

1
2
3
4 **BEFORE THE WASHINGTON STATE**
5 **EXECUTIVE ETHICS BOARD**

6 In the Matter of:

7 Withheld

8 Respondent.

Case No. 07-041

9
10 **STIPULATED FACTS,**
11 **CONCLUSIONS AND ORDER**

12 THIS STIPULATION is entered into under WAC 292-100-090(1) between the
13 Respondent, Withheld and Board Staff of the Washington State Executive Ethics Board
14 (Board) through Philip Stutzman, Director of Compliance for the Public Disclosure
15 Commission. The following stipulated jurisdiction, background, facts, conclusions, and
16 agreed order will be binding upon the parties if fully executed, and if accepted by the Board
17 without modification(s), and will not be binding if rejected by the Board, or if the Respondent
18 does not accept the Board's proposed modification(s), if any, to the stipulation.

19 **JURISDICTION**

20 The Executive Ethics Board (Board) has jurisdiction over this proceeding pursuant to Chapter
21 42.52 RCW, the Ethics in Public Service Act; Chapter 34.05 RCW, the Administrative
22 Procedure Act; and Title 292 WAC.

23 **BACKGROUND**

- 24 1. This matter resulted from a State Auditor's Office (SAO) referral following a citizen
25 whistleblower complaint filed in 2006. On March 19, 2007, the Board received a referral
26 from the SAO regarding Withheld an Information Technology Systems Specialist 3
with the Attorney General's Office (AGO). The SAO found reasonable cause to believe
that Ms. Withheld improperly disclosed confidential information gained by reason of her

1 employment with the AGO and that she disclosed confidential information to persons not
2 entitled or authorized to receive the information.

- 3 2. On July 13, 2007, the Board considered information indicating that Ms. [Withheld] may have
4 violated the Ethics in Public Service Act when she improperly disclosed confidential
5 information gained by reason of her employment with the Attorney General's Office and
6 that Ms. [Withheld] disclosed confidential information to persons not entitled or authorized to
7 receive the information. Based on its review, the Board authorized Philip Stutzman,
8 Director of Compliance for the Public Disclosure Commission, to file a complaint against
9 Ms. [Withheld].
- 10 3. On June 13, 2008, the Board found reasonable cause to believe that [Withheld] may have
11 violated one or more provisions of the Ethics in Public Service Act.
- 12 4. The state ethics law defines "Confidential information" as "(a) specific information, rather
13 than generalized knowledge, that is not available to the general public on request or (b)
14 information made confidential by law." RCW 42.52.010(6) (a), (b). State ethics law
15 further prohibits a state officer or state employee from making a "disclosure of
16 confidential information gained by reason of the officer's or employee's official position or
17 otherwise use the information for his or her personal gain or benefit or the gain or benefit
18 of another, unless the disclosure has been authorized by statute or by the terms of a
19 contract involving (a) the state officer's or state employee's agency and (b) the person or
20 persons who have authority to waive the confidentiality of the information." RCW
21 42.52.050(2). RCW 42.52.050(3) states that "no state officer or state employee may
22 disclose confidential information to any person not entitled or authorized to receive the
23 information."

24 **FACTS**

- 25 1. When the complaint in this matter was filed, and at all times material hereto [Withheld]
26 was employed by the AGO as an Information Technology Systems Specialist 3.

- 1 2. From 1995 to 1997, Corina Cornwell-Larsen, a long-time and now former employee of the
2 AGO, taught a Computerized Litigation Support class at South Puget Sound Community
3 College. Ms. Cornwell-Larsen used documents for teaching the class that she copied from
4 internal litigation files maintained at the Attorney General's Office regarding a 1992
5 Superior Court case. The case involved a tort claim filed against the State of Washington
6 in King County Superior Court. Ms. Cornwell-Larsen selected the case because she had
7 served as the paralegal for the Assistant Attorney General defending the State and was
8 therefore familiar with the case.
- 9 3. Some of the documents Ms. Cornwell-Larsen used to teach the class contained unredacted
10 information that the Court had ordered sealed in 1993 to prevent public disclosure. The
11 unredacted information included such items as the names and mental health evaluations of
12 minor children, school records, service episode reports documenting specific sexual
13 molestation statements, police reports, identification of family members, and social
14 security numbers.
- 15 4. Ms. Cornwell-Larsen said she asked the Assistant Attorney General who handled the case for
16 the State if she could use the case documents that had been filed with the Court as exhibits.
17 She believes she received permission from him to use case documents. The AAG does not
18 remember talking with Ms. Cornwell-Larsen about using the documents as course materials
19 or giving her permission to copy the case file.
- 20 5. Ms. Cornwell-Larsen made one copy of the documents at the AGO and then made copies at
21 Kinko's that she used for her classes.
- 22 6. Ms. Cornwell-Larsen later recruited an AGO colleague **Withheld** to take over
23 teaching the litigation support class starting in 1998 and gave her course materials to him,
24 including the documents from the case file. When he questioned their use, she assured Mr.
25 **Withheld** that she had permission to use the documents and that they were public information
26 because they were part of a court file.

- 1 7. Mr. [Withheld] continued to use documents from the case file by handing them out to class
2 students to be used in conjunction with their classroom assignments. He required that the
3 students sign a statement that they would keep the information confidential and would return
4 all documents at the conclusion of the course. The statement also asked the students to
5 acknowledge that the materials being used in class were similar to privileged information,
6 and that they should not share the information outside of class or make copies of the material.
- 7 8. When Mr. [Withheld] finished teaching the class, he passed on the teaching materials to Ms.
8 [Withheld] the new instructor. He said Ms. [Withheld] asked about the course documents and he told
9 her the records had been copied from information contained in the court file. He said he
10 explained to Ms. [Withheld] the importance of the confidentiality form for students to sign.
- 11 9. Ms. [Withheld] taught the Computerized Litigation Support class at South Puget Sound
12 Community College during the Spring quarter in 2005 and 2006 and was paid by the college
13 to teach the class.
- 14 10. Ms. [Withheld] continued to use documents from the case file by handing them out to class
15 students to be used in conjunction with their classroom assignments. Ms. [Withheld] required the
16 students to sign a statement that they would keep the information confidential and would
17 return all documents at the conclusion of the course. Ms. [Withheld] said she received the
18 documents from Mr. [Withheld], and believed it was appropriate to use the documents since
19 Mr. [Withheld] and before him, Ms. Cornwell-Larsen, had used the documents in teaching the
20 class. Ms. [Withheld] stated she believed the documents used in the class were not confidential
21 because of her understanding that they were available to the public from the superior court
22 file.
- 23 11. Ms. [Withheld] understood that the documents used in the class were documents used at trial. Ms.
24 [Withheld] evaluated the material prior to teaching the class, and initially could not understand
25 how the previous instructors could have used the documents. She stated that Mr. [Withheld]
26 indicated that the documents were exhibits that had been filed in court, and were a matter of
public record. Ms. [Withheld] concluded it was okay to use the documents, believing them to be a
matter of public record. Ms. [Withheld] said she knows Ms. Cornwell-Larsen and Mr. [Withheld]

1 and highly values their opinions and judgment. She said because the class had been taught
2 for many years by highly respected employees of the AGO, using the same documents for all
3 the classes; she believed it was okay for her to use the documents.

4 12. Ms. [Withheld] did not consult with an attorney or seek advice from anyone other than the
5 previous instructor. She said Mr. [Withheld] told her that the AAG assigned to the case gave
6 his permission to use the documents. She did not review the King County Superior Court file
7 prior to using the documents to see if the material was covered by a protective order.

8 13. Following the filing of the whistleblower complaint, Mr. [Withheld] and Ms. [Withheld] traveled to
9 King County in 2006, to see what records were available to the public. They went to the
10 computer terminal, entered the case number, and were able to print the entire file, which
11 included a protective order and documents that had been ordered sealed.

12 14. Ms. [Withheld] said she considered redacting information for the course materials, but did not
13 because she was told the material was part of the court record. She said she trusted Ms.
14 Cornwell-Larsen and Mr. [Withheld] that it was appropriate to use the material. Ms. [Withheld]
15 said she did not talk with the AAG about the case, but understood from talking with Mr.
16 [Withheld] that he had given permission to Ms. Cornwell-Larsen to use the documents from
17 the case file. The documents used as teaching materials were exhibits copied initially from
18 the case file by Ms. Cornwell-Larsen. Some of those documents were covered by a
19 protective order and were sealed by the Court.

20 15. On December 3, 2001, Ms. [Withheld] participated in Ethics in State Government on-line training,
21 which included an acknowledgement that state employees must follow certain rules that
22 apply to confidential information. She participated in on-line Ethics training on March 5,
23 2007. She also attended an individual counseling meeting on March 2, 2007 and received a
24 written counseling memo on June 5, 2007 as part of the resolution plan developed by the
25 AGO in response to the SAO Whistleblower investigation.
26

1 **CONCLUSIONS OF LAW - VIOLATIONS**

2 1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over **Withheld**
3 **Withheld** and over the subject matter of this complaint.

4 2. Pursuant to WAC 292-100-090(1), the parties have the authority to resolve this matter
5 under the terms contained herein, subject to Board approval.

6 3. Pursuant to RCW 42.52.010(6) (a), (b);

7 **Confidential information means (a) specific information, rather than generalized**
8 **knowledge, that is not available to the general public on request or (b)**
9 **information made confidential by law.**

10 4. Pursuant to RCW 42.52.050(2):

11 **No state officer or state employee may make a disclosure of confidential**
12 **information gained by reason of the officer's or employee's official position or**
13 **otherwise use the information for his or her personal gain or benefit or the gain**
14 **or benefit of another, unless the disclosure has been authorized by statute or by**
15 **the terms of a contract involving (a) the state officer's or state employee's agency**
16 **and (b) the person or persons who have authority to waive the confidentiality of**
17 **the information.**

18 5. Pursuant to RCW 42.52.050(3):

19 **No state officer or state employee may disclose confidential information to any**
20 **person not entitled or authorized to receive the information.”**

21 6. **Withheld** violated RCW 42.52 as follows:

22 6.1. RCW 42.52.050(2):

23 By making a disclosure of confidential information gained by reason of her
24 employment with the Attorney General’s Office, when she used the information to
25 teach a Computerized Litigation Support class at South Puget Sound Community
26 College for which she received compensation.

6.2. RCW 42.52.050(3):

By disclosing confidential information to students in a Computerized Litigation
Support class who were not entitled or authorized to receive the information.

1 7. The Board is authorized to impose sanctions for violations of the Ethics Act pursuant to
2 RCW 42.52.360. The Board has set forth criteria in WAC 292-120-030 for imposing
3 sanctions and consideration of any mitigating or aggravating factors.

4 **II. AGGRAVATING & MITIGATING FACTORS**

5 In determining the appropriateness of the civil penalty, the criteria in WAC 292-120-
6 030 has been reviewed. It is a mitigating factor that **Withheld** acted with the mistaken
7 belief that the information disclosed was not confidential and that to the extent it may be
8 considered confidential, her predecessors had obtained permission to use it. It is also a
9 mitigating factor that **Withheld** knew her predecessors had disclosed the information under
10 similar circumstances without consequence, thus giving **Withheld** reason to believe that
11 disclosure was appropriate. **Withheld** participated in on-line Ethics training on March 5,
12 2007. She also attended an individual counseling meeting on March 2, 2007 as part of the
13 resolution plan developed by the AGO in response to the SAO whistleblower investigation.

14 **AGREED ORDER**

- 15 1. Based upon the stipulated facts and the conclusions of law set forth above, a total civil
16 penalty of \$250 is assessed.
- 17 2. The Respondent shall pay the penalty within 60 days from the date of entry of the Board's
18 final order in this matter.
- 19 3. The Respondent affirms her intention to comply in good faith with the provisions of RCW
20 42.52 in the future.

21 **CERTIFICATION**

22 I, **Withheld**
23 **Withheld** hereby certify that I have read this Stipulation and Agreed Order in its
24 entirety; that my counsel of record, if any, has fully explained the legal significance and
25 consequence of it; that I fully understand and agree to all of it; and that it may be presented to
26

1 the Board without my appearance. I knowingly and voluntarily waive my right to a hearing in
2 this matter; and if the Board accepts the Stipulation and Agreed Order, I understand that I will
3 receive a signed copy.

4 Withheld

[Redacted signature]

d-d-09

Date

5 Respondent

6
7 Stipulated to and presented by:

8 *Philip E. Stutzman* *2/2/09*
9 Philip E. Stutzman Date

10 Director of Compliance, Public Disclosure Commission

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

ACCEPTED in its entirety;

REJECTED in its entirety;

MODIFIED. This Stipulation will become the Order of the Board if the

Respondent approves* the following modification(s):

DATED this 13th day of February, 2009.

Neil Gorrell
Neil Gorrell, Chair

Linnaea Jablonski
Linnaea Jablonski, Vice-Chair

Michael F. Connelly
Michael F. Connelly, Member

Martin T. Biegelman
Martin Biegelman, Member

Judith K. Golberg
Judith K. Golberg, Member

* I, Withheld accept/do not accept (circle one) the proposed modification(s).

Withheld Respondent Date