

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

██████████

Respondent.

No. 2016-044

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 April 18, 2016 the Executive Ethics Board (Board) received a complaint referred by the Department of Enterprise Systems (DES) alleging that ██████████ a Contracts Specialist 3 with DES, may have violated the Ethics in Public Service Act by providing himself with a special privilege and using state resources for personal gain.

2. For all times pertinent to the investigation, ██████████ has been employed as a Contract Specialist 3 with DES. In 2015, the Office of Parking Services conducted a review of parkers on the Capitol Campus. The review and their timeline indicated that for 19 months Mr. ██████████ was accessing the Plaza Garage for parking as a solo driver on a routine basis, was not

paying any parking fees and did not have individual parking privileges to park in the Plaza Garage.

3. The Parking Services Office records determined that [REDACTED] had cancelled his individual parking in August 2011 and returned his previously issued parking stickers to the parking office. He requested to begin participation in a rideshare with his wife. [REDACTED] was paying the full \$25/month parking fee for both of them under the rideshare.

4. In April 2014, the Parking Office upon determining that [REDACTED] had stopped making her payroll deductions for parking services sent an inquiry to DSHS payroll where Ms. [REDACTED] was employed. They were advised that [REDACTED] had separated from state service in February 2014, so was no longer making payroll deductions for parking. Parking Services did not receive a request from [REDACTED] to begin payroll deductions for parking as an individual parker under his name. [REDACTED] continued parking as an individual parker in the garages with the stickers that had been previously issued to [REDACTED] under the rideshare program.

5. Deanna Price (Ms. Price), DES Parking Services Manager, told Board staff that parking enforcement did not learn of the parking violation until October 2015. Parking Services then emailed [REDACTED] to inquire about the findings of their review. He was notified that the balance of parking fees owed was \$475; the amount is equal to \$25 per month for the 19 months (March 2014-October 2015) he parked in the Plaza Garage and did not pay for individual parking. [REDACTED] was also notified that if he disagreed with the result that he needed to comment back in writing to the parking office within 30 days of receipt of the email. He did not do so. At the conclusion of the Parking Services investigation [REDACTED] paid the \$475 in parking fees owed.

6. [REDACTED] did not provide a response to Board staff during the investigation but did respond after the finding of Reasonable Cause by the Board in March 2017. He indicated that

when his wife left state service in February 2014, she spoke with someone at the parking facilities. [REDACTED] told them that she was leaving state service and the account would need to be transferred into [REDACTED] name. She could not recall whom she had spoken with at parking facilities. [REDACTED] said no one from parking facilities contacted him.

7. [REDACTED] believed the parking violation was only discovered after he contacted parking facilities and attempted to register a newly purchased vehicle for parking at the garage. He provided an email exchange with Narinda Cooke of DES Parking. She advised him in the October 2015 email, that they did have a record of [REDACTED] canceling her parking privileges in March 2014, but they had no request from him to register as an individual parker and begin the \$25.00 per month payroll deduction.

8. [REDACTED] felt DES Parking shared some of the blame because no one from their office reached out to him and "I continued to park at DES without knowing." [REDACTED] indicated that he had not "set out to intentionally deceive DES or the state of the parking fees" and felt it was "an oversight on both party's parts." [REDACTED] stated that his paycheck is deposited directly into his personal account and he did not notice that a payroll deduction for parking was not being made.

9. WAC 200-200-300 states in part: Agencies and non-state personnel will be billed by the parking office. *Employee rental parking fees and any and all employee parking permits fees shall be by payroll deduction.*

10. WAC 200-200-185: Knowledge of parking regulations states: *It is the responsibility of all persons and entities parking on state capitol grounds to read and fully understand these regulations. Lack of knowledge of these regulations will not be accepted as grounds for noncompliance.*

B. CONCLUSIONS OF LAW

1. 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.

2. WAC 292-110-010 Use of state resources states, in part:

.....

(2) The following are permitted uses:

(a) Use of state resources that is reasonably related to the conduct of official state duties, or which is otherwise allowed by statute.

(b) An agency head or designee may authorize a use of state resources that is related to an official state purpose, but not directly related to an individual employee's official duty.

(c) An agency may authorize a specific use that promotes organizational effectiveness or enhances the job-related skills of a state officer or state employee.

(d) A state officer or employee may make an occasional but limited personal use of state resources only if each of the following conditions are met:

(i) There is little or no cost to the state;

(ii) Any use is brief;

(iii) Any use occurs infrequently;

(iv) The use does not interfere with the performance of any officer's or employee's official duties; and

(v) The use does not compromise the security or integrity of state property, information, or software.

3. Based on the stipulated facts above, [REDACTED] used state resources for a personal benefit in violation of RCW 42.52.160 and WAC 292-110-010.

4. 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 aggravating factors that these types of violations significantly reduce the public respect and confidence in state government employees. It is a mitigating factor that [REDACTED] paid \$475 in owed parking fees.

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.

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 two thousand dollars (\$1,500) with seven hundred and fifty dollars (\$750) suspended.

12. The civil penalty in the amount of seven hundred and fifty dollars (\$750) 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]

6.9.17

Respondent

Presented by:

Kate Reynolds
KATE REYNOLDS
Executive Director

6/13/17
Date

III. 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;

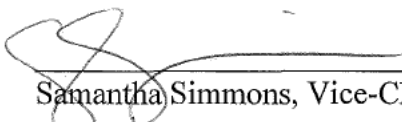
 REJECTED in its entirety;

 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



Shirley Battan, Member



John Ladenburg, Member

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

 , Respondent Date