

5. At the time of the discovered behavior, the SCC did not have a policy regarding the proper use of college computers and networks. However, [REDACTED] admitted he was aware of the state ethics laws prohibiting personal use of state equipment.

6. On January 16, 2001, SCC began drafting an Acceptable Use Policy for their computer systems. Some of the procedures implemented to notify faculty and staff and enforce the policy are:

- As computer desktop systems are upgraded to NT the new systems have a notification of the ethical use of computer systems that appears each time the system is booted up;
- The policy will be posted on the SCC Intranet for better visibility;
- The policy will be explained in the campus newspaper;
- The policy will be explained during introductory technology training classes for faculty and staff; and
- Regularly scheduled governance meetings will be held.

7. The SCC counseled [REDACTED] for his inappropriate use of state resources.

B. APPLICABLE LAW

RCW 42.52.160(1) states:

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 AND MITIGATING FACTORS

1. In determining the appropriateness of the civil penalty, Board staff reviewed criteria in WAC 292-120-030. In the case at hand: the violations significantly reduced the public respect for, and the confidence in, state government employees (WAC 292-120-030(2)).

2. It is a mitigating factor that the SCC counseled [REDACTED] on state ethics laws and regulations. A copy of that letter will be placed in [REDACTED] personnel file for two years.

D. RESOLUTION

1. [REDACTED] admits that he violated provisions of RCW 42.52.160 by using his state computer to access multiple web sites to research stock prices and to obtain investment news using his college computer.

2. Recognizing that he is personally responsible for his conduct, [REDACTED] will pay a civil penalty in the amount of five hundred dollars (\$500.00). The Board agrees to suspend two hundred fifty dollars (\$250.00) on the condition that [REDACTED] complies with all terms and conditions of this Stipulation and Order and commits no further violations of chapter 42.52 RCW while employed by the State of Washington.

3. The civil penalty of two hundred fifty dollars (\$250.00) is payable to the state Executive Ethics Board within forty-five (45) days of approval of this Stipulation and Order by the Board.

II. CONCLUSIONS OF LAW

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over [REDACTED] 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.

III. RELEASE / EFFECT OF ORDER

1. If the Board accepts this Stipulation, the Board releases and discharges [REDACTED] 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 \$250.00 and compliance with all other conditions of this Stipulation. [REDACTED] 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.

2. If this Stipulation is accepted, this Stipulation and Order does not purport to settle any other claims between [REDACTED] and the Washington State Executive Ethics Board, the State of Washington, or other third party, which may be filed in the future.

3. If this Stipulation is accepted, this Stipulation and Order is enforceable under RCW 34.05.578 and any other applicable statutes or rules.

4. If this Stipulation and Order is not accepted, it shall be null and void, and may not be used for any purpose in connection with the above-entitled action.

IV. CERTIFICATION

I, [REDACTED] hereby certify that I have read this Stipulation and Order in its entirety; that I knowingly and voluntarily waive my right to a hearing in this matter; that I fully understand and voluntarily agree to this Stipulation.

[REDACTED]

Stipulated to and presented by:

Brian R. Malarky March 12, 2003
Brian R. Malarky Date
Executive Director

V. ORDER

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

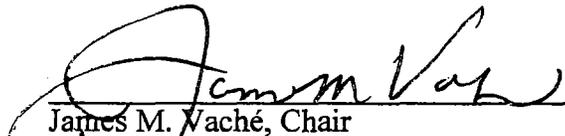
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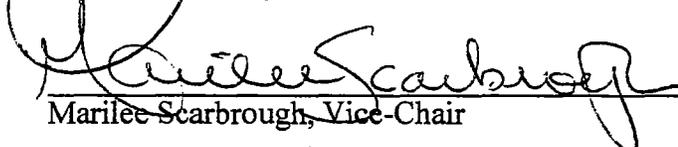
ACCEPTED in its entirety;

REJECTED in its entirety;

*MODIFIED. This Stipulation will become the Order of the Board if the following modifications are approved by [REDACTED]

DATED this 11th day of April, 2003.


James M. Vaché, Chair


Marilee Scarbrough, Vice-Chair


Laquita Fields, Member

Paul Zellinsky, Member

I, [REDACTED] accept/do not accept (circle one) the proposed modification.

[REDACTED] Respondent Date