

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

████████████████████

NO. 99-17

STIPULATION AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090 between ██████████ and the EXECUTIVE ETHICS BOARD (“Board”) through Richard A. McCartan, Assistant Attorney General and Brian R. Malarky, Executive Director. The following stipulation will be binding upon the parties only if accepted by the Board.

A. FACTS

1. The above-referenced ethics complaint alleges that University of Washington Athletic Director ██████████ violated RCW 42.52 by approving contracts and outside compensation for two University football coaches, Jim Lambright and Rick Neuheisel. The complaint alleges that ██████████ further violated RCW 42.52 by agreeing for the University to pay \$9,500 assessed by the Board against Mr. Lambright for investigative costs associated with an ethics complaint (No. 98-06) against him.

2. As athletic director, ██████████ in 1998 approved a contract between the University and Mr. Lambright. The contract in part allowed Mr. Lambright to receive outside compensation from private companies. ██████████ also approved Mr. Lambright’s receipt of compensation from various private companies (Nike, Wilson, KOMO, and U.S. Bank). An ethics complaint (No. 98-06) was filed against Mr. Lambright alleging that his receipt of the outside compensation violated RCW 42.52. The Board found reasonable cause to believe that Mr. Lambright had violated RCW 42.52.110 and 42.52.120. While not admitting to having violated RCW 42.52, Mr. Lambright settled the case by agreeing to pay \$9,500 in costs associated with the Board’s

investigation of the complaint. In connection with the settlement, the Board issued an advisory opinion (No. 99-03) on outside compensation for college coaches. In various respects, Mr. Lambright's receipt of outside compensation was at odds with that opinion.

3. Following settlement the University's Risk Management Office agreed to indemnify Mr. Lambright for the \$9,500 cost.

4. Another ethics complaint (No. 99-18) subsequently was filed against Mr. Lambright's successor, Mr. Neuheisel. The complaint alleged that Mr. Neuheisel also was receiving outside compensation in violation of RCW 42.52. After extended negotiations between Board staff and the University over terms of the Neuheisel contract,¹ and after investigating Mr. Neuheisel's outside income, the Board dismissed the complaint with a finding of no reasonable cause. The Neuheisel contract, signed by [REDACTED] appears to conform with the Board's opinions expressed in Advisory Opinion 99-03. Thus, there is no reason to believe that [REDACTED] violated RCW 42.52 with respect to the Neuheisel contract.

5. The University has implemented changes to assure that future coaches' contracts comply with the ethics law regarding outside compensation.

B. APPLICABLE LAW

RCW 42.52.070² 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 other persons.

¹ The extended negotiations on the Neuheisel contract caused the delay in resolving the complaint against [REDACTED]

² The complaint alleges that [REDACTED] violated RCW 42.52.110, 42.52.120, and 42.52.160(1). While these statutes were involved in Mr. Lambright's acceptance of outside compensation, Board staff believes they were not involved in [REDACTED] approval of his outside compensation.

C. CONCLUSIONS

1. [REDACTED] approved Mr. Lambright's outside compensation, allowing him to receive compensation from various private companies in a manner that violated RCW 42.52.110 and 42.52.120. The approval amounted for Mr. Lambright to a "special exemption" from the ethics law in violation of RCW 42.52.070. [REDACTED] maintains that she did not know that the Lambright contract violated the ethics law with respect to his compensation from the various private companies and that all her actions were consistent and in accordance with University policies and procedures regarding outside compensation. Board staff maintains that she either should have known of the violation or at least failed to properly consider whether the contract violated the ethics law.

2. With respect to the University's indemnification of Mr. Lambright in the amount of \$9,500, [REDACTED] was not the approving authority for that decision.

D. RESOLUTION

Based on the foregoing, in settlement of this complaint, [REDACTED]

1. Now understands that under the Board's 1999 advisory opinion the outside compensation to Mr. Lambright would be considered a violation of RCW 42.52.070;

2. Agrees to reimburse the State Ethics Board for the cost of this investigation, including attorney's fees, in the amount of two thousand five hundred dollars (\$2,500). The Board understands that the University will indemnify [REDACTED] for this reimbursement; and

3. Agrees that all future actions in regard to receipt of outside compensation by University Athletics Department employees will be in compliance with the State Ethics Law.

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 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.

F. RELEASE/EFFECT OF ORDER

1. If the Board accepts this Stipulation, the Board releases and discharges [REDACTED] from all further ethics proceedings under chapter 42.52 RCW for matters arising out of the facts contained in this complaint. [REDACTED] agrees to release and discharge the Board, its officers, agents, and employees from all claims, damages, and causes of action arising out of this complaint and this Stipulation and Order.
2. If this Stipulation is accepted, this Stipulation and Order does not purport to settle any other claims between [REDACTED] the University of Washington, the State of Washington, or other third party, which are now in existence or may be filed in the future.
3. If this stipulation is accepted, this Stipulation and Order will be inadmissible for any purpose in any other proceeding involving [REDACTED] the State, and/or third parties aligned with the State.
4. If this Stipulation is accepted, this Stipulation and Order is enforceable under RCW 34.05.578 and any other applicable statutes or rules.

G. CERTIFICATION

I, [REDACTED] hereby certify that I have read this Stipulation and Order in its entirety; that I have had an opportunity to consult with legal counsel; 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]

Respondent

Date

Stipulated to and presented by:

Brian R. Malarky
Executive Director

Richard McCartan
Assistant Attorney General
Counsel for the Executive Director

Date

Date

II. ORDER

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

_____ ACCEPTED in its entirety;

_____ REJECTED in its entirety;

_____ *MODIFIED. This Stipulation will become the Order of the Board if the following modifications are approved by _____.

DATED this _____ day of _____, 2001.

James M. Vaché, Chair

Laquita Fields, Vice Chair

Sutapa Basu, Member

Marilee Scarbrough, Member

Rev. Cheryl Rohret, Member

I, _____, accept/do not accept (circle one) the proposed modification.

Respondent

Date

Attorney for Respondent

Date