporting his or her use of
10 available paid leave as appropriate. (Personnel Rule 9.1.6.A)
11
- 12 10. HSD may terminate alternative work schedules when the schedule ceases to
13 meet its business needs; and, the decision regarding revocation of an alternative
14 work schedule is final and not subject to appeal. (Personnel Rule 9.1.10)
15
- 16 11. In 2007, HSD's Reasonable Accommodation Policy and Procedure document
17 ("RAPPP) described the policy and procedures for providing reasonable
18 accommodation to persons with permanent or temporary disabilities in the
19 employment application process and in the workplace. (Exhibit 1).
20
- 21 12. The RAPP Policy was that "The Department will provide reasonable
22 accommodation to employees: (1) with disabilities, unless to do so would
23 constitute hardship on the Department or a direct threat to the health and safety
24 of the employee or others; and, (2) upon request, during the application and
25 interviewing process, unless to do so would impose undue hardship on the
26 Department. (Exhibit 1, Section 4)
27
- 28 13. The RAPP states that "reasonable accommodations may include, but are not
29 limited to modifying employment applications or testing procedures, obtaining
30 or modifying equipment or devices; reasonable job restructuring; **modifying**
31 **work schedules**; providing alternate or light duty assignments; retraining; or re-
32 assignment to a vacant position for which employee is qualified"(emphasis
33 added). (Exhibit 1, Section 4.3)
34
- 35 14. The RAPP explains that HSD will "evaluate requests for accommodations on a
36 case by case basis; and that specific accommodations provided need not be the
37 specific accommodation requested by the employee; however, it must
38 effectively accommodate the employee's disability." (Exhibit 1, Section 4.4).
39
- 40 15. Accommodation Procedures are defined in the RAPP. It states that "If an
41 employee with a physical or mental impairment needs an accommodation, s/he

- 1 must notify either his/her direct supervisor or the Department's Accommodation
2 Coordinator. A manager or supervisor receiving such requests must notify the
3 Accommodations Coordinator within two (2) business days. If the request is
4 received directly by the Human Resources Office, the employee's supervisor
5 will be notified and his /her assistance will be requested." (Exhibit 1, Section
6 5.1).
- 7
- 8 16. Accommodations Procedures require the Accommodations Coordinator to
9 schedule a meeting with the employee and the employee's supervisor to explain
10 the accommodation process and to review the Accommodation Packet."
11 (Exhibit 1, Section 5.2)
- 12
- 13 17. The employee requesting an accommodation will be asked to sign an
14 "Authorization for Release of Confidential Information" form enabling the
15 Department to request and receive relevant information with respect to the
16 employee's medical condition; or, the employee will be responsible for securing
17 the necessary medical documentation from his/her health care provider. (Exhibit
18 1, Section 5.6)
- 19
- 20 18. Upon receipt of the medical information from the employee's health care
21 provider the Accommodations Coordinator determines whether the employee's
22 medical condition constitutes a disability under the legal parameters specified in
23 the Washington State Law Against Discrimination. (Exhibit 1, Section 5.10).
- 24
- 25 19. If the employee's medical condition constitutes a disability, the
26 Accommodations Coordinator must engage in an interactive process with the
27 supervisor and employee to identify an appropriate, effective and sufficient
28 accommodation for the employee. Reasonable accommodations may include,
29 but are not limited to "modifications to the work schedule". (Exhibit 1, Section
30 5.11.4).
- 31
- 32 20. Once the accommodation is identified and approved, the Department must
33 provide an accommodation that is effective and sufficient to enable the
34 employee to perform the essential functions of his/her job; and, if the employee
35 refuses a reasonable accommodation that is sufficient to meet his/her job related
36 needs, HSD will have satisfied its obligation to accommodate the employee.
37 (Exhibit 1, Section 5.11.12).
- 38
- 39 21. If the employee's medical condition/impairment requires a reduction in hours,
40 the employer's work schedule will be modified accordingly as an

1 accommodation and the employee's work hours will be covered by available
2 Family Medical Leave. (Exhibit 1, Section 5.11.13)

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4 22. In the reasonable accommodation process, it was the responsibility of the
5 employee, Ms. Roberts, to at least: (a) notify the direct supervisor or the
6 Accommodations Coordinator to request a reasonable accommodation when the
7 employee's medical condition/impairment is interfering with his/her ability to
8 perform the essential functions of the job; (b) provide medical documentation
9 that to whether the employee's condition constitutes a disability requiring
10 accommodation; (c) cooperate with the Department in efforts to determine
11 whether the employee's medical condition constitutes a disability needing
12 accommodation; (d) work with the direct supervisor and the Accommodations
13 Coordinator to complete a Job Analysis; (e) attend an employer-paid
14 independent medical evaluation, if directed to do so; (f) adhere to the medical
15 restrictions established by the health care provider; (g) follow the Department's
16 established policies and procedures as communicated in the workplace
17 expectations and be responsible for meeting job performance standards; (h)
18 notify the direct supervisor or the Accommodations Coordinator of any changes
19 in their medical condition that would impact the accommodation; and (i)
20 cooperate with efforts made by HSD to continue gainful employment, if s/he
21 cannot perform the essential functions of the job. (Exhibit 1, Section 7).

22
23 23. In the reasonable accommodation process, it was the responsibility of the
24 supervisor, Mr. Landicho, to at least: (a) notify the Accommodations
25 Coordinator of an employee's request for an accommodation when an employee
26 is exhibiting difficulty performing the essential functions of the job; and,
27 provide such notification no later than two working days from having received
28 such a request or from making the observation; (b) maintain confidentiality and
29 refrain from discussing the employee's request and/or medical condition
30 outside of the accommodation process; (c) forward all documents regarding the
31 employee's medical condition or impairment to the Accommodations
32 Coordinator and not retain the documents in the supervisor's file; (d) document
33 any calls or communication with the employee or family member relating to the
34 absence from work due to a medical condition/impairment or medically based
35 difficulties the employee is experiencing in performing job duties; and,
36 immediately forward all documentation to the Accommodations Coordinator;
37 (e) work with the Accommodations Coordinator, the employee and other
38 appropriate experts/advisors in designing and implementing reasonable
39 accommodations; (f) **refrain from making any accommodation without the**
40 **direction of the Accommodations Coordinator**; (g) monitor the employee's

1 ability to meet job performance standards; (h) notify the Accommodations
2 Coordinator of changes in the employee's performance; **and (i) adhere to**
3 **HSD's Reasonable Accommodation policy and procedure** (emphasis added).
4 (Exhibit 1, Section 8)
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6 24. In April, 2007, following receipt of a proposal from Ms. Roberts, Mr. Landicho
7 sent an email to Alan Painter which included Ms. Roberts' request and proposal
8 to take one day off during the week to rest, as an accommodation for back and
9 shoulder problems she had experienced for the previous year. Mr. Landicho
10 commented that: "Sukhi has had back and shoulder problems for the past year
11 and by having a day off during the week, it should give her some rest.
12 Workwise, G/L should be able to handle her Wednesday absence. I think it
13 makes sense to let her take the time off to get healthy now than suffer
14 permanent longer absences (complete bed-rest), if her back & shoulder
15 problems persist". (Exhibits 2 and 12).
16

17 25. Mr. Painter responded by asking Mr. Vandicho whether he had contacted
18 Meenakshi regarding the change as a medical accommodation; and whether the
19 request was a medical accommodation connected to work. He also expressed
20 interest in finding a way to make it work for Ms. Roberts. Mr. Landicho's
21 immediate supervisor, Barbara Lewy, was copied on this email exchange and,
22 therefore, was aware of this issue. (Exhibit 12)
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24 26. , Mr. Landicho reported the request to the Accommodations Coordinator,
25 Meenakshi Vendantham, who initiated a meeting with Ms. Roberts and Mr.
26 Vandicho to explain the accommodations process. On April 12, 2007, Ms.
27 Roberts declined the offer to meet with Ms. Vendantham and explained that she
28 did not want to pursue any accommodation at that time (Exhibits 2 and 12)
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30 27. Ms. Roberts wanted to work 9 hour days Mondays, Tuesdays, Thursdays and
31 Fridays and use 4 hours of vacation time on Wednesdays., instead of working a
32 normal 8 hour a day, 5 days a week schedule. She wanted Wednesday off due to
33 a medical condition and the schedule also allowed her to use vacation leave that
34 might otherwise be lost. (Exhibit 22, Multiple Witnesses' Testimony).
35

36 28. In 2007, all regular and probationary employees of HSD used the Labor
37 Collection System ("LCS") time keeping system to complete their electronic
38 time-sheets. (Multiple Witnesses' Testimony, Exhibit 5)
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40 29. .Pay Periods were two weeks in length, beginning on Wednesday and running
41 through the second Tuesday thereafter. (Exhibit 5)

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- 30. The Pay Administration Policy of HSD stated, in part, that: ***You must always reflect actual hours worked on your time-sheet.*** No hours can be kept “off the books” to accommodate informal time-off arrangements. This is a violation of the FLSA ***and supervisors authorizing such informal arrangements will be subject to disciplinary action*** (emphasis added).(Exhibit 5)

- 31. Ms. Roberts found a way to create her schedule in LCS by entering into the timesheet that she worked eight hours on Monday, Tuesday, Thursday and Friday and four hours on Wednesday. She also reported four hours of vacation leave on Wednesday. This was untrue. Ms. Roberts actually worked four nine hour days on Monday, Tuesday, Thursday and Friday, and was off on Wednesday. (Exhibit 21, Multiple Witnesses’ Testimony).

- 32. Mr. Landicho insisted that Ms. Roberts get her method of time entry approved by higher management because there was no accommodation paperwork or an Alternative Work Schedule Agreement authorized by HR. (Exhibit 12, Multiple Witnesses’ Testimony).

- 33. Mr. Landicho notified Human Resources (“HR”) of Ms. Roberts’ request to be absent every Wednesday and. HR invited Ms. Roberts’ to meet and discuss the City’s protocols, including, Family Medical Leave, for obtaining protected leave for her medical conditions. (Exhibit 12, Multiple Witnesses’ Testimony).

- 34. Ms. Roberts declined to meet with HR because she misunderstood that the term “accommodation” meant a different chair, keyboard or other office furniture/equipment; which would not help relieve her back and shoulder pain. She also learned that HSD alternative work schedules only allow an employee to have an option of Monday and Friday off, so she did not follow through with the request for accommodation. (Multiple Witnesses’ Testimony).

- 35. Ms. Roberts checked with her immediate supervisor, Ms. Landicho and his Manager, Ms. Barbara Lewy about her plan to misrepresent her work schedule in LCS; and, was told by Ms. Lewy that the proposal was approved by Sara Levin, then Deputy Director of HSD. Ms. Levin denied giving approval for Ms. Roberts’ time entries to Ms. Lewy (Multiple Witnesses’ Testimony).

- 36. Ms. Roberts worked 9 hours four days a week and took Wednesdays off from 2007 to 2012. (Exhibit 21, Multiple Witnesses’ Testimony,)

- 1 37. Although the 9 hour work days created a potential overtime liability, Ms.
2 Roberts was not interested in receiving overtime pay, did not claim overtime
3 compensation for the extra hour of work that she performed, and, did not intend
4 to create an overtime liability for the City through her Union's Collective
5 Bargaining Agreement. (Exhibits 21 & 41, Multiple Witnesses' Testimony)
6
- 7 38. The LCS accepted Ms. Roberts' time-inputs which Mr. Landicho approved
8 from 2007-2012 and which Ms. Lewy allowed from 2007 until she retired in
9 2011. (Exhibit 21, Witness Testimony)
10
- 11 39. Mr. Landicho knew that his approval Ms. Roberts' time sheets violated City and
12 HSD policies and that an approved Alternative Work Schedule Agreement did
13 not exist with HR. However, he believed that it way was the right thing to do.
14 (Multiple Witnesses' Testimony).
15
- 16 40. When Ms. Lewy retired from HSD in March, 2011, she was replaced by Sarah
17 Levin. Mr. Landicho believed that Ms. Levin had approved of Ms. Roberts'
18 time entries and, did not mention to her that Ms. Roberts was not working on
19 Wednesdays. Ms. Levin also approved Ms. Roberts' time sheets on at least two
20 occasions. (Exhibit 24, Multiple Witnesses' Testimony)
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- 22 41. Mr. Landicho knew or should have known and understood the importance of
23 accurately representing time on the timesheets; yet, he continued to approve Ms.
24 Roberts timesheets after receiving the HRIS training in August, 2011. (Exhibits
25 4 & 10, Multiple Witnesses' Testimony).
26
- 27 42. The portion of the HRIS User Guide that addresses the responsibility and
28 accountability of Supervisors states, in relevant part that "In addition to
29 accurately reporting your own time, ***supervisors are responsible for ensuring***
30 ***that employees reporting to them have accurately completed their timesheets***
31 ***prior to submittal.*** If errors are discovered, please connect with the employee to
32 discuss and correct the timesheet. Patterns of inaccurate reporting should be
33 addressed. Supervisors are accountable for the accuracy of timesheets submitted
34 (emphasis added). (Exhibit 6).
35
- 36 43. In November 2011, HSD switched from LCS to the citywide HRIS time
37 keeping system, known as "Web Timesheets". Ms. Roberts and Mr. Landicho
38 were trained in the use of HRIS, but she continued to report and he continued to
39 approve the misrepresentations of her days and hours worked in Web
40 Timesheets. (Exhibits 4 & 6, Multiple Witnesses' Testimony)

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44. In the late summer of 2012, Ms. Levin noticed that Ms. Roberts was out every Wednesday and spoke to Mr. Landicho about Ms. Roberts' work schedule. Mr. Landicho described Ms. Roberts' work schedule and explained that it was a medical accommodation. (Exhibits 21, Levin Testimony).
45. HR contacted Ms. Roberts and informed her about the accommodation process and also offered Family Medical Leave. Ms. Roberts declined both and changed her schedule to a standard work week. (Exhibits 21, 22 & 23 Multiple Witnesses' Testimony).
46. HSD Workplace Expectations for all HSD employees states: "In working toward the Department's mission and in fulfilling its roles, all employees are expected to conduct the Department's business and represent the City of Seattle to the citizens of Seattle in a manner that embodies integrity and cultivates the public's trust in City government. (Exhibit 8).
47. HSD Workplace Expectations also encourage effective and productive performance of duties, including, without limitation: (a) being "proactive" instead of "reactive", addressing work issues or concerns before they escalate into problems; (b) making decisions within the scope of your responsibilities, following through as required and reporting appropriate information to other coworkers involved and higher supervisory personnel; and, (c) requesting the resources and guidance you need to do your job effectively and correctly". (Exhibit 8)
48. HSD Workplace Expectations require all employees to "Conduct Yourself With Integrity, Honesty & Professionalism", including compliance with HSD, city, state and federal laws and regulations. This involves (a) "demonstrating the highest standards of ethical behavior and honesty" in all work done on behalf of the City; (b) complying with the City's Code of Ethics; (c) being willing to set standards; model integrity and professional conduct; (d) offering suggestions for performance improvements in your work unit and Department through your supervisor or other established means; (e) being willing to take feedback, acknowledge/learn from your mistakes and amend your decisions, if ineffective; and **(f) refraining from falsifying any type of records maintained by the Department of Human Services.**" (emphasis added) (Exhibit 8).
49. HSD Workplace Expectations include taking responsibility for promoting open, honest and clear communications that will help identify and resolve problems

- 1 and create clear expectations before concerns or issues arise; including being
2 clear with subordinates, co-workers and supervisors. (Exhibit 8).
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- 4 50. In November, 2012, Ms. Levin recommended a two week disciplinary
5 Suspension. for Val Landicho for failing to follow HSD policies and adhere to
6 HSD workplace expectations from 2007-2012. (Exhibit 10, Levin Testimony).
7
- 8 51. According to the Disciplinary Recommendation Memorandum dated
9 November 26, 2012, Mr. Vandicho: (a) failed to demonstrate the highest
10 standards of ethical behavior and honesty in all of his work on behalf of the
11 city; (b) did not refrain from falsifying any type of record maintained by HSD;
12 (c) did not report appropriate information to higher supervisory personnel; and,
13 (d) committed a Major Disciplinary Offense by intentionally violating HSD's
14 adopted policies, procedures and workplace expectations .(Exhibit 10, Levin
15 Testimony).
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- 17 52. Mr. Landicho signed off on and approved Ms. Roberts' timesheets every two
18 weeks. The LCS required both the employee and the supervisor to certify the
19 following – "I have accurately recorded my hours of work and/or my leave
20 time, if applicable." (Exhibit 10, Multiple Witnesses' Testimony,).
21
- 22 53. Mr. Landicho knew or should have known that employee timesheets represent
23 an important business record for HSD and that approving records which
24 contained misrepresentations was a violation of HSD workplace expectations
25 and City policies. (Multiple Witnesses Testimony, Exhibit 10)
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- 27 54. In early 2012, when HSD switched to the HRIS timesheet all HSD employees,
28 including Ms. Roberts and Mr. Landicho received training on how to use the
29 system. (Exhibit 4)
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- 31 55. When Ms. Lewy retired in 2011 and Ms. Levin became his direct supervisor,
32 Ms. Landicho did not tell her how Ms. Roberts was filling out her timesheets
33 and he continued to approve them. (Exhibit 10) Levin Testimony).
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- 35 56. Ms. Levin based her recommendation of a two week suspension on Mr.
36 Landicho's critical role with regard to HSD's finances as well as being a long
37 time supervisor, responsible for following the HSD policies and setting a good
38 example for others in HSD. (Exhibit 10, Levin Testimony).
39
- 40 57. Mr. Landicho was provided an opportunity to respond to Ms. Levin's
41 recommendations and present other information to be considered in a

1 Laudermill meeting on November 27, 2012. He asked that the following be
2 taken into consideration: (a) that he did not make decisions alone and was
3 following orders by his previous manager, Ms. Lewy; who had consulted HR;
4 (b) Ms. Lewy informed Ms. Roberts that the timekeeping system had been
5 approved; (c) other employees make mistakes on their timesheets and are
6 allowed to correct them without penalty; and, that (d) he has had seven
7 supervisors during his employment with HSD and the rules are constantly
8 changing. (Exhibit 11, Multiple Witnesses' Testimony).

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10 58. Mr. Landicho did not accept responsibility for approving Ms. Roberts'
11 timesheets in violation of HSD rules, policies and workplace expectations
12 during the Laudermill process. (Exhibit 11).

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14 59. HSD concluded that Mr. Landicho did not provide leadership and supervision
15 to Ms. Roberts, consistent with HSD policies and procedures by continuing to
16 approve her timesheets for five years, from 2007 to 2012, knowing that her
17 timesheets misrepresented the actual hours that she worked. (Exhibit 11,
18 Multiple Witnesses' Testimony).

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20 60. As a Principal Accountant in HSD's financial unit, Mr. Landicho plays a critical
21 role and has a higher level of accountability and integrity to accurately represent
22 HSD on fiscal matters. (Exhibit 11).

23
24 61. The "Workplace Expectations For HSD Employees" requires all employees to:

- 25
26 a. conduct the Department's business and representing the City of Seattle
27 in a manner that embodies integrity and cultivates the public's trust in
28 City Government by performing all duties productively and efficiently,
29 with integrity, honesty and professionalism, in compliance with
30 HSD/city/state /federal laws and regulations;
- 31
32 b. demonstrate the highest standards of ethical behavior and honesty in all
33 work on behalf of the City; and to comply with the City's Code of Ethics
34 by refraining from falsifying any type of records maintained by the
35 Department of Human Services;
- 36
37 c. take responsibility for promoting open, honest and clear
38 communications that will help identify and resolve problems and create
39 clear expectations before concerns or issues arise; and, to be clear with
40 subordinates, co-workers and supervisors, so that all understand what
41 each is responsible for doing and how each is expected to assist or
42 coordinate work with others;

1 (Exhibit 16)

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3 62. HSD prepared a chart of comparable discipline, which includes: (a) a supervisor
4 of an employee who violated the City's ethics code, who was terminated for his
5 failure to provide supervisory oversight and lack of fiduciary stewardship; and,
6 (b) a supervisor who was demoted in 2012 for failing to supervise an employee
7 who had falsified records, including timesheets. (Exhibit 9)

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9 63. HSD concluded that, although Mr. Landicho's actions were serious and
10 constituted a major disciplinary offense, they did not rise to the level of severity
11 as the two comparable situations described above. (Exhibit 11, Multiple
12 Witnesses' Testimony)

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14 64. The mitigating factors offered by Mr. Landicho were considered by HSD when
15 it decided to suspend him for two weeks. (Exhibits 10 & 11).

16
17 65. Mr. Landicho relied, to his detriment, on Ms. Lewy's authorization and believed
18 that his belief that HR had been consulted by her. He did not personally verify
19 that Ms. Lewy had done this and did notify Ms. Levin in 2011 how Ms. Roberts
20 was entering her time, when she replaced Ms. Lewy as their supervisor.
21 (Exhibits 10 & 11, Multiple Witnesses' Testimony)

22
23 66. The City's Progressive Discipline policy is clear. In order of increasing severity,
24 the disciplinary actions which a supervisor may recommend and the appointing
25 authority may approve for misconduct or poor work performance include:

26 a. A verbal warning, which shall be accompanied by a notation in the
27 employee's personnel file. A verbal warning is appropriate only
28 when the supervisor determines that there are sufficient mitigating
29 factors related to the employee's conduct or performance that a
30 written reprimand, suspension, demotion or discharge is
31 unwarranted.

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33 b. A written reprimand, a copy of which must be placed in the
34 employee's personnel file. A written reprimand is appropriate only
35 when the supervisor determines that there are sufficient mitigating
36 factors related to the employee's conduct or performance that
37 suspension, demotion or discharge is unwarranted.

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39 c. Suspension up to 30 days. Salaried employees shall be suspended in
40 minimum increments of one workweek, except that suspension for
41 major safety violations may be imposed for at least 1 workday but
42 less than 1 workweek.
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1 d. Demotion: The appointing authority may demote an employee to a
2 vacant position in a lower-paying classification or title in the same
3 employing unit for disciplinary reasons. The employee must meet
4 the minimum qualifications for the lower-paying classification or
5 title. An employee who is demoted shall lose
6 all rights to the higher class.
7

8 e. Discharge.
9 (Exhibit 27)
10

11 67. The disciplinary action imposed depends upon the seriousness of the
12 employee's offense and such other considerations as the appointing authority or
13 designated management representative deems relevant. In the absence of
14 mitigating circumstances, a verbal warning or a written reprimand shall not be
15 given for a major disciplinary offense. (Exhibit 27)
16

17 68. Mr. Landicho received a coaching memo from Sara Levin in May 2012, which
18 discussed, in relevant part, her higher expectations being placed on him to
19 model and provide leadership for the employees that he supervised. (Exhibit 25)
20

21 69. Any finding herein that are deemed to be a conclusion is adopted as such.
22

23 **CONCLUSIONS:**

24
25 A. The evidence strongly supports a conclusion that Mr. Landicho knew or
26 reasonably should have known and understood the possible consequences of
27 his conduct.
28

29 B. The applicable Rules, Policies or Procedures that Mr. Landicho violated are
30 clearly and reasonably related to HSD's safe and efficient operations.
31

32 C. A fair and objective investigation, followed by a Loudermill hearing which
33 provided an opportunity for Mr. Landicho to respond to his Supervisor's
34 initial findings, resulted in overwhelming evidence of Mr. Landicho's
35 violation of HSD and City rules, policies and procedures.
36

37 D. The comparables provided by HSD are not clearly on point to evaluate
38 consistency, but do support a conclusion that the penalty for Mr. Landicho's
39 violation of those rules, policies and procedures was appropriate.
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41 E. Based on Mr. Landicho's job as a Principal Accountant and his role as a
42 Supervisor of other employees in HSD, the two week suspension is

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reasonably related to the seriousness of his misconduct and his previous disciplinary history.

F. Any conclusion herein that is deemed to be a finding is adopted as such.

DECISION

For the reasons set forth above, the undersigned Hearing Officer finds and concludes that Justifiable Cause does exist to support the two week suspension of Val Landicho. The appeal is DENIED and Mr. Landicho's two week suspension is UPHeld.

Dated: June 26, 2013

Seattle Civil Service Commission

CHRISTOPHER E. MATHEWS

Christopher E. Mathews, Hearing Examiner

Within ten (10) days following the date of the Hearing officer's findings of fact, conclusions of law, and order, any party may file with the Commission a petition for review of all or any part of the examiner's findings of fact, conclusions of law, and order, or of any other part of the record or proceedings, including rulings upon all motions or objections. Parties must clearly state the reason for review.