

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

ELIZABETH (BJ) WISE

No. 01-82

STIPULATION AND ORDER

**I. STIPULATION**

THIS STIPULATION is entered into under WAC 292-100-090 between ELIZABETH (BJ) WISE through her attorney, DIANE F. RUSSELL, and the EXECUTIVE ETHICS BOARD (Board) through BRIAN R. MALARKY, Executive Director. 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. RELEVANT FACTS**

1. In August 2001, the Office of the Superintendent of Public Instruction (OSPI) told Board staff that, in the process of responding to a public records request, they had reviewed several documents which indicted that former Assistant Superintendent, BJ Wise, may have violated the Ethics in Public Service Act. On September 7, 2001, the Board staff received a complaint related to those documents. The complaint alleges that Ms. Wise used state resources for her personal benefit. The alleged use occurred when Ms. Wise worked as an independent consultant with a Longmont, Colorado based publishing and educational services firm, Sopris West Educational Services Inc. (Sopris West). In addition, the complaint alleges that while still employed by OSPI, Ms. Wise had an ongoing business relationship with Sopris West and participated in OSPI business agreements to provide service related to Reading Workshops and regional conferences sponsored by OSPI.

2. Ms. Wise was employed by OSPI and appointed to the position of Assistant Superintendent of Special Populations on July 1, 1999. She retired from OSPI on June 30, 2001.

(d) in April 2001, \$1040.62 for expenses related to presenting at a conference in Kansas City;

(e) in February of 2001, \$636.28 for travel expenses to Colorado; and

(f) in May of 2001, \$589.95 for travel expenses to Colorado.

7. Ms. Wise asserts that while she worked on Sopris West projects she used personal holidays or exchange time that she had earned. In addition, while she did not request leave from OSPI for her Sopris West work, she documented the exchange time that she used on her personal calendar.

8. While employed by OSPI, Ms. Wise participated in personal service contracting decisions that involved several Sopris West trainers and authors. In addition, in May 2000 she authorized a \$2,400 personal services contract with Steve Kukic. Mr. Kukic was Vice President of Professional Services for Sopris West at the time.

9. In May and June 2000, Ms. Wise approved OSPI's purchase of textbooks from Sopris West, the purchases totaled \$13,942.50.

10. In the fall of 2000, Mr. Kukic asked Ms. Wise if she was interested in working for Sopris West's Northwest regional office. In December of 2000, Ms. Wise responded to Sopris West by letter indicating that she was interested in talking with them about their proposal. In March or April of 2001, Ms. Wise verbally accepted the offer of employment from Sopris West. After her retirement, Sopris West employed Ms. Wise as its Director of the Northwest Region.

11. In March 2001, Ms. Wise entered into a verbal agreement with Sopris West to provide registration and support services for the OSPI sponsored Summer Reading Camp. In prior years, OSPI Staff had coordinated registration for these conferences. A May 2001 e-mail from a Sopris West employee to Ms. Wise indicated that Sopris West's participation in the registration for the Summer Reading Camps could result in a profit of \$41,380.00.

4. RCW 42.52.160(1) states:

(1) 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.

### **C. AGGRAVATING & MITIGATING FACTORS**

1. In determining the appropriateness of the civil penalty, the criteria in WAC 292-120-030 was reviewed. In the case at hand: (1) the violation was continuing in nature (WAC 292-120-030(2)(a)); (2) the violation impaired a function of OSPI (WAC 292-120-030(2)(d)); (3) the violation significantly reduced the public respect for, and the confidence in, state government employees (WAC 292-120-030(2)(e)); and, the violation involved financial gain to Ms. Wise's current employer Sopris West (WAC 292-120-030(2)(f)).

2. In addition, it is an aggravating factor that: (1) Ms. Wise had significant supervisory responsibility and discretion (WAC 292-120-030(3)(d)); and, (2) Ms. Wise has incurred no other sanctions as a result of the violations (WAC 292-120-030(3)(f)).

3. It is a mitigating factor that: (1) Ms. Wise was unaware that her conduct violated the Ethics in Public Service Act; and (2) OSPI management allowed Ms. Wise to work for Sopris West without properly documenting her use of exchange time on an approved leave request form.

### **D. RESOLUTION**

1. Ms. Wise and the Board wish to resolve this matter in a constructive way and in a manner that benefits OSPI, its employees, and the special needs students of Washington State.

2. Ms. Wise admits that she violated provisions of chapter 42.52 RCW:  
(a) by improperly entering into a verbal agreement between OSPI and Sopris West, without conducting a competitive selection process, to provide registration services for the OSPI sponsored Summer Reading Camp after she had accepted an offer of employment from the firm; a violation of RCW 42.52.020, and RCW 42.52.070;

7. The Board agrees not to request separate action by the Attorney General to seek damages or rescission of any state action described above, as provided for in RCW 42.52.490(1)(a) and RCW 42.52.510(1).

8. The Board agrees to dismiss as unfounded those additional allegations made against Ms. Wise in this matter between September 2001 and January 2002, including the allegation that Ms. Wise was improperly involved in OSPI's selection of Internet Insights to provide services for the Foundations for Learning: Safe and Civil Schools Project.

#### **E. CONCLUSIONS OF LAW**

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Elizabeth (BJ) Wise 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 BJ Wise 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 \$10,000.00 (\$5,000.00 suspended as noted above), restitution in the amount of \$25,000 as noted in paragraph D (5) and D (6) above, and compliance with all other conditions of this Stipulation.

2. Elizabeth (BJ) Wise 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.

**G. CERTIFICATION**

I, Elizabeth (BJ) Wise, hereby certify that I have read this Stipulation and Order in its entirety; that my counsel 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 voluntarily agree to this Stipulation.

*Elizabeth (BJ) Wise*      *4/2/02*  
Elizabeth (BJ) Wise      Date

*Diane Russell*      *4/2/02*  
Diane Russell, WSBA # 16190      Date  
Attorney for Respondent

Stipulated to and presented by:

*Brian R. Malarky*      *Apr 4, 2002*  
Brian R. Malarky      Date  
Executive Director

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