

**BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD**

In the Matter of:

[REDACTED]

Respondent.

NOS. 97-27 AND 98-02

STIPULATION AND ORDER

Pursuant to WAC 292-100-090 this stipulation is entered into between [REDACTED] [REDACTED] Adjutant General of the State of Washington, and the State of Washington Executive Ethics Board (“the Board”) by and through MARGARET A. GRIMALDI, Executive Secretary.

I. STIPULATED FACTS

1. The Washington State Executive Ethics Board and a state employee filed the above referenced complaints November 18, 1997 and January 27, 1998, respectively. Complaint No. 97-27 was issued by the Board pursuant to a whistleblower report by the State Auditor.
2. [REDACTED] is the chief executive officer of the Military Department, a position that is a civilian appointment and a military appointment as the Commander of all Washington State National Guard Units. [REDACTED] also serves as the Executive Director of the state’s Emergency Management Division. In addition, [REDACTED] has a service obligation to the U.S. Department of Defense.
3. [REDACTED] also serves as the Executive Director for the Medina Foundation, a private non-profit organization that provides financial assistance to human service groups throughout the Puget Sound region. The parties agree there is no evidence to suggest that [REDACTED] has used, or is using, state resources to conduct the business of the Medina Foundation.
4. [REDACTED] performed twenty-three days of federal active duty in 1995 for which he received both state and federal pay. This period of dual compensation exceeds the fifteen days of dual pay authorized under RCW 38.40.060.

II. STIPULATED CONCLUSIONS OF LAW

1. The Washington State Executive Ethics Board has jurisdiction over [REDACTED] and the subject matter of the complaints.

2. The receipt of an additional eight days of state pay in addition to federal pay during 1995 may violate RCW 42.52.070 which states:

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

Dual compensation in the form of state and federal pay is authorized for a period of 15 days pursuant to RCW 38.40.060. However, additional compensation from the state is limited under RCW 38.24.050 which authorizes state pay for active state service only if federal pay and allowances are not authorized:

Commissioned officers, warrant officers, and enlisted personnel of the organized militia of Washington, while in active state service. . . , are entitled to and shall receive the same amount of pay and allowances from the state of Washington as provided by federal laws and regulations. . . only if federal pay and allowances are not authorized. . . .

III. AGREEMENT

1. The signatory parties, including the Executive Secretary, Washington State Executive Ethics Board, and [REDACTED] (the parties) agree that the alleged violation, if occurring, was both unintentional and inadvertent. [REDACTED] further agrees to reimburse the state of Washington for eight days of active federal service by forfeiting eight days of state paid vacation within sixty (60) days of the date of entry of this order.
2. The parties agree that nothing in this Stipulation and Order shall be construed as evidence or an admission of a violation of law or rule or misconduct by any party.
3. [REDACTED] understands that this Stipulation is not final and binding on him or the Board unless and until the Board enters an Order accepting it. [REDACTED] understands that Board is free to approve, reject or modify this Stipulation.
4. If the Board accepts this Stipulation and Order, then the Board agrees to release [REDACTED] from any and all ethics proceedings under the Board's jurisdiction arising from the allegations in Complaints No. 97-27 and 98-02.
5. [REDACTED] understands this agreement is between [REDACTED] and the Board and does not purport to settle any other claims or complaints between [REDACTED] and the state of Washington, or any other third party which are now in existence or may be filed in the future.
6. If the Board accepts this Stipulation, [REDACTED] now knowingly and voluntarily waives his right to a hearing in this matter. If the Board proposes to modify the settlement agreement, [REDACTED] has the right to approve or not approve the modification. If the Board rejects the settlement agreement or modifies it in a manner that is not acceptable to [REDACTED] the normal administrative process will continue and this Stipulation will be void and inadmissible

for any purpose in this proceeding or any other proceeding involving [REDACTED] the state of Washington, and/or third parties aligned with the state.

I, [REDACTED] hereby certify that I have read this Stipulation and Order in its entirety; that I have had the option of reviewing this agreement with legal counsel so that I fully understand its legal significance and consequence; that I fully understand and agree to all of it; and that I have signed it voluntarily.

[REDACTED]
Respondent

Date

KENT CAPUTO
Attorney for [REDACTED]

Date

MARGARET A. GRIMALDI
Executive Secretary

Date

IV. ORDER

Having reviewed Complaint Nos. 97-27 and 98-02, the Stipulation, and the Agreement, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, HEREBY ORDER, that pursuant to WAC 292-100-080, the above is:

_____ Accepted in its entirety and becomes the Order of the Board.

_____ *Accepted and, if approved by _____ becomes the Order of the Board with the following modifications:

_____ Rejected in its entirety.

DATED this _____ day of _____, 1998.

PAUL GILLIE, Chair

JANET LIM, Vice Chair

CHERYL ROHRET, Member

GWENDOLYN FOYD, Member

*I accept or do not accept (circle option) the proposed modification.

Date

_____, Respondent