

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

██████████

Respondent.

No. 2015-073

STIPULATED FACTS,  
CONCLUSIONS OF LAW AND  
AGREED ORDER

THIS STIPULATION is entered into by Respondent, ██████████, 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 ██████████ 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, [REDACTED] 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 [REDACTED] subordinates in an effort to obtain information regarding the allegations mentioned above.

4. One of [REDACTED] subordinates, Sarah Rogerson (Ms. Rogerson), indicated that between October 2014 and January 2015 she was with [REDACTED] 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 [REDACTED] daughter. After the shopping trips, [REDACTED] drove to her residence where Ms. Rogerson would assist [REDACTED] in carrying the items into [REDACTED] residence.

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

6. [REDACTED] subordinate, Karen Angle (Ms. Angle), indicated in a response to Board staff that she was the employee that drove [REDACTED] 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 [REDACTED] appointment.

7. [REDACTED] 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 [REDACTED] drive her PAV to Houk Chiropractic during the workday.

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

10. Another of [REDACTED] subordinates, Suanne Olmstead (Ms. Olmstead), told the LNI investigator that [REDACTED] 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 [REDACTED] sneak out of the office and not tell anyone where she was going. She was aware of another employee who followed [REDACTED] and observed her PAV at a chiropractor's office, indicating that this happened in the spring of 2015.

11. [REDACTED] 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. [REDACTED] 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, [REDACTED] 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. [REDACTED] 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 [REDACTED] 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 [REDACTED] repeatedly asked her to perform personal work for her during her time off from work. Ms. Rogerson told the LNI investigator that Ms. [REDACTED] 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 [REDACTED] outside of the office.

19. [REDACTED] 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. [REDACTED] subordinate, Ivan Dunken (Mr. Dunken), told the LNI investigator that Ms. [REDACTED] 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 [REDACTED] 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 [REDACTED] 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 [REDACTED] 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 [REDACTED] that he could not recall it all.

22. [REDACTED] denied having Mr. Dunken hang the metal doors or do plumbing work. Ms. [REDACTED] 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 [REDACTED] request he provided care for her dog while she was on vacation. At some point, caring for [REDACTED] 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 [REDACTED] returned. Ms. Rogerson told him that she had been asked by [REDACTED] to care for the dog too. Ms. Rogerson agreed to care for the dog until [REDACTED] returned.

24. When Mr. Dunken advised [REDACTED] 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 [REDACTED] eyes and after she could not do anything right.

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

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

27. Ms. Hadwiger stated that [REDACTED] 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 [REDACTED] 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 [REDACTED] until she stopped making purchases.

29. Ms. Angle indicated in her response to Board staff that [REDACTED] 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 [REDACTED] daughter and that she purchased several pieces of jewelry.

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

31. Ms. Olmstead told LNI investigators that in November of 2014, [REDACTED] tried to convince her to buy vitamins during work hours. Ms. Olmstead further stated that [REDACTED] was doing this to everyone. Ms. Olmstead stated that [REDACTED] 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 [REDACTED] had registered her for LaVel-Thrive products. Ms. Olmstead stated that it was hard to un-register and that [REDACTED] 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 [REDACTED] 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 [REDACTED] 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, [REDACTED] 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, [REDACTED] 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. [REDACTED] was in a supervisory position within LNI. It is a mitigating factor that [REDACTED] 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 [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 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 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 [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) 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, [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

9/16/14  
Date

Presented by:

*K. Reynolds*  
KATE REYNOLDS  
Executive Director

9/17/14  
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 9<sup>th</sup> day of September, 2016

                            
Anna Dudek Ross, Chair

                            
Samantha Simmons, Vice-Chair

                            
Lisa Marsh, Member

                            
Sumeer Singla, Member

                            
John Ladenburg, Sr., Member

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

                          , Respondent                      Date