

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Robert Woodard
Respondent.

No. 2019-034

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Robert Woodard 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, 2019, the Executive Ethics Board (Board) opened an investigation after being provided a copy of a State Auditor's Office (SAO) Fraud Report regarding an investigation by the Washington State Department of Fish and Wildlife (DFW) on employee Robert Woodard (Mr. Woodard), IT Specialist 4 (IT4). Based on the SAO report, it appears that Mr. Woodard may have violated the Ethics in Public Service Act by using state resources for private benefit or gain.

2. According to the SAO Fraud report, after reviewing the DFW investigation including transaction data, they concluded that Mr. Woodard misappropriated \$64,192 in funds,

utilizing state fuel cards and that an additional \$21,462 in questionable expenses were paid with DFW funds between February 8, 2010 and October 25, 2017. The SAO report stated that they referred the investigation to the Cowlitz County Prosecuting Attorney's Office (CCPA).

3. According to DFW, Mr. Woodard was originally hired by DFW, then the Department of Fisheries, in several non-permanent scientific appointments between January 1, 1991 and December 31, 1993. On January 1, 1994, Mr. Woodard was hired in a probationary appointment as a Seasonal Scientific Technician and on June 16, 1994 his position became full time. On July 1, 1994, the Department of Fisheries and Department of Wildlife (Game Department) merged to form the DFW. Mr. Woodard's position was reallocated to a Computer Information Consultant 1 on June 2, 1995. Mr. Woodard held several positions from that time until March 21, 2006 when he became an IT4, which was the position he held at the time of the original investigation by DFW in October 2017.

4. Board staff were provided a copy of the DFW investigation that was conducted by DFW Captain Jeff Wickersham (Mr. Wickersham). According to Mr. Wickersham, on October 27, 2017 he was approached by Scientific Technician 4 Quinten Daugherty (Mr. Daugherty), a DFW employee at the Region 5 office in Ridgefield, Washington. Mr. Daugherty advised him that that local staff had been unable to locate a credit card belonging to DFW Vessel 533, a Duckworth jet boat with an outboard jet motor. Mr. Daugherty checked all locations for the card and then contacted DFW fiscal services who sent him a spreadsheet detailing the transaction history for the vessel fuel card, issued by Comdata.¹ According to Mr. Daugherty, Vessel 533 is a seldom used research vessel in Region 5 with a very low usage frequency, but

¹ According to DFW, Comdata is the credit card vendor DFW works with for their statewide fleet cards.

the Comdata transaction report showed numerous large purchases for fuel in the Longview, Washington area.

5. According to Mr. Wickersham, Mr. Daugherty provided him with the Excel spreadsheet he obtained from the DFW Fiscal Office. The transaction report showed a number of fraudulent purchases at fuel stations in the Longview, Washington area from March 25, 2017 through October 22, 2017 for DFW Vessel 533. Mr. Wickersham stated he later received additional spreadsheets showing use of the card through October 25, 2017. Two Personal Identification Numbers (PIN) were used for purchases during this timeframe. One PIN number was issued to a former DFW employee, Robin Ehlke (Ms. Ehlke), while the other was issued to Mr. Woodard. Mr. Daugherty said that the purchases with Mr. Woodard's PIN were legitimate and had to do with maintenance of the boat trailer assigned to that vessel.

6. According to Mr. Wickersham, Ms. Ehlke left DFW in the spring of 2017 for a job in Portland, Oregon. During her tenure at DFW, Ms. Ehlke was primarily responsible for administrative duties related to Columbia River fisheries, not any type of fieldwork. According to Mr. Wickersham, his review found that the fuel card for Vessel 533 had been used by a current employee, Mr. Woodard, in June 2017, after Ms. Ehlke had left the agency.

7. According to Mr. Wickersham, he began an investigation into the fraudulent use of the fuel card and directed one of his staff members, DFW Fisheries Enforcement Officer Tyler Bahrenburg (Mr. Bahrenburg), to contact two of the fuel stations in the Longview area that had been used most recently and request any video records, if available, for the purchases. Mr. Wickersham said the two fuel stations were the Flying K in Longview and the Shell in West Longview.

8. According to Mr. Wickersham, Mr. Bahrenburg obtained the digital video records from the Shell gas station in West Longview where the card had been used. The gas station provided a receipt copy for the transaction and video footage of the pump that was used for the transaction. A taller white male subject with short blonde hair and heavy build driving a black Honda Crosstour could be seen using the pump. The video was clear but when zoomed in, the identity of the subject and letters on the license plate could not be seen.

9. According to Mr. Wickersham, Mr. Bahrenburg obtained the digital video records from the Flying K fuel station as well. Flying K was able to provide video documentation from August 8, 2017 through October 25, 2017 for the specific pumps where the fuel purchases were made. Mr. Bahrenburg was able to identify the same subject using the pumps on eleven individual dates driving a green Chevrolet pickup truck with matching canopy using the fuel pump. The times and dates of use seen on the videos were the same as the times and dates of use on the fuel card. In multiple videos the license plate of the vehicle can be seen, C17579D, registered to a 1994 Chevrolet GMT-400. The registered owner was Robert D. Woodard. Mr. Woodard had a listed address on Oriole Drive in Longview, Washington. Mr. Wickersham said this address is a short drive from the Shell station that had been used in West Longview.

10. Mr. Bahrenburg ran Mr. Woodard through NCIC² and obtained a driver's license photo. Mr. Bahrenburg immediately recognized Mr. Woodard as a DFW employee who works directly across from the Enforcement Detachment Office in the Region 5 Office.

² National Crime Information Center.

Mr. Bahrenburg compared the DOL photo to the individual in the gas station videos, finding that he appeared to be the same person.

11. According to Mr. Wickersham, he reviewed the video records and came to the same conclusion. Mr. Woodard was using an agency issued vessel credit card for purchases of personal-use gasoline. The pattern of use based on the spreadsheet he earlier received indicated more than just recent use.

12. According to Mr. Wickersham, the DFW fiscal office staff provided him with Comdata, Voyager, and Washington State Department of Transportation card data on Excel spreadsheets which he used to begin an investigation of fraudulent use of agency credit cards going back to 2010. He found a pattern of use with five specific agency employee PIN's belonging to Ms. Ehlke, a former employee, Patrick Frazier (Mr. Frazier), a former employee, Scientific Technical 3 Stacey Kelsey (Ms. Kelsey), Environmental Planner 5 Todd Hillson (Mr. Hillson) and Biologist 3 Paul Hoffarth (Mr. Hoffarth).

13. According to Mr. Wickersham, fraudulent use of the Comdata fuel cards was determined by analyzing first the fuel stations being frequented in Longview, Washington with the volume of fuel being purchased. He said he found consistent use of odometer readings using either "9999" or "999" at these locations and with quantities over 10 gallons. As vessel cards were analyzed, the names of the DFW employees previously mentioned were being used from 2010 through October 25, 2017, at various times on different cards and at fuel and non-fuel vendors that seemed suspicious. He said he filtered individual names he had documented being used but did not filter it to specific vessels or vehicles. The result was discovering the following cards fraudulently being used on a frequent basis: DFW533, DFW534, DFW590, EQ0058, ME0020.

14. According to Mr. Wickersham, as part of his analysis, he found large quantities of diesel fuel being purchased on the equipment cards, EQ0058 and ME0020, a pattern of use that was highly suspicious given Mr. Woodard's position as an IT Specialist at the regional office and lack of responsibility for any diesel vehicles or equipment. Mr. Wickersham contacted fiscal staff and confirmed that those equipment cards were issued to Mr. Woodard.

15. According to Mr. Wickersham, around that same time, Mr. Wickersham was forwarded an email from DFW Fiscal Analyst 2 Jennifer Quartano (Ms. Quartano) regarding a conversation she had via email with Mr. Woodard concerning a possible location of the credit card for DFW Vessel 533. Mr. Woodard stated in the email:

"The card was placed back in the vessels log book on the shelf where we keep the other books for all the boats. I never gave the card to anybody else. It would have been in a blue voyager card holder. I normally don't drive boats anymore so I wouldn't have need for it."

16. According to Mr. Wickersham, the email conversation occurred on October 26, 2017, the day after Mr. Woodard could be seen using the credit card at the Flying K in Longview on October 26, 2017.

17. According to Mr. Wickersham, he used the Excel and the Comdata spreadsheet provided by fiscal staff and filtered the credit card use for the five fuel/equipment cards for Ms. Ehlke, Mr. Frazier, Ms. Kelsey, Mr. Hillson and Mr. Hoffarth. The date range for the charges was December 29, 2009 through October 25, 2017. Mr. Wickersham determined that the total fraudulent purchases on the fuel cards was in excess of \$80,000.

18. According to Mr. Wickersham, on November 15, 2017, he began speaking with staff members at the DFW Region 5 office in Ridgefield, Washington, regarding standard Fish Program practices of using fuel cards.

19. According to Mr. Wickersham, he conducted an interview with Mr. Hillson on November 15, 2017. He asked Mr. Hillson if he knew the proper procedure and use of fuel cards. Mr. Hillson stated he knew each piece of equipment had its own card which could be used for fuel or maintenance, and individual users could use the single card when needed to make such purchases. He asked Mr. Hillson if there was any sharing of PIN numbers that he knew of. Mr. Hillson stated some staff would let short-term temporary staff use their PIN number if they were operating equipment, but it was a very limited practice and was used to fill in gaps when permanent staff were not present to use their PIN numbers.

20. According to Mr. Wickersham, he asked Mr. Hillson if he had ever used an equipment card to make purchases. Mr. Wickersham said Mr. Hillson was not sure what an equipment card was, that he had his own purchase card (PCard) and would use that for any purchases not allowed by a vehicle or vessel card. He asked Mr. Hillson to look at a spreadsheet of purchases made on equipment cards EQ0058 and ME0020. Mr. Hillson reviewed the spreadsheets and stated none of those purchases were his. He asked Mr. Hillson how his PIN number could have been used. Mr. Hillson stated someone must have seen him use it or possibly it was written somewhere. Mr. Hillson looked at the location of the charges and said he is never or almost never at the locations where the fuel card was used during work hours. According to Mr. Wickersham, Mr. Hillson lives in Milwaukie, Oregon, making use during off-work hours even less likely.

21. According to Mr. Wickersham, he showed Mr. Hillson a spreadsheet of suspected fraudulent activity on several other fuel cards including DFW590 and DFW534. Mr. Hillson stated that DFW590 is a boat that is used by DFW staff at Grays River for net pen work and gets very few hours of use. He stated most of the fuel purchases were highly

unlikely because the Grays River hatchery staff uses a bulk fuel dispenser to fuel the vessel and the fuel volumes purchased far exceeded the 10-15 gallon maximum capacity for the vessel. The same was stated for DFW534 as it was a backup boat and for several years was never used as another vessel had replaced it. The maximum fuel capacity on DFW534 was likely 10 or 15 gallons due to the use of portable five-gallon fuel containers.

22. According to Mr. Wickersham, Mr. Hillson was visibly shocked with the fuel purchase totals listed on the various spreadsheets. Mr. Hillson stated Robin Ehlke, Pat Frazier, and Stacie Kelsey, all names used on the various vessel cards, likely did not use the cards as they were either not assigned to work with the vessels or were office staff and did not do field work.

23. Mr. Wickersham asked Mr. Hillson to look at some surveillance video and requested he identify the individual using the fuel pump if he could. After showing Mr. Hillson several videos, he said the person in the video was Mr. Woodard, a DFW employee. Mr. Hillson asked to see the spreadsheets again and quickly pointed out that most of the purchase activity was in Longview, where Mr. Woodard lives.

24. Mr. Wickersham asked Mr. Hillson how Mr. Woodard could have come into possession of the PIN numbers used for the purchases. Mr. Hillson stated Mr. Woodard used to be in charge of fleet management, at least informally. Mr. Hillson said he was still working as an IT specialist but assisted with the fleet management to keep program staff and equipment operating. Mr. Hillson said that Mr. Woodard has a personal vehicle that uses diesel.

25. According to Mr. Wickersham, he received two email responses from Mr. Hoffarth. One on November 14, 2017 and one on November 15, 2017. The emails were in

regards to the spreadsheet sent to him by Mr. Wickersham. On November 14, 2017 at 3:49 pm, Mr. Hoffarth wrote:

Holy crap! Most of that is not me. I'll get through it all first thing in the am. I think I have most of my receipts and only used DFW533 (other than the Pasco fleet 519, 520, 521, 606) the past couple of years. We track it all.

26. On November 15, 2017 at 8:56 am, Mr. Hoffarth wrote:

None of these charges should be associated with my State Driver ID. I have not used boats DFW534, DFW590, or EQ0058 (?). The only boat from the Ridgefield/Vancouver office that has been under my control is DFW533 from late October through mid-December each year for stream surveys in the Hanford Reach.

The gas card associated with DFW533 is provided to us when we pick up the boat. In 2015 and 2016 the card ended in 2768 (see attached receipts). The only other boat fuel charges that should be associated with my State ID is DFW519, 520, 521, and 606.

The pattern of fueling is similar to a river survey where boats are fueled every 1-2 days with varying amounts of fuel depending upon the length and location of the survey. It would suggest someone is using the wrong Driver ID (mine). In light of these purchases I would like to request the cancellation of my current PIN and request a new code. Would that be an issue? Please contact me by email or cell with any questions. Paul

27. Mr. Wickersham stated that based on the email from Mr. Hoffarth, all of the purchases using his PIN were likely fraudulent outside of the Pasco, Washington area. As the fuel purchases on DFW534, DFW 590 and EQ0058 were not his, they were likely fraudulent.

28. According to Mr. Wickersham, on November 15, 2017 he interviewed Ms. Kelsey. He said he had spoken to Ms. Kelsey earlier regarding the fraudulent use of the agency fuel cards, advising her that her PIN number had been used on fraudulent transactions. He asked Ms. Kelsey what equipment she was responsible for or had been issued to her. She said she had been issued a single vessel, DFW538 (an electroshocking boat) and a vehicle. He said he asked Ms. Kelsey if she had any equipment cards. Ms. Kelsey stated she had heard about

them but didn't have one, but she did have a Pcard. Ms. Kelsey stated she never uses any equipment and never assists in fueling or maintaining other vessels. Ms. Kelsey stated some temporary staff have her PIN number and use her issued vehicle/vessel cards to get fuel, but it is during the summer and fall and is very limited.

29. Ms. Kelsey was shown several spreadsheets containing suspected fraudulent purchases where her PIN was used. Ms. Kelsey stated none of the charges on DFW533, DFW590 and EQ0058 were made by her, but stated some of the purchases on DFW534 could be legitimate. As only one transaction for fuel on DFW534 used her PIN number and it was for super unleaded, Mr. Wickersham said he believed it was likely a legitimate purchase. He said he showed Ms. Kelsey the other fraudulent purchases using other staff members' PINs and was told most of the charges were not for agency business. He asked why and Ms. Kelsey stated that Ms. Ehlke and Mr. Frazier were assigned to the office and not responsible for field activities. She also stated Mr. Hillson was not responsible for duties in the Longview area.

30. Mr. Wickersham asked Ms. Kelsey to watch several videos and attempt to identify the individual in the videos purchasing fuel. Ms. Kelsey almost immediately stated "Is that Bob?" Then she stated it was Bob Woodard. Mr. Wickersham said he asked Ms. Kelsey if she knew of any reason why Mr. Woodard would be using a DFW fuel card to purchase fuel for his own vehicle. Ms. Kelsey stated no, "none."

31. According to Mr. Wickersham, Ms. Kelsey was upset during the interview about what had occurred and questioned why someone had not seen this activity earlier. Ms. Kelsey was concerned that her PIN was used.

32. According to Mr. Wickersham, on November 15, 2017, he and DFW Deputy Chief Mike Cenci (Mr. Cenci)³ conducted two interviews with Mr. Woodard in Mr. Wickersham's office in Ridgefield, Washington. The second interview was a recorded interview.⁴ Mr. Woodard was advised that a number of agency employee PIN numbers were fraudulently used to purchase fuel. Mr. Woodard stated he knew about the issue after he was questioned about the location of DFW533's fuel card because he was the last person to have used it legitimately.

33. Mr. Woodard was asked if he knew where the credit card for vessel DFW533 could have gone. Mr. Woodard stated he placed it back in the boat log book and had not seen it and did not know where it was. Mr. Wickersham said he showed Mr. Woodard the Excel spreadsheet he had created and a specific set of fuel purchases that appeared fraudulent using his PIN. Mr. Woodard stated he did not make those purchases. Mr. Wickersham said he showed Mr. Woodard likely fraudulent purchases for multiple fuel cards, including the two equipment cards that were issued to him. Mr. Woodard stated he didn't know the equipment cards were being used in that manner. Mr. Wickersham questioned Mr. Woodard about the large purchases of diesel on his equipment cards. Mr. Woodard denied making the diesel purchases.

34. Mr. Wickersham showed Mr. Woodard a digital video from the Flying K gas station where Mr. Woodard and his truck could be seen and fuel was being dispensed from the pump. He asked Mr. Woodard who was in the video to which he responded he didn't know. Mr. Wickersham said he paused the video and told Mr. Woodard it was him.

³ According to DFW, Mr. Cenci has since retired.

⁴ Board staff were provided with a copy of the taped statement by DFW.

He showed Mr. Woodard another digital video where the Comdata fuel card could be seen in his hand and inserted into the fuel dispenser at the Flying K. Mr. Woodard admitted to using the fuel card for personal use but stated "Ok, I did it, but not all that is me." Mr. Woodard stated he first started using the card in this manner about a year and a half ago. According to Mr. Wickersham, he said it was an accident but it got easier.

35. According to Mr. Wickersham, he showed Mr. Woodard the transactions on equipment card EQ0058, specifically the amount of diesel purchased and dates going back to 2010. He asked Mr. Woodard who the card was issued to and he stated it was his. Mr. Wickersham asked how all that diesel could be purchased going back to 2010 with a card that was issued to him, especially when he had no diesel equipment. According to Mr. Wickersham, Mr. Woodard was reluctant originally to admit to the use from 2010, but eventually stated he had been using the various fuel cards since that time.

36. According to Mr. Wickersham, some purchases were made out of state including several in Hermiston, Oregon and Biggs Junction, Oregon. Mr. Woodard admitted to making those purchases as well. Mr. Woodard also stated he couldn't believe that it had been that long since he started using the cards, but looking at the data he knew now it had been that long. Mr. Woodard stated he found the PINs he used on pieces of paper attached to the cards.

37. Mr. Woodard stated he had originally started using the fuel cards when he was having personal hardship due to family issues, but continued using them up to the present time and that it got easier over time. Mr. Woodard admitted that he had made purchases on fuel cards assigned to vessels DFW533, DFW534, DFW590 and equipment cards EQ0058

and ME0020. Mr. Woodard apologized for his actions after the statement and stated again he did not want to lose his job.

38. According to Mr. Wickersham, after the interview, DFW Regional Director John Long (Mr. Long) met with Mr. Woodard. Afterwards, Mr. Wickersham said that he, Mr. Long, and Mr. Cenci followed Mr. Woodard to his cubicle where he collected some personal items and they escorted him out of the building. Mr. Long and Mr. Woodard stood outside the shop door for a moment and Mr. Long came back inside. According to Mr. Wickersham, Mr. Long told him at the time and again on December 5, 2017 that Mr. Woodard told him he was guilty and used the fuel cards. He also stated that Mr. Woodard said that he didn't want to lose his job and asked Mr. Long to put in a good word for him.

39. According to Mr. Wickersham, when Mr. Woodard was issued his own fuel cards, specifically for DFW534, EQ0058 and ME0020, he signed forms that state employees could be held responsible for all charges that occur on the card. It is standard knowledge within state government, not just DFW, that purchase of fuel on agency fuel cards for personal use is prohibited and unlawful. Each vehicle, vessel or specialized equipment can be issued a fuel card, a card which is issued to one primary individual. Using cards for purchases on equipment that they are not issued for is not normally allowed and a follow-up with Fiscal office staff after the use is required when it occurs. Multiple agency fund sources are sometimes used for vehicles, vessels and specialized equipment and include, at times, combinations of Federal, State, municipal and private organization funds. These fund sources are narrowly utilized for specific purposes and use of funds from those sources for purposes not specifically allowed is prohibited. Mr. Woodard used fuel cards for his personal use that were connected to State and Federal contracts.

40. According to Mr. Wickersham, he concluded that Mr. Woodard fraudulently used multiple DFW fuel cards to buy fuel for his personal use between February 8, 2010 and October 25, 2017, utilizing agency employee PINs to avoid detection. He estimates that the amount of fuel unlawfully purchased Mr. Woodward exceeds \$79,972.72.

41. Board staff were provided a written statement by Mr. Cenci regarding his part in the interview of Mr. Woodard. Mr. Cenci stated that according to the preliminary written report by Mr. Bahrenberg, verbal reports by Mr. Wickersham, video and other evidence, it was clear that Mr. Woodard was utilizing PIN codes from other agency employees, as well as his own code, for unauthorized use. Mr. Cenci confirmed that after being presented with the previously mentioned evidence, Mr. Woodard agreed that he had used agency fuel cards to make the purchases in question and admitted to a purchase of fuel in Oregon, filling up gas cans for personal use throughout the week, and putting fuel in his wife's vehicle. He denied selling fuel.

42. In a written response from Mr. Woodard's attorney Angus Lee (Mr. Lee), he provided excerpts of emails from different DFW management and staff expressing concerns with the security of the fuel cards for the DFW boats. One of the emails from DFW fiscal department stated, in part, the need to, "thoroughly revamp the procedures for fuel purchases, oversight, and approval." Mr. Lee said internal emails make clear that there are many individuals who had the opportunity and ability to access the fuel cards at the time of misuse.

43. According to Mr. Lee, it is clear that every card for vehicles and PIN codes in the books in that office could be accessed by anybody at any time; including DFW, Army Corps of Engineers, Ecology, contractors, janitors, or just about anybody with access to the office. DFW never monitored card activity.

44. Board staff referred Mr. Lee's response to Mr. Wickersham. In a written response, Mr. Wickersham said that they were aware of Mr. Lee's response. He said he was aware from an early stage of the investigation that access to the cards was not secure, but the pattern of use he investigated remained consistent and was localized to certain areas. This combined with the video footage and later audio statement from Mr. Woodard solidified his probable cause in this matter.

45. In his written response to Board staff, Mr. Lee stated that since about 2007, DFW travel funds on certain projects were severely cut or altogether cut. At the same time, certain duties still needed to be met. Most of the projects Mr. Woodard worked on were federally funded (BPA) and looked to the state to do a cost share in the project. That would include vehicles and travel. Unfortunately, the state was in a budget crisis and did not provide POV mileage reimbursement and during the busy times of the year (April-May and September-October) there were not enough vehicles to cover all projects and employee needs. In 2008, the governor directed the state agencies to not purchase vehicles any more but all state agencies would have to acquire State Motor Pool vehicles. This also left Mr. Woodard's DFW post without sufficient vehicles during the busy season to perform their contract deliverables.

46. Mr. Lee states that DFW was at the bottom of the list to get State Motor Pool vehicles behind DNR, Ecology and other agencies so the demand exceeded the supply. Since that time, Mr. Woodard would use his personal vehicle (POV) to perform those duties all the while paying for his own gas and never being reimbursed. Mr. Lee said that in order to complete the DFW contract deliverables so they did not lose their contract, or have employees laid off due to not completing the contract, Mr. Woodard continued to use his own POV to do the work of the state and paid for all the fuel without getting POV reimbursement. Mr. Lee said he only used his

POV when a state vehicle was not available due to no checkout system and/or the busy season when all vehicles were in use. He was trying to get the job done and keep his employees employed.

47. DFW provided Board staff with a copy of a letter dated December 11, 2017, from DFW Deputy Assistant Director Kelly Cunningham (Mr. Cunningham) to Mr. Woodard notifying him that he was being discharged from his position as an Information Technology Specialist 4 with Biological Data Systems at the DFW. Board staff also noted the following statements made by Mr. Cunningham in the letter:

“...Although you again admitted to using state and/or agency-provided financial resources to fuel your personally owned vehicles, you claimed that you were driving your personally owned vehicles on state business. Contrary to your recorded statement, you claimed you had never used state resources for your own purposes. You further claimed that this was because of the alleged unavailability of state vehicles and an alleged inability to attribute costs to agency contracts that you were working on... ..

... ..It is possible that you have driven one or more personally owned vehicles on state business. Personal use of state vehicles is subject to reimbursement. The form for requesting such reimbursement is available to you on the agency website. There is nothing in agency policy which authorizes you to bypass the reimbursement process by using state or agency issued credit cards to put fuel in your own personal vehicles. Supposing you did this, it still constitutes egregious misconduct.

Furthermore, your statements in the pre-disciplinary meeting did not make sense. You stated that you did not seek reimbursement for fuel consumed on state business, because of contractual funding issues. Yet you also stated that you attempted to reimburse yourself, by using agency and/or state financial resources to put fuel in two of your personal vehicles. If you were actually putting fuel in your personally owned vehicles as a means of reimbursing yourself, it seems you would have simply sought reimbursement in a manner consistent with agency procedure. Your admission that you filled multiple fuel containers in the back of your personally owned truck makes your attempt to justify your actions at the pre-disciplinary meeting even less believable... ..”

...You are a long-time state employee. You are a supervisor. You are responsible for adhering to ethical standards and for facilitating compliance with agency policies. You have violated agency policies. You have violated the trust placed in you as a public employee....”

48. According to DFW, they are attempting to recover \$79,277 from Mr. Woodard, which includes the \$4,200 minimum staff hours for investigative cost.

49. Board staff asked that DFW limit the total fraudulent charges made by Mr. Woodard to the Boards jurisdiction of five years. According to the DFW, the total charges made by Mr. Woodard during the time-period of March 2016 through October 2017,⁵ was approximately \$10,697. This did not include the minimum staff hours for investigative cost.

50. Board staff were notified by DFW that on January 4, 2021, Mr. Woodard plead guilty to Theft in the First Degree. Board staff were provided with a copy of the sentencing of Mr. Woodard, which occurred on January 19, 2021. The date of the crime was listed as October 25, 2017. Mr. Woodard was sentenced to 90 days in jail, required to pay court costs and pay \$56,808 in restitution to the DFW.

B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from Use of persons, money or property for private gain. RCW 42.52.160 states:

No state officer or state employee may employ or use any person, money, or 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.

WAC 292-110-010 Use of state resources states, prior to April 1, 2016, 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;

⁵ October 2017 was when the DFW investigation started and the fraudulent charges stopped.

- (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.

WAC 292-110-010 Use of state resources, after April 2016, states, in part:

.....

(3) **Permitted personal use of state resources.** This subsection applies to any use of state resources not included in subsection (2) of this section.

(a) A state officer or employee's use of state resources is de minimis 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 state officer's or employee's official duties;
- (v) The use does not compromise the security or integrity of state property, information systems, or software;
- (vi) The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain; and
- (vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.

2. Based on the evidence reviewed, Mr. Woodard used state resources for personal benefit in violation of RCW 42.52.160. Mr. Woodard's activities do not meet the exceptions for the use of state resources as permitted in WAC 292-110-010.

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. 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 they

were continuous in nature. It is a mitigating factor that Mr. Woodard was terminated from his position with DFW, sentenced to 90 days in jail, required to pay court costs and pay \$56,808 in restitution to the DFW.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Robert Woodard 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. Robert Woodard 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. Robert Woodard further agrees that the evidence available to the Board is such that the Board may conclude they 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. Robert Woodard waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or their 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 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. Robert Woodard 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 Robert Woodard 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 Robert Woodard 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 Robert Woodard 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, 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, Robert Woodard 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. Robert Woodard agrees to pay a civil penalty in the amount of four thousand five hundred dollars (\$4,500) associated with violations of RCW 42.52.

12. The civil penalty in the amount of four thousand five hundred dollars (\$4,500) 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.


I. CERTIFICATION

I, Robert Woodard, 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.


Robert Woodard
Respondent

4/15/21
Date

Presented by:


KATE REYNOLDS
Executive Director

5.14.2021
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

X

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 May 2021.

approved via virtual meeting
Shirley Battan, Chair

absent
Gerri Davis, Vice Chair

approved via virtual meeting
Jan Jutte, Member

approved via virtual meeting
Earl Key, Member

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

Robert Woodard, Respondent Date