

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

[REDACTED]

Respondent.

No. 2014-047

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 July 10, 2014, the Executive Ethics Board (Board) received an anonymous complaint alleging that [REDACTED] Executive Director, Washington State Potato Commission (WSPC) may have violated the Ethics in Public Service Act by using state resources to assist in a political campaign.

2. During all pertinent times to this investigation, [REDACTED] was the Executive Director of the Washington State Potato Commission, a state agency.

3. The complaint received by the Board alleges that [REDACTED] sent and received emails in an effort to assist two political candidates, that he used his state vehicle to transport political signs to supporters, and that he used his official title in a campaign advertisement for one of the candidates.

4. According to the evidence reviewed by Board staff, [REDACTED] sent/received over 150 emails in support of political candidates from February 21 through July 10, 2014 from his state issued email address.

5. Additionally, Board staff confirmed that [REDACTED] used his state vehicle to transport political signs to supporters on at least two occasions.

6. [REDACTED] pays a monthly stipend of \$66, which is deducted from his paycheck that entitled him to personal use of the state-issued vehicle. [REDACTED] indicated that he was not aware that there were any personal uses, including transporting political signs, for which he was not permitted to use his state vehicle.

7. On May 23, 2014, The Daily Sun News, a local newspaper published an article titled, "Newhouse names county campaign chairs." In the article, [REDACTED] is identified as one of the two Grant County campaign chairs. As a part of his identification, his occupation is listed as Executive Director, Washington Potato Commission. Nowhere in the article is [REDACTED] quoted. [REDACTED] acknowledges that he gave permission to the Newhouse campaign to use his name and official state title in the news release but indicated that he was not aware of any restrictions on the use of his title in campaign materials.

## B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from using state resources for personal benefit or gain. 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.

2. Based on the stipulated facts above, [REDACTED] used state resources for the private benefit or gain of the officer, employee, or another in violation of RCW 42.52.160.

3. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from the use of public resources for political campaigns. RCW 42.52.180 states in part:

No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

4. Based on the stipulated facts above, [REDACTED] used state resources in violation of RCW42.52.180.

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] held a management position within the Washington State Potato Commission. Additionally, these types of violations significantly reduce the public respect and confidence in state government employees. It is an mitigating factor that [REDACTED] has not received any training or guidance regarding the Ethics Act and that as soon as he was made aware of the potential violation he stopped the action; and he cooperated fully in the investigation conducted by the Ethics Board.

### 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 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. [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).

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.

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 four thousand dollars (\$4,000). The Board agrees to suspend one thousand, five hundred dollars (\$1,500.00) on the condition that [REDACTED] complies with all terms and conditions of this stipulation and commits no further violations of chapter 42.52 RCW for a period of two years from the date this stipulation is signed and accepted by the Board.

12. The non-suspended civil penalty of two thousand, five hundred dollars (\$2,500.00) 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.

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## 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

12/8/14  
Date

Presented by:

K. Reynolds 12/11/14  
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

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ACCEPTED in its entirety;

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REJECTED in its entirety;

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MODIFIED. This stipulation will become the order of the Board if the

Respondent approves\* the following modification(s):

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\_\_\_\_\_  
\_\_\_\_\_

DATED this 13<sup>th</sup> 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

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

Respondent \_\_\_\_\_ Date \_\_\_\_\_