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PIERCE COUNTY ETHICS COMMISSION

In Re the Complaint Against
PATRICIA SHAY,
Former County Employee,

AGREED FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

This matter was heard before the Pierce County Ethics Commission on September 12, 2018, for investigation pursuant to Section 3.12.080 of the Pierce County Code of Ethics. Patricia Shay appeared and was represented by counsel Brett Purtzer at the hearing. These Findings of Fact, Conclusions of Law, and Order come before the Commission upon the agreement of the parties.

STATEMENT OF THE CASE

A complaint was filed alleging that Patty Shay misused County equipment and information gained by reason of her position to recruit business for the financial benefit of her subsequent employer and for her personal gain, in violation of the Pierce County Ethics Code. After investigation, the Ethics Commission Hearing Officer made an initial threshold determination that probable cause existed to believe that violation of Ethics Code sections 3.12.030.A, 3.12.030.D, 3.12.030.I, and 3.12.030.J had occurred. The Ethics Commission pursued a formal investigation by holding a hearing to determine if a violation occurred.

1 At hearing, Hearing Officer Culpepper provided an overview of his probable cause
2 determination and presented the sworn testimony of Cindy Hartman, Christy Garcia, Lisa
3 Farley, and Patricia Shay. Counsel for Ms. Shay was allowed the opportunity to examine the
4 witnesses. The Commission also considered the following:

- 5 ○ April 24, 2018 Findings of Fact, Conclusions of Law, and Initial Determination of
6 Probable Cause, including an April 6, 2018 letter from Patricia Shay to Hearing
7 Officer Culpepper
- 8 ○ January 26, 2018 Complaint of an Alleged Ethical Violation and attachments thereto
- 9 ○ Pierce County Code of Ethics Chapter 3.12 in effect as of May, 2017
- 10 ○ Pierce County Ethics Commission Administrative Procedures
- 11 ○ April 18, 2018 Determination of Probable Cause letter to Patti Shay
- 12 ○ May 21, 2018 Notice of June 13, 2018 Hearing Date and Issuance of Subpoenas
13 Duces Tecum to Patti Shay [hearing date continued to September 12, 2018]
- 14 ○ Amended 9/11/18 Findings of Fact, Conclusions of Law, and Initial Determination of
15 Probable Cause
- 16 ○ Exhibit #1: Email from Iris Anderson to Kim Burgess forwarding May 12, 2017 email
17 from Patti Shay to fleet accounts
- 18 ○ Exhibit #2: May 26, 2017 letter from Patricia Shay to Julie [Anderson]
- 19 ○ Exhibit #3: Washington State Department of Licensing Vehicle Licensing Office
20 Policy VEH.17, Applying Standards of Conduct
- 21 ○ Exhibit #4: Public Records Request Response from Washington State Department of
22 Licensing listing fleet account renewal transactions performed by the Pierce County
23 Auditor's Office in 2016, 2017, and 2018, and fleet account renewal transactions
24 performed by EZ Auto License & Title in 2016, 2017, and 2018.
- 25 ○ Exhibit #5: August 2, 2018 letter from Dick Zierman of EZ Auto License & Title to
Chair Malarchick in response to Subpoena Duces Tecum

19 The Commission, having considered all of the evidence including the recorded
20 testimony of the hearing and exhibits and the arguments of counsel, based on the
21 preponderance of the evidence, hereby makes the following:

FINDINGS OF FACT

- 23 1. As a former employee of the Pierce County Auditor, Patricia Shay is governed by the
24 Pierce County Code of Ethics.
- 25 2. Ms. Shay had responsibility to be familiar with and abide by the Code of Ethics.
3. The Code of Ethics in effect on May 12, 2017 and at all times relevant to this matter

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prohibits the use of County position, facilities, equipment, resources, and time for any private purpose, including commercial purposes, financial gain, or present or future employment. P.C.C. 3.12.030.A. The Code further prohibits the use of County equipment or property, except in the conduct of official business. P.C.C. 3.12.030.J.1.

4. Said Code of Ethics provides, "No former County personnel shall, during the period of one year after leaving County office or employment, disclose or use any information gained by reason of his/her employment to obtain anything of value for himself or for any other person unless the information is a matter of public knowledge or is available to the public on request." P.C.C. 3.12.030.I.
5. On May 12, 2017, on County time, Patricia Shay used the County computer email system and the County's fleet account contact information she had obtained by reason of her employment to solicit their business for her subsequent employer.
6. Ms. Shay took with her a printed copy of the email containing the County's fleet account contact information and used it after her employment with Pierce County had ended to follow up on her May 12, 2017 solicitation of business for her new employer, EZ Auto License & Title for a commercial purpose.
7. Prior to employing Ms. Shay, EZ Auto License & Title processed license renewals for one fleet account customer. After employing Ms. Shay, EZ Auto processed the renewals for 26 fleet account customers that had previously used the Pierce County Auditor's Office for license renewal processing.
8. Fleet account information is not accessible to employees of the Pierce County Auditor's Office except by making a public records request to the Washington State Department of Licensing for a non-commercial purpose.

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9. Licensing subagents receive monetary value for processing renewals for fleet account customers.

10. Although she asserts it was unintentional, Ms. Shay acknowledged that her use of the County computer/email system and fleet account information during County time was a violation of the Ethics Code.

Based on the above FINDINGS OF FACT, the Commission makes the following:

CONCLUSIONS OF LAW

1. Patricia Shay violated Pierce County Ethics Code Section 3.12.030.A and J.1 which provide as follows:

- A. No County personnel shall use his or her office or position, any confidential information received thereby, or County facilities, . . . resources, equipment or time, for any private purpose, including commercial purposes, financial gain, or present or future employment.
- . . .
- J. No person and no County personnel shall:
 - 1. Use . . . County . . . equipment . . . or property, except in the conduct of official business...

2. Patricia Shay violated Pierce County Ethics Code Section 3.12.030.I, which provides as follows:

No former County personnel shall, during the period of one year after leaving County office or employment, disclose or use any information gained by reason of his/her County employment to obtain anything of value for himself or for any other person. . .

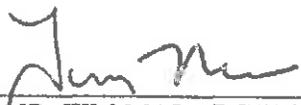
ORDER

NOW THEREFORE, it is hereby agreed and ordered that Patricia Shay will cease and desist from using County information in a manner prohibited by the Code of Ethics. It is

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further agreed and ordered that Patricia Shay pay a civil penalty to Pierce County in the amount of \$ 3,000.00, within 30 calendar days.

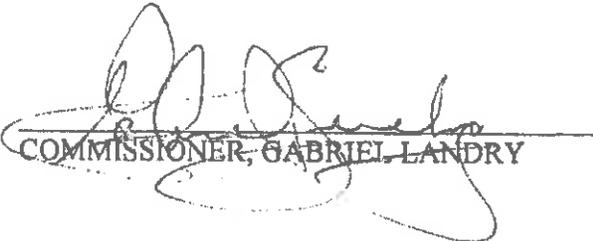
DATED this 10th day of October, 2018.



CHAIR, TIM MALARCHICK



COMMISSIONER, PETER DONOR



COMMISSIONER, GABRIEL LANDRY

COMMISSIONER, EBEN GORBATY



COMMISSIONER, LISA PETORAK

Agreed and dated this ____ day of October, 2018.

PATRICIA SHAY

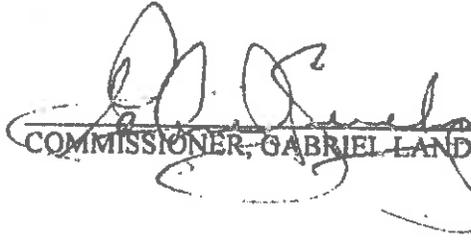

BRETT PURTZER
WSBA No. 17283
Attorney for Patricia Shay

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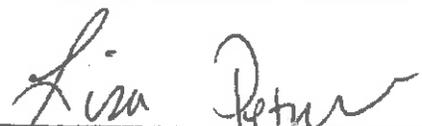
3 DATED this 10th day of October, 2018.

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6 CHAIR, TIM MALARCHICK

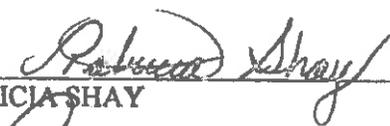
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9 COMMISSIONER, PETER DONOR

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14 COMMISSIONER, EBEN GORBATY

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17 COMMISSIONER, LISA PETORAK

18 Agreed and dated this 19th day of October, 2018.

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21 
22 PATRICIA SHAY

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24 
25 BRETT PURTZER
WSBA No. 17283
Attorney for Patricia Shay