

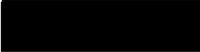
**STATE OF WASHINGTON**  
**EXECUTIVE ETHICS BOARD**

In the matter of the ethics	)	Case #96-025
complaint against	)	
	)	STIPULATION AND ORDER
	)	
	)	

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This Stipulation of Facts, Conclusions of Law and Settlement ("Stipulation") is made and entered into by and between  a member of the Information Services Board, and NOEL R. TREAT, Assistant Attorney General, acting solely as a staff member for the State of Washington Executive Ethics Board ("Board") and not on behalf of the Washington State Attorney General, to settle the allegations contained in Case #96-025. The parties stipulate and agree to the following:

**I. STIPULATED FACTS**

1. On May 30, 1995, the Department of Information Services ("DIS") issued a request for proposal ("RFP") to procure computer kiosks for the Washington Information Network ("WIN"). Three companies, including IBM and North Communications, Inc. ("North"), responded to the RFP.
2. On August 2, 1995, DIS named IBM the apparent successful bidder. Thereafter, North filed a protest with DIS, which DIS subsequently denied. North then filed a protest with the ISB. The ISB is comprised of 13 members appointed by the Governor and by various other elected officials.
3. On October 11, 1995, a four member ISB subcommittee held a hearing to decide North's protest. As stated above  is a member of the ISB and

was a member of the ISB subcommittee which heard North's protest. In this capacity, [REDACTED] was a state officer as defined by RCW 42.52.010(18).

4. At the beginning of the hearing, a North representative asked if there were any members of the ISB panel who were either current or former employees of any of the three WIN bidders. [REDACTED] stated that he was a former employee of IBM, but had left the Company 28 years previously. The North representative then asked whether it would be appropriate to excuse [REDACTED] from the panel. Len McComb, who was acting as the Chair of the ISB panel, responded that North's request was inappropriate and directed North's representative to continue with his presentation. Mr. McComb approved of [REDACTED] participation in and voting on the protest.

5. At the conclusion of the testimony in the hearing [REDACTED] moved to deny the protest. All four members of the subcommittee, including [REDACTED] voted in favor of the motion. [REDACTED] vote was not determinative in the denial of North's protest.

6. As a result of the denial of the North protest, IBM was awarded the WIN contract. IBM and DIS subsequently entered into a five year \$6.3 million contract on December 19, 1995.

7. On September 16, 1996, the Board received an ethics complaint filed by North against [REDACTED] for alleged violations of RCW 42.52.030(1), RCW 42.52.030(3) and RCW 42.52.020. A copy of the complaint is attached as Exhibit A.

8. At the time [REDACTED] participated in the hearing on the North protest, he owned 80 shares of IBM stock valued as of October 11, 1995, at between \$8,000 and \$9,000. IBM has 550 million shares of stock issued and outstanding and [REDACTED] shares represented .00001 percent of total IBM stock, as well as less than one percent of [REDACTED] total assets. [REDACTED] disclosed his ownership of IBM stock on his annual filings with the Washington Public Disclosure Commission.

9. On March 14, 1997, the Board determined that there was reasonable cause to believe [REDACTED] committed a violation of RCW 42.52.030(1), RCW 42.52.030(3) and RCW 42.52.020 when he voted on the North protest. [REDACTED] was provided with a copy of the Board's Investigative Report and Reasonable Cause Determination/Statement of Charges. [REDACTED] timely responded, contesting the reasonable cause finding, and requested a hearing in this matter.

10. [REDACTED] did not know that his participation in the hearing or vote on the North protest could result in a violation of RCW 42.52. [REDACTED] did not intend to violate any state law or personally benefit, directly or indirectly, from the award of the WIN contract to IBM.

11. [REDACTED] vote on the North protest did not substantially influence any state action in this matter and [REDACTED] action does not require rescission of the IBM contract.

12. As a result of this proceeding [REDACTED] has a current understanding of the requirements imposed by RCW 42.52.030(1), RCW 42.52.030(3) and RCW 42.52.020. [REDACTED] agrees not to participate in or vote on any future bid

protests involving companies in which he has a direct or indirect beneficial interest, which includes ownership of any amount of stock in said company, and he will recuse himself from the ISB or any ISB subcommittee during discussions of such protests, unless RCW 42.52 is amended to allow such participation.

## II. STIPULATED CONCLUSIONS OF LAW

There is reasonable cause to believe [REDACTED] violated RCW 42.52.030(1), RCW 42.52.030(3), and RCW 42.52.020 when he voted on the North protest.

## III. STIPULATED SETTLEMENT

1. [REDACTED] is represented by counsel and knowingly and voluntarily agrees to waive his right to a hearing to respond to the Reasonable Cause Determination/Statement of Charges' allegations.

2. [REDACTED] agrees to pay \$250 to the Board. Payment shall be made prior to July 1, 1997.

3. The parties agree that [REDACTED] is released and forever discharged from any and all state ethics proceedings arising out of the complaint for case #96-025.

4. The parties acknowledge and agree that this Stipulation is not final and binding unless and until the Board accepts the Stipulation. Both parties understand that the Board is free to reject or modify this Stipulation.

5. In the event that the Board modifies this Stipulation [REDACTED] has the right to review the modified Stipulation and agree to the modified terms. If the Board modifies this Stipulation but [REDACTED] does not agree to the modified Stipulation or if the Board rejects the entire Stipulation, then the normal administrative process will continue and this Stipulation will be void and will not be admitted into evidence at any subsequent public hearing.

[REDACTED]

8/27/97  
Date

Joseph J. Randozzo, Atty for  
NOEL R. TREAT  
Assistant Attorney General  
7/8/97  
Date

**IV. ORDER**

Having reviewed the Complaint and the Stipulation, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, HEREBY ORDER that pursuant to WAC 292-100-090 the above stipulation is:

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

Accepted and becomes the Order of the Board with the following modification(s):

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\_\_\_ Rejected in its entirety.

DATED this 30 day of June, 1997.



Thomas L. Purce  
Chair



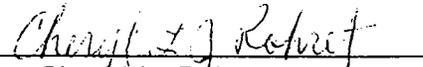
Paul Gillie  
Vice Chair

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Gwendolyn Foyd  
Board Member



Janet Lim  
Board Member



Rev. Cheryl L. Rohret  
Board Member