

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

██████████

Respondent.

No. 2016-018

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 January 26, 2016, the Executive Ethics Board (Board) received a complaint alleging that ██████████), President of Bellevue College, may have violated the Ethics in Public Service Act when he engaged in activities incompatible with public duties and received a special privilege when his spouse acted as the agent, and received a sales commission in a real estate transaction involving one of his direct reports.

2. [REDACTED] was hired as President of Bellevue College in January 2013 and for all times pertinent to this investigation, he served as President of Bellevue College. [REDACTED] left state service in August 2016.

3. In a written response to Board Staff, [REDACTED] indicated that "as to the facts of the complaint, they are essentially true;" his spouse, a part time realtor, had assisted a Vice President of Bellevue College in the purchase of a home in 2015 and had received a sales commission for the transaction.

4. [REDACTED] provided Board staff with some background information on his relationship with the vice president and how the real estate transaction developed. He has known the vice president for more than ten years. They had previously worked together in Michigan, when [REDACTED] was president of a community college and the vice president worked in human resources. [REDACTED] left the college in 2008, and he and the vice president and their families have continued to maintain their friendship.

5. In 2014, the vice president applied for an open position at Bellevue College and was selected through a national search process, for the position of Vice President of Human Resources.

6. [REDACTED] said he and his spouse have interacted with the vice president and his family many times, both socially and professionally throughout the years. His wife was not a licensed realtor in Michigan and he could not recall exactly when the vice president may have learned she was a realtor. He said it could have been prior to the vice president search at Bellevue College, or when they went to dinner with him after he was hired, or after the vice president began working at Bellevue College. [REDACTED] could not recall any conversations with the vice president, where he discussed or recommended his spouse to him in regards to the home purchase.

7. After being hired by Bellevue College in 2014, the vice president was renting a home owned by Bellevue College (Scholar House) located near campus. The Scholar House is transitional housing available to recently hired staff as part of the recruitment process and is temporary housing. The vice president was nearing the end of the rental agreement and had been seeking to purchase a home. [REDACTED] thought that any discussions about purchasing a home through his spouse probably grew out of discussions about the vice president's temporary housing situation and his need for a more permanent living situation.

8. The vice president confirmed to Board staff, that because his rental agreement with Bellevue College for the Scholar House was nearing an end, he and his wife had been seeking to purchase a home in the area. Though he was aware [REDACTED] spouse was a realtor, they initially did not seek her out to be their agent. In July 2014, they met with another realtor who had been recommended by a Bellevue College coworker. They had begun initial discussions with him, however after the first meeting with the realtor, he did not respond back to continue working with them.

9. They began working with a second realtor in September 2014, who showed them some home listings. Issues arose during the pre-qualifying phase that put the process on hold. He could not recall specifically what the setting was or how the real estate conversations began with [REDACTED] spouse. He stated that "the clock was ticking on the Scholar House rental and the housing market was extremely hot" and they felt they were missing opportunities to purchase a home.

10. In October or November 2014, they spoke with [REDACTED] spouse about their situation and their frustration about how things had stalled. [REDACTED] spouse was able to successfully assist them through the pre-qualifying process by having them work with a lender she recommended. She then acted as their agent when they purchased their home in May 2015. The vice president told Board staff that [REDACTED] did not have involvement in the transaction.

11. In his written response to Board staff in February 2016, [REDACTED] who was still President at Bellevue College at the time, stated that any violation was unintentional on his part. After the complaint was made he discussed it with his wife and they agreed that, "regardless of any previous or existing relationships she will not represent any employee of Bellevue College, whether they are a direct report to me or not. I fully understand that as president we must be above reproach in such matters."

B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits activities incompatible with public duties. 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 officers or state employee's official duties.

RCW 42.52.070 Special Privileges 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 for himself or herself, or his or her spouse, child, parents or other persons.

2. Based on the stipulated facts above, [REDACTED] engaged in activities incompatible with public duties and secured a special privilege when his spouse represented a Vice President of Bellevue College that reported directly to him in a real estate transaction where she was paid a commission, in violation of RCW 42.52.020 and RCW 42.52.070.

3. 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. It is an aggravating factor that [REDACTED] was in a leadership position at Bellevue College. It is a mitigating factor that [REDACTED] is no longer working for the state.

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. 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 one thousand five hundred dollars (\$1,500) for the violations associated with RCW 42.52.

12. The civil penalty in the amount of one thousand five hundred dollars (\$1,500) 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

6/20/17
Date

Presented by:

K. Reynolds
KATE REYNOLDS
Executive Director

6/27/17
Date

II. ORDER

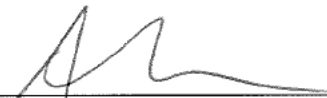
Having reviewed the proposed stipulation, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, pursuant to WAC 292-100-090, HEREBY ORDER that the Stipulation is

✓ ACCEPTED in its entirety;

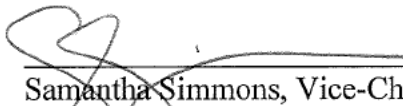
REJECTED in its entirety;

MODIFIED. This stipulation will become the order of the Board if the Respondent approves* the following modification(s):

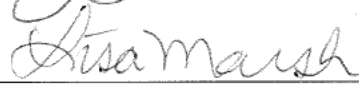
DATED this 14th day of July, 2017



Anna Dudek Ross, Chair




Samantha Simmons, Vice-Chair



Lisa Marsh, Member



John Ladenburg, Sr., Member



Shirley Battan, Member

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

[REDACTED], Respondent Date