

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

[REDACTED]

Respondent.

No. 2013-017

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 June 24, 2013, Board Staff received a complaint alleging that [REDACTED] was accepting honoraria from pharmaceutical companies to promote their products and that she was using her influence to promote their product to the state. The Board found Reasonable Cause on November 8, 2013.

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 she 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 her 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 first employed by Eastern State Hospital (ESH) in July of 2004 as an Attending Psychiatrist and was in that position for all times pertinent to this investigation.

2.2. A review of the respondent's e-mails revealed that [REDACTED] conducted promotional lectures for Jenssen Pharmaceuticals (JP) on the following days in 2012 and 2013:

- On June 18 and 20, 2012, [REDACTED] participated in JP on-line Speaker Training. [REDACTED] was paid an honorarium of \$650 for participating in this training. [REDACTED] was on leave during this training.
- At 12:00 p.m., on Tuesday, September 11, 2012, [REDACTED] presented a promotional lecture for JP on "*The Role of a Long-Acting Injectable Antipsychotic Therapy (LAT) in the Treatment of Schizophrenia*". The lecture was held at Lourdes Counseling Center, in Richland, Washington. [REDACTED] submitted leave to give this lecture. JP paid [REDACTED] \$2,000.
- At 6:30 p.m., on Wednesday, November 28, 2012, [REDACTED] presented a promotional lecture for JP on "*The Role of a Long-Acting Injectable Antipsychotic Therapy (LAT) in the Treatment of Schizophrenia*". The lecture was held at The Clark House, Hayden Lake, Idaho. This lecture was after working hours. JP paid [REDACTED] \$2,000.
- At 12:00 p.m., on Tuesday, April 30, 2013, [REDACTED] presented a promotional lecture for JP on "*The Role of a Long-Acting Injectable Antipsychotic Therapy (LAT) in the Treatment of Schizophrenia*". The lecture was held at Lourdes Counseling Center, in Richland, Washington. [REDACTED] submitted leave to give this lecture. JP paid [REDACTED] \$2,000 plus travel expenses.
- At 6:00 p.m., on Tuesday, April 30, 2013, [REDACTED] presented a promotional lecture for JP on "*The Role of a Long-Acting Injectable Antipsychotic Therapy (LAT) in the Treatment of Schizophrenia*". The lecture was held at Twig Bistro, in Kennewick, Washington. [REDACTED] submitted leave to give this lecture. JP paid [REDACTED] \$1,000 plus travel expenses.
- At 5:30 p.m., on Wednesday, June 5, 2013, Dr. Blake presented a promotional lecture for JP on "*The Role of a Long-Acting Injectable Antipsychotic Therapy (LAT) in the Treatment of Schizophrenia*". The lecture was held at Sullivan's Steakhouse, in Seattle, Washington. [REDACTED] submitted leave to give this lecture. JP paid [REDACTED] \$1,000 plus travel expenses.
- At 6:00 p.m., on Thursday, June 13, 2013, [REDACTED] presented a promotional lecture for JP on "*The Role of a Long-Acting Injectable Antipsychotic Therapy (LAT) in the Treatment of Schizophrenia*". The lecture was held at El Gaucho, in Tacoma, Washington. JP paid [REDACTED] \$2,000 plus travel expenses.
- At 6:00 p.m., on Thursday, June 27, 2013, [REDACTED] presented a promotional lecture for JP on "*The Role of a Long-Acting Injectable Antipsychotic Therapy (LAT) in the Treatment of Schizophrenia*". The lecture was held at Luigi's Restaurant, in Spokane, Washington. JP paid [REDACTED] \$2,000.

- At 12:00 p.m., on Monday, July 12, 2013, [REDACTED] presented a promotional lecture for JP on "*The Role of a Long-Acting Injectable Antipsychotic Therapy (LAT) in the Treatment of Schizophrenia*". The lecture was held at Providence Sacred Heart Psychiatric In-Patient, in Spokane Washington. JP paid [REDACTED] \$2,000.
- At 12:00 p.m., on Thursday, July 22, 2013, [REDACTED] presented a promotional lecture for JP on "*The Role of a Long-Acting Injectable Antipsychotic Therapy (LAT) in the Treatment of Schizophrenia*". The lecture was held at Central Washington Comprehensive Mental Health, in Yakima, Washington. [REDACTED] submitted leave to give this lecture. JP paid [REDACTED] \$2,000.
- At 12:00 p.m., on Wednesday, July 24, 2013, [REDACTED] presented a promotional lecture for JP on "*The Role of a Long-Acting Injectable Antipsychotic Therapy (LAT) in the Treatment of Schizophrenia*". The lecture was held at Clackamas County Mental Health, in Oregon City, Oregon. [REDACTED] submitted eight hours of sick leave for the day to give this lecture. JP paid [REDACTED] \$2,000.
- At 6:00 p.m., on Wednesday, July 24, 2013, [REDACTED] presented a promotional lecture for JP on "*The Role of a Long-Acting Injectable Antipsychotic Therapy (LAT) in the Treatment of Schizophrenia*". The lecture was held at Excelsior, in Eugene, Oregon. [REDACTED] submitted eight hours of sick leave for the day to give this lecture. JP paid [REDACTED] \$1,000.

2.3. A review of the [REDACTED] e-mail revealed that she conducted other outside employment activities using state resources. Some examples are shown below:

- Thirteen emails regarding consulting on a case for Attorney Kenneth J. Grunfeld. (February through June 2009)
- Several emails regarding becoming a promotional speaker for Forest Laboratories, a pharmaceutical company. (3/22/2009)
- One email to a drug representative regarding becoming a promotional speaker for Abilify. Abilify is drug used to treat Bipolar 1 and Schizophrenia and is produced by Otsuk America Pharmaceutical. (2/24/2009)

2.4. [REDACTED] has submitted "Notification of Outside Employment" forms to her agency since 2004. Only the 2011 form indicates that she would be working for the University of Washington, not any pharmaceutical companies.

2.5. DSHS Policy No. 18-64, establishes standards and guidelines for ethical employee conduct and applies to all Department of Social and Health Services employees, contractors, and volunteers.

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 2.2 through 2.5, [REDACTED] 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 these types of violations significantly reduce the public respect and confidence in state government employees and [REDACTED] benefitted financially because of these violations.

Section 5: AGREED ORDER

5.1 For violating RCW 42.52.130 and RCW 42.52.160 [REDACTED] will pay a civil penalty in the amount of ten thousand dollars (\$10,000.00). The Board agrees to suspend two-thousand, five hundred dollars (\$2,500.00) on the condition that [REDACTED] comply with all terms and conditions of this Stipulation and Order and commits no further violations of RCW 42.52 for a period of two years from the date this agreement is executed.

5.2 The civil penalty of \$7,500.00 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.

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 its entry, though I do not agree with, and take exception to, certain aspects 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]

4/1/14

Respondent

Stipulated to and presented by:

Melanie deLeon 4/9/14

Melanie deLeon
Executive Director

Date

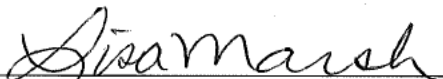
II. ORDER

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

Respondent approves* the following modification(s):

DATED this 9th day of May 2014



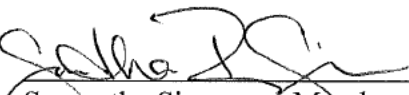
Lisa Marsh, Chair




Anna Dudek Ross, Vice-Chair



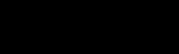
Matthew Williams III, Member




Samantha Simmons, Member



Sumeer Singla, Member

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

 Respondent Date