

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Bruce Thomas
Respondent.

No. 2013-41

STIPULATED FACTS,
CONCLUSIONS AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent, BRUCE THOMAS, 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 October 8, 2013, the Executive Ethics Board (Board) received a complaint referred by the Department of Licensing (DOL) alleging that Bruce Thomas, former Contract Manager, Motorcycle Safety (MSP) may have violated the Ethics in Public Service Act by resigning from state service and excepting employment with Puget Sound Safety (PSS), a motorcycle training school contracted with DOL to deliver motorcycle safety to Washington residents. The Board found Reasonable Cause on January 10, 2014.

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. Bruce Thomas 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. Bruce Thomas 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. Bruce Thomas 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 Bruce Thomas 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. Bruce Thomas 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 Bruce Thomas 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 Bruce Thomas 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 Bruce Thomas 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, Bruce Thomas 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. Mr. Thomas became employed as the Contract Manager for DOL's Motorcycle Safety Program (MSP) on February 1, 2010 and remained in that position until he left state service on March 29, 2013.

2.2. As the DOL MSP Contract Manager, Mr. Thomas was responsible to administer the motorcycle training schools contracts by ensuring contract delivery through audits and annual performance evaluations to ensure the contract guidelines and expectations were being met. Mr. Thomas would not complete the actual audit or performance evaluation, but he would review and approve them.

2.3. In the administration of these contracts Mr. Thomas did not have the authority to increase the originally negotiated amounts, but did have the authority to make administrative changes that would affect the performance of the contracts and he could authorize the transfer of contract funds from one contract to another. Mr. Thomas reviewed and approved contract amendments and Memorandums of Understanding (MOUs), between DOL and the Motorcycle training schools, including those contracts with PSS.

2.4. At the end of the first two years of the contract, DOL and the Contractor renegotiated funding levels for the remaining two years. Renegotiation of contract funding occurred and approved by Julie Knittle, Assistant Director. During this time Bruce Thomas was the Contracts Manager.

2.5. In March of 2012, DOL's Office of System and Program Review (OSPR) conducted an audit of the MSP. Included in the audit were reviews of the travel reimbursement of MSP staff and expense reimbursement by Chief Instructors, (contracted positions). As a

result of the OSPR audit Mr. Thomas had his purchasing and payment approval authority removed.

2.6. Mr. Thomas left state service on March 29, 2013 and started work for PSS in April 2013.

2.7. On May 6, 7, and 8, 2013, Mr. Thomas co-instructed a motorcycle beginning riding class subsidized by the DOL MSP. This course was paid under Contract No. K1339, a contract that Mr. Thomas administered for DOL MSP.

Section 3: CONCLUSIONS OF LAW

3.1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Raymond Thomas 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, restricts former state employees from accepting certain offers of employment. RCW 42.52.080(1) states:

No former state officer or state employee may, within a period of one year from the date of termination of state employment, accept employment or receive compensation from an employer if:

(a) The officer or employee, during the two years immediately preceding termination of state employment, was engaged in the negotiation or administration on behalf of the state or agency of one or more contracts with that employer and was in a position to make discretionary decisions affecting the outcome of such negotiation or the nature of such administration;

(b) Such a contract or contracts have a total value of more than ten thousand dollars; and

(c) The duties of the employment with the employer or the activities for which the compensation would be received include fulfilling or implementing, in whole or in part, the provisions of such a contract or contracts or include the supervision or control of actions taken to fulfill or implement, in whole or in part, the provisions of such a contract or contracts. This subsection shall not be construed to prohibit a state officer or state employee from accepting employment with a state employee organization.

3.4. Based on Findings of Fact 2.1 and 2.7, Bruce Thomas left state service and excepted employment with a company on a contract that he administered during his last two years of state service in violation of RCW 42.52.080 (1).

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 a mitigating factor the Mr. Thomas is no longer employed by the state.

Section 5: AGREED ORDER

5.1 For violating RCW 42.52.080, Bruce Thomas will pay a civil penalty in the amount of, seven hundred and fifty dollars (\$750.00).

5.2 The civil penalty of \$750 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, Bruce Thomas, 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.

Bruce Thomas 2/14/14

Bruce Thomas Date
Respondent

Stipulated to and presented by:

Melanie deLeon 3-4-14

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 14th day of March 2014

 Lisa Marsh
Lisa Marsh, Chair

 Anna
Anna Dudek Ross, Vice-Chair

 M. Williams III
Matthew Williams III, Member

 Samantha
Samantha Simmons, Member

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Sumeer Singla, Member

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

Bruce Thomas, Respondent Date