BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of: CHRISTOPHER MILLER, Respondent	NO. 00-09 STIPULATION AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090 between CHRISTOPHER MILLER and the EXECUTIVE ETHICS BOARD ("Board") through BRIAN R. MALARKY, Executive Director, and MARC D. DEFREYN, Assistant Attorney General. The following findings, conclusions, and agreements will be binding upon the parties to this agreement if the agreement is fully executed and if accepted by the Washington State Executive Ethics Board, and not otherwise.

A. FACTS

1. Mr. Christopher Miller is employed as a Technical Education Instructor in the Automotive and Diesel Technology Program (Program) of the South Seattle Community College (SSCC). Pursuant to RCW 42.52.010(19), Mr. Miller is a state employee.

2. The SSCC Program instructs students in the repair of automobiles. Automobiles repaired by the SSCC Program can include vehicles owned by SSCC employees as well as members of the public.

3. SSCC Procedure Number 99-03 requires that payment in full for repairs performed by the Program be obtained from the vehicle owner before the Program releases the vehicle.

4. In May 1999, the Program repaired Mr. Miller's vehicle at a cost of $278.77. The vehicle was released to Mr. Miller despite the fact that Mr. Miller had not yet paid for the repairs.

5. While the Program released the vehicle to Mr. Miller, the vehicle was stored on SSCC property until after payments were made.

5. Mr. Miller paid the amount in full on November 10, 1999. During this time, the Washington State Auditors Office was auditing the Program.

6. Christopher Miller has not received, nor been subjected to, any departmental discipline or other sanctions related to this matter.

B. APPLICABLE LAW

1. 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.

C. AGGRAVATING & MITIGATING FACTORS

1. In determining the appropriateness of the civil penalty, the criteria in WAC 292-120-030 has been reviewed. In the case at hand it is an aggravating factor that: (1) the violation was continuing in nature (WAC 292-120-030(2)(a)); (2) the violation could reduce the public respect for, and the confidence in, state government employees (WAC 292-120-030(2)(e)); (3) the violation involved personal gain or special exemption (special privilege pursuant to RCW 42.52.070) to Mr. Miller (WAC 292-120-030(2)(f)); and, (4) Mr. Miller incurred no other sanctions as a result of his violations (WAC 292-120-030(3)(f)).

2. It is a mitigating factor that: (1) the Program released the vehicle contrary to SSCC policy and Mr. Miller did not remove the vehicle from SSCC property (WAC 292-120-030(4)(c)).

D. RESOLUTION

1. Mr. Miller admits that he violated provisions of chapter 42.52 RCW by reclaiming his personal vehicle prior to paying for SSCC repairs to his vehicle and for not paying his SSCC bill for over six-months. This conduct resulted in a special exemption from Mr. Miller's duty to repay the Program in a timely manner, in violation of RCW 42.52.070.

2. Mr. Miller will pay a civil penalty in the amount of two hundred dollars ($200.00). The Board agrees to suspend hundred dollars ($100.00) on the condition that Mr. Miller complies with all terms and conditions of this Stipulation and Order and commits no further violations of RCW 42.52 for a period of three (3) years from the date this Stipulation and Order is accepted by the Board.

3. The civil penalty in the amount of one hundred dollars ($100.00) is payable to the *State of Washington* which will be remitted within 45 days of the date this Stipulation and Order is accepted by the Executive Ethics Board.

4. Christopher Miller will attend Washington State sponsored ethics training within six (6) months of the date this Stipulation and Order is accepted by the Board.

E. CONCLUSIONS OF LAW

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Christopher Miller and over the subject matter of this complaint.

2. Pursuant to WAC 292-100-090(1), the parties have the authority to resolve this matter under the terms contained herein.

3. Settlement of this matter on the terms herein is subject to WAC 292-100-090(2) which states in part:

> The board has the option of accepting, rejecting, or modifying the proposed stipulation or asking for additional facts to be presented. If the board accepts the stipulation or modifies the stipulation with the agreement of respondent, the board shall enter an order in conformity with the terms of the stipulation. If the board rejects the stipulation or respondent does not agree to the board's proposed modification to the stipulation, the normal process will continue. The proposed stipulation and information obtained during formal settlement discussion shall not be admitted into evidence at a subsequent public hearing.

F. RELEASE/EFFECT OF ORDER

1. If the Board accepts this Stipulation, the Board releases and discharges Christopher Miller from all further ethics proceedings under chapter 42.52 RCW for matters arising out of the facts contained in this complaint, subject to payment in full of the civil penalty owed in the amount of $200.00 ($100.00 ~~$50.00~~ suspended as noted above) and compliance with all other conditions of this Stipulation. Christopher Miller 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 and Order.

2. If this Stipulation is accepted, this Stipulation and Order does not purport to settle any other claims between Christopher Miller and South Seattle Community College, the State of Washington, or any other third party, which are now in existence or may be filed in the future.

3. If this Stipulation is accepted, this Stipulation and Order is enforceable under RCW 34.05.578 and any other applicable statutes or rules.

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G. CERTIFICATION

I, Christopher Miller, hereby certify that I have read this Stipulation and Order in its entirety; that my counsel, if any, has fully explained its legal significance; that I knowingly and voluntarily waive my right to a hearing in this matter; that I fully understand and voluntary agree to this Stipulation.

Christopher Miller

7/24/01

Date

Stipulated to and presented by:

Brian R. Malarky
Executive Director

Sep 21, 2001
Date

Marc D. Defreyn, WSBA #28318
Assistant Attorney General
Counsel for the Executive Director

9/21/01
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 following modifications are approved by _____.

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DATED this 14th day of September, 2001.

Cheryl Rohret for James V. Vaché as per telephone authorization on 9/14/2001
James M. Vaché, Chair

Laquita Fields, Vice Chair

Sutapa Basu, Member

Marilee Searbrough, Member

Cheryl L. Rohret
Rev. Cheryl Rohret, Member

I, _____, accept/do not accept (circle one) the proposed modification.

Respondent — Date

Attorney for Respondent — Date