

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

██████████

NO. No. 99-12

STIPULATION AND ORDER

**I. STIPULATION**

THIS STIPULATION is entered into under WAC 292-100-090 between ██████████ through her attorney, Mark S. Lyon, and the EXECUTIVE ETHICS BOARD ("Board") through Marc D. Defreyn, Assistant Attorney General. The following findings, conclusions, and agreements will be binding upon the parties to this agreement, if the agreement is fully executed, and if accepted by the Washington State Executive Ethics Board, and not otherwise.

**A. FACTS**

1. ██████████ is a Culinary Arts Instruction Technician 2 who works in a three-quarter-time position at Edmonds Community College ("EdCC"). During 1998, ██████████ worked 30 hours a week, ten months a year, and her job was subject to cyclic breaks coinciding with EdCC's educational schedule. In 1998, the breaks in ██████████ employment with EdCC occurred between June 15 and June 19, 1998, and also between August 11 and September 11, 1998. In her college position, ██████████ is responsible for ordering and receiving food, supplies and equipment for the Culinary Arts Program. She also instructs students on placing and receiving orders for the program. Mr. Walter Bronowitz is ██████████ direct supervisor.

2. Mrs. Kathy Casey is the wife of Mr. John Casey, a Culinary Arts Instructor and Manager of the Fine Dining Room at EdCC. Between 1995 – 1998, Mr. Bronowitz allowed Mrs. Casey to rent EdCC facilities for the use of her private, for-profit business, a menu-developing/restaurant enhancement consultancy.

3. While employed at EdCC, [REDACTED] was also a part-time employee of Mrs. Casey's private business. [REDACTED] employment for Mrs. Casey began in June 1998 and continued until December 1998. While employed by Mrs. Casey between June and August 1998, [REDACTED] placed food orders for Mrs. Casey from her EdCC office. [REDACTED] asserts that this work was not conducted while performing duties for EdCC. Some of these orders were from food vendors who also do business with EdCC and some of the orders were from vendors who did not have an account with Mrs. Casey's private business. Generally, [REDACTED] placed the orders in the name of Mrs. Casey's private business. While being paid as a state employee, [REDACTED] received, signed for and stored, in Mrs. Casey's rented storage unit at EdCC, at least 25 food and supply orders related to Mrs. Casey's private business. During her employment with Mrs. Casey, [REDACTED] placed at least eight (8) food and supply orders for Mrs. Casey's private business using EdCC vendor accounts.

4. In 1998, Mrs. Casey paid [REDACTED] \$1,830.00, at the rate of \$10.00 per hour. During a short period of time in the Summer of 1998, part of the monies [REDACTED] received from Mrs. Casey were paid for work [REDACTED] conducted while on EdCC paid time.

5. The activities and conduct noted above continued until EdCC was notified of the violations by the Washington State Auditor's Office in August/September 1998.

6. From the time EdCC was notified of the violation in August/September 1998 until present, [REDACTED] has not received, nor been subjected to, any departmental discipline or other sanctions related to this matter.

## **B. APPLICABLE LAW**

1. RCW 42.52.020 states:

No state officer or employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's duties.

2. RCW 42.52.070 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.

3. RCW 42.52.160(1) states:

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

### C. AGGRAVATING & MITIGATING FACTORS

1. In determining the appropriateness of the civil penalty, the criteria in WAC 292-120-030 has been reviewed. In the case at hand it is an aggravating factor that: (1) the violation was continuing in nature (WAC 292-120-030(2)(a)); (2) the violation could reduce the public respect for, and the confidence in, state government employees (WAC 292-120-030(2)(e)); (3) the violation involved personal gain or special privilege to [REDACTED] (WAC 292-120-030(2)(f)); and, (4) [REDACTED] incurred no other sanctions as a result of her violations (WAC 292-120-030(3)(f)).

2. It is a mitigating factor that: (1) the conduct at issue was approved by [REDACTED] supervisors (WAC 292-120-030(4)(c)); and, (2) [REDACTED] has cooperated in the Board's investigation of this matter (WAC 292-120-030(4)(e)).

### D. RESOLUTION

1. [REDACTED] admits that she violated provisions of chapter 42.52 RCW: (1) by having a financial interest in a private business operated by Mrs. Casey that was in conflict with the proper discharge of her official duties as a state employee, a violation of RCW 42.52.020; (2) by securing a special privilege for Mrs. Casey by using EdCC's vendor accounts for private enterprise, a violation of RCW 42.52.070; and, (3) by using EdCC's vendor accounts under her official control for the private benefit of Mrs. Casey and a private for profit corporation, a violation of RCW 42.52.160(1).

2. [REDACTED] will pay a civil penalty in the amount of one thousand dollars (\$1,000.00). The Board agrees to suspend five hundred dollars (\$500.00) on the condition that [REDACTED] complies with all terms and conditions of this Stipulation and Order and commits no further

violations of RCW 42.52 for a period of three (3) years from the date this Stipulation and Order is accepted by the Board.

3. The civil penalty in the amount of five hundred dollars (\$500.00) is payable to the *State of Washington* which will be remitted to the Board in five (5) equal installments of one hundred dollars (\$100.00) due on May 15, 2001, and the 15<sup>th</sup> day of each month thereafter until paid in full. Failure to make timely payment will cause the entire amount of the civil penalty, including the amount previously suspended, to become due and payable within ten (10) days of the missed payment.

4. [REDACTED] will attend Washington State sponsored ethics training within six (6) months of the date this Stipulation and Order is accepted by the Board.

5. [REDACTED] will continue to cooperate in the Board's investigation of this matter and will testify truthfully regarding the facts recited above at any subsequent Board proceedings regarding this matter.

#### **E. CONCLUSIONS OF LAW**

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over [REDACTED] and over the subject matter of this complaint.

2. Pursuant to WAC 292-100-090(1), the parties have the authority to resolve this matter under the terms contained herein.

3. Settlement of this matter on the terms herein is subject to WAC 292-100-090(2) which states in part:

The board has the option of accepting, rejecting, or modifying the proposed stipulation or asking for additional facts to be presented. If the board accepts the stipulation or modifies the stipulation with the agreement of respondent, the board shall enter an order in conformity with the terms of the stipulation. If the board rejects the stipulation or respondent does not agree to the board's proposed modification to the stipulation, the normal process will continue. The proposed stipulation and information obtained during formal settlement discussion shall not be admitted into evidence at a subsequent public hearing.





**G. CERTIFICATION**

I. [REDACTED] hereby certify that I have read this Stipulation and Order in its entirety; that my counsel has fully explained its legal significance; that I knowingly and voluntarily waive my right to a hearing in this matter; that I fully understand and voluntary agree to this Stipulation.

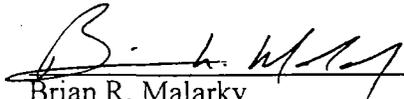
\_\_\_\_\_  
[REDACTED]  
\_\_\_\_\_

Date

  
\_\_\_\_\_  
Mark S. Lyon, WSBA #12169  
Attorney for Respondent  
4-18-01  
\_\_\_\_\_

Date

Stipulated to and presented by:

  
\_\_\_\_\_  
Brian R. Malarky  
Executive Director

April 18, 2001  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Marc D. Defreyne, WSBA #28318  
Assistant Attorney General  
Counsel for the Executive Director

\_\_\_\_\_  
Date

**G. CERTIFICATION**

I, [REDACTED] hereby certify that I have read this Stipulation and Order in its entirety; that my counsel has fully explained its legal significance; that I knowingly and voluntarily waive my right to a hearing in this matter; that I fully understand and voluntarily agree to this Stipulation.

[REDACTED]

\_\_\_\_\_  
Mark S. Lyon, WSBA #12169  
Attorney for Respondent

4/18/01  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Stipulated to and presented by:

\_\_\_\_\_  
Brian R. Malarky  
Executive Director

\_\_\_\_\_  
Marc D. DeMayo, WSBA #28318  
Assistant Attorney General  
Counsel for the Executive Director

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Date

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Date