

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

[REDACTED]

Respondent.

No. 2012-013

STIPULATED FACTS,  
CONCLUSIONS AND ORDER

**I. STIPULATION**

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent, [REDACTED] 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 March 6, 2012, the Executive Ethics Board (Board) received a complaint alleging that [REDACTED] former Regional Administrator, Department of Labor and Industries (LNI) may have violated the Ethics in Public Service Act by using state resources for his personal gain.

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.

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] began his career with the Department of Labor and Industries in 1986 as an Administrative Law Judge. [REDACTED] was appointed as the King County Regional Administrator in 2006 and remained in that position until he retired on November 30, 2011.

2.2. At the time of the alleged violation, [REDACTED] was not a practicing attorney for LNI, but he wanted to maintain his license to practice law, requiring him to maintain his Continuing Legal Education (CLE) credits. His current and past supervisors approved of Mr. [REDACTED] using state resources to complete the CLEs as long as they related to the work of LNI.

2.3. On August 9, 2011, [REDACTED] provided a list of seminars he wanted to purchase to his Executive Assistant, Carol Simatic. Ms. Simatic indicated that when she called in the order she was told that the seminars on DVD could not be ordered until the last seminar she requested was completed on October 5, 2011.

2.4. On September 8, 2011, [REDACTED] composed a letter to LNI Director Judy Schurke advising her of his intentions to separate from state service on November 30, 2011.

2.5. On October 13, 2011, Ms. Simatic ordered the DVDs and books for the requested seminars. [REDACTED] was not advised that the requested DVD's could not be ordered until after October 5, 2011. The DVDs and workbooks for the seminars were shipped on November 3, 2011. The total costs of the seminar DVDs and workbooks was \$2,480.00.

2.6. According to his supervisor, Mr. LaPalm, [REDACTED] could make those types of purchases without his authorization.

2.7. [REDACTED] Washington State Bar Association (WSBA) training records indicate that he completed the seminars on the following dates:

- Mediation as a Cost-Saving Technique – 12/18/2011 to 12/20/2011
- Insurance in the Construction Industry – 12/26/2011 to 12/28/2011
- Washington Construction Law – 12/2/2011/ to 12/5/2011
- Labor and Employment Law – 12/8/2011 to 12/11/2011

2.8. When [REDACTED] left state service on November 30, 2011, he took the four seminars with him. He completed the seminars in December 2011, after leaving state service, obtaining CLE credits required by the WSBA to maintain his license to practice law. [REDACTED] obtained 30 general CLE credits and 4.25 ethics CLE credits as a result of the four seminars purchased by the state.

2.9. [REDACTED] returned the course materials on March 12, 2012. The subject DVDs and workbooks are now located in LNI's Tukwila, Washington library where they are accessible to all LNI employees. The subject matter may be beneficial to other current LNI employees. In addition, because the LNI library is now a branch of the Washington State Library System, the subject DVDs are also available to all state employees and all Washington state library card holders.

### 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. [REDACTED] recognizes that if stipulated Findings of Fact 2.1 through 2.9 were presented at hearing, the Board would likely conclude he used state resources for personal benefit in violation of RCW 42.52.160 and WAC 292-110-010.

3.5. 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] was a Regional Administrator for the LNI, and as such, he had significant official, management, and supervisory responsibilities. Mitigating factors are that [REDACTED] (1) has no prior record of ethical violations; (2) served as a State employee for almost 26 years; (3) the subject matter of the course materials is reasonably related to duties of an LNI field manager and other LNI employees; and (4) the DVDs are accessible to LNI personnel, other state employees and the public.

**Section 5: AGREED ORDER**

5.1 For the violation RCW 42.52.160, [REDACTED] will pay a civil penalty in the amount of, one thousand dollars (\$1,000.00) and two thousand, four hundred, eighty dollars (\$2,480.00) in restitution to LNI.

5.2 The civil penalty of \$1,000.00 is payable in full, to the State Executive Ethics Board within 45 days after this stipulation is accepted by the Board, or as otherwise agreed to by the parties. Restitution of \$2,480.00 will be paid to LNI.

**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]

ate *January 17<sup>th</sup> 2014*

Respondent

Stipulated to and presented by:

*Melanie deLeon 1-26-14*

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 14 day of March, 2014.

      Lisa Marsh        
Lisa Marsh, Chair

      AOR        
Anna Dudek Ross, Vice-Chair

      M. Williams III        
Matthew Williams, III, Member

      Absent        
Samantha Simmons, Member

      Sumeer Singla        
Sumeer Singla, Member

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

      [Redacted]       Respondent                      Date