

STATE OF WASHINGTON
EXECUTIVE ETHICS BOARD

In the matter of the ethics)	Case #96-025
complaint against)	
)	STIPULATION AND ORDER
W. HUNTER SIMPSON)	
_____)	

This Stipulation of Facts, Conclusions of Law and Settlement ("Stipulation") is made and entered into by and between Mr. W. HUNTER SIMPSON, a member of the Information Services Board, and NOEL R. TREAT, Assistant Attorney General, acting solely as a staff member for the State of Washington Executive Ethics Board ("Board") and not on behalf of the Washington State Attorney General, to settle the allegations contained in Case #96-025. The parties stipulate and agree to the following:

I. STIPULATED FACTS

1. On May 30, 1995, the Department of Information Services ("DIS") issued a request for proposal ("RFP") to procure computer kiosks for the Washington Information Network ("WIN"). Three companies, including IBM and North Communications, Inc. ("North"), responded to the RFP.

2. On August 2, 1995, DIS named IBM the apparent successful bidder. Thereafter, North filed a protest with DIS, which DIS subsequently denied. North then filed a protest with the ISB. The ISB is comprised of 13 members appointed by the Governor and by various other elected officials.

3. On October 11, 1995, a four member ISB subcommittee held a hearing to decide North's protest. As stated above, Mr. Simpson is a member of the ISB and

was a member of the ISB subcommittee which heard North's protest. In this capacity, Mr. Simpson was a state officer as defined by RCW 42.52.010(18).

4. At the beginning of the hearing, a North representative asked if there were any members of the ISB panel who were either current or former employees of any of the three WIN bidders. Mr. Simpson stated that he was a former employee of IBM, but had left the Company 28 years previously. The North representative then asked whether it would be appropriate to excuse Mr. Simpson from the panel. Len McComb, who was acting as the Chair of the ISB panel, responded that North's request was inappropriate and directed North's representative to continue with his presentation. Mr. McComb approved of Mr. Simpson's participation in and voting on the protest.

5. At the conclusion of the testimony in the hearing, Mr. Simpson moved to deny the protest. All four members of the subcommittee, including Mr. Simpson, voted in favor of the motion. Mr. Simpson's vote was not determinative in the denial of North's protest.

6. As a result of the denial of the North protest, IBM was awarded the WIN contract. IBM and DIS subsequently entered into a five year \$6.3 million contract on December 19, 1995.

7. On September 16, 1996, the Board received an ethics complaint filed by North against Mr. Simpson for alleged violations of RCW 42.52.030(1), RCW 42.52.030(3) and RCW 42.52.020. A copy of the complaint is attached as Exhibit A.

8. At the time Mr. Simpson participated in the hearing on the North protest, he owned 80 shares of IBM stock valued as of October 11, 1995, at between \$8,000 and \$9,000. IBM has 550 million shares of stock issued and outstanding and Mr. Simpson's shares represented .00001 percent of total IBM stock, as well as less than one percent of Mr. Simpson's total assets. Mr. Simpson disclosed his ownership of IBM stock on his annual filings with the Washington Public Disclosure Commission.

9. On March 14, 1997, the Board determined that there was reasonable cause to believe Mr. Simpson committed a violation of RCW 42.52.030(1), RCW 42.52.030(3) and RCW 42.52.020 when he voted on the North protest. Mr. Simpson was provided with a copy of the Board's Investigative Report and Reasonable Cause Determination/Statement of Charges. Mr. Simpson timely responded, contesting the reasonable cause finding, and requested a hearing in this matter.

10. Mr. Simpson did not know that his participation in the hearing or vote on the North protest could result in a violation of RCW 42.52. Mr. Simpson did not intend to violate any state law or personally benefit, directly or indirectly, from the award of the WIN contract to IBM.

11. Mr. Simpson's vote on the North protest did not substantially influence any state action in this matter and Mr. Simpson's action does not require rescission of the IBM contract.

12. As a result of this proceeding, Mr. Simpson has a current understanding of the requirements imposed by RCW 42.52.030(1), RCW 42.52.030(3) and RCW 42.52.020. Mr. Simpson agrees not to participate in or vote on any future bid

protests involving companies in which he has a direct or indirect beneficial interest, which includes ownership of any amount of stock in said company, and he will recuse himself from the ISB or any ISB subcommittee during discussions of such protests, unless RCW 42.52 is amended to allow such participation.

II. STIPULATED CONCLUSIONS OF LAW

There is reasonable cause to believe Mr. Simpson violated RCW 42.52.030(1), RCW 42.52.030(3), and RCW 42.52.020 when he voted on the North protest.

III. STIPULATED SETTLEMENT

1. Mr. Simpson is represented by counsel and knowingly and voluntarily agrees to waive his right to a hearing to respond to the Reasonable Cause Determination/Statement of Charges' allegations.

2. Mr. Simpson agrees to pay \$250 to the Board. Payment shall be made prior to July 1, 1997.

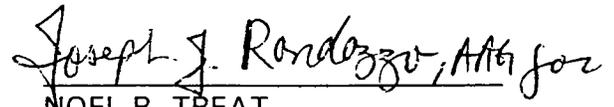
3. The parties agree that Mr. Simpson is released and forever discharged from any and all state ethics proceedings arising out of the complaint for case #96-025.

4. The parties acknowledge and agree that this Stipulation is not final and binding unless and until the Board accepts the Stipulation. Both parties understand that the Board is free to reject or modify this Stipulation.

5. In the event that the Board modifies this Stipulation, Mr. Simpson has the right to review the modified Stipulation and agree to the modified terms. If the Board modifies this Stipulation but Mr. Simpson does not agree to the modified Stipulation or if the Board rejects the entire Stipulation, then the normal administrative process will continue and this Stipulation will be void and will not be admitted into evidence at any subsequent public hearing.


W. HUNTER SIMPSON

8/27/97
Date


NOEL R. TREAT

Assistant Attorney General

7/8/97
Date

IV. ORDER

Having reviewed the Complaint and the Stipulation, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, HEREBY ORDER that pursuant to WAC 292-100-090 the above stipulation is:

Accepted in its entirety and becomes the Order of the Board.

Accepted and becomes the Order of the Board with the following modification(s):

___ Rejected in its entirety.

DATED this 30 day of June, 1997.



Thomas L. Purce
Chair

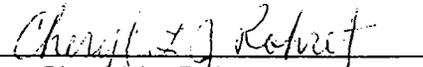


Paul Gillie
Vice Chair

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