BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of: EEB Case No. 2017-022
Stephen Goodman, FINAL ORDER
Respondent

1. PROCEDURAL HISTORY

On September 8, 2017, the Executive Ethics Board (Board) found reasonable cause to believe that the Respondent, Stephen Goodman (Mr. Goodman), violated the Ethics in Public Service Act while employed as an HVAC supervisor at Community Colleges of Spokane (CCS). Notice of the Reasonable Cause Determination and the right to request a hearing was served upon Mr. Goodman by regular mail and certified mail on September 11, 2017. Mr. Goodman failed to respond to the Reasonable Cause Determination within 30 days as required by WAC 292-100-060(2).

The Board entered an Order of Default on November 17, 2017. On November 17, 2017, Board staff provided Mr. Goodman with notice of the Board’s Order of Default by regular and certified mail.

Pursuant to WAC 292-100-060(4) Mr. Goodman was allowed 10 days to request vacation of the Order of Default. Mr. Goodman has not moved to vacate the order entered on November 17, 2017.

II. FINDINGS OF FACT

1. Mr. Goodman was hired as an HVAC Supervisor in the Facilities Department at CCS in December 2007 and held that position until September 2015, when he was terminated following the investigation into his individual purchases using the CCS Purchase card (P-card).
2. The Facilities Department at CCS typically employed six employees. As the HVAC Supervisor, Mr. Goodman was responsible for overseeing the division’s employees and project work performed. The HVAC Supervisor and the five HVAC technicians each had a P-card giving them authority to purchase supplies and parts as needed for assigned projects. Mr. Goodman reviewed and approved technician purchases and the Facilities Director monitored purchases made by Mr. Goodman.

3. In October 2014, John Gillette (Mr. Gillette) became the Facilities Director and the division established a more detailed review over facility operations, including review of HVAC purchases.

4. As part of their tracking system, the Facilities Department uses a log to track daily purchases. The purchaser briefly describes the item purchased and from which vendor and then attaches receipts. Mr. Gillette routinely views the log and then checks corresponding receipts for more purchase details since one receipt may include multiple items.

5. In July 2015, Mr. Gillette identified purchasing activity on Mr. Goodman’s P-card that appeared to be personal in nature, specifically motor oil purchased at Walmart in June 2015. Motor oil is not used in HVAC operations due to additives and detergents. Mr. Gillette told Board staff that purchases from Walmart are a red flag since Walmart is not a contracted vendor.

6. Mr. Goodman had written in the tracking log that he had purchased “compressor” oil from Walmart on June 10, 2015 at a cost of $62.35. Mr. Gillette checked the receipt and discovered the purchase was assigned to work order #159024 on June 8, 2015, however, that work order had been closed on June 2, 2015. Additionally, when Mr. Goodman added the oil to the closed work order rather than signing his name, he indicated “Paul N” had made the purchase.
7. Mr. Gillette told Board staff that Paul N. is a plumber who performed some
prior work on the job assignment. Mr. Gillette obtained the SKU number from the receipt,
went to Walmart and confirmed the oil purchased by Mr. Goodman was motor oil.

8. In the process of reviewing additional receipts, he found, among other things,
numerous purchases made by Mr. Goodman assigned to previously closed work orders, and
purchases Mr. Goodman made on days when he was out sick or on vacation.

9. In August 2015, Mr. Gillette met with Gary Nilsson (Mr. Nilsson), Human
Resources Director, to discuss some of the charges involving Mr. Goodman’s P-card and to
conduct a further investigation.

10. On August 13, 2015, Mr. Gillette and Mr. Nilsson met with Mr. Goodman to
discuss several purchases. When asked about some of the purchases, Mr. Goodman told them
he had nothing to say. After that meeting, he was placed on home assignment pending further
investigation.

11. Shortly after his home assignment began, Mr. Goodman sent a letter of
resignation to Mr. Gillette. Mr. Gillette said he refused the resignation and Mr. Goodman was
terminated from the college in September of 2015. Mr. Goodman did not respond to multiple
requests by the SAO investigator during the SAO investigation.

12. During the internal investigation conducted by CCS, one of the Maintenance
Mechanics, Matt Bayley (Mr. Bayley), was assigned to assist due to his knowledge of the
department’s work orders and equipment the department used. He reviewed purchases to
determine if expenditures matched with work orders or equipment that the department used.
For the purchases reviewed and determined not to be for college use, the following criteria were used:

- The item(s) purchased did not match equipment or work orders assigned to the purchase.
- The item(s) were purchased after the work order was closed.
- The item(s) purchased were items that CCS used, but could not be found nor were they installed on work projects.
- The item(s) purchased were not materials or parts that CCS used, or were not used in the HVAC department. Examples were wood, non-industrial or non-electrical items.
- The item(s) were purchased from a vendor CCS does not use.
- Mr. Goodman purchased the item on a day when he was not at work.

13. The review also included the purchase activities of technicians working under Mr. Goodman. Since each technician had their own P-card, they would only need to have Mr. Goodman make purchases if they exceeded their individual card limits.

14. Board staff learned that in his supervisor position, Mr. Goodman rarely left the office and did not work beyond his normal eight hours, so purchases made outside of his work period were of particular concern. Mr. Goodman was a classified employee, so any overtime or work performed outside of his normal shift would require prior approval by the Facilities Director and there was none.

15. The investigation by CCS focused on the period of July 2009 to June 20151. Initially, CCS believed Mr. Goodman made unauthorized purchases totaling more than $50,000. As the investigation continued and HVAC technicians were interviewed, some purchases were accounted for and some losses could not conclusively be assigned to Mr.

1 The complaint identified purchases by Mr. Goodman from 2009-2015 however, pursuant to RCW 42.52.540, any action taken by the Board must be within five years of the date of the violation. Accordingly, the allegations regarding purchases prior to 2012 were not included in this investigative report.
Goodman. Based on this information, CCS identified 174 invoices from Mr. Goodman that were questionable.

16. Once CCS revised the loss figures, the losses were estimated at $23,400 with an additional $9,183 in questionable purchases. Examples include:

- $2,147 in HVAC parts and supplies purchased by Mr. Goodman that were applied to facilities project work orders that were already closed or considered complete.
- $2,490 in HVAC parts and supply purchases made when Mr. Goodman was not present at work, either calling in sick or taking vacation time.
- $4,850 in HVAC software related purchases made without authorization of the IT Department, where Mr. Goodman initiated the purchases and personally received the software license information. During the ongoing audit, some of this software was accounted for and had been installed on Mr. Goodman’s college laptop or another employee’s computer.

17. Both the CCS internal investigation and the SAO spent time evaluating Mr. Goodman’s software purchases made outside of the IT Department. The software was HVAC related software called LonWorks. The following software purchases by Mr. Goodman were reviewed:

- LonWorks software (Echelon Store, $1,675) purchased on February 1, 2013. This purchase was considered suspicious because IT handled a purchase request from Mr. Goodman for the same software on April 6, 2014. LonWorks software was found installed on Mr. Goodman’s college issued laptop, however; it was not installed until May 4, 2014. It is likely the second purchase of the software by IT on April 4th was the software installed on his computer. A second version of the software was not located during the audit.
- LonWorks software/add-on (Echelon Store, $1,136) purchased March 20, 2013 was not located during the audit.
- The IT Department performed a search of their network in January 2017 and found only one copy of LonMark software installed on one HVAC technician’s computer. LonMark is only a portion of the LonWork software suite.
- The number of software licenses purchased could not be accounted for on other staff
computers, which left the quantity of software licenses purchased by Mr. Goodman highly unusual.

18. Purchases made by Mr. Goodman were considered questionable because the normal process was for technicians to purchase parts and supplies themselves as needed for assigned projects. Based on this expectation, Mr. Goodman’s P-card should have had very limited activity. Most of his purchases were for HVAC related items.

19. The SAO investigation determined that due to some internal control weaknesses, they were unable to assign all of the confirmed losses identified by CCS to Mr. Goodman. The SAO considered all of the identified purchases made by Mr. Goodman questionable losses. Some control weaknesses identified were:

- HVAC related items purchased years ago that were once listed as being in the “shop” per the original invoice, may have gone missing, but responsibility could not be clearly assigned to Mr. Goodman just because he was identified as the purchaser.
- Access to the shop was not restricted to HVAC employees and inventory of shop items was not consistently maintained.
- Since most of the purchased items were HVAC related and occurred several years earlier, it was difficult to determine if the item was not used or needed.
- Mr. Goodman had purchasing authority up to $3,000; all of his purchases were within his authority.

20. Between 2012 and 2015, Mr. Goodman made purchases totaling $1,340.19 and assigned them to a work orders that were closed or considered complete.

<table>
<thead>
<tr>
<th>DATE</th>
<th>VENDOR</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/10/2015</td>
<td>Walmart (Motor oil)</td>
<td>$62.35</td>
</tr>
<tr>
<td>10/8/2014</td>
<td>Johnstone Supply</td>
<td>$18.28</td>
</tr>
<tr>
<td>7/23/2014</td>
<td>Ace Hardware</td>
<td>$15.96</td>
</tr>
<tr>
<td>7/14/2014</td>
<td>Lowes</td>
<td>$28.45</td>
</tr>
<tr>
<td>7/11/2014</td>
<td>Onset</td>
<td>$201.00</td>
</tr>
<tr>
<td>7/14/2013</td>
<td>Sturm Heating Inc.</td>
<td>$136.84</td>
</tr>
</tbody>
</table>
21. The CCS internal investigation determined that Mr. Goodman used his P-card to make several purchases between 2012 and 2014 on days when he was out sick or vacation leave. Mr. Goodman would have no reason to purchase HVAC supplies while not at work. Board staff was able to confirm Mr. Goodman made at least three purchases while on sick leave totaling $613.60 between 2012 and 2014.

<table>
<thead>
<tr>
<th>Purchase Date</th>
<th>Vendor</th>
<th>Cost</th>
<th>Leave Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>4/22/2013</td>
<td>Grainger</td>
<td>$348.28</td>
<td>8 hours Sick leave</td>
</tr>
<tr>
<td>5/16/2013</td>
<td>Amazon</td>
<td>$42.99</td>
<td>16 Hours Sick leave</td>
</tr>
<tr>
<td>10/13/2014</td>
<td>Johnstone Supply</td>
<td>$222.33</td>
<td>8 Hours Sick</td>
</tr>
</tbody>
</table>

22. During the SAO investigation, several HVAC employees were interviewed. Employee #1 told investigators his P-card spending limit is $3,000 and he handles purchases for jobs he is assigned. He indicated that Mr. Goodman never handled any purchases for him. He reviewed two purchases that Mr. Goodman made at Johnstone Supply for $721.53 and $714.87. He confirmed both purchases were HVAC related, but said he would not have expected Mr. Goodman to handle the purchases since both were within the tech’s spending authority.
23. Employee #2 also said he had some concerns about Mr. Goodman’s activity. He had gone to one of their commonly used vendors (Grainger) to pick up a part and was asked by the manager if he was there to pick up parts ordered by Mr. Goodman. He said no, but inquired what the parts were. The parts described were parts the individual technicians would have purchased for their particular work projects and would not have needed Mr. Goodman to purchase them.

24. Employee #2 told investigators he was not aware of any outside employment Mr. Goodman had. He said Mr. Goodman had a habit of disappearing during the workday and staff could not reach him. According to Employee #2, this became progressively worse during the last three years of his employment when Mr. Goodman was gone 4-5 hours a day.

25. Employee #3 told investigators that Mr. Goodman stayed in his office about 95% of the time and rarely went out on jobsites to provide guidance to technicians. He said it would not be accurate to see Mr. Goodman listed on a work order, as having been involved with repairs or purchasing items needed for the project since that was not his role.

26. Mr. Gillette told Board staff it made no sense for Mr. Goodman to be ordering parts and supplies for technicians performing the work, because they had purchase authority.

27. When reviewing Mr. Goodman’s purchase activity, Board staff noted that other than the Walmart oil purchase in June 2015, Mr. Goodman had only one other questionable purchase since November 2014. The bulk of his questionable purchases by Mr. Goodman occurred prior to Mr. Gillette being hired.

28. Mr. Gillette said the technicians and Mr. Goodman were aware of the closer purchase scrutiny, because he was requesting additional information from them on any
purchases he was unclear about. He believed this closer scrutiny correlated with Mr. Goodman’s reduction in unauthorized purchases between November 2014 and June 2015. Mr. Gillette said prior to his hire, the District Director of Facilities was only able to fill in on a part-time basis for only a couple of hours a day so oversight may have been lacking.

30. In addition to closer review of purchases, Mr. Gillette put an emphasis on reviewing work orders and closing them. He had concerns about the extremely high number of open HVAC work orders, more than 200 at the time. Currently, they only have approximately 20-30 open work orders. Mr. Goodman had been responsible for closing work orders. Mr. Gillette believes that keeping work orders open provided Mr. Goodman the ability to make unauthorized purchases, and then assign that purchase to a work order that might closely match, to prevent discovery.

31. Mr. Gillette told Board staff that while most of Mr. Goodman’s purchases were HVAC related, some were obviously not. He said Mr. Goodman had a woodworking hobby and some of the items he had purchased were wood products such as finished maple and wood sandpaper. He also purchased a number of small electronic parts unrelated to HVAC.

32. Mr. Goodman did not respond to Board staff’s attempts to contact him during the investigation.

III. CONCLUSIONS OF LAW

1. RCW 42.52.020 – Activities Incompatible with public duties 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.
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 or exemptions for himself or herself, or his or her spouse, child, parents or other persons.

RCW 42.52.160 – Use of persons, money or property for private gain states:

No state officer or state employee may employ or use any person, money, property under the officers or employees official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee or another

2. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Mr. Goodman and over the subject matter of this complaint.

3. Based on the evidence, Mr. Goodman’s activities as outlined above, were in conflict with the discharge of his official duties in violation of RCW 42.52.020. Mr. Goodman further secured special privileges for himself by using his position as the HVAC supervisor to make purchases for personal use in violation of RCW 42.52.070. Mr. Goodman also used state resources for a private benefit or gain in violation of RCW 42.52.160.

4. The Board is authorized to impose sanctions for violations to the Ethics Act pursuant to RCW 42.52.360.

5. In determining the appropriateness of the civil penalty, the criteria in WAC 292-120-030 have been reviewed.

III. FINAL ORDER

Based on the foregoing:

IT IS HEREBY ORDERED Respondent Stephen Goodman is liable for and shall pay a civil penalty of four thousand dollars ($4,000). The payment shall be made to the Executive Ethics Board within forty-five (45) days of this Order.
IV. AUTHORITY AND PROCEDURE

Pursuant to RCW 34.05.470, Respondent has the right to file a Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition must be filed with the Executive Ethics Board at 2425 Bristol Court SW, Olympia, Washington 98504, or by U.S. Mail at P.O. Box 40149, Olympia, Washington 98504-0149, within ten (10) days of service of the Final Order upon Respondent.

The Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a prerequisite for seeking judicial review in this matter. A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the petition is filed, the Board does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on a petition.

Respondent has the right to petition the superior court for judicial review of the Board’s action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

DATED this 12th day of January, 2018

John Ladenburg, Chair
Lisa Marsh, Member
Shirley Battan, Vice-Chair
Gerri Davis, Member
Anna Dudek Ross, Member