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5 **BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD**

6 In the Matter of:

7 Withheld

8 Respondent.

Case No. 07-053

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10 **STIPULATED FACTS,
CONCLUSIONS AND ORDER**

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

18 **JURISDICTION**

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

22 **BACKGROUND**

- 23 1. This matter resulted from a State Auditor's Office (SAO) referral following a citizen
24 whistleblower complaint filed in 2006. On March 19, 2007, the Board received a referral
25 from the SAO regarding Withheld an Information Technology Systems Specialist 3
26 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 in addition to Ms.
4 [Withheld] [Withheld] may have violated the Ethics in Public Service Act when he
5 improperly disclosed confidential information gained by reason of his employment with
6 the Attorney General's Office and that Mr. [Withheld] disclosed confidential information to
7 persons not entitled or authorized to receive the information. Based on its review, the
8 Board authorized Philip Stutzman, Director of Compliance for the Public Disclosure
9 Commission, to file a complaint against Mr. [Withheld]
- 10 3. On June 13, 2008, the Board found reasonable cause to believe that [Withheld] may
11 have 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 [Withheld] 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 Mr. [Withheld] to take over teaching the litigation support
23 class starting in 1998 and gave her course materials to him, including the documents from the
24 case file. When he questioned their use, she assured Mr. [Withheld] that she had permission to
25 use the documents and that they were public information because they were part of a court
26 file.

- 1 7. Mr. [Withheld] taught a Computerized Litigation Support class at South Puget Sound
2 Community College from 1998 to 2004 and was paid by the College to teach the class.
- 3 8. Mr. [Withheld] continued to use documents from the case file by handing them out to class
4 students to be used in conjunction with their classroom assignments. He required that the
5 students sign a statement that they would keep the information confidential and would return
6 all documents at the conclusion of the course. The statement also asked the students to
7 acknowledge that the materials being used in class were similar to privileged information,
8 and that they should not share the information outside of class or make copies of the material.
- 9 9. Mr. [Withheld] said the documents he used in teaching the class included personal information
10 as identified above. He said he thought about redacting some of the information, but did not
11 because he believed that the records were publicly available. He said he believed showing a
12 real case, with a limited number of the available documents being handed out, was a good
13 way to talk about redacting sensitive information, and would give students a broader base for
14 starting work as a paralegal.
- 15 10. Mr. [Withheld] said he understood that the documents were copies of what was publically
16 available at the King County Superior Court. He said he only used the records because he
17 believed them to be publically available. He said he had known Ms. Cornwell-Larsen for
18 years, and believed her when she said the documents used in the class were public records.
19 He did not verify her assertion or check to see if a protective order was in place. Mr.
20 [Withheld] said he made the assumption that since the class had been taught by Ms. Cornwell-
Larsen for two to three years, the course materials were publically available.
- 21 11. When Mr. [Withheld] finished teaching the class, he passed on the teaching materials to the
22 new instructor [Withheld]. He said Ms. [Withheld] asked about the course documents and he
23 told her the records had been copied from information contained in the court file. He said he
24 explained to Ms. [Withheld] the importance of the confidentiality form for students to sign.
- 25 12. Following the filing of the whistleblower complaint, Mr. [Withheld] and Ms. [Withheld] traveled to
26 King County in 2006, to see what records were available to the public. They went to the

1 computer terminal, entered the case number, and were able to print the entire file, which
2 included a protective order and documents that had been ordered sealed.

3 13. Mr. [Withheld] stated that he never intended to disclose confidential information. He said his
4 intention in teaching the paralegal class was to share his knowledge and experience as a
5 paralegal. He said he is trusted in his office and in the community, and is very concerned
6 that this trust not be harmed. He said it was for this reason that he asked the students to sign
7 a statement acknowledging the importance of keeping the course materials confidential. He
8 said his intentions were honorable, but acknowledges that he may have made a poor choice.
9 He said he would never make a similar choice again.

10 14. On December 2, 1997, Mr. [Withheld] received ethics training taught by the then EEB
11 Executive Director. He also attended an individual counseling meeting on June 27, 2007 as
12 part of the resolution plan developed by the AGO in response to the SAO whistleblower
13 investigation.

14 CONCLUSIONS OF LAW - VIOLATIONS

15 1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over [Withheld]
16 [Withheld] and over the subject matter of this complaint.

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

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

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

22 4. Pursuant to RCW 42.52.050(2):

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

1 5. Pursuant to RCW 42.52.050(3):

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

4 6. Withheld violated RCW 42.52 as follows:

5 6.1. RCW 42.52.050(2):

6 By making a disclosure of confidential information gained by reason of his
7 employment with the Attorney General’s Office, when he used the information to
8 teach a Computerized Litigation Support class at South Puget Sound Community
9 College for which he received compensation.

10 6.2. RCW 42.52.050(3):

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

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

16 **II. AGGRAVATING & MITIGATING FACTORS**

17 In determining the appropriateness of the civil penalty, the criteria in WAC 292-120-030 has
18 been reviewed. It is a mitigating factor that Withheld acted with the mistaken belief
19 that the information disclosed was not confidential and that to the extent it may be considered
20 confidential, his predecessor had obtained permission to use it. It is also a mitigating factor
21 that Withheld knew his predecessor had disclosed the information under similar
22 circumstances without consequence, thus giving Withheld reason to believe that
23 disclosure was appropriate. On June 27, 2007, Withheld attended an individual
24 counseling meeting as part of the resolution plan developed by the AGO in response to the
25 SAO whistleblower investigation.
26

AGREED ORDER

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

CERTIFICATION

I, **Withheld** hereby certify that I have read this Stipulation and Agreed Order in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Board without my appearance. I knowingly and voluntarily waive my right to a hearing in this matter; and if the Board accepts the Stipulation and Agreed Order, I understand that I will receive a signed copy.

Withheld

2/2/09
Date

Respondent

Stipulated to and presented by:

Philip E. Stutzman 2/2/09
Philip E. Stutzman Date

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

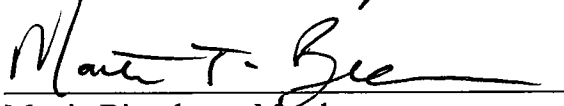
Respondent approves* the following modification(s):

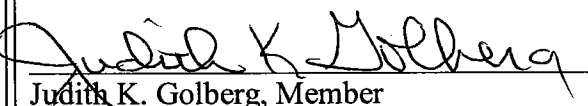
DATED this 13th day of February, 2009.



Neil Gorrell, Chair

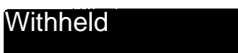

Linnæa Jablonski, Vice-Chair


Michael F. Connelly, Member


Martin Biegelman, Member


Judith K. Golberg, Member

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

 Respondent Date