BEFORE THE WASHINGTON STATE EXECUTIVE ETHICS BOARD

In the Matter of	)	
	)	No. 98-05
AL BRIGGS	)	
	)	STIPULATION AND ORDER
	)	

Pursuant to WAC 292-100-090 this stipulation is entered into between AL BRIGGS, an employee of the Edmonds Community College ("EdCC"), and the EXECUTIVE ETHICS BOARD ("the Board") by and through MARGARET A. GRIMALDI, Executive Secretary. The following findings, conclusions, and agreements will be binding upon parties to this agreement, if the agreement is fully executed, and if accepted by the Executive Ethics Board, and not otherwise.

I. STIPULATED FACTS

1. The Board filed complaint 98-05 against Al Briggs on May 21, 1998, alleging violations of RCW 42.52. The Board filed the complaint pursuant to RCW 42.52.410(2) based on an audit report issued by the Washington State Auditor's Office.

2. Al Briggs is the department head for Physical Education in the Math and Science Division at EdCC. As a department head, Mr. Briggs participates in the hiring of part-time faculty and the administration of contracts governing the use of outside facilities for physical education classes;

3. In the spring of 1996, Mr. Briggs hired Doug Measor as a part-time faculty member to teach a bowling class for EdCC. Mr Measor did not have previous experience as a college instructor;

4. Mr. Briggs asserts that he hired Mr. Measor because Mr. Briggs was unable to teach the class himself. Mr. Briggs asserts that he had already exceeded the maximum class limit he could teach under EdCC's "moonlighting" policy;

5. Mr. Briggs attended all of Mr. Measor's bowling classes and assisted with the bowling instruction. Mr. Briggs also filled in for Mr. Measor when Mr. Measor was ill or had to attend to bowling alley business;

6. Mr. Briggs had arranged for the use of a bowling alley by EdCC for its bowling classes. Mr. Measor owned a partnership interest in the same bowling alley. There was no written use agreement governing the use of the bowling alley;

7. EdCC bowling students paid a fee to the bowling alley each time the bowling class was held. This fee was in excess of the tuition students paid to EdCC for the class;

8. Mr. Briggs accepted cash payments from Mr. Measor during the time that Mr. Measor served as a part-time faculty member. Mr. Briggs asserts these payments were voluntary payments by Mr. Measor in gratitude for Mr. Briggs' assistance in teaching classes. Mr. Measor retained 40% of his gross income from teaching the classes; Mr. Briggs received 60% of the gross income;

9. Mr. Briggs asserts that he received approximately $300.00 from Mr. Measor during the period from the spring quarter of 1996 until Mr. Measor's death on March 10, 1997. Mr. Briggs repaid Mrs. Ruth Measor approximately $300.00 subsequent to an inquiry by the Washington State Auditor's Office;

10. At no time during the period from the spring quarter of 1996 until March 21, 1997, did Mr. Briggs inform EdCC administration of his teaching or payment arrangement with Mr. Measor. In addition, Mr. Briggs did not timely notify EdCC administration so that substitute teaching arrangements could be made;

11. Mr. Briggs' conduct may violate the following provisions of Chapter 42.52 RCW:

(a) RCW 42.52.020

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature that is in conflict with the proper discharge of the state officer's or state employee's official duties.

(b) RCW 42.52.030(2)

No officer or employee of an institution of higher education or of the Spokane intercollegiate research and technology institute, except as provided in subsection (3) of this section, may be beneficially interested, directly or indirectly, in a contract or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract or grant, unless the institution of higher education or the Spokane intercollegiate research and technology institute has in effect a written administrative process to identify and manage, reduce, or eliminate conflicting interests with respect to such transactions as adopted pursuant to the national science investigator financial disclosure (GPM 510) 1995 and the public health service regulations, 42 C.F.R. Part 50 and 45 C.F.R. Subtitle A as each of those regulations existed on June 6, 1996, and the state employee or state officer has complied with such policy.

(c) RCW 42.52.070

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.

(d) RCW 42.52.110

No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except: (1) The state of Washington; or (2) in the case of officers or employees of institutions of higher education or of the Spokane intercollegiate research and technology institute, a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency.

(e) RCW 42.52.140

No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could reasonably be expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

(f) RCW 42.52.160(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.

3. The following factors contribute to the assessment of an appropriate penalty in this case:

(a) Mr. Briggs has significant supervisory and management responsibilities as a department head at an institution of higher education in the state of Washington;

(b) Mr. Briggs hired and supervised Mr. Doug Measor, a person with which the department had a business relationship for the use of bowling facilities;

(c) Mr. Briggs accepted payments from a part-time instructor he supervised; and,

(d) Mr. Briggs concealed his teaching and payment arrangements with Mr. Measor from division administration at EdCC.

4. The following factors mitigate in setting the appropriate penalty in this case:

(a) Mr. Briggs actually performed instructional duties during Mr. Measor's classes;

(b) Mr. Briggs was cooperative in the Board's investigation of this complaint; and,

(c) Mr. Briggs had no previous ethics violations.

II. STIPULATED CONCLUSIONS OF LAW

1. The Executive Ethics Board has jurisdiction over Mr. Briggs and the subject matter of this complaint.

2. Mr. Briggs acknowledges that his actions constitute violations of RCW 42.52 and WAC 292-110.

III. STIPULATED SETTLEMENT

1. Based on the foregoing stipulated facts and conclusions of law, Mr. Briggs agrees to pay a civil penalty in the amount of one thousand two hundred dollars ($1200.00) to the Executive Ethics Board in the form of a *check payable to the State of Washington*. Payment is due within one hundred eighty (180) days of the date of acceptance of this order. Mr. Briggs further agrees to attend 4 hours of state-conducted ethics training no later than June 1, 1999.

2. Mr. Briggs acknowledges that he violated RCW 42.52.020, 42.52.030(2), 42.52.070, 42.52.110, 42.52.120(1), 42.52.140, and 42.52.160(1) by engaging in activities incompatible with his official duties; by using his position at Edmonds Community College to secure a personal benefit; by accepting gratuities from an instructor under his supervision; and by employing a person from whom he received a personal benefit.

3. Mr. Briggs understands that this Stipulation is not final and binding on him or the Board unless and until the Executive Ethics Board enters an Order accepting it.

4. If the Board accepts this Stipulation and Order, then the Board agrees to release and discharge Mr. Briggs from all adjudicative proceedings, claims, damages, and causes of action arising out of or related to the allegations in Executive Ethics Board Complaint #98-05.

5. If the Board accepts the Stipulation, Mr. Briggs agrees to release and discharge the state of Washington, the Board, its officers, agents, and employees from all claims, damages, and causes of action arising out of or related to the circumstances alleged in Executive Ethics Board Complaint #98-05 and in this Stipulation.

6. If the Board proposes to modify the settlement agreement, Mr. Briggs has the right to approve the modification. If the Board rejects the settlement agreement or modifies it in a manner that is not acceptable to Mr. Briggs, the agreement becomes null and void, in which case the Board shall have the opportunity to issue reasonable cause determination. Upon issue of a reasonable cause determination, Mr. Briggs will have the opportunity to request a public hearing pursuant to RCW 34.05 and WAC 292-100.

7. The parties agree that if Mr. Al Briggs breaches this agreement, the Board may impose a civil penalty of $3000 for the violations stipulated to herein and pursuant to RCW 42.52.480(1)(b).

Al Briggs
AL BRIGGS

9 15-98
Date

Margaret A. Grimaldi
MARGARET A. GRIMALDI
Executive Secretary

21 September 1998
Date

V. ORDER

Having reviewed Complaint No. 98-03, the Stipulation, and the Agreement, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, HEREBY ORDER, that pursuant to WAC 292-100-080, the above is:

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

_____ *Accepted and, if approved by Mr. Briggs, becomes the Order of the Board with the following modifications:

_____

_____

_____ Rejected in its entirety.

DATED this _15th_ day of _____, 1998.

_____
PAUL GILLIE, Chair

_____
JANET LIM, Vice Chair

_____
CHERYL ROHRET, Member

_____
GWENDOLYN FOYD, Member

*I accept or do not accept (circle option) the proposed modification.

_____ _____
Date AL BRIGGS, Respondent