

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Kamran Nemati

Respondent.

No. 2020-019

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, KAMRAN NEMATI, 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 February 11, 2020, the Executive Ethics Board (Board) received a complaint referred by the State Auditor's Office (SAO) alleging that Kamran Nemati (Mr. Nemati), faculty member within the College of Built Environment's Department of Construction Management at the University of Washington (UW), may have violated the Ethics in Public Service Act by using state resources for his private benefit and gain.

2. The UW Internal Audit Department (IAD) was first notified of the complaint by academic personnel on September 24, 2018, The complaint alleged that Mr. Nemati worked full-time for a consulting and engineering firm from October 2015 through August 2018.

3. The IAD is required to notify the SAO regarding potential losses of public funds pursuant to RCW 43.09.185. In reviewing, the UW IAD's final investigative reports the SAO selected several cases to be examined based on further risk factors such as type of loss and dollar amount. The SAO investigators agreed with the UW IAD that Mr. Nemati was paid \$9,420 for travel expense reimbursement that he was not entitled.

4. For all times pertinent to this investigation, Mr. Nemati was a full-time tenured faculty member in the UW College of Built Environments and, in addition, starting in October 2015 he worked full-time for the private engineering company, Walker Consultants, out of Los Angeles California.

5. The UW and Walker Consultants were both unaware that Mr. Nemati was working full time for the other agency/company.

6. Mr. Nemati violated the UW's outside work policy by working full-time for an outside commercial engineering firm that he had not disclosed:

7. The UW's investigation occurred between October 2018 and March 2019 and consisted of interviewing faculty members, the department chair, and administrator, a review of Mr. Nemati's emails, travel expense reports for the period of April 2010 through December 2018 and other documents considered necessary for the same period.

8. Mr. Nemati told UW IAD investigators that he started working full-time for Walker Consultants but that it did not interfere with and was all done outside of his UW working hours resulting in him working 90 hours per week.

9. Mr. Nemati indicated that he would attend ACI conferences as a part of his official duties for the UW.

10. Mr. Nemati told UW investigators that he would cancel ACI conferences that he had registered to attend from time to time and that he received a refund from the ACI. He did not provide a reason for not returning the funds he had received from the ACI back to the University.

11. As a result of the UW investigation it was determined that Mr. Nemati requested and was reimbursed for conference registrations that he had canceled or changed and received full or partial refunds from the conference, or that that he had never registered to attend the conference, totaling \$3,863.

12. Board staff's review of the documents provided by the UW investigation for the period of October 2015 through August 2018,¹ revealed that Mr. Nemati submitted claims for conference registrations and was paid reimbursement which he was not entitled, totaling \$5,560.91.

13. Mr. Nemati told UW investigators that he had been reimbursed for expenses for the same trips from both organizations.

14. Mr. Nemati indicated in his response to Board staff that he would normally fly from his home in California to Seattle to work at the UW on Monday and return on Thursday evening, indicating that his classes were on Tuesday and Thursday.

15. Mr. Nemati indicated that he would stay in hotels during his time in Seattle, but sometimes he would work late into the night and would sleep in his office.

16. Mr. Nemati indicated in his response that he was working long hours every day including the weekends. His typical day started at 8:30 am and continued late into the night. He indicated that he would work 80 to 100 hours per week.

¹ Board staff only reviewed documents that were within the Board's five-year statute of limitations pursuant to RCW 42.52.540.

17. Mr. Nematı indicated in his response that his office at Walker Consultants was 48 miles from his home and he was allowed to work remotely for Walker Consultants. He further indicated that he tried to work in the LA office on Monday and Fridays.

18. Mr. Nematı agreed to repay the UW \$9,420 for travel expense reimbursement that he was not entitled. In addition, Mr. Nematı retired from the UW effective August 23, 2019. The UW received repayment on October 10, 2019.

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. Based on the stipulated facts above, Mr. Nematı used state resources for a personal benefit in violation of RCW 42.52.160.

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, the violation was continuing in nature, and resulted in a financial gain. In the matter at hand, it is a mitigating

factor that Mr. Nemati repaid the University for the travel reimbursement he was not entitled and retired from his position.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Mr. Nemati 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. Mr. Nemati 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. Mr. Nemati 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. Mr. Nemati waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or his 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 Mr. Nemati 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. Mr. Nemati 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 Mr. Nemati 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 Mr. Nemati 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.

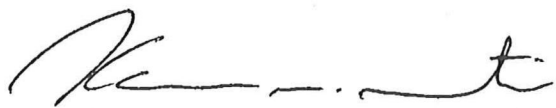
10. If the Board rejects this stipulation, or if Mr. Nemati does not accept the Board's proposed modification(s), if any, this matter will be scheduled for an administrative hearing before the Board. If an administrative hearing is scheduled before the Board, Mr. Nemati waives any objection to participation by any Board member at the hearing to whom this stipulation was presented for approval under WAC 292-100-090(2). Further, Mr. Nemati 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. Mr. Nemati agrees to pay a civil penalty in the amount of two-thousand, dollars (\$2,000) associated with violations of RCW 42.52.

12. The civil penalty in the amount of two-thousand dollars (\$2,000) 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, Kamran Nemati, 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.

 5/7/21

KAMRAN NEMATI Date
Respondent

Presented by:

 5/14/2021

KATE REYNOLDS Date
Executive Director

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, Kamran Nemati, accept/do not accept (circle one) the proposed modification(s).

Kamran Nemati, Respondent Date