

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

██████████

Respondent.

No. 2012-03

STIPULATED FACTS,
CONCLUSIONS AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent ██████████ and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS BOARD (Board) through MELANIE DeLEON, Executive Director. The following stipulated facts, conclusions, and agreed order will be binding upon the parties if fully executed, and if accepted by the Board without modification(s), and will not be binding if rejected by the Board, or if the Respondent does not accept the Board's proposed modification(s), if any, to the stipulation.

Section 1: PROCEDURAL FACTS

1.1. On January 10, 2012, The Executive Ethics Board (Board) received a referral from the State Auditors Office (SAO) alleging that ██████████ former Executive Director, Washington Criminal Justice Training Commission (CJTC), may have violated the Ethics in Public Service Act when he secured a special privilege for others, used state resources for person gain, and conducted activities incompatible with public duties.

1.2. The Board is authorized under RCW 34.05.060 to establish procedures for attempting and executing informal settlement of matters in lieu of more formal proceedings under the Administrative Procedures Act, including adjudicative hearings. The Board has established such procedures under WAC 292-100-090.

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1.3. [REDACTED] understands that if Board staff proves any or all of the alleged violations at a hearing, the Board may impose sanctions, including a civil penalty under RCW 42.52.480(1)(b) of up to \$5,000, or the greater of three times the economic value of anything received or sought in violation of chapter 42.52 RCW, for each violation found. The Board may also order the payment of costs, including reasonable investigative costs, under RCW 42.52.480(1)(c).

1.4. [REDACTED] recognizes that the evidence available to the Board staff is such that the Board may conclude he violated the Ethics in Public Service Act. Therefore, in the interest of seeking an informal and expeditious resolution of this matter, the parties agree to entry of the stipulated findings of fact, conclusions of law and agreed order set forth below.

1.5. [REDACTED] waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or his acceptance of any modification(s) proposed by the Board, pursuant to the provisions of WAC 292-100-090(2) which provides 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 the respondent, the board shall enter an order in conformity with the terms of the stipulation. If the board rejects the stipulation or the respondent does not agree to the board's proposed modifications to the stipulation, the normal process will continue. The proposed stipulation and information obtained during formal settlement discussions shall not be admitted into evidence at a subsequent public hearing.

1.6. If the Board accepts this stipulation, the Board will release and discharge [REDACTED] from all further ethics proceedings under chapter 42.52 RCW for matters arising out of the facts contained in the complaint in this matter, subject to payment of the full amount of the civil penalty due and owing, any other costs imposed, and compliance with all other terms and conditions of the agreed order. [REDACTED] in turn 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 agreed order.

1.7. If this Stipulation is accepted, this Stipulation and Order does not purport to settle any other claims between [REDACTED] and the Washington State Executive Ethics Board, the State of Washington, or other third party, which may be filed in the future.

1.8. If this Stipulation is accepted, this Stipulation and Order is enforceable under RCW 34.05.578 and any other applicable statutes or rules.

1.9. If the Board rejects this stipulation, or if [REDACTED] does not accept the Board's proposed modification(s), if any, this matter will be scheduled for an administrative hearing in front of the Board and [REDACTED] waives any objection to participation by any Board member at any subsequent hearing to whom this stipulation was presented for approval under WAC 292-100-090(2). Further, [REDACTED] understands and agrees that this proposed stipulation and information obtained during any formal settlement discussions held between the parties shall not be admitted into evidence at a subsequent public hearing, unless otherwise agreed by the parties.

Section 2: FINDINGS OF FACT

2.1. [REDACTED] was the Executive Director for the CJTC from September 2010 to October 2011. Mr. Hawe resigned on October 14, 2011.

2.2. [REDACTED] was on the Board of Directors for the non-profit organization, Safe Call Now (SCN). [REDACTED] provided SCN use of the training center and staff to conduct its meetings. On February 4, 2011, SCN held the first of several meetings at CJTC training facilities in Burien. This meeting was attended by [REDACTED] and, at his request, CJTC staff employee Darlene Tangedahl attended to take the meeting notes. The meeting started at 8:10 a.m., and concluded at 4:00 p.m.

2.3. [REDACTED] Executive Assistant, Sonja Hirsch, told staff investigators that at the request of [REDACTED] she attended at least four SCN meetings that were held at the CJTC training facility. At each of those meeting she

was to take meeting notes. She stated that each meeting lasted about an hour and she would use another half hour to complete the notes and email them to all present at the meeting. Ms. Hirsch stated that at [REDACTED] request, she would provide coffee, tea, and other condiments for the meeting. These items were paid for using state funds.

2.4. [REDACTED] turned in a Travel Expense Voucher for miles driven using his personal vehicle to attend the following SCN meetings:

- May 5, 2011 – Seattle – 35 miles - \$17.85

2.5. [REDACTED] instructed classes at Seattle University as outside employment. Ms. Hirsch stated [REDACTED] requested her to make 25 to 30 copies of a test he was giving to his students using state resources. Ms. Hirsch knew it was wrong to use state resources for [REDACTED] outside employment, but she was directed to do so by [REDACTED]. Ms. Hirsch recalls at least two instances where Mr. [REDACTED] directed her to make copies for his university classes.

2.6. In the summer of 2011, the CJTC paid for employees to attend a motivational seminar with a few of the local sports figures attending. The cost to the CJTC was \$9.95 plus tax for everyone from the CJTC that wanted to attend. [REDACTED] son, Joe Jr., attended along with the wife of a non-staff instructor; she is a King County deputy. The \$9.95 cost for the CJTC was a special price provided to them and other companies in the local area. The CJTC had 40 to 50 people attend. Ms. Hirsch told investigators that an individual ticket to attend this seminar, if purchased at the door on the day of the event, would cost \$225.00.

2.7. On July 7, 2011, [REDACTED] had his Executive Assistant, Sonja Hirsch purchase motivational and inspirational wall art from "Upper Case Living." The order was for 19 items. Of the 19 items, seven were free due to the total amount of the order. The total cost for the 19 items was \$365.13.

2.8. Shortly after the first order was submitted, Ms. Hirsch became aware that Ms. Pacheco was [REDACTED] sister and became concerned about buying products for the CJTC from a family member of [REDACTED]. Ms. Hirsch confronted [REDACTED] telling him she was not okay with purchasing items for the campus through his sister.

2.9. On February 9, Ms. Bidinger sent an email to [REDACTED] and Ms. Hirsch. The email indicated that she had registered [REDACTED] son and Kate Greenquist to attend the Grant Writing Workshop on February 14 and 15. They both attended the workshops.

2.10. Greg Baxter, Human Resource Manager for the CJTC, stated that he attended both of the workshops, was aware of other CJTC employees who wanted to attend and that their attendance would have benefited the CJTC. He went on to say that he met Joe Jr., for the first time at the workshop and was surprised when, during the introductions, Joe Jr. introduced himself as being a volunteer with the CJTC Foundation. Mr. Baxter stated that the CJTC Foundation did not exist at that time.

2.11. Kate Greenquist indicated that she had known [REDACTED] when he was a U.S. Marshall and the Sheriff of Clallam County during her years working in the U.S. Attorneys Office. She had worked with [REDACTED] on a number of efforts coordinating law enforcement and community initiatives. [REDACTED] had asked her to work with him on creating a foundation for the CJTC, similar to foundations created by police departments. One of the goals of the foundation would be to raise money through grants. [REDACTED] asked her to attend the Grant Writing Workshop on February 14 and 15, 2011 and she did.

Section 3: CONCLUSIONS OF LAW

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

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

3.3. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from using state resources for their benefit. RCW 42.52.160(1) states:

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.

3.4. Based on Findings of Fact 2.1 through 2.7, [REDACTED] used state resources for personal benefit in violation of RCW 42.52.160 and WAC 292-110-010.

3.5. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from conducting activities incompatible with their public duty (Conflict of Interest). RCW 42.52.020 states:

No state officer or state 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 official duties.

3.6. Based on Findings of Fact 2.8 through 2.9, [REDACTED] conducted activities incompatible with his public duty in violation of RCW42.52.020.

3.7. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from provided Special Privileges. 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.

3.8. Based on Findings of Fact 2.3, 2.4 and 2.10 through 2.12, [REDACTED] conducted activities incompatible with his public duty in violation of RCW42.52.070.

3.9. The Board is authorized to impose sanctions for violations to the Ethics Act pursuant to RCW 42.52.360. The Board has set forth criteria in WAC 292-120-030 for imposing sanctions and consideration of any mitigating or aggravating factors.

Section 4: AGGRAVATING AND MITIGATING FACTORS

In determining the appropriateness of the civil penalty, the Board reviewed the criteria in WAC 292-120-030. It is an aggravating factor that [REDACTED] as the Executive Director of the Criminal Justice Training Commission, was in charge of the Washington State Criminal Justice Training Center and these violations significantly reduced the public respect and confidence in state government employees, were continuing in nature, and impaired a function of the Agency. It is a mitigating factor that [REDACTED] resigned from state service and that the violations were not intentional.

Section 5: AGREED ORDER

5.1 For the violation(s) RCW 42.52.160, RCW 42.52.020, and RCW 42.52.070, [REDACTED] will pay a civil penalty in the amount of, Twelve thousand, five hundred dollars (12,500.00).

5.2 The civil penalty of \$12,500.00 is payable in full, to the State Executive Ethics Board in installments as agreed to by the parties.

II. CERTIFICATION

I, [REDACTED] hereby certify that I have read this Stipulation and Agreed Order in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Board without my appearance. I knowingly and voluntarily waive my right to a hearing in this matter; and if the Board accepts the Stipulation and Agreed Order, I understand that I will receive a signed copy.

[REDACTED] 9/12/2012
Respondent

Stipulated to and presented by:

Melanie deLeon 9/12/12
Melanie deLeon Date
Executive Director

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 Respondent approves* the following modification(s):

DATED this 16th ^{14th day of September 2012} day of November, 2012.

Matthew Williams, III
Matthew Williams, III, Chair

Lisa Marsh
Lisa Marsh, Vice-Chair

Anna Dudek Ross
Anna Dudek Ross, Member

Michael Bahn
Michael Bahn, Member

Janica Jablonski
Janica Jablonski, Member

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

█ Respondent Date