

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Denise Hawk
Respondent.

No. 2015-073

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, DENISE HAWK, 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 August 6, 2015, the Executive Ethics Board (Board) received a complaint alleging that Denise Hawk (Ms. Hawk), Safety and Health Specialist with the Department of Labor and Industries (LNI), may have violated the Ethics in Public Service Act by using state resources for her personal benefit and gain. On August 20, 2015, pursuant to WAC 292-100-042, Board staff referred the complaint to LNI to investigate and make a recommendation as to the resolution. On November 10, 2015, Board staff received the completed LNI internal investigation.

2. For all times pertinent to this investigation, Ms. Hawk worked as Safety and Health Specialist 4, unit supervisor, in the Compliance section of the Division of Occupational Safety and Health (DOSH) at LNI.

3. In September of 2015, the internal investigator for LNI contacted several of Ms. Hawk's subordinates in an effort to obtain information regarding the allegations mentioned above.

4. One of Ms. Hawk's subordinates, Sarah Rogerson (Ms. Rogerson), indicated that between October 2014 and January 2015 she was with Ms. Hawk on three shopping trips during work hours to the Grocery Outlet, Big Lots, and the North 40 Store to purchase dog food, cat litter, a snow shovel, and a wallet for Ms. Hawk's daughter. After the shopping trips, Ms. Hawk drove to her residence where Ms. Rogerson would assist Ms. Hawk in carrying the items into Ms. Hawk's residence.

5. Ms. Hawk's subordinate, Sheri Hadwiger (Ms. Hadwiger), told the LNI investigator that she was aware of another subordinate driving Ms. Hawk, in a state vehicle, to a personal appointment and then driving around until she was summoned by Ms. Hawk to pick her up. This subordinate was advised by Ms. Hawk to just drive around and not go back to the office because other staff would know what she was doing.

6. Ms. Hawk's subordinate, Karen Angle (Ms. Angle), indicated in a response to Board staff that she was the employee that drove Ms. Hawk to the appointment mentioned above. Ms. Angle indicated that the appointment lasted for about one hour and during that time, she checked on a referral in the area of the appointment. Ms. Angle indicated that she could not recall any detail of the referral, other than it was in the neighborhood of Ms. Hawk's appointment.

7. Ms. Hawk denied that Karen Angle dropped her off for personal appointments.

8. Ms. Hadwiger told the LNI investigator that sometime near the end of March or the beginning of April of 2015 she observed Ms. Hawk drive her PAV to Houk Chiropractic during the workday.

9. Ms. Hadwiger also told the LNI investigator that Ms. Hawk would often leave work in her PAV and staff would be unable to reach her.

10. Another of Ms. Hawk's subordinates, Suanne Olmstead (Ms. Olmstead), told the LNI investigator that Ms. Hawk would normally ask staff to take her to her personal appointments but that she has also seen her take a state vehicle for personal appointments. Ms. Olmstead further stated that she has seen Ms. Hawk sneak out of the office and not tell anyone where she was going. She was aware of another employee who followed Ms. Hawk and observed her PAV at a chiropractor's office, indicating that this happened in the spring of 2015.

11. Ms. Hawk told the LNI investigator that when she drove her PAV to her personal appointments during the workday it would be during her lunch break and that she was never told that she should not do so.

12. LNI Policy 3.30 – Private use of State Resources, section B(2), states that state vehicles are to be used for official state business only.

13. LNI policy 8.10 – Motor Vehicles, section B states: Unless authorized by the Director or designee, state owned vehicles are for state business and must be used only by Department employees. Section G (5) states: Personal use of a state-owned, rented or leased motor vehicle constitutes grounds for corrective or disciplinary action.

14. Ms. Hawk told the LNI investigator that she was somewhat familiar with LNI policy 8.10, but that it had been six years since she had received training on how to complete the mileage log.

15. In the spring of 2015, Ms. Hawk went to the cubicle of her subordinate, Tim Norris (Mr. Norris), and instructed him and Ms. Rogerson to pick-up and deliver a refrigerator to her personal residence. Both employees told the LNI investigator this was done during work time and that they were not required to take leave. According to Mr. Norris, they spent about an hour and half away from work.

16. Ms. Hawk denies asking Mr. Norris or Ms. Rogerson to deliver the refrigerator to her residence. She stated that she mentioned the purchase to them and indicated that they both delivered the refrigerator to her residence although she recalls that it was on their day off.

17. Mr. Norris also told the LNI investigator that Ms. Hawk asked him to pick-up pallets from a worksite and deliver them to her residence. This occurred on Mr. Norris' day off.

18. Ms. Rogerson told the LNI investigator that Ms. Hawk repeatedly asked her to perform personal work for her during her time off from work. Ms. Rogerson told the LNI investigator that Ms. Hawk also requested she take her to the airport to catch a flight for vacation. Ms. Rogerson stated that she felt compelled to perform personal work for Ms. Hawk outside of the office.

19. Ms. Hawk denies ever asking Mr. Norris to pick-up pallets from a work site and deliver them to her house. She believes that Mr. Norris volunteered to help and that it was on his own time.

20. Ms. Hawk's subordinate, Ivan Dunken (Mr. Dunken), told the LNI investigator that Ms. Hawk could make the lives of her employees a "living hell" by the way she graded their reports and held up their inspections. Mr. Dunken stated that Ms. Hawk repeatedly expressed her need to have personal work done to the point that her employees felt compelled to help her.

21. Mr. Dunken stated that sometime last spring, in 2015, at Ms. Hawk's request; he moved her toilet and installed a set of metal doors at her residence. This was done on Mr. Dunken's time off from work. Mr. Dunken stated that to install the metal doors he had to purchase a special tool costing approximately \$120. He indicated that he told Ms. Hawk of the additional cost but she did not

reimburse him. Mr. Dunken went on to say that he has done so much personal work for Mr. Hawk that he could not recall it all.

22. Ms. Hawk denied having Mr. Dunken hang the metal doors or do plumbing work. Ms. Hawk indicated in her response that she merely told Mr. Dunken that she had a leak and he came over to her residence and turned the water off.

23. Mr. Dunken also told LNI investigators that at Ms. Hawk's request he provided care for her dog while she was on vacation. At some point, caring for Ms. Hawk's dog became more of a burden than he wanted and he called Ms. Rogerson and asked her if she would care for the dog until Ms. Hawk returned. Ms. Rogerson told him that she had been asked by Ms. Hawk to care for the dog too. Ms. Rogerson agreed to care for the dog until Ms. Hawk returned.

24. When Mr. Dunken advised Ms. Hawk that Ms. Rogerson was caring for her dog, she became upset. Mr. Dunken further stated that up until the dog incident Ms. Rogerson could not do anything wrong in Ms. Hawk's eyes and after she could not do anything right.

25. In the course of the LNI investigation, it was revealed that Ms. Hawk sold jewelry and vitamin supplements to her employees.

26. Ms. Rogerson told the LNI investigator that Ms. Hawk was hosting a party at her residence for her daughter who was selling the jewelry. Ms. Hawk told staff to attend and make purchases.

27. Ms. Hadwiger stated that Ms. Hawk was selling jewelry and pressuring everyone to buy it and host jewelry parties at their home by repeatedly suggesting it.

28. Ms. Hadwiger stated that Ms. Hawk also sold LeVel-Thrive vitamins at work. Ms. Hadwiger stated that she spent \$142 initially, plus an additional \$200 per month on vitamin products,

which Ms. Hadwiger indicated “brought kindness” from Ms. Hawk until she stopped making purchases.

29. Ms. Angle indicated in her response to Board staff that Ms. Hawk contacted her at work regarding the purchase of the vitamins and jewelry, but that it was done during the lunch hour and that she did not feel pressure to purchase. Ms. Angle indicated that she attended two jewelry parties hosted by Ms. Hawk’s daughter and that she purchased several pieces of jewelry.

30. Ms. Olmstead stated that Ms. Hawk came to her at work with a pamphlet of jewelry and told her that her daughter was selling it. Ms. Olmstead stated that Ms. Hawk would come repeatedly and apply pressure for her to buy jewelry. Ms. Olmstead further stated that Ms. Hawk instructed her to encourage Ms. Rogerson to sell jewelry.

31. Ms. Olmstead told LNI investigators that in November of 2014, Ms. Hawk tried to convince her to buy vitamins during work hours. Ms. Olmstead further stated that Ms. Hawk was doing this to everyone. Ms. Olmstead stated that Ms. Hawk asked her for her personal email address but did not give a reason, indicating that she did not think twice about giving it out but was surprised to find out that Ms. Hawk had registered her for LaVel-Thrive products. Ms. Olmstead stated that it was hard to un-register and that Ms. Hawk persisted about purchasing the vitamin products. Ms. Olmstead declined to purchase any vitamin products indicating that her doctor would not approve.

32. Ms. Olmstead stated that she witnessed Ms. Hawk selling vitamin products while at work to an LNI employee.

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. 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

3. Based on the stipulated facts, Ms. Hawk had an interest in her personal endeavors, including use of staff time for her personal benefit, in conflict with the proper discharge of her official duties in violation of RCW 42.52.020. Additionally, Ms. Hawk used her position as a supervisor in order to secure special privileges. These activities are in violation of RCW 42.52.070.

4. 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.

5. Based on the stipulated facts above, Ms. Hawk used state resources; including time, vehicles, facilities and staff time for her private benefit and gain in violation of RCW 42.52.160

6. 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, these types of violations significantly reduce the public respect and confidence in state government employees and that Ms. Hawk was in a supervisory position within LNI. It is a mitigating factor that Ms. Hawk was terminated from her position from LNI because of violations of LNI ethics policies as well as other LNI policies.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Denise Hawk 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. Denise Hawk 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. Denise Hawk 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. Denise Hawk 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 Denise Hawk 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. Denise Hawk 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 Denise Hawk 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 Denise Hawk 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 Denise Hawk 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, Denise Hawk 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, Denise Hawk understands and agrees that this

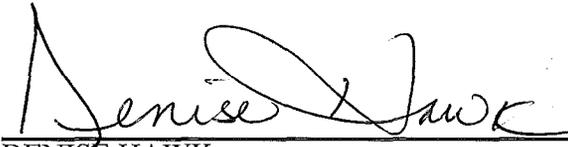
stipulation as well as information obtained during any settlement discussions between the parties shall not be admitted into evidence during the administrative hearing, unless otherwise agreed by the parties.

11. Denise Hawk agrees to pay a civil penalty in the amount of four-thousand dollars (\$4,000) for the violations associated with RCW 42.52.

12. The civil penalty in the amount of four-thousand dollars (\$4,000) 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.

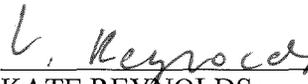
II. CERTIFICATION

I, Denise Hawk, 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.


DENISE HAWK
Respondent


Date

Presented by:


KATE REYNOLDS
Executive Director


Date

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

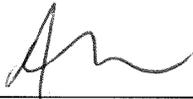
ACCEPTED in its entirety;

REJECTED in its entirety;

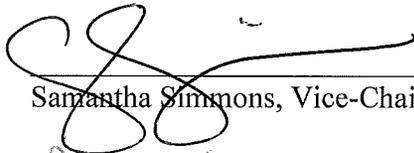
MODIFIED. This stipulation will become the order of the Board if the

Respondent approves* the following modification(s):

DATED this 9th day of September, 2016



Anna Dudek Ross, Chair



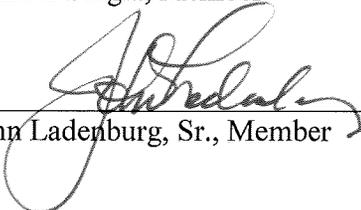
Samantha Simmons, Vice-Chair



Lisa Marsh, Member



Sumeer Singla, Member



John Ladenburg, Sr., Member

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

Denise Hawk, Respondent Date