

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Ken Noland,
Respondent.

No. 2014-003

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, KEN NOLAND, and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS BOARD (Board) through Kate Reynolds, Executive Director, pursuant to chapter 42.52 RCW, chapter 34.05 RCW, and WAC 292-100-090(1). The following stipulated facts, conclusions of law, 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. This stipulation is based on the following:

A. STIPULATED FACTS

1. On March 14, 2014, the Executive Ethics Board (Board) initiated a complaint alleging that Ken Noland, Lieutenant with the Washington State Patrol, may have violated the Ethics in Public Service Act by providing a special privilege to a family member and friend.

2. Ken Noland (Noland) is employed with the Washington State Patrol and is currently a Lieutenant. At all times pertinent to this investigation he was employed with the Washington State Patrol but at the time of the occurrence he was a Captain.

3. On January 23, 2014, a Tacoma News Tribune article reported that then-Captain Noland allowed his son and his son's girlfriend into a Seattle Seahawks game without tickets. Based on this newspaper article, the Board initiated a complaint on March 14, 2014 and Board staff requested copies of the Washington State Patrol's investigation.

4. Board staff reviewed the investigative report provided by the Washington State Patrol as well as the outside employment agreements with private security firms. According to the information from the Washington State Patrol, the private security firms provide security details for the Seattle Seahawks during home games. The Washington State Patrol confirmed that off-duty officers wear their Washington State Patrol uniforms while providing this security.

5. The Washington State Patrol Investigation revealed the following:

a. On the night of December 29, 2013, a CenturyLink Stadium employee was stationed at the VIP entrance at the southwest gate during a home game. The VIP entrance is for clubs and suites. The VIP entrance does not have turnstiles similar to other entrance ramps; people are required to show their tickets to gain entrance.

b. Washington State Patrol troopers are hired by a private security firms to provide security at CenturyLink and to assist CenturyLink employees because the public has a tendency to behave more when they see officers in uniform.

c. Noland was scheduled to work for a private security firm on the night of December 29, 2013 at CenturyLink stadium in the VIP area. At one point during the night, Noland approached the VIP entrance with two people, a man and a woman. Neither had tickets to the VIP area. A CenturyLink employee told them they could not go into the VIP area because they did not have tickets to which Noland responded that the two individuals were with him. The employee allowed

the two individuals in because they were escorted by law enforcement. Noland did not have the authority to allow these two individuals into the VIP area without tickets.

d. The two individuals escorted into the stadium were Noland's son and a friend of his son.

6. Noland, in his response to the investigation conducted by the Board, admitted that his son and son's friend did not have tickets to the game and that he let them in the game. Noland also maintains that he was off-duty and working for a private business and that his son and friend were not let into the game because he was a trooper but because of his employment with the security firm. He also stated that because of this incident he was reverted to Lieutenant, his salary was reduced approximately \$1,200 a month, and he has an hour longer commute to his new assignment.

B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits a state employee from using their position to secure special privileges for themselves, family members, or others.

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.

2. Based on the stipulated facts above, Noland agrees that if this matter were to proceed to a hearing, the Board would likely find that he used his position to secure a special privilege for his child and child's friend in violation of RCW 42.52.070.

3. 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.

C. AGGRAVATING AND MITIGATING FACTORS

In determining the appropriateness of the civil penalty, Board staff reviewed the criteria in WAC 292-120-030. In the matter at hand, it is an aggravating factor that Noland was in a supervisory position, namely Captain, with the Washington State Patrol at the time of the occurrence and the nature of such a violation tends to significantly reduce public respect for or confidence in state government. WAC 292-120-030(2)(e) and WAC 292-120-030(3)(d). It is a mitigating factor that prior corrective action was taken against Noland. WAC 292-120-030(4)(b).

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Noland and over the subject matter of this complaint.

2. Under RCW 34.05.060, the Board can 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.

3. 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.

4. Noland agrees that if any or all of the alleged violations were proven 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).

5. Noland further agrees that the evidence available to the Board 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.

6. Noland 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).

7. If the Board accepts this stipulation, the Board agrees to release and discharge Noland from all further ethics proceedings under chapter 42.52 RCW for any allegations arising out of the facts 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 stipulation. Noland 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.

8. If the Board accepts this stipulation, it does not purport to settle any other claims between Noland and the Washington State Executive Ethics Board, the State of Washington, or

other third party, which may be filed in the future. No other claims of alleged violations are pending against Noland at this time.

9. If the Board accepts this stipulation, it is enforceable under RCW 34.05.578 and any other applicable statutes or rules.


10. If the Board rejects this stipulation, or if Noland does not accept the Board's proposed modification(s), if any, this matter will be scheduled for an administrative hearing before the Board. If an administrative hearing is scheduled before the Board, Noland waives any objection to participation by any Board member to whom this stipulation was presented for approval under WAC 292-100-090(2), based on the Board member's prior participation in the informal settlement process. Further, Noland understands and agrees that this stipulation as well as information obtained during any settlement discussions between the parties shall not be admitted into evidence during the administrative hearing, unless otherwise agreed by the parties.

11. Noland agrees to pay a civil penalty in the amount of one thousand dollars (\$1,000) associated with violation of the special privilege prohibition, RCW 42.52.070. The Board agrees to suspend five hundred dollars (\$500) on the condition that Noland complies 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.

12. The civil penalty of five hundred dollars (\$500) is payable in full to the Washington State Executive Ethics Board within forty-five (45) days after this stipulation is signed and accepted by the Board, or as otherwise agreed to by the parties.

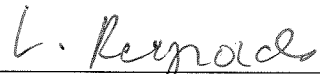
II. CERTIFICATION

I, Ken Noland, hereby certify that I have read this stipulation in its entirety, that my counsel of record, if any, has fully explained the legal significance and consequence of it. I further certify 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, I understand that I will receive a signed copy.

 12.22.14

KEN NOLAND Date
Respondent

Presented by:

 12/29/14

KATE REYNOLDS 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 13th day of March 2015

 Lisa Marsh
Lisa Marsh, Chair

 Anna Dudek Ross
Anna Dudek Ross, Vice-Chair

 Samantha Simmons
Samantha Simmons, Member

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Sumeer Singla, Member

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

 Ken Noland, Respondent Date