

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

[REDACTED]

Respondent.

No. 2014-023

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, [REDACTED] 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 May 20, 2014, the Executive Ethics Board (Board) received a complaint alleging that [REDACTED] Community Corrections Supervisor, Department of Corrections (DOC), may have violated the Ethics in Public Service Act (the Act). The complaint alleged [REDACTED] violated the Act by using state resources for private benefit or gain when she frequently transported her spouse, a non-state employee, to work in her assigned state vehicle and allowed her office assistant to use a state vehicle for personal reasons. The complaint further alleged that she inappropriately assigned overtime to a select group of her subordinates.

2. [REDACTED] is the Community Corrections Supervisor NW for the Community Response Unit (CRU) located in Seattle and held that position for all time pertinent to this investigation.

3. [REDACTED] is the DOC supervisor in charge of the Neighborhood Corrections Initiative (NCI) for DOC. The NCI is collaborative effort by the SPD and DOC to establish a greater community presence and emphasis by DOC and SPD by the immediate and direct contact with DOC offenders currently suspected of criminal activity that could threaten public safety with the City of Seattle. SPD Officer Maes was collocated and assigned to the same task force as Ms. [REDACTED]

4. The complaint alleges [REDACTED] used her assigned state vehicle to transport her spouse, Seattle Police Department Officer Victor Maes to and from work.

5. [REDACTED] acknowledged in her response that she provides transportation to her spouse from home to work on the days when they are both in the office and when they are working together on "normal and joint operations."

6. [REDACTED] maintains that she received permission from her supervisor, Regional Administrator Jim Harms, to provide transportation to her spouse because they worked in the same building. [REDACTED] also maintains that after receipt of the complaint she contacted Mr. Harms and asked him to put his permission in writing. According to [REDACTED] Mr. Harms stated that he would so, but as of the date of this order, the Board investigator has not received the written permission from Mr. Harms.

7. During the course of the investigation, Mr. Harms told the Board investigator that he informed [REDACTED] that Officer Maes may be transported in the state issued vehicle as long as

it was for official state business. He also stated that he did not believe this included the daily commute back and forth from home to work.

8. [REDACTED] denies that Mr. Harms did not know she was commuting with Officer Maes. She maintains that he knew and he expressly authorized it. She further indicates that she had a direct conversation with Mr. Harms regarding the commute with Mr. Maes, that Mr. Harms observed them arriving and leaving together, and spoke to them while in commute.

9. DOC Policy 230.500 – Vehicle Use Section 5 (A4) states; the operator will not transport unauthorized passengers (e.g., relatives, friends, hitchhikers, pets). OFM has established procedures on the use of a state vehicle as outlined in the State Administrative and Accounting Manual (SAAM) Chapter 12.30.20.a. 12.30.20.a states that any use of a state-owned or leased vehicle is to be for official state business and that the operator of the vehicle is expressly prohibited from transporting unauthorized passengers. It also states that unauthorized passengers are those passengers not engaged in performing official state business and/or not specifically authorized by the agency head or designee.

10. The Board investigator contacted DOC Secretary Bernie Warner who indicated that he did not authorize and did not designate anyone who would have authorized [REDACTED] to use her state issued vehicle to transport her husband, a non-state employee, to work.

11. Assistant Secretary of DOC, Anmarie Aylward, indicated that she was not a designee to authorize such use by the Secretary. She further indicated that even though she was not aware of the use, she could understand how given the MOU with SPD how staff assigned to the Community Response Unit could have been seen as covering passengers engaging in

performing official state business. Ms. Aylward was Mr. Harms' direct supervisor and she reports directly to the Deputy Secretary.

12. A review of all emails from [REDACTED] state email account for the past 24 months revealed that [REDACTED] was using her state email account and her office assistant for her personal gain in regards to the probate and execution of Juleen B. Maes will, deceased sister-in-law of Victor Maes. A review of the email also showed emails received from businesses with payment confirmation notices. These emails included eighty-three emails directly related to Juleen Maes estate between January and May of 2014. Many of the emails included attachments scanned on a DOC scanner. [REDACTED] forwarded one email received from Ms. Mills' estate planning attorney, Dave Berkey, to her Office Assistance Karen Kelso directing her to "Print everything." The email included seven documents. Additionally, between January 19, 2012 and May 15, 2014, there were forty-one emails confirming personal purchases and payments received. There was one email written to a company regarding her dissatisfaction with their product, one email confirmation of payment from Puget Sound Energy, one email confirmation of payment to Home Depot, and two emails to Erin Miles with Orthodontics of Burien discussing making payments.

13. [REDACTED] indicated during this time her home router and computer printer was not working so she provided her state email address to these businesses to send her confirmation of payment. She also stated that she never once made a purchase from a state computer or any other state device.

14. There was no evidence located to would indicate [REDACTED] made personal purchases using state computers or other devices.

B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from securing 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.

2. Based on the stipulated facts above, [REDACTED] provided Victor Maes a Special Privilege in violation of RCW 42.52.070.

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.

4. Based on the stipulated facts above, [REDACTED] used state resources for a personal benefit in violation of RCW 42.52.160 and WAC 292-110-010.

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.

C. AGGRAVATING AND MITIGATING FACTORS

In determining the appropriateness of the civil penalty, the Board reviewed the criteria in WAC 292-120-030. In the matter at hand, it is an aggravating factor that [REDACTED] was in a

supervisory position within the DOC. It is a mitigating factor that [REDACTED] sought and was given permission by her direct supervisor, Mr. Harms, to transport Officer Maes to and from work in a DOC vehicle, and that any violation of the ethics act regarding the transportation of Officer Maes was unintentional.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over [REDACTED] 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. [REDACTED] 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. [REDACTED] further agrees that the evidence available to the Board 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.

6. [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).

7. If the Board accepts this stipulation, the Board agrees to release and discharge [REDACTED] 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. [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.

8. If the Board accepts this stipulation, it 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. No other claims of alleged violations are pending against [REDACTED] 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 [REDACTED] 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, [REDACTED] waives any objection to participation by any Board member at the hearing to whom this stipulation was

presented for approval under WAC 292-100-090(2). Further, [REDACTED] 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. [REDACTED] agrees to pay a civil penalty in the amount of three thousand dollars (\$3,000) associated with the improper use of public resources, RCW 42.52.160.

12. The civil penalty of three thousand dollars (\$3,000.00) 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, [REDACTED] 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.

[REDACTED]
Respondent

11-10-2014
Date

Presented by:

K. Reynolds 11/11/14
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 14th day of November 2014

Lisa Marsh

Lisa Marsh, Chair

Anna Dudek Ross
Anna Dudek Ross, Vice-Chair

M. Williams III
Matthew Williams III, Member

Absent
Samantha Simmons, Member

Absent
Sumeer Singla, Member

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

[REDACTED] Respondent Date