



Office of the Washington State Auditor
Pat McCarthy

Fraud Investigation Report

Office of Administrative Hearings

For the investigation period July 1, 2017 through June 30, 2023

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**Office of the Washington State Auditor
Pat McCarthy**

July 1, 2024

Chief Administrative Law Judge
Office of Administrative Hearings
Olympia, Washington

Report on Fraud Investigation

Attached is the official report on a misappropriation at the Office of Administrative Hearings. On June 10, 2023, the Agency working with the Office of the Washington State Auditor identified a potential loss of public funds under the provisions of state law (RCW 43.09.185).

This report contains the results of our investigation of a Management Analyst's unallowable activities at the Agency from June 14, 2019, through May 11, 2023. The purpose of our investigation was to determine if a misappropriation had occurred.

Our investigation was performed under the authority of state law (RCW 43.09.290) and included procedures we considered necessary under the circumstances.

If you are a member of the media and have questions about this report, please contact Director of Communications Kathleen Cooper at (564) 999-0800. Otherwise, please contact Special Investigations Program Manager Stephanie Sullivan at (360) 688-0858.

Pat McCarthy, State Auditor
Olympia, WA

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FRAUD INVESTIGATION REPORT

Investigation Summary

In May 2023, during a regularly scheduled audit of the Office of Administrative Hearings (Agency), we selected certain credit card charges paid to a consulting business and requested supporting records for review. The Agency’s Chief Financial Officer (CFO) at the time did not recognize the business and could not find any supporting records for the charges. The CFO, working with our Office, found the business on the Washington State Department of Revenue’s business registry. The business was registered in the name of a Management Analyst who worked in the Agency’s fiscal department.

We opened an investigation and determined a credit card misappropriation occurred at the Agency, totaling \$878,115 between June 14, 2019, and May 11, 2023. We also identified questionable amounts of \$4,933 between July 20, 2017, and March 13, 2018. “Questionable” means we were unable to determine whether the expenditures were for legitimate business purposes. The table below shows the misappropriated and questionable amounts by year.

Summary of results		
Year	Misappropriation	Questionable
2017	\$0	\$2,946
2018	\$0	\$1,987
2019	\$51,903	\$0
2020	\$251,485	\$0
2021	\$96,574	\$0
2022	\$293,792	\$0
2023	\$184,361	\$0
TOTAL	\$878,115	\$4,933

The Agency filed a report on July 12, 2023, with the Olympia Police Department, which is investigating this case. We will refer this case to the Thurston County Prosecuting Attorney’s Office.

Background and Investigation Results

Based in Thurston County, the Office of Administrative Hearings is an independent state agency that conducts impartial administrative hearings for people and governments across the state. These hearings happen when people disagree with and appeal a government’s decision that affects them. In fiscal year 2022, the Agency expensed roughly \$31.9 million, including \$402,470 in credit card payments.

The Agency employs about 120 administrative law judges and 110 legal support and administrative staff. A chief administrative law judge directs the Agency's overall operations, and seven executive administrative staff carry out and monitor them. The CFO is the executive administrative position responsible for overseeing the Agency's fiscal operations, including managing four fiscal department employees. One of those employees – a Management Analyst – was the Agency's designated credit card custodian. As the credit card custodian, the Analyst oversaw card use, collected supporting receipts, reconciled monthly statements, and prepared payments to the credit card company.

On May 23, 2023, we selected certain credit card charges paid to a consulting business and requested the Analyst to provide supporting records for review. The next day, the Analyst unexpectedly took leave.

On June 10, 2023, after several attempts to find supporting records, the CFO agreed that the credit card transactions represented misappropriation. The consulting business was registered with the state using the Analyst's name and home address. The CFO used the Agency's accounting system to pull a list of all payments made to this business and discovered a total of \$529,051 in credit card charges between August 26, 2021, and May 11, 2023.

The Analyst resigned from employment on June 30, 2023.

We opened an investigation and analyzed all credit card charges for the period of July 1, 2017, to June 30, 2023, which represented the time the Analyst worked at the Agency. Additionally, in October 2023, we obtained a court order for the Analyst's personal bank and business account records. Our investigation found:

- The Agency paid \$860,756 in misappropriated credit card charges between July 29, 2019, and May 11, 2023. The charges were to four different business names the Analyst created, and there were no records available to show any business activity for them other than charging the Agency for no clear purpose.
- The Analyst made \$17,359 in personal charges between June 14, 2019, and April 21, 2023. These included gift card purchases and payments for his personal cellphone expenses.
- The Agency paid \$4,933 in questionable charges to a fifth business between July 20, 2017, and March 13, 2018, that we could not definitively connect to the Analyst. The Agency had no supporting records for this business or the purpose of the charges.

Finally, to determine if the Analyst was responsible for any additional misappropriation, we examined the systems to which he had access. This included the checks used to pay bills, and cash deposited with the Agency. We did not find further misappropriation.

In total, the Analyst misappropriated at least \$878,115, as shown in the table below.

Type:	2019	2020	2021	2022	2023	Total
Business 1	\$29,380	\$0	\$0	\$0	\$0	\$29,380
Business 2	\$18,100	\$238,283	\$0	\$0	\$0	\$256,383
Business 3	\$0	\$10,000	\$35,943	\$0	\$0	\$45,943
Business 4	\$0	\$0	\$56,800	\$289,951	\$182,300	\$529,051
Personal use of cards	\$4,423	\$3,203	\$3,831	\$3,841	\$2,061	\$17,359
Total	\$51,903	\$251,485	\$96,574	\$293,792	\$184,361	\$878,115

Between March and April 2024, after we completed our investigation, we made multiple attempts by phone and email to contact the former Analyst for an interview. We did not receive a response.

Control Weaknesses

The Agency’s internal controls were inadequate for safeguarding public resources. We found the following weaknesses allowed the misappropriation to occur:

- No one in management oversaw the Agency’s credit card activity, and no one independently reviewed the Analyst’s monthly reconciliation of the Agency’s credit card charges or payments.
- The Analyst was the only employee who could access the Agency’s credit card account online. This further prevented anyone from independently viewing or printing monthly statements and account charges.
- Staff conducted inadequate reviews of the card payments that the Analyst prepared. Rather than providing full monthly statements, the Analyst presented only select portions of credit card statements for another employee to review. This allowed the Analyst to conceal the misappropriated charges, but still gain approval to pay the bill.
- The Analyst’s access to the Agency’s accounting system allowed him to both upload and release batches of payments to the credit card company. No one reconciled these batch payments before they were released, and no one monitored the upload and release of the batch payments. This prevented the Agency from noticing the Analyst was undertaking conflicting duties that allowed him to conceal the misappropriated payments.

Recommendations

We recommend the Agency reevaluate and strengthen its internal control systems. Specifically, the Agency should:

- Ensure staff responsible for independently overseeing expenditure activity have the proper access and capability to view and monitor such activity
- Perform secondary independent reviews of monthly reconciliations over credit cards
- Improve review procedures of batch payments to ensure proper support is on file for all activity being paid. This should include ensuring the fiscal department properly segregates conflicting duties, such as the upload and release of batch credit card payments, and that employees follow these procedures.

We also recommend the Agency seek recovery of the misappropriated \$878,115, questionable amounts as appropriate, and related investigation costs of \$116,000 from the former Management Analyst and/or its insurance bonding company, as appropriate. Any compromise or settlement of this claim by the Agency must be approved in writing by the Attorney General and State Auditor as directed by state law (RCW 43.09.330). Assistant Attorney General Matt Kernutt is the contact person for the Attorney General's Office and can be reached at (360) 586-0740 or Matthew.Kernutt@atg.wa.gov. The contact for the Office of the Washington State Auditor is Brandi Pritchard, Assistant Director of Special Investigations, who can be reached at (509) 726-1886 or Brandi.Pritchard@sao.wa.gov.

Agency's Response

Thank you for providing the Office of Administrative Hearings (OAH) with the opportunity to review and respond to the State Auditor's Office (SAO) Fraud Investigation Report.

OAH is committed to implementing all necessary controls to protect the assets of OAH and the public. OAH has reviewed this report and agrees with all the recommendations.

During a routine SAO audit in May 2023, suspicious activity by an OAH management analyst (Analyst) involving agency funds was discovered. OAH notified the State Auditor's Office under RCW 43.09.185, as well as the Olympia Police Department. OAH fully supported and cooperated with the ensuing SAO investigation.

Upon discovering the potential misappropriation of funds, OAH immediately took steps to protect OAH and the public from further loss. This included cancelling the credit cards and blocking the Analyst's access to bank accounts, facilities, and systems. When the suspicious activity was discovered, the Analyst immediately took leave, and then resigned as SAO began its investigation.

SAO requested that OAH tightly limit the number of employees informed of the investigation and keep confidential the reason for the investigation and the identity of the subject. SAO also requested that OAH not communicate about the matter until after the report was published.

The investigation revealed weaknesses in internal controls that allowed the Analyst to access and spend funds in violation of OAH's existing policies and procedures.

Upon discovering the suspicious activity, OAH immediately took the following actions to mitigate risks, protect the integrity of the investigation, and implement corrective actions while the SAO conducted its investigation:

- Secured the Analyst's work phone and laptop*
- Eliminated the Analyst's access to all OAH accounts, systems, and facilities*
- Supplied the SAO with data, records, and analysis throughout the process*
- Revised fiscal policies and procedures to strengthen internal controls*
- Hired a Fiscal Analyst 4 to allow for better segregation of duties*

OAH also hired a consulting firm to review OAH's financial processes and make recommendations for improvement. In December 2023, OAH received the consultant's final report, adopted all the consultant's recommendations, and immediately began revising fiscal policies and procedures accordingly.

OAH is implementing all the recommendations of the SAO and the independent consultant, and integrating ongoing oversight and monitoring to assure those controls remain effective. This includes:

- Rigorous oversight and monitoring of OAH's credit card activities, including independent review of the of the credit card charges and monthly reconciliation of payments.*
- The credit card online account and credit card statements can now be accessed by several employees, ensuring that all the information is shared and monitored.*
- Sufficient documentation is now required to support each credit card charge. This documentation is required to be included prior to the approval and payment of the credit card bill.*
- OAH's accounting system has been modified to prevent one employee from being able to both upload and release batches for payment. Proper segregation of duties now exists for all payments. This ensures the employee preparing a payment is different from the employee approving the payment, which allows for appropriate review.*

OAH's effort to recover funds has been awaiting the completion of the year-long investigation. Now that the SAO's investigation is complete, OAH is seeking recovery of the misappropriated and questionable amounts, and related investigation costs, from the former management analyst and from OAH's insurance bond, as appropriate.

OAH's staff and management are dedicated to the mission to hear and independently resolve disputes between the public and state agencies with an impartial, quick, and easy to access process. To carry out that mission, we know we must be good stewards of the public funds we manage. We will make every effort to rebuild the trust and confidence of our employees, external stakeholders, state government, and the public.

OAH appreciates the thorough investigation completed by the State Auditor's Office.

Auditor's Remarks

We thank Agency officials and personnel for their assistance and cooperation during the investigation. We will follow up on the Agency's internal controls during the next audit.

ABOUT THE STATE AUDITOR'S OFFICE

The State Auditor's Office is established in the Washington State Constitution and is part of the executive branch of state government. The State Auditor is elected by the people of Washington and serves four-year terms.

We work with state agencies, local governments and the public to achieve our vision of increasing trust in government by helping governments work better and deliver higher value.

In fulfilling our mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, we hold ourselves to those same standards by continually improving our audit quality and operational efficiency, and by developing highly engaged and committed employees.

As an agency, the State Auditor's Office has the independence necessary to objectively perform audits, attestation engagements and investigations. Our work is designed to comply with professional standards as well as to satisfy the requirements of federal, state and local laws. The Office also has an extensive quality control program and undergoes regular external peer review to ensure our work meets the highest possible standards of accuracy, objectivity and clarity.

Our audits look at financial information and compliance with federal, state and local laws for all local governments, including schools, and all state agencies, including institutions of higher education. In addition, we conduct performance audits and cybersecurity audits of state agencies and local governments, as well as state whistleblower, fraud and citizen hotline investigations.

The results of our work are available to everyone through the more than 2,000 reports we publish each year on our website, www.sao.wa.gov. Additionally, we share regular news and other information via an email subscription service and social media channels.

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