

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

Krista Bustamante  
Respondent.

No. 2017-059

STIPULATED FACTS,  
CONCLUSIONS OF LAW AND  
AGREED ORDER

THIS STIPULATION is entered into by Respondent, KRISTA BUSTAMANTE, 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 October 10, 2017, the Executive Ethics Board (Board) received a complaint alleging that Krista Bustamante (Ms. Bustamante), Financial Service Specialist 3 with the Washington State Department of Social and Health Services (DSHS), may have violated several provisions of the Ethics in Public Service Act. The complaint alleged Ms. Bustamante used her position to access a DSHS client, C.H., case file in the Automated Client Eligibility System (ACES) to obtain information on his current location and benefits he was receiving. C.H. is a co-parent of Ms. Bustamante's daughter.

2. Ms. Bustamante was first hired by DSHS as a Financial Service Specialist on July 1, 2016, and was in that position for all times pertinent to this investigation.

3. Each month DSHS conducts monthly audits of its Financial Specialist by reviewing their activity reports and a random selection of client IDs. On November 2, 2017, a routine monthly financial audit was conducted on Ms. Bustamante's activity for the week of October 2, 2017. The DSHS auditor immediately recognized that Ms. Bustamante and C.H. were associated in the system and that she should not have been accessing C.H.'s case files in ACES. This random audit was not a result of the complaint received the Executive Ethics Board on October 20, 2017.

4. Based on the results of the random audit on November 2, a full audit was conducted on November 3, 2017. That audit revealed that Ms. Bustamante had accessed C.H.'s case file in ACES on May 9, July 11, and on October 2, 2017. The audit also showed she accessed her own case file on October 11 and March 7, 2017.

5. On November 7, 2017, in an investigatory interview conducted by Ms. Bustamante's supervisor, she admitted to accessing C.H.'s case file indicating that C.H. is the co-parent of her daughter but that she could not recall the exact dates and she did not recall accessing her own case file.

6. Ms. Bustamante told her supervisor that she knew she was not supposed to access C.H.'s case file but that she was in a "messy situation" explaining that there are domestic violence issues and that she was afraid that C.H. would try to follow her and her daughter once he was released from jail.

7. Ms. Bustamante further stated that she has major anxiety and accessed C.H.'s case file to feel safe knowing where he was. Ms. Bustamante further explained that she was afraid he would get out of jail and come take her daughter from daycare.

8. Ms. Bustamante further stated that she looked in C.H.'s case when she heard that he was out of jail.

9. Ms. Bustamante told her supervisor she has never taken any action on the case and would never use the information in the case in a court proceeding.

10. Ms. Bustamante received a written reprimand from her agency

## **B. CONCLUSIONS OF LAW**

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from using confidential information for their personal benefit. RCW4252.050 – Confidential Information states in pertinent part:

.....

- (2) No state officer or state employee may make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.

2. Based on the stipulated facts, Krista Bustamante accessed confidential information when she used a state database (ACES) to obtain confidential information on a DSHS client for her personal benefit in violation of RCW 42.52.050.

3. 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.

4. Based on the stipulated facts, Krista Bustamante received a special privilege when she used a state database (ACES) to obtain personal information on a DSHS client for her personal benefit in violation of RCW 42.52.070.

5. 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 these types of violations significantly reduce the public respect and confidence in state government employees.

In the matter at hand, it is a mitigating factor that Ms. Bustamante received a letter of reprimand from her agency.

### **D. STIPULATION AND AGREED ORDER**

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Krista Bustamante 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. Krista Bustamante 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. Krista Bustamante further agrees that the evidence available to the Board is such that the Board may conclude she 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. Krista Bustamante 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 Krista Bustamante 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. Krista Bustamante 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 Krista Bustamante 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 Ernie Sims 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 Krista Bustamante 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, Krista Bustamante 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, Krista Bustamante 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. Krista Bustamante agrees to pay a civil penalty in the amount of two thousand five hundred dollars (\$2,500) associated with a violation of RCW 42.52.050 and RCW 42.52.070. The Board agrees to suspend one thousand two hundred and fifty dollars (\$1,250) on the condition that Krista Bustamante complies with all terms and conditions of this Stipulation and Order and commits no further violations of RCW 42.52 for a period of two years from the date this agreement is executed.

12. The civil penalty in the amount of one thousand two hundred and fifty dollars (\$1,250) 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, Krista Bustamante, 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.

  
\_\_\_\_\_  
KRISTA BUSTAMANTE  
Respondent

5/30/18  
\_\_\_\_\_  
Date

Presented by:

  
\_\_\_\_\_  
KATE REYNOLDS  
Executive Director

6/6/18  
\_\_\_\_\_  
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):


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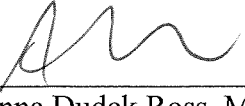
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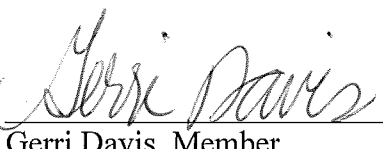
DATED this 13<sup>th</sup> day of July, 2018

  
\_\_\_\_\_  
John Ladenburg, Sr., Chair

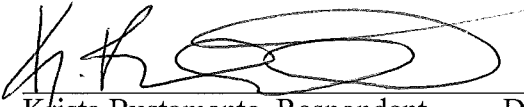
  
\_\_\_\_\_  
Shirley Battan, Vice-Chair

  
\_\_\_\_\_  
Lisa Marsh, Member

  
\_\_\_\_\_  
Anna Dudek Ross, Member

  
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Gerri Davis, Member

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

 5/30/18  
\_\_\_\_\_  
Krista Bustamante, Respondent      Date