

COMPLAINT 2007 – NO. 1
In Re Hankins

Special Privileges – Use of Public Resources
November, 2007

REASONABLE CAUSE DETERMINATION – STIPULATION AND ORDER

I. Nature of the Complaint – Background

The Complaint (Exhibit #1) was filed with the Board on February 14, 2007, one day before a regularly scheduled Board meeting. The first opportunity for the Board to commence preliminary discussions of the Complaint was at its next meeting on March 14.

The Complaint focused on an accompanying newspaper article published in the Tri-City Herald on February 8, 2007. This article appears to be the direct result of public statements issued by Richland Mayor Rob Welch at a Richland City Council meeting on February 5 (Exhibit #2) in which Representative Hankins (Respondent) is accused of using her legislative position to improperly assist and/or promote Northwest Tire Recycling (NWT). NWT is a tire recycling business operating within the City and is owned and operated by the daughters and son-in-law of Respondent. NWT bales loose tires and markets the baled product for a variety of end-uses.

It was alleged that Respondent's improper efforts on behalf of NWT included (1) representing NWT in its efforts to obtain a City business license; (2) promising legislation to assist NWT in those efforts; (3) promoting the use of the businesses' product for projects in the City – a highway, sound wall and a shooting range specifically; and (4) threatening to withhold from the City future legislative assistance unless the baled tires were used in the development of the shooting range.

On February 25, 26, and 27 the Tri City Herald published a three-part series expanding the allegations that Respondent had acted improperly on behalf of NWT through the use of her legislative office and/or position to influence decisions on the City and the State level with regard to the business interests of NWT. In addition, the articles alleged the use of public resources to assist NWT in its business interests with the State of Washington. The Tri-City Herald articles provided links to documents obtained through requests to Respondent's legislative office and the Department of Ecology (DOE), some of which were pertinent to the present complaint.

Respondent directed her staff to provide to the Board everything her office had in the way of information which would address the allegations contained in the articles published on February 8, 25, 26, and 27. Respondent further offered to prepare a detailed

response to these allegations for the Board's consideration. On March 22, Respondent provided the Board with her response together with a number of documents containing a great deal of history associated with tire recycling in Washington. DOE employees were among those requested by Respondent to be interviewed during the course of the investigation.

The Board's next regularly scheduled meeting was held on April 18. The Board concluded it had both personal and subject-matter jurisdiction over the allegations that (1) Respondent had improperly used her legislative position and/or public resources on behalf of NWT with both the City and DOE; and that (2) Respondent used her legislative position and/or public resources to promote NWT through events which featured and show-cased the company.

Board staff took the first of three investigative trips to the Tri Cities area on April 30 – May 3. Other trips took place on June 12 – 14 and August 9 -10. In addition, interviews were conducted in the office of the Board, at the Department of Ecology and by phone. In some cases individuals were interviewed more than once. Officials and staff of the City of Richland, the Port of Benton, and the Department of Ecology, together with Representative Hankins and her staff were cooperative and helpful throughout the investigation. Numerous records including reports, e-mails, legislative bills and legislative history, DVD's of City meetings, Port of Benton meeting minutes, contracts and Requests for Proposals (RFP's) were reviewed. Approximately twenty-seven individuals were interviewed during the course of the investigation.

The Board met at regularly scheduled meetings on May 16, and July 19, (no meeting in June) and in addition to other business received investigative updates from staff. At the August 16 meeting it was determined that the investigation had provided the Board with enough information on which to base its decision whether the likely facts of the case did or did not establish reasonable cause to believe the Ethics Act (Act) had been violated.

Senator Honeyford recused himself from consideration of this complaint.

II. Jurisdiction

The Board has both personal and subject-matter jurisdiction. The statutes at issue are 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.

and 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 gain of the officer, employee, or another.

2. This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties.

III. Reasonable Cause

Based upon the investigation and the determination of facts the Board concludes that reasonable cause does not exist to support the allegations that Respondent (1) promised legislation to secure the NWT business license; (2) conditioned her future legislative support on the City's use of baled tires for the shooting range; (3) assisted NWT in securing a loan from the Benton-Franklin Council; (4) improperly assisted her daughter in obtaining a deed release of loan collateral; (5) used her position or legislative office to assist NWT with an early buy-out of its lease with the Port of Benton; or (6) obtained the first Goldendale clean-up contract for NWT through involvement with the Department of Ecology.

The Board further concludes that reasonable cause does exist to believe the Respondent (1) used her legislative position and/or office in an effort to secure special privileges for NWT when she represented the business interests of NWT in meetings with the City both when she accompanied her daughter on numerous occasions and when she met separately with the City Manager to argue about permits and licenses; (2) represented NWT's interests in promoting baled tires for the proposed sound wall; (3) used her legislative office and public resources when she organized and/or participated in tours which featured and promoted NWT; and (4) employed improper means in the use of her legislative office and public resources in attempts to influence and/or intimidate state agency personnel through persistent actions reasonably perceived as threatening.

IV. Determination of Allegations of Fact

There is reasonable cause to believe that the following facts are among those which may be identified as the facts of this case.

Richland - general

1. On or about July 13, 2001 Sherrey Hankins applied for a building permit to place a modular building on property to be used by NWT and located at the Port of Benton. On or about August 8, 2001 Respondent accompanied Sherrey Hankins to a meeting with the City Building Inspection Supervisor, Kevin Rex to discuss the City's concerns with the permit application. Respondent complained that the City made it difficult for small business and Mr. Rex will testify that Respondent "pressured us" to issue the permit quickly.

2. According to Ric Simon, Mr. Rexas' supervisor, Sherrey Hankins and Respondent met with him separately with regard to a permit which may have involved a trailer, or perhaps the same modular building referred to above. This meeting occurred in 2001 or 2002 – “near the time the business was getting started.”

Shooting range

3. In 1999 the City received a grant from the Interagency Committee for Outdoor Recreation (IAC) for use toward building a shooting range. In 2000 the City approved the use of funds, equipment and labor as a match to the grant. By 2002 the City was seeking a private lessee to construct and operate the facility. On October 10, 2002 the Richland Parks and Recreation Commission (Parks/Rec) conducted a public meeting and one of the agenda items was a discussion of the viability of a private lessee taking over the project and running the facility and perhaps being substituted for the City as the recipient of the IAC grant.
4. Respondent was asked to attend the meeting by individuals who were supporting the construction of a new firearms range. These individuals were from the area and some belonged to an existing gun club.
5. According to the DVD recording of the meeting Respondent spoke briefly and expressed surprise that the IAC grant had not been used by the City. She expressed her support for the local gentlemen who were behind the effort and urged the Commission to proceed to use the money they way it was intended rather than return it to the State “...because it's very difficult to get IAC grants and I have to go through a lot of hoops to get those. I happen to be on the committee that votes for those and I am still a little surprised this one hasn't been used with all of the people that love to hunt in this area...”
6. Sherrey Hankins also attended the October 10, Parks/Rec meeting. At 9 p.m. the Commission took a break and Respondent approached Parks/Rec Chair, John Erlandson who will testify that Respondent introduced Sherrey Hankins and told him that she (Respondent) had worked hard for the IAC money and if you don't make this range happen there won't be any more IAC money as “I won't be there to help you in the future.” Respondent denies making this statement but acknowledges she was upset that the City had ignored acting on the grant.
7. Richland Mayor Rob Welch refers to this meeting as the one during which Respondent said if we don't use the IAC grant “I won't get you any more.” Mayor Welch also refers to a newspaper article in the Tri Cities Herald about Jim Penor and NWT with Penor “bragging about supplying tires for this shooting range.” Mayor Welch concluded that Respondent was threatening

the City with lack of future support if the range was not built with the use of baled tires.

8. A search for newspaper articles which describe Jim Penor “bragging” about supplying baled tires for this shooting range was not productive. An article published on 11/18/02 reported that Mr. Penor listed “backstops for rifle ranges” as a possible use of his product.
9. Neither documents nor likely testimony was discovered which link Respondent’s support of this 1999 grant to the City, or possible lack of future support for IAC grants for other projects, in exchange for a commitment from the City to use baled tires from NWT (established in 2001) in the construction of the shooting range.

Sound wall for 240 by-pass

10. In the 2001-2002 timeframe the Respondent attended at least two meetings to discuss with citizens the possibility of erecting a sound wall to shield residences from traffic noise emanating from what is commonly referred to as the 240 by-pass. Baled tires were, for a time, an option considered by the citizens.
11. Respondent arranged to have a representative from the Department of Transportation present at one of the meetings to discuss testing methods for highway noise. Respondent repeatedly advised the citizens that no state money was available for construction of a sound wall.
12. At some point during these meetings, Respondent indicated that money other than state money may be available. What was said, exactly, is disputed. Two witnesses will testify that Respondent said “if you go with my daughter’s product, I can get you funding.” Respondent denies conditioning her support on a decision to use baled tires for the sound wall and will testify that she may have said there are other sources of funding rather than state funding for recycled products such as baled tires.
13. The same two witnesses will testify that when the decision was made to not use baled tires to construct the sound wall the Respondent quit coming to meetings, wouldn’t take their phone calls, and would not help in pursuing funding. Respondent will testify that these witnesses did not wish to speak to her because she was a woman.
14. Eventually the wall was built with Federal dollars obtained through the efforts of other elected officials.
15. On February 9, 2003 the City of Richland published a Request for Proposals for construction of the 240 by-pass wall. The next day a FAX was sent from

NWT to “Mom” asking that “Mom” review the attached Request for Proposals. The FAX was sent to Respondent’s FAX in her Olympia, legislative office.

Contacts with City on behalf of NWT

16. Reasons which have been established as contributing to the perception that staff ignored problems with NWT are that a business principal with NWT was a City employee and the mother of the president of NWT was a state legislator – the Respondent.
17. Pete Rogalsky, City Public Works Director, will testify that over the past several years he may have met with Respondent an average of twice a year on City business unrelated to NWT. However, in June of 2005 he was called to a meeting in the office of the City Manager, to discuss, primarily, what NWT would need in the way of water at its business site near the City landfill. Sherrey Hankins, of NWT, was at the meeting as was her Mother - the Respondent.
18. On September 6, 2005 a meeting was called by City staff to discuss with NWT the City’s requirements for a business license. A chief concern at the meeting was fire protection at the site. Sherrey Hankins attended the meeting as did her Mother, the Respondent. The contemplated testimony of the staff supports a finding that Respondent represented NWT’s interests at the meeting and argued on behalf of NWT that the City’s requirements for fire suppression at the site were not necessary and perhaps superseded by state permits already held by NWT.
19. Respondent’s point of view was that baled tires were a recycled product and not a fire hazard nor solid waste in the same sense as loose tires. Respondent further argued that NWT had obtained the only permits it needed through the Department of Ecology and the Department of Health.
20. Also discussed at this meeting was the City’s insistence on a building permit for a modular building on the new site. Respondent took exception to this requirement, according to those in attendance, and complained about how difficult the City was.
21. A great deal has been written, and speculated upon, about whether at this meeting the Respondent promised legislation in the 2006 legislative session which would resolve the differences between the City and NWT with regard to the City’s requirements for the business license. No one in attendance has offered to testify that Respondent “promised” she would do any thing in this regard but there is general agreement among City staff that Respondent did represent that somewhere in the legislative pipeline there was legislation

which might affect the issues of (1) fire hydrants for rural business sites and (2) tire disposal.

22. City staff expressed collective relief that, in their view, the meeting ended with the understanding or hope that legislative action might resolve the issues between the City and NWT relative to the business license. No further action on the license was taken by the City until later in 2006 when it was apparent those issues had not been affected by legislative action. Respondent does not recall the meeting as having established an understanding that these issues would be addressed by her or the legislature but the weight of contemplated testimony from those at this meeting establish reasonable cause to believe that there was a discussion about the possibility this would occur.
23. It is alleged that City staff was threatened or intimidated by Respondent to the point they failed to do their jobs by ignoring NWT's shortcomings relative to the conditions for the business permit. The facts establish a more complex mix of issues. The claims of threatening or intimidating behavior on the part of the Respondent, to such an extent that it might be claimed she had abused her legislative position, emanate almost solely from the meeting of September 6. One employee who attended the meeting reported that he thought others in attendance might have been intimidated. That is the extent of the basis for the allegation yet it was repeated to the City Manager, who was later quoted as saying it was his understanding that some staff in attendance had been intimidated. It was later repeated by the Mayor that it was his understanding that some staff at the meeting may have been intimidated by the Respondent. The contemplated testimony of those actually in attendance, other than the one person who thought others may have been intimidated, fails to establish reasonable cause that Respondent attempted to so intimidate them that they failed to enforce business license requirements on NWT.
24. The facts support a finding that while staff were very much aware of Respondent's representation of the interests of NWT at this meeting they were also aware that it was their job to encourage and work with new business and they were not unaware that there was a general uneasiness throughout the City about what was going on, if anything, about the fact a city employee (Jim Penor, Respondent's son-in-law) was involved with NWT which had a contract with the City and which was located adjacent to city property. Combine these facts with the contemplated testimony of the City Manager that there was a feeling among mid-management personnel that they were not being supported by upper-management personnel and it is easy to understand why staff hoped the problems with NWT would go away.
25. In early January, 2007 Respondent contacted Rep. Larry Haler and invited him to attend a meeting with Richland City Manager John Darrington. Respondent advised Rep. Haler that the meeting would deal with the City's

legislative agenda and tire issues (emphasis added). Rep. Haler was unable to attend.

26. At the meeting John Darrington advised Respondent that the City's investigation of Jim Penor was over. The City's lobbyist will testify that later the Respondent said she had met with Darrington and had straightened out NWT issues with the City Manager. With regard to the City and NWT, Senator Delvin will testify that Respondent often complained about the City's treatment of NWT and told him "they are messing with the wrong person." Others will also testify that Respondent was very upset with the City and its treatment of NWT and would often voice her displeasure.
27. City Manager Darrington requested that Rep. Haler meet with him separately to discuss the City's legislative agenda since the Representative was unable to attend the earlier meeting with Respondent. It was at this meeting that Darrington said he wanted to update Haler on NWT and Penor. He allegedly told Haler that the issues had been resolved and there would be no further investigations by the City. Rep. Haler will testify that he told Darrington it was none of his business.
28. Darrington will testify that he did in fact tell both the Respondent and Rep. Haler that the City was through with its investigation of Penor because he thought it had ended. Later, the investigation was reopened at the insistence of Mayor Welch and it was this event which triggered the phone call from Haler to Darrington on February 5, 2007. The essence of that call was provided to the City council in a FAX from Darrington and that served as the catalyst for Mayor Welch's public statements of February 6, which in turn resulted in the Tri City Herald article which accompanied the original complaint.

Port of Benton lease and Benton-Franklin loan

29. It is alleged that Respondent, in her capacity as a legislator, in some way improperly assisted NWT with its loan arrangements with the Benton-Franklin Council of Governments. Other than speculation there are no facts to support the allegation. NWT received a loan from the Council and the loan was eventually satisfied through mutual agreement. It is true that the loan was satisfied absent the payment of all the interest and delinquency fees but it is also true that the Council publicly approved the satisfaction and acknowledged that its practice of loaning money to high-risk startup businesses often resulted in losses of principal whereas in the case of NWT the original loan amount was recouped.
30. Other than personal and speculative comments offered by a member of the Benton-Franklin Council, who was also a member of the Richland City Council, there are no facts to suggest that Respondent directly or indirectly

applied undue pressure through the use of her legislative position to influence the decision or decisions of the Benton-Franklin Council with regard to the loan.

31. It is alleged that the Respondent asserted undue influence upon the Benton Franklin-Council when she appeared before the Council on behalf of one of her daughters who was seeking a release of a Deed of Trust used as collateral for the loan from the Council to NWT. The facts do not support the allegation. Respondent's daughter had pledged a personally-owned Richland residence as partial collateral toward the loan. It was deemed necessary by the Hankins family to sell the residence because of a medical emergency involving the daughter's husband. Respondent's daughter will testify that she needed family support at the meeting with the Council and asked her Mother to attend the meeting with her. There are no facts which suggest that Respondent used her position as legislator to seek and/or obtain a business decision which was not in the best interests of the Council. To the contrary, the facts show that the Council did eventually release the deed to the pledged property but not before demanding and receiving a substantial portion of the sale proceeds in what it deemed to be a prudent release of collateral interest. It is not reasonable to assume that Respondent, simply because she is a legislator, would deny her daughter the support of family during such a difficult time. The Executive Director of the Benton-Franklin Council of Governments will testify that Respondent made no attempts to influence the loan arrangements between the Council and NWT.

32. It is alleged that Respondent appeared in 2002 before the Port of Benton, the original landlord of NWT, to assure the Port that the baled product produced by NWT was marketable. Minutes of a Port meeting on November 11, 2000 show that Respondent presented a book to the Commissioners on the history of the Washington State Legislature and told the Commissioners about a new tire recycling business that was coming to the Tri-Cities. There are no facts to support the inference in the Complaint that Respondent later appeared on behalf of NWT to somehow influence or impact the pre-existing lease agreement between the Port and NWT which was entered into in 2001. There are facts, in the form of the minutes of the Port, which show that Respondent did attend a Port meeting on August 8, 2001, shortly after the lease was entered into, but that Jim Penor from NWT and not the Respondent addressed the Port Commissioners. Further Port minutes show that Respondent attended a Port Commissioner meeting on November 13, 2002 but again Mr. Penor and not the Respondent updated the Commissioners on the status of NWT. On May 12, 2003, according to Port records, Sherrey and Shelley Hankins, owners of NWT, again updated the Commissioners on NWT and Respondent did not attend. Port Commission minutes show that Respondent attended a Port meeting on the issue of passenger rail on May 10, 2006. The Port Secretary will testify there are no Port minutes which show that Respondent attended any other meetings of the Commission.

33. It is inferred that Respondent in some way utilized her position as a state legislator to influence the Port of Benton in its decision to pay \$50,000 to NWT in exchange for NWT relinquishing its leasehold rights in the Port property approximately 1 ½ years prior to the end of the lease agreement. The facts are to the contrary. The Ports Executive Director will testify that the Port had no contact with Respondent on issues involving NWT other than the meeting schedule referenced in paragraph 32 above. In addition, contemplated testimony will establish that the Commissioner's decision was a business decision, concluded to be in the best interests of the Port, and that Respondent was neither a player nor a consideration in the Commissioner's decision.

Events featuring NWT supported/promoted in whole or part with public resources and/or legislative office

34. On June 25, 2002 a test bombing of a barrier created from recycled tires was held in the Richland area. Respondent assisted in the organization of the test and directed her Legislative Assistant to use public resources to email a list of invitees which included state and local government officials together with one lobbyist. The invitation advised that: *Representative Hankins invites you to a test bombing of a barrier from recycled tires. The barriers, created by Northwest Tires Recycling Products, LLC, a new tire recycling company in the 8th district, is one of the many ways we could promote tire recycling and get rid of those nasty tire piles. The barriers are being stress tested for use along highways as birms, barriers and other applications.*

35. On August 2, 2006 a tour of a tire pile site in Lewis County was conducted. Contrary to published reports, Respondent was not involved in arranging the tour but she did attend and she did invite others to attend.

36. This tour was the product of efforts of a former Lewis County Commissioner and current official for the Washington State Association of Counties, Erick Johnson, and Pat Dunn, a lobbyist for Les Schwab among others. Mr. Johnson and Mr. Dunn will testify that the tour was set up to promote awareness among legislative and executive staff of the problems associated with tire piles - specifically blight, fire and disease.

37. Respondent was not invited by either principal but requested attendance for herself and perhaps as many as four others. Mr. Johnson acquiesced. Mr. Dunn was apparently not aware that Respondent and her guests would be present and was surprised to find Respondent, Sherrey Hankins and Bill Rose at the designated meeting place the morning of August 2. Their presence is described as awkward. Respondent's response to charges she had "no say in who got invited" is incorrect as the facts establish that she did in fact have a say in inviting herself, her daughter and a potential NWT business partner,

Bill Rose. NWT was the only tire recycling company with a presence at this tour.

38. Sherrey Hankins stated that “Mom asked her to come on the tour and I paid my own way.”
39. On September 5, 2006 another tour was held which featured NWT. NWT was at this time engaged in baling tires at a Goldendale tire pile site pursuant to the first phase of a tire pile clean up at the site. A second contract for site clean up would be awarded by the Department of Ecology early in 2007.
40. Respondent, with the assistance of her legislative staff and other public resources, did the planning, created the invitee list and sent the invitations. The program outline states that ***The purpose of this event is to give officials and stakeholders the opportunity to become more educated about waste tires in Washington State, and specifically, how the Goldendale Pilot Project is to proceed.***
41. Rep. Geoff Simpson’s name was listed as one of the hosts/organizers of the tour but this was done as a courtesy since he was prime sponsor of the bill which authorized this tire pile pilot project. Respondent was in fact the individual responsible for the tour.
42. The invitation promises: ***A demonstration of how the tires are recycled will be done by the only woman-owned, licensed business in the State of Washington. Representatives from local and county officials, from DOH, DOE, the state House and Senate, and many others are included in the invitation list.***
43. No other tire recycling companies were invited. Respondent explains that this tour was not intended to be a pre-bid tour (for the 2nd Goldendale contract) but an educational tour. Sherrey Hankins, of NWT, was introduced in the program outline as the presenter for demonstrating or explaining the recycling process.
44. An official from DOE described the tour as an event which could have been viewed by others as presenting an interesting possibility with regard to baled tires but, with Respondent present and assuming the lead role, observers would probably have seen this as a showcase for NWT.
45. Respondent was unsuccessful in keeping representatives from another business involved in tire recycling/disposal from attending although an e-mail from her office and authorized by her, in response from a request from a NWT competitor for information about the tour, says in part: ***This event is an educational one for electeds (sic) and local officials. This is not a site tour***

for contractors or land grabbers. I have not and will not provide them this information at this time.

46. Respondent sent a copy of this e-mail from her legislative office to Jim Penor, her son-in-law and part owner of NWT, entitled “Heads up.”
47. The company which “crashed” the tour was Entech, a Michigan-based business held in low esteem by Respondent. Entech would be the successful bidder on the 2nd Goldendale contract. Respondent describes an Entech representative at the tour as “rude.” This Entech representative describes the Respondent as “arrogant” and states she will testify that Respondent told her there was no way anyone from Michigan is going to get this contract.
48. An executive from Entech was also present on the tour and describes Mr. Penor’s behavior that day as “intimidating” and that Respondent had “harsh words” directed at him. “There is no (GD) way you are going to get this contract” is a statement attributed to Mr. Penor by these Entech representatives.

First Goldendale contract – NWT

49. Among the allegations or inferences of wrongdoing reported in the newspaper and responded to by Rep. Hankins is that she used her office or position to obtain the first Goldendale contract for NWT. The facts do not support this allegation.
50. In 2005 the Legislature approved a \$1.00 fee on tire sales with the money made available to DOE to clean-up existing tire piles. The Legislature also approved an appropriation to conduct a pilot operation at Goldendale.
51. Kip Eagles, the DOE employee instrumental in formulating the Request for Proposal (RFP) preferred baling the tires rather than shredding them and dumping them in a landfill. In addition to his personal preference, Mr. Eagles stated that in his view the economics of tire recycling involving a smaller amount of tires such as the Goldendale pilot project also favored baling. He continues by stating that with the amount of money available for this pilot project DOE settled on a plan which was designed to get them “the biggest bang for the buck” and that was to reconfigure the tire piles at the site so that the fire danger would be lessened. Mr. Eagles’ view is that when contracts approach the \$500,000 figure that the economics are such that shredding becomes a viable option for contractors
52. The RFP for the pilot project called for baling. Three bids were received and they were reviewed by Mr. Eagles and three others. NWT was the low bidder

and the evaluation sheets in the DOE file suggest NWT also submitted the best safety and fire plan. NWT was awarded the contract.

53. The investigation discovered no contemplated testimony, facts, or documents to support the theory that Respondent used her office or position to structure the RFP or improperly influence the first contract award. Mr. Eagles will testify he had no contact on the RFP or bid award with Respondent. Mr. Eagles' supervisor, Cullen Stephenson, will testify that he had no contact with Respondent on the RFP or the bid award and gave no direction concerning the interests of either NWT or the Respondent. Mr. Stephenson will also testify that he received no direction or instructions relative to Respondent or NWT on the RFP or bid award from his boss, DOE Director Jay Manning.

Respondent's intervention with DOE

54. Respondent repeatedly intervened with the Department of Ecology and often in an argumentative and threatening fashion. DOE employees will testify that while Respondent did not influence agency decisions relative to NWT and the first Goldendale contract "she certainly influenced our workload."
55. Respondent's view was, basically, that baling tires was preferred over shredding the tires, that DOE should not award contracts to out-of-state companies and that her daughters "were the only fully-permitted and woman-owned tire recycling business in Washington."
56. Respondent inserted herself into DOE policy questions associated with the 2nd Goldendale contract by expressing alarm and anger over the possibility that DOE would consider bids for this 2nd clean-up from companies other than those who bale tires.
57. Respondent's efforts to insert herself into the DOE decision-making equation were not limited to the future of the Goldendale tire pile. On or about May 11, 2005 a fire broke out in a tire pile in western Washington. On May 12, Respondent's son-in-law, Mr. Penor, of NWT, contacted the DOE by e-mail from his City of Richland computer and offered his company as ready and able to clean up the mess. DOE did not immediately respond to the offer and on May 18, Respondent demanded an explanation from Mr. Stephenson in letter prepared at public expense and signed by "Shirley Hankins – State Representative."
58. The letter is indicative of a fact pattern which demonstrates that Respondent has been unable to appropriately separate her legislative interests in tire recycling from the business interests of NWT. Respondent's letter stated, in part: ***Your office, as well as the Director of Ecology, was contacted. The department was offered assistance of cleanup. Your office and the Director's office have not responded as of yesterday, May 17th. I would like***

to know why. The Department of Ecology has allowed the site to be cleaned up by an illegal, unlicensed, and un-permitted corporation. They continue to call and harass your only legal and permitted company. I'm not sure why I've spent the last three and a half years on a tire bill that gives your department authority to help solve this state's problems, and that would give your department your only legal and permitted company in this state. Frankly, I'm a little tired of this.

59. On May 19, Mr. Stephenson responded by letter in which he noted that the company involved with the fire clean-up was in fact licensed, was contracted with by local government which had the right to enter into that contract and that even though NWT is a fully permitted facility, *"...that does not allow me to promote or recommend the company."*
60. Respondent maintains her legislative efforts to affect DOE decision-making with regard to proper disposal of tire piles are efforts to force the DOE to comply with legislative intent. The facts of this case establish that this "legislative intent" with regard to tire pile disposal may be more the intent of the Respondent and less the collective intent of the Legislature, at least as expressed in the bill which re-imposed the fee on tire sales and established the fund for the Goldendale clean-up but did not direct DOE to adopt any particular end-use of the tires. Respondent correctly points to an earlier study encouraging uses other than dumping shredded tires in landfills.
61. The facts of this case show that NWT, through Mr. Penor and Ms. Sherrey Hankins, maintained an ongoing communication and information-sharing network with Respondent, as a legislator who was working on issues related to tire piles. NWT is in the tire pile recycling business. Respondent in turn communicated with DOE about tire issues and in many instances attempted to impose her will on internal department policy. Whether intentionally or not it was often the case that the business concerns of NWT were reflected in Respondent's interaction with DOE. NWT seems to have assumed that Respondent would continue to press its concerns with the Department and Respondent did nothing to discourage NWT from e-mailing, phoning or faxing those concerns to the Respondent.
62. Respondent's general response to allegations she was unsuccessful in separating her legislative role from her family's business is that she should be able to do for her family in the same sense she can do for any constituent. In a somewhat contradictory fashion the Respondent maintains she can remove any conflict by simply announcing she is appearing as a Mom and not a legislator. The facts support a finding that Respondent was unable to differentiate her role as a Mother from her role as a legislator during most meetings she had with government officials and staff on these issues.

V. Precedent

RCW 42.52.070 is violated when a legislator uses his or her position to secure special privileges or exemptions for himself or herself, or his spouse, child, parents, or other persons. .070 is not violated if the legislator is performing duties within his or her scope of employment.

RCW 42.52.160 is violated when a legislator uses any person, money or property under her or his official control or direction, or in her or his official custody, for the private gain of the legislator or another. .160 is not violated when a legislator uses public resources to benefit others as part of a legislator's official duties.

A legislator may use position and/or public resources to engage in some advocacy on behalf of a constituent in helping resolve a dispute between the constituent and a government office or government official but that use is subject to the laws prohibiting special privileges and undue influence. When a legislator has a sufficiently strong personal interest or benefit, the legislator's role as ombudsperson will be carefully examined (see, for example, Advisory Opinion 2006 – No. 1 and Complaint Opinion 2006 – No. 4).

VI. Conclusions of Law

Reasonable cause does not exist to support the allegations that Respondent: promised legislation to secure the NWT business license; conditioned her future legislative support for the City of Richland on the City's use of baled tires for the shooting range; assisted NWT in securing a loan from the Benton-Franklin Council; improperly assisted her daughter in obtaining a deed release of loan collateral; used her position or legislative office to assist NWT with an early buy-out of its lease with the Port of Benton; or obtained the first Goldendale clean-up contract for NWT through her intervention and/or involvement with the Department of Ecology.

1. Respondent violated RCW 42.52.070 through the use of her legislative position while representing the business interests of NWT, a business entity owned by Respondent's family, on the issues of permits and licenses sought by NWT from the City of Richland.
2. Respondent violated RCW 42.52.070 when she used her legislative position to promote NWT's business interests in supplying baled tires for a proposed highway sound wall.
3. Respondent violated RCW 42.52 070 and RCW 42.52.160 when she used her legislative position and public resources to organize and participate in events which featured NWT and promoted the business interests of NWT.
4. Respondent violated RCW 42.52.070 and RCW 42.52.160 when she used her legislative position and public resources in attempts to intimidate DOE personnel through persistent and threatening actions reasonably perceived as supportive of the business interests of NWT.

VII. Conclusion and Order

Respondent violated the Ethics in Public Service Act through improper use of legislative office and public resources.

It is ORDERED, ADJUDGED AND DECREED that Respondent pays a civil penalty on each of the Conclusions of Law 1-4 recited above. On #1 the sum of Two Hundred and Fifty Dollars (\$250.00); on #2 the sum of Two Hundred and Fifty Dollars (\$250.00); on #3 the sum of Seven Hundred and Fifty Dollars (\$750.00); and on #4 the sum of Seven Hundred and Fifty Dollars (\$750.00) for a total penalty of Two Thousand Dollars (\$2,000.00).

It is further ORDERED, ADJUDGED AND DECREED that Respondent pays the board's investigative costs incurred in this case in the amount of Two Thousand One Hundred Seventy Four Dollars and sixty two cents (\$2,174.62).

The total amount of Four Thousand One Hundred Seventy Four Dollars and sixty two cents (\$4,174.62) must, in accordance with RCW 42.52.480 and Board Rule 5(D), be paid within 45 days of the date of this Order unless an extension is granted by the Board.

I, Representative Shirley Hankins, hereby certify that I have read this Stipulation and Order its entirety; that I have had the option of reviewing this agreement with legal counsel, or have actually reviewed it with legal counsel; fully understand its legal significance and consequence; agree to the entry of findings of fact and conclusions of law; agree to sign it as a resolution of this matter, and have voluntarily signed.

Representative Shirley Hankins
Date:

Having reviewed the proposed Stipulation, and on behalf of the Legislative Ethics Board, the Stipulation is accepted.

Wayne Ehlers, Chair
Date:

