

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Debbie Rogers

Respondent.

No. 2018-038

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, DEBBIE ROGERS, 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 2, 2018, the Executive Ethics Board (Board) received a complaint alleging that Debbie Rogers (Ms. Rogers), Regional Revenue Supervisor with the Department of Labor and Industries (LNI), may have violated the Ethics in Public Service Act by using state parking to park her personal vehicle while on a two-week vacation.

2. Ms. Rogers has been employed with LNI since 1985. In 2002, she was promoted to her current position of Regional Revenue Supervisor.

3. Ms. Rogers' office is located in the Tacoma Rhodes Center, located in downtown Tacoma. The Rhodes Center is a state owned complex leased to LNI from the Department of Enterprise

Services (DES). The complex consists of two office buildings and a 550-car parking garage. LNI pays for 80 parking spaces at \$100 per space, per month.

4. Vivian Montes (Ms. Montes), Administrative Assistant 4 with LNI, indicated in a response to Board staff that she would issue the parking passes to LNI employees upon their assignment to work at the Tacoma Rhodes Center. Ms. Rogers was issued a parking pass for the Rhodes Center, which was paid for by LNI.

5. Ms. Monte indicated in a response to Board staff that only designated employees have 24/7 access to the parking garage and that Ms. Rogers is one of those designated employees.

6. Ms. Montes also indicated in her response to Board staff that the parking garage is available for public use from 6:00 am to 6:00 pm, Monday through Friday at a rate of \$1.50 per hour or \$8.00 for anytime over six hours. The parking garage is closed on weekends and holidays. Ms. Montes further indicated that during closed hours the garage is secured by a metal door and only those individuals with 24/7 access would have access to the garage after hours.

7. Ms. Rogers indicated in her response to Board staff that she took vacation July 20 through July 31, 2018 to travel to Alaska to care for her mother. She indicated that she lives in Olympia and she drove her car to the Tacoma office early in the morning on July 20. From there she took the Airporter from Tacoma to SEATAC Airport. She further indicated that she informed the night security guard that she was leaving her car in a regular unassigned spot for those days and that he never indicated that there were any issues with her doing that.

8. Ms. Rogers indicated in her response to Board staff that parking her vehicle at the Rhodes Center Parking Garage was convenient, the facility was locked at night, and she was never told by anyone that there was any fees to park overnight.

9. Ms. Rogers indicated in a response to Board staff that taking the shuttle from Tacoma saved her approximately \$75 each way, however she did not use her LNI parking pass to save money.

10. Ms. Rogers indicated in her response that she parked at the LNI garage because it allowed her to go into work and check on work-related issues prior to heading to the airport because it was more time-efficient.

B. CONCLUSIONS OF LAW

1. 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.

2. Based on the stipulated facts, Ms. Rogers secured a special privileges by parking her personal car in a secure parking garage, paid for by LNI and only available to her because of her position with LNI, in violation of RCW 42.52.070.

3. 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.

4. Based on the stipulated facts above, Ms. Rogers used state resources, secured parking paid for by the state, for a personal benefit in violation of RCW 42.52.160.

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 and that Ms. Rogers was in a supervisory position at the time of the violation.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Debbie Rogers 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. Debbie Rogers 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. Debbie Rogers 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. Debbie Rogers 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 Debbie Rogers 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. Debbie Rogers 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 Debbie Rogers 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 Debbie Rogers 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 Debbie Rogers 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, Debbie Rogers 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, Debbie Rogers 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.

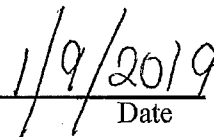
11. Debbie Rogers agrees to pay a civil penalty in the amount of three-hundred dollars (\$300.00) associated with violations of, RCW 42.52.

12. The civil penalty in the amount of three-hundred dollars (\$300.00) 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, Debbie Rogers, 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.


DEBBIE ROGERS
Respondent


Date

Presented by:


KATE REYNOLDS
Executive Director


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 11th day of January, 2019

 John
John Ladenburg, Sr, Chair

 Shirley
Shirley Battan, Vice-Chair

 Lisa
Lisa Marsh, Member

 Anna
Anna Dudek Ross, Member

 Gerri
Gerri Davis, Member

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

Debbie Rogers, Respondent Date