



# Department of Veterans Affairs Office of Inspector General

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## **Administrative Investigation Misuse of Official Time and Resources and Failure to Properly Supervise Office of Human Resources and Administration, Washington, DC**

Redacted



**DEPARTMENT OF VETERANS AFFAIRS**  
**Office of Inspector General**  
**Washington, DC 20420**

**TO:** Acting Assistant Secretary for Human Resources and Administration

**SUBJECT:** Administrative Investigation, Misuse of Official Time and Resources and Failure to Properly Supervise, Office of Human Resources and Administration, Washington, DC (2012-02503-IQ-0091)

## Summary

We substantiated that [REDACTED], Management Analyst, Office of Human Resources and Administration (HR&A), [REDACTED] misused [REDACTED] official time and VA resources. We found that [REDACTED] worked as a [REDACTED], and that [REDACTED] worked as a [REDACTED] on numerous occasions during [REDACTED] VA tours of duty between October 2009 and April 2012. We also found that [REDACTED] misused [REDACTED] VA-assigned computer and email account for [REDACTED] duties and that [REDACTED] failed to properly request sick leave for attending to medical matters during [REDACTED] VA tours of duty.

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We also substantiated that Mr. Joseph Viani, Executive Director for HR&A Strategic Management Group (SMG), and Ms. Mary Santiago, former (retired) Director of VESO, failed to properly supervise [REDACTED]. We found that Mr. Viani and Ms. Santiago knew that [REDACTED] worked as a [REDACTED] during [REDACTED] VA tours of duty and that they did not exercise the necessary supervisory oversight to ensure [REDACTED] took the proper leave to cover [REDACTED] absences.

## Introduction

The VA Office of Inspector General Administrative Investigations Division investigated an allegation that [REDACTED] misused [REDACTED] official time and VA resources to work as a [REDACTED] and that [REDACTED] then supervisor, Ms. Santiago, knew of this misuse and failed to take corrective action. To assess these allegations, we interviewed [REDACTED], Mr. Viani, and other VA employees. We were unable to interview Ms. Santiago, as she announced her retirement shortly after we asked her for an interview and declined to meet with us before or after her retirement. We also reviewed VA email, personnel, telework, and time and attendance records, as well as VA Virtual Private Network logs. Further,

we reviewed internet service provider subscriber records and [REDACTED] records, to include [REDACTED] reports, timesheets, personnel, and payroll records related to [REDACTED] activities as an [REDACTED].

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### *Background*

A previous VA OIG administrative investigation entitled: *Alleged Prohibited Personnel Practices, Other Improper Hiring Practices, and Conduct Prejudicial to the Government, Office of Human Resources and Administration, VACO (2011-00198-IQ-0002)*, dated April 7, 2011, disclosed that [REDACTED] became an [REDACTED] in September 2005 and that in June 2006, while working part-time as a [REDACTED], [REDACTED] began working full-time as a [REDACTED]. In February 2008, [REDACTED] resigned [REDACTED] and began working full-time as a [REDACTED]. In September 2009, Mr. John Sepulveda, VA's former Assistant Secretary for HR&A, hired [REDACTED] as a VA GS-14 Program Analyst; however, [REDACTED] continued to work part-time as an [REDACTED].



## **Results**

### **Issue 1: Whether [REDACTED] Misused Official Time and Resources**

Federal regulations state that an employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government. 5 CFR § 735.203.

Standards of Ethical Conduct for Employees of the Executive Branch state that unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. 5 CFR § 2635.705.

VA policy states that all employees are expected to be on duty during the full period of their tours of duty unless absent on approved leave; to observe the opening and closing hours established for the tour of duty; and to adhere to established luncheon periods. VA Handbook 5011, Part II, Chapter 2, Paragraph 1 (April 15, 2002). VA policy also states that employees are responsible for maintaining productivity and for fulfilling their obligation to account for a full day's work. VA Handbook 5011/5, Part II, Chapter 4, Paragraph 3 (September 22, 2005).

VA policy states that sick leave shall be granted to an employee when the employee is incapacitated for the performance of duties for specific identified reasons, VA Handbook 5011, Part III, Chapter 2, Paragraph 4 (April 15, 2002), and an employee who engages in outside employment during any part of the time for which he requests sick leave, shall notify the supervisor of the outside employment, and VA policy states that normally, employees may not be granted sick leave for any period during which it is known that they perform outside employment. VA Handbook 5011/15, Part III, Chapter 2, Paragraph 4 (December 31, 2008). Moreover, VA policy states that an absence without leave (AWOL) is an unauthorized absence from duty and that an employee receives no pay for the period of time they were absent without authorization. VA Handbook 5011/18, Part III, Chapter 2, Paragraph 15 (October 13, 2011).

Personnel records reflected that [REDACTED] signed an Appointment Affidavit on September 14, 2009, associated with [REDACTED] VA employment. At that time, [REDACTED] took an oath of office and stated that [REDACTED] "will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." That same day, [REDACTED] signed a Mandatory Ethics Material and Orientation for New Employees that stated that [REDACTED] received a copy of the 20-page Ethics Pamphlet for Executive Branch Employees, a copy of the Standards of Official Conduct, and an Ethics Point of Contact Listing and that [REDACTED] understood that [REDACTED] was required to attend a mandatory 1-hour Ethics Orientation.

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[REDACTED]

VA time and attendance records reflected, and [REDACTED] told us, that [REDACTED] VA tour of duty, since September 2009, was 7:00 a.m. to 3:30 p.m., Monday through Friday. [REDACTED] told us that [REDACTED] activities were "all after hours," so they did not conflict with [REDACTED] VA duties. [REDACTED] said that [REDACTED] worked an average of 25 hours a week for

██████████; however, ██████████ gave us an example of ██████████ schedule which totaled 38 hours during a previous week. ██████████ (b)(7)(C)

██████████ told us that ██████████ worked in ██████████ from September 2009 to July 2011 when ██████████ was temporarily detailed to ██████████ and that ██████████ was permanently assigned to ██████████ in August 2011. ██████████ said that at that time ██████████ did not have the required telework agreement, as Mr. Viani “would not support a telework or compressed work schedule.” ██████████ also said that they had an “agreement” that ██████████ could telework on the dates ██████████ attended ██████████ for ██████████ and work ██████████ VA duty hours around ██████████. ██████████ further said that while working for Mr. Viani, ██████████ did not have a specific telework schedule but that it was on a “case-by-case basis.”

██████████ told us that there were “a couple of times” that Mr. Viani allowed ██████████ to telework rather than take sick leave for a medical appointment and that Mr. Viani approved each day that ██████████ teleworked. ██████████ also said that ██████████ did not know if Mr. Viani “specifically” said that ██████████ did not have to take leave but that they developed an “understanding” that ██████████ would work before and after a medical appointment. Further, ██████████ said that because ██████████ lived such a far distance from VA Central Office (VACO), ██████████ assigned duty station, that even if ██████████ had a 15-minute medical appointment ██████████ had to take 8 hours of sick leave. ██████████ said that ██████████ instead did not request sick leave for the time ██████████ was away from ██████████ telework site but that ██████████ worked 8–10 hours in addition to ██████████ medical appointment on those days.

Records reflected that after ██████████ was reassigned to ██████████ in August 2011, ██████████ had a telework agreement in place authorized by ██████████ supervisor, Ms. Santiago. The agreement reflected that ██████████ would report to VACO, ██████████ duty station, on Mondays and Thursdays and telework from home on Tuesdays, Wednesdays, and Fridays. ██████████ told us and email records confirmed that Ms. Santiago later agreed to allow ██████████ to telework on Thursdays as well. In signing ██████████ telework agreement, ██████████ expressly acknowledged and agreed, among other things, to:

- Only perform official duties when on duty at VACO or the alternate work site.
- Not conduct personal business while in official duty status at the alternate work site.
- Follow office procedures for requesting and obtaining approval for leave.
- Work overtime only when ordered and approved by the supervisor in advance, and that doing so without such approval could result in termination of the telework agreement and/or other disciplinary action.
- Be bound by VA standards of conduct while working at the alternate worksite.

Contrary to ██████ assertion that ██████ activities were “all after hours,” records reflected that between October 2009 and April 2012, ██████ misused ██████ official VA time on 39 separate dates. Below are three examples of the 29 times that ██████ engaged in ██████ employment activities while on VA time and supposedly teleworking for VA from ██████ residence.

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- August 13, 2010—VA time and attendance records reflected that ██████ worked ██████ 7:00 a.m. to 3:30 p.m. tour of duty. Email records reflected that ██████ told Mr. Viani that ██████ would be teleworking, as ██████. Email records reflected that 10 days before, ██████ ██████ was involved in ██████ ██████. ██████ told us that ██████ “thought” that ██████ took leave that day; however, VA records reflected that ██████ did not.
- March 18, 2011—VA time and attendance records reflected that ██████ worked ██████ 7:00 a.m. to 3:00 p.m. tour of duty, and there was no record of ██████ requesting leave for this day. At 8:11 a.m., ██████ sent Mr. Viani and others an email stating, “I’ll be out of the net for the next hour or so ██████. If you need something, shoot me a note and I will get back to you ██████.” ██████ admitted that ██████ VA and ██████ time overlapped and that ██████ should have requested sick leave for the medical appointment, instead of teleworking. ██████ again said that ██████ “thought” that ██████ took 8 hours of sick leave for this day. ██████ said that ██████ thought that ██████ could work for ██████ outside of the time ██████ was at the ██████ and while on VA authorized sick leave.
- Friday October 21, 2011—VA travel records reflected that ██████ was traveling home from a VA training event held in Austin, TX, but lodging and parking receipts reflected, and ██████ told us, that ██████ began ██████ travel home on October 20, 1 day earlier. ██████ parking receipt reflected that ██████ left the airport parking lot to return to ██████ residence shortly after midnight on October 21. VA time and attendance records reflected that ██████ amended ██████ timecard 5 months later to add 8 hours of compensatory time for ██████ October 20 travel home. However, ██████ did not amend ██████ timecard for October 21, and it still reflected that

█ was on duty in a VA training status from 7:00 a.m. to 3:30 p.m. █

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█ VA time and attendance records reflected that █ did not take leave for Friday, October 21, and █ told us that █ “should have been on leave on Friday.”

█

█

Below is an example of the four occasions that we found █ engaged in █ employment activities while on VA sick leave:

- VA time and attendance records reflected that in February 2012 █ requested and was approved for 16 hours of sick leave for March 14–15, 2012, for █. We found no evidence that █ did work for █ on March 14. However, █ records reflected that on March 15 █ was involved in █ between 7:35 a.m. and 3:30 p.m. and that █ paid █ \$238.71 for 12 hours of █ work. █ told us that █ did not know why █ requested sick leave for the time █ worked for █.

Below is an example of the six occasions that we found █ failed to take leave for medical appointments during █ VA duty hours:

- November 1, 2010—VA time and attendance records reflected that █ worked █ scheduled tour of duty from 7:00 a.m. to 3:30 p.m. and that █ did not

take leave. However, in an email dated November 1, 2010, ██████ told a VA coworker, and ██████ confirmed, that beginning on or about 10:45 a.m. ██████ was absent from ██████ VA duty station attending to ██████, whom ██████ said ██████ said that ██████ contemplated teleworking from home for the rest of the week to care ██████ and that ██████ was waiting for Mr. Viani's decision as to whether ██████ could telework or was required to take leave. Records reflected, and ██████ confirmed, that Mr. Viani denied ██████ request to telework and required ██████ to take sick leave. Records reflected that ██████ did not take leave for any portion of Monday, November 1, but that ██████ took sick leave for the remainder of the week.

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██████████ told us that ██████ believed that since ██████ worked more than 40 hours each week for the VA, ██████ thought that taking a "couple of hours" away from ██████ VA work during ██████ tour of duty was not an issue, since ██████ already worked "extra hours." ██████ said that there was nothing in VA policy leading ██████ to believe this was inappropriate or unauthorized. ██████ also said that ██████ "may have made a mistake" thinking that when ██████ took 8 hours of sick leave, ██████ could work ██████ job during the part of ██████ VA tour of duty that ██████ was not at a medical appointment.

Mr. Viani told us that when ██████ was away from ██████ VA duty station ██████ should have been on leave. ██████ said that ██████ "was either on VA time or ██████ was ██████ and that ██████ assumed that ██████ "hopefully" took leave when working for ██████. Mr. Viani also said that ██████ did not knowingly let ██████ work as an ██████ during ██████ VA duty hours without taking the appropriate leave.

When asked if Ms. Santiago knowingly allowed ██████ to work for ██████ during ██████ scheduled VA tour of duty without taking the appropriate leave, ██████ initially said, "I don't know that I had the same conversation with ██████.... She knew that I had ██████. But I may not have had the same specific conversation with her that I had with Joe [Viani]." However, ██████ later said, "I thought that we had the same understanding that I had with Joe [Viani], that I would make up those hours that I was in ██████" ██████ also said that ██████ and Ms. Santiago had an understanding that the telework agreement would "facilitate ██████ being there ██████ had] every month."

██████████ told us that Ms. Santiago never questioned whether ██████ took the appropriate leave to cover ██████ absences from VA and that she told ██████, "This is not a 9 to 5 job." ██████ said that based on her comment, ██████ believed that she supported what ██████ was doing, because ██████ made up "more than those hours" that ██████ was away from ██████ duty station. However, time and attendance records for ██████ reflected that ██████ continually worked Monday through Friday from 7:00 a.m. to 3:30 p.m. each week.

When asked what actions should be taken against a VA employee for misusing official time, ██████ later told us in an email that ██████ would terminate the employee's



telework, require a doctor's note for even 1 day of sick leave, ensure the employee no longer worked unauthorized overtime, and

... I would recommend much more than just a leave adjustment. I would say that not only should the proper leave be charged or the time counted as leave without pay and the salary recouped for the time in question (whichever is more feasible as I am not sure how all that works), but I would also think that a General Officer Letter of Reprimand (or the civilian equivalent) would be imposed and placed in the official personnel files, and I would recommend a forfeiture of pay (which I guess outside the military is accomplished by a suspension).

### *Misuse of Official Resources*

VA policy prohibits any personal use of Government equipment, including the internet, for commercial purposes, in support of "for profit" activities, or in support of other outside employment or business activity. VA Directive 6001 (July 28, 2000). VA policy states that email shall be used for authorized Government purposes and that users must exercise common sense, good judgment, and propriety in the use of this Government resource. VA Handbook 6500 (September 18, 2007).

Email records reflected that [REDACTED] used [REDACTED] VA-assigned email account extensively in support of [REDACTED] paid [REDACTED] employment. [REDACTED] told us that [REDACTED] set [REDACTED]-assigned email account to automatically forward messages [REDACTED] email address and that [REDACTED] used [REDACTED] email account to send messages related to [REDACTED] employment. Records reflected that several of the email messages included [REDACTED] VA title, organization, address, and telephone number. Standards of Ethical Conduct for Employees of the Executive Branch state that an employee shall not use his public office for private gain or permit the use of his Government position or title or any authority associated with his public office to endorse any product, service, or enterprise. 5 CFR § 2635.702.

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In one example, we found an April 16, 2010, email that [REDACTED] sent from [REDACTED] email account to a [REDACTED]. In the email, [REDACTED] told the official that [REDACTED] was working on an assignment as part of the [REDACTED]. [REDACTED] signed the email as, "[REDACTED] [REDACTED] however, below that, the email reflected [REDACTED] title, organization, address, and telephone number.

[REDACTED] told us that [REDACTED] was not aware it was improper to use [REDACTED] assigned VA email for [REDACTED] employment and that [REDACTED] used the VA email account for [REDACTED] own personal convenience. [REDACTED] said, "I didn't see that sending emails back and forth as a problem. I thought if I was sending stuff out to [REDACTED] that work for me, then that's a problem there. This is simply just information going back and forth to the [REDACTED] office

staff. I didn't realize that was a problem." However, VA training records reflected that ██████ took VA's mandatory information security training, which included reviewing and acknowledging the National Rules of Behavior that contained information regarding the prohibitions on use of VA systems in support of secondary employment. Moreover, a VA User's Remote Computing Security Agreement form submitted as part of ██████ telework agreement with Ms. Santiago reflected that ██████ acknowledged by ██████ signature that ██████ reviewed VA Directive 6001, *Limited Personal Use of Government Office Equipment, Including Information Technology*, and agreed to adhere to this policy while working remotely.

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Records further reflected that ██████ used ██████ VA-issued BlackBerry smart-phone in support of ██████ employment. A forensic examination of the BlackBerry revealed that ██████ used it in connection with ██████ employment to make phone calls, send email and text messages, and track ██████ work schedule and hours worked.

## Conclusion

We concluded that ██████ misused ██████ official VA time on 39 separate occasions. On 29 of the days, ██████ was absent from ██████ VA duty station without leave while working as ██████. For 4 of the days, ██████ worked as an ██████ for remuneration while on VA sick leave. Additionally, we found 3 days that ██████ was absent from ██████ VA duty station without leave for medical incidents. While working as an ██████ not only misused ██████ VA official time, but ██████ engaged in conduct prejudicial to VA when ██████ ██████ ██████ ██████ ██████ ██████ VA tours of duty or while on VA approved sick leave. This may have potentially placed VA in a precarious position had ██████ been injured or injured someone else while performing ██████ duties.

We also found that ██████ misused ██████ VA-assigned computer, BlackBerry smart-phone, and email account in support of ██████ duties. ██████ was well aware of the requirements for requesting and using leave and of the prohibition of using VA resources in support of ██████ non-VA employment. ██████ however, chose to put ██████ private gain above the ethical standards and professional obligations associated with ██████ VA employment. ██████ past misconduct at ██████, as well as ██████ misconduct while at VA, demonstrates that ██████ has a pattern of failing to comply with and respect Federal law and regulations and applicable policies associated with ██████ Federal employment.

Moreover, as a VA employee ██████ took oaths to "faithfully discharge" the duties of ██████ respective positions. These oaths are important and significant, and by taking them, ██████ is held to a higher standard of conduct, one that ██████ continually failed to accept. Further, ██████ received sufficient ethics materials and training when first employed by VA, and more recently took VA's

mandatory information security training, reviewed the National Rules of Behavior, and VA Directive 6100, providing [REDACTED] more than enough guidance as to [REDACTED] VA employee responsibilities. [REDACTED] continued misconduct, starting at [REDACTED] and continuing at VA, reflects that [REDACTED] has an established pattern of questionable ethics.

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**Recommendation 1.** We recommend that the Acting Assistant Secretary for Human Resources and Administration confer with the Offices of Human Resources (OHR) and General Counsel (OGC) to determine the appropriate administrative action to take against [REDACTED] and ensure that action is taken.

**Recommendation 2.** We recommend that the Acting Assistant Secretary for Human Resources and Administration determine the total salary paid to [REDACTED] for the 39 days that [REDACTED] was AWOL from VA or worked for [REDACTED] while on sick leave and ensure that a bill of collection is issued to [REDACTED] for that amount, since [REDACTED] cannot receive pay for the period of time that [REDACTED] was absent without authorization.

## Results

### Issue 2: Whether VA Management Failed to Properly Supervise [REDACTED]

VA policy states that the public interest requires the maintenance of high standards of employee integrity, conduct, effectiveness, and service to the public and that when such standards are not met, it is essential that prompt and just corrective action be taken. VA policy is to maintain standards of conduct and efficiency that will promote the best interests of the service. VA Handbook 5021/3, Part I, Chapter 1, Paragraph 3(a) (June 1, 2005). VA policy also holds supervisors responsible for gathering and analyzing facts concerning each possible disciplinary or adverse action, documenting these facts, and for initiating appropriate and timely disciplinary or adverse actions. *Id.*, at Paragraph 5(c). VA Telework policy states that the supervisor is responsible for determining how many days per week are appropriate for a telework arrangement. VA Handbook 5011/5, Part II, Chapter 4, Paragraph 6a(3) (September 22, 2005).

*Mr. Joseph Viani, Senior Executive Service*

[REDACTED] told us that from September 2009, when [REDACTED] was first hired at VA, until December 2010, [REDACTED] reported directly to Mr. Viani. [REDACTED] said that a former (retired) VA employee served as [REDACTED] first-level supervisor beginning in December 2010 with Mr. Viani then becoming [REDACTED] second-level supervisor. However, Mr. Viani told us that he never supervised [REDACTED] and that he did not have the authority to authorize leave for [REDACTED]. Mr. Viani said “it was very ill-defined” who could approve the leave and he said, “Did [REDACTED] really work for me or not? Well we worked together. It was never codified, to my understanding, that first year that I could approve or disapprove [REDACTED] leave. It started to happen that way.” Mr. Viani also said that he did not ensure that [REDACTED] took leave for the time [REDACTED], as [REDACTED] “wasn’t [REDACTED] supervisor. I was

not [REDACTED] designated supervisor that I recall.” Mr. Viani said that he did not recall anyone “in the front office” telling him that he was [REDACTED] supervisor, and he told us to review [REDACTED]’ annual performance appraisal to determine who supervised [REDACTED]. (b)(7)(C)

[REDACTED] fiscal year 2010 performance appraisal reflected that Mr. Viani was the supervisor of record; issued [REDACTED] performance plan on November 10, 2009; conducted a mid-year progress review with [REDACTED] on May 10, 2010; and gave [REDACTED] an overall rating of [REDACTED] for the year on October 6, 2010. Contrary to Mr. Viani’s assertions that he could not approve leave for [REDACTED] email records reflected that Mr. Viani often approved [REDACTED]’ requests for leave, telework, and time away from [REDACTED] duty station [REDACTED] or medical appointments. The following are a few examples that correspond to dates identified in Issue 1 above that show Mr. Viani’s approval or knowledge in these situations:

- October 23, 2009—In an email, Mr. Viani asked [REDACTED], I mistakenly thought you were on leave today, are you here?” [REDACTED] responded, “I am out today [REDACTED] but I just can’t stand letting my emails pile up while I am gone...”
- February 5, 2010—In an email to Mr. Viani, [REDACTED] said, “... Also, I forgot to tell you that I have [REDACTED] [REDACTED] so I will be available before and after to work on stuff – I just can’t take the cell/blackberry [REDACTED] Mr. Viani replied, [REDACTED]
- April 16, 2010—In an email, [REDACTED] told Mr. Viani, “I need to telework next Friday (23 Apr) as [REDACTED]...” Mr. Viani replied, “Looks OK. Pls put on the calendar, thanx.”
- April 23, 2010—[REDACTED] replied to Mr. Viani’s email, “Roger that, I’ll work on that [REDACTED]
- October 15, 2010—[REDACTED] replied to Mr. Viani’s email, “Thanks. [REDACTED] [REDACTED] I will check in later.”
- January 31, 2011—In an email, [REDACTED] told Mr. Viani, “I was able to get an appointment with the dentist after lunch, so I will be leaving following my appointment with the IG...”

In addition to the previous examples, email records reflected that [REDACTED] sent Mr. Viani six calendar notifications requesting to telework due to [REDACTED] or medical appointments. Additionally, email records reflected that Mr. Viani discussed

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developing duty hours with [REDACTED]. On January 15, 2010, Mr. Viani responded to an email from [REDACTED] stating, “you and I were supposed to sit down and work out a schedule based upon your email that you wanted to work an alternate type schedule. I believe in flexibility as you know. Let’s communicate better.”

Mr. Viani told us that when [REDACTED] was away from [REDACTED] VA duty station, in [REDACTED] “mind’s eye would have been leave,” and he thought that [REDACTED] took leave for the time [REDACTED]. Mr. Viani said that it was his understanding with [REDACTED] that [REDACTED],” and [REDACTED] assumed that when [REDACTED], [REDACTED] would have hopefully taken the time off.” Although personnel and email records reflected that Mr. Viani had supervisory authority over [REDACTED], throughout our questioning, Mr. Viani still denied that he supervised [REDACTED] and continually answered our questions with “[I] don’t recall” or that he “did not know.”

Mr. Viani said, “it’s a guess on my part” when asked who was responsible to ensure that [REDACTED] had a telework agreement in place. He said that he did not recall if he documented the days that [REDACTED] performed telework and that if he had, he could not recall how he had done so. Further, Mr. Viani told us that he did not remember if he approved each day that [REDACTED] teleworked. When asked if he knowingly allowed [REDACTED] to work as an [REDACTED] during [REDACTED] VA duty hours or allowed [REDACTED] to improperly take sick leave to cover that time, Mr. Viani said, “I don’t know. I just don’t recall...not that I’m aware of.”

*Ms. Mary Santiago, GS-15 (Retired)*

[REDACTED] told us that [REDACTED] was detailed to [REDACTED] in July 2011 and permanently assigned to that office in August 2011 and that Ms. Santiago was [REDACTED] supervisor for the entire time. As reported in Issue 1 above, Ms. Santiago supervised [REDACTED] on 12 of the occasions that [REDACTED] misused [REDACTED] VA official time, and we found no evidence of [REDACTED] requesting, or Ms. Santiago approving leave for those dates. Further, we were unable to interview Ms. Santiago, as she retired shortly after we began this investigation and declined to be interviewed. However, email records reflected that she knew and approved of [REDACTED] during [REDACTED] VA duty hours. The following email examples correspond to dates identified in Issue 1 above in which [REDACTED] misused [REDACTED] official time and Ms. Santiago approved:

- On Monday, August 15, 2011, [REDACTED] told Ms. Santiago in an email, “On Friday I have my normal [REDACTED]. However I will be working and accessible other than the time that I am actually...in the [REDACTED].” Ms. Santiago responded, “Okay.”
- On Friday, December 09, 2011, [REDACTED] told Ms. Santiago in an email, “I have [REDACTED] on the 21<sup>st</sup>.”

- On Wednesday, December 21, 2011, [REDACTED] responded to Ms. Santiago's email, "Sorry, as I mentioned earlier, [REDACTED]"

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## Conclusion

We found that Mr. Viani supervised [REDACTED] for over a year and during that time, he failed to properly supervise [REDACTED] with regard to [REDACTED] VA duty hours and ensuring that [REDACTED] took appropriate leave. While [REDACTED], bears complete responsibility for [REDACTED] own misconduct identified above in Issue 1, Mr. Viani's failure to properly supervise [REDACTED] allowed [REDACTED] to continue to exploit the situation. Although we did not find that Mr. Viani willfully and knowingly allowed [REDACTED] to be absent without taking leave, we found that he knew that [REDACTED] worked [REDACTED] during [REDACTED] VA tours of duty and failed to ensure that [REDACTED] took the appropriate leave for that time. Moreover, we found Mr. Viani to be less than candid with us when he repeatedly denied supervising [REDACTED], and we found that his claims of not knowing or not recalling to be disingenuous. An SES manager in VA's headquarters human resources organization should know which employees he supervises.

Further, we found that Ms. Santiago supervised [REDACTED] for over a year, and during that time, she too failed to properly supervise [REDACTED] with regard to [REDACTED] VA duty hours and leave usage. Although we did not find that Ms. Santiago knowingly and willfully allowed [REDACTED] to be absent without taking leave, we found that she knew that [REDACTED] worked [REDACTED] during [REDACTED] VA tours of duty and failed to ensure that [REDACTED] took the appropriate leave for that time. As with Mr. Viani, Ms. Santiago, as a senior leader in VA's human resources organization, should have ensured her subordinate worked the hours for which the Government paid [REDACTED]. Since Ms. Santiago has since retired, we are not recommending any administrative action be taken against her.

**Recommendation 3.** We recommend that the Acting Assistant Secretary for Human Resources and Administration confer with OHR and OGC to determine the appropriate administrative action to take against Mr. Viani and ensure that action is taken.

## Comments

The Acting Assistant Secretary for HR&A was responsive, and his comments are in Appendix A. We will follow up to ensure that the recommendations are fully implemented.



*(Original signed by Joseph M. Vallowe, Deputy  
Assistant Inspector General for Investigations for:)*

**JAMES J. O'NEILL**  
Assistant Inspector General for  
Investigations

## Acting Assistant Secretary Comments

**Department of  
Veterans Affairs**

**Memorandum**

**Date:** March 18, 2013

**From:** Acting Assistant Secretary for HR&A

**Subject:** **Administrative Investigation, Misuse of Official Time and Resources and Failure to Properly Supervise, HR&A, Washington, DC**

**To:** Director, Administrative Investigations Division (51Q)

I have reviewed the report forwarded to me concerning Misuse of Official Time as well as the supporting documents. I believe that an immediate referral for action is necessary, including an assessment of whether the information provided is sufficient to warrant disciplinary or adverse action. I met with the Director of VA's Labor and Employee Relations Office for VA Central Office to begin discussions regarding the way forward. Also, I have tasked the responsible management official with moving ahead to consider the evidence provided in the report, to conduct any necessary further inquiry to determine the appropriate action to take and to propose appropriate discipline.

With respect to the three major recommendations on page 16 of the report, I accept all three without further comment and, assuming that they do not change or are not added to the final version of the report, I intend to act quickly to implement them. I await receipt of the final report.

Sincerely,



Rafael A. Torres  
Acting



## **Acting Assistant Secretary's Comments to Office of Inspector General's Report**

The following Acting Assistant Secretary's comments are submitted in response to the recommendation(s) in the Office of Inspector General's Report:

### **OIG Recommendation(s)**

**Recommendation 1.** We recommend that the Acting Assistant Secretary for Human Resources and Administration confer with the Offices of Human Resources (OHR) and General Counsel (OGC) to determine the appropriate administrative action to take against [REDACTED] and ensure that action is taken.

(b)(7)(C)

#### **Comments:**

**Recommendation 2.** We recommend that the Acting Assistant Secretary for Human Resources and Administration determine the total salary paid to [REDACTED] for the 39 days that [REDACTED] was AWOL from VA or worked for [REDACTED] while on sick leave and ensure that a bill of collection is issued to [REDACTED] for that amount, since [REDACTED] cannot receive pay for the period of time that [REDACTED] was absent without authorization.

#### **Comments:**

**Recommendation 3.** We recommend that the Acting Assistant Secretary for Human Resources and Administration confer with OHR and OGC to determine the appropriate administrative action to take against Mr. Viani and ensure that action is taken.

#### **Comments:**

## **OIG Contact and Staff Acknowledgments**

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OIG Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
Acknowledgments	Charles Millard Leanne Shelly

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