

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Russ Beard,
Respondent.

No. 2015-029

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, RUSS BEARD, 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 April 14, 2015, the Executive Ethics Board (Board) initiated a complaint alleging that Russ Beard (Mr. Beard), Vice President of Information Resources at Bellevue College (BC), may have violated the Ethics in Public Service Act by entering into a contract between Bellevue College and his brother, Randy Beard (Randy), for consulting services.
2. Russ Beard was employed by BC as the Vice President for Information Resources for all time pertinent to this investigation.
3. In May 2014, Russ Beard contacted his brother Randy Beard to discuss an opportunity for Randy to perform some consulting work to some of his IT staff at BC.

4. On May 22, 2014, Randy sent an email to Mr. Beard thanking him for the opportunity at BC and indicating that they needed to talk about the details of the contract. He asked Mr. Beard to give him a call so they could go over the details. Mr. Beard responded that he would call later that night.

5. On May 28, 2014, Mr. Beard and Randy signed the contract between BC and Randy Beard. The contract was for Randy to provide mentoring in the area of project and process management, status reporting, time management, communication and effective leadership. Randy was to shadow two BC employees and offer constructive feedback and share lessons in the general areas of project management. Under the contract terms, Randy was to provide a final presentation to BC staff identifying key issues/concerns, areas for improvement, areas of excellence and specific recommendations to ensure continued success moving forward.

6. The contract was for 26 hours of work at \$100 per hour, for a total of \$2,600, starting on or about Monday, June 23 and ending on Wednesday, June 25, 2014. The contract also paid \$557.85 for travel expenses.

7. Gary Farris (Mr. Farris), Information Security Compliance Manager with BC, indicated in a response to Board staff that it was Mr. Beard's idea to use Randy as a consultant to come in and look at his work. Mr. Farris further indicated that Mr. Beard told him that Randy had experience going through the same process as he was currently going through in establishing a compliance program for an organization of similar size to BC.

8. Mr. Farris indicated in a response to Board staff that he meet for about one hour with Randy sometime in June of 2014 to discuss establishing a Payment Card Industry (PCI) compliance program for the college. Mr. Farris further indicated in his response that at the end of the meeting Randy told him that he was on the correct path towards accomplishing BC goals and that he was doing a good job. Randy offered no advice other than to continue doing what he was already doing.

9. Eric Kong (Mr. Kong), Information Resource Solutions Architect with BC, indicated in his response to Board staff that he expressed an interest to Mr. Beard in professional development and Randy was one of the many professional development resources Mr. Beard provided.

10. Mr. Beard indicated in a response to Board staff that the final presentation was a meeting with Mr. Kong, Randy and himself. After all of the work was completed, Mr. Beard had briefing with Mr. Kong and Mr. Farris.

11. Mr. Kong indicated in his response to Board staff that he received a benefit from the consulting service provided by Randy. Mr. Kong further indicated that Randy spent about 3 business days working directly with him. Most of the knowledge he received from Randy was passed on to him verbally.

12. Mr. Beard indicated in response to Board staff that while he made the recommendation to hire Randy the final decision to hire came from the Administrative Service Office, as with all contracts. Mr. Beard further indicated that he consulted with BC's President, David Rule (Mr. Rule), and the VP of Administrative Services, Ray White (Mr. White), to verify hiring Randy was prudent.

13. Mr. Rule told Board staff that Mr. Beard brought the contact to his attention and he told Mr. Beard that he was all right with the contract as long as the contract followed all BC requirements and state ethics laws. Mr. Rule indicated in his response that he neither approved nor denied the contract.

14. Mr. Rule stated that all vice presidents have the authority to approve contracts for their departments as long as they were within budget requirement and followed BC contract requirements and state ethics laws.

B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from conducting activities incompatible with their public duty (conflict of interest). RCW 42.52.020 states:

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

2. Based on the stipulated facts above, Mr. Beard² conducted activities incompatible with his public duty by entering into a contract with his brother, in violation of RCW42.52.020.

3. 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

4. Based on the stipulated facts above, Mr. Beard used his position as the Vice President of Information Resources at Bellevue College to secure a special privilege for brother, Randy Beard, in violation of RCW 42.52.070.

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, Mr. Beard is in a position of

Executive Management at Bellevue College and these types of violations significantly reduce the public respect and confidence in state government employees.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Russ Beard 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. Russ Beard 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. Russ Beard 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. Russ Beard 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 Russ Beard 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. Russ Beard 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 Russ Beard 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 Russ Beard 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 Russ Beard 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, Russ Beard 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, Russ Beard 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.

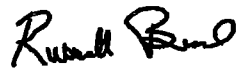
11. Russ Beard agrees to pay a civil penalty in the amount of two-thousand five-hundred dollars (\$2,500) for the violations associated with RCW 42.52. The Board agrees to suspend one-thousand two-hundred and fifty dollars (\$1,250) on the condition that Russ Beard complies with all

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 in the amount of one-thousand, two-hundred and fifty dollars (\$1,250) 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, Russ Beard, 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.

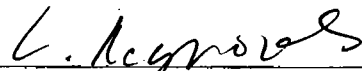


RUSS BEARD
Respondent

Feb. 28, 2017

Date

Presented by:



KATE REYNOLDS
Executive Director

3/1/17

Date

