

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of

██████████

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NO. 96-016

STIPULATION AND ORDER

I. STIPULATION

This Stipulation is entered into pursuant to WAC 292-100-090 between ██████████ a former employee of the Department of Natural Resources (DNR), through his attorney, CHRIS MONTGOMERY, and RICHARD A. McCARTAN, Assistant Attorney General, acting solely as a staff member for the State of Washington Executive Ethics Board and not on behalf of the Washington State Attorney General.

A. STIPULATED FACTS

1. The Executive Ethics Board filed the above-referenced complaint against ██████████ a former employee of DNR. The complaint stems from a whistleblower report by the State Auditor. On April 11, 1997 the Board found reasonable cause to believe that ██████████ had violated RCW 42.52.020.

2. It is agreed that:

(a) Between January 5, 1995 and September 8, 1995, ██████████ sold private timber to Vaagen Brothers Lumber Co. in the amount of approximately \$37,212;

(b) During that time, on behalf of DNR, ██████████ administered or supervised five contracts involving DNR timber sales to Vaagen; and

(c) ██████████ conduct violated RCW 42.52.020 which states:

No state employee...may have an interest, financial or otherwise, direct or indirect, that is in conflict with the proper discharge of...the state employee's official duties.

3. The following factors mitigate in [REDACTED] favor in setting the appropriate penalty in this case:

(a) [REDACTED] dealings with Vaagen were known and approved by his supervisors;

(b) [REDACTED] did not know that his conduct violated RCW 42.52.020;

~~(c) RCW 42.52.020 is a non-specific prohibition that does not provide clear guidance to state employees;~~ ph

(d) [REDACTED] conduct preceded Board opinions on the meaning of RCW 42.52.020;

(e) There is no allegation or evidence that Vaagen received favored treatment from [REDACTED] or that [REDACTED] received favored treatment from Vaagen;

(f) [REDACTED] was truthful and cooperative in the Board investigation of this complaint; and

(g) [REDACTED] had no previous ethics violations.

#### B. STIPULATED CONCLUSIONS OF LAW

1. The Board has jurisdiction over [REDACTED] and over the subject matter of this complaint.

2. [REDACTED] as described in the stipulation of facts, violated RCW 42.52.020.

#### C. STIPULATED PENALTY

As a consequence of the violation of RCW 42.52.020, [REDACTED] agrees to a reprimand from the Board pursuant to RCW 42.52.320(2)(e).

D. FURTHER STIPULATIONS


1. If the Board accepts this Stipulation, or if the Board modifies this Stipulation in a manner that is acceptable to him, [REDACTED] is released and forever discharged from any further ethics proceedings in connection to the matter alleged in the Complaint.

2. This Stipulation affects only the proceeding before the Board, and does not limit the right of a third party to file or pursue additional causes of action.

3. This Stipulation is not binding unless and until accepted by the Board, which may reject or propose modifying it.

4. If the Board proposes modifying the Stipulation, [REDACTED] has the right to approve or not approve the modification. If the Board rejects the Stipulation or modifies the Stipulation in a manner that is not acceptable to [REDACTED] the Stipulation becomes null and void, in which case the case will be set for public hearing in accordance with the normal administrative process and the Stipulation will be inadmissible in any subsequent proceeding in this case.

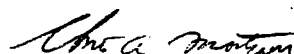
[REDACTED]



RICHARD A. MCCARTAN  
Assistant Attorney General

8-13-97  
Date

9-12-97  
Date

  
CHRIS MONTGOMERY (w/ PR # 1277)  
Attorney for [REDACTED]

8-8-97  
Date

II. ORDER

Having reviewed the Complaint and the Stipulation, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, HEREBY ORDER, that pursuant to WAC 292-100-080, the above stipulation is:

\_\_\_ Accepted in its entirety and becomes the Order of the Board.

X \*Accepted and, if approved by [redacted] becomes the Order of the Board with the following modifications:

Deleted section 3 (c).

\_\_\_ Rejected in its entirety.

DATED this \_\_\_ day of \_\_\_, 1997.

[Signature]  
THOMAS L. PURCE, Chair

[Signature]  
PAUL GILLIE, Vice-Chair

GWEN FOYD, Member

[Signature]  
JANET LIM, Member

[Signature]  
REV. CHERYL L. ROHRET, Member

\*  accept / ( ) do not accept the proposed modification:

Dated: 8-13-97 Signed: [redacted]