

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

KARLA SHORT

Respondent.

No. 08-031

STIPULATED FACTS,
CONCLUSIONS AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent, KARLA SHORT, and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS BOARD (Board) through MELANIE de LEON, Executive Director. The following stipulated facts, conclusions, and agreed order will be binding upon the parties if fully executed, and if accepted by the Board without modification(s), and will not be binding if rejected by the Board, or if the Respondent does not accept the Board's proposed modification(s), if any, to the stipulation.

Section 1: PROCEDURAL FACTS

1.1. On December 10, 2007, the Executive Ethics Board received a referral from the State Auditor's Office (SAO) alleging that Karla Short, an employee of the State of Washington, Washington State University (WSU), may have violated the Ethics Act when she used state resources for personal use. The Board reviewed this referral and issued a complaint on March 14, 2008.

1.2. The Board is authorized under RCW 34.05.060 to establish procedures for attempting and executing informal settlement of matters in lieu of more formal proceedings

under the Administrative Procedures Act, including adjudicative hearings. The Board has established such procedures under WAC 292-100-090.

1.3. Karla Short understands that if Board staff proves any or all of the alleged violations at a hearing, the Board may impose sanctions, including a civil penalty under RCW 42.52.480(1)(b) of up to \$5,000, or the greater of three times the economic value of anything received or sought in violation of chapter 42.52 RCW, for each violation found. The Board may also order the payment of costs, including reasonable investigative costs, under RCW 42.52.480(1)(c).

1.4. Karla Short recognizes that the evidence available to the Board staff is such that the Board may conclude she violated the Ethics in Public Service Act. Therefore, in the interest of seeking an informal and expeditious resolution of this matter, the parties agree to entry of the stipulated findings of fact, conclusions of law and agreed order set forth below.

1.5. Karla Short waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or her acceptance of any modification(s) proposed by the Board, pursuant to the provisions of WAC 292-100-090(2) which provides 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 the respondent, the board shall enter an order in conformity with the terms of the stipulation. If the board rejects the stipulation or the respondent does not agree to the board's proposed modifications to the stipulation, the normal process will continue. The proposed stipulation and information obtained during formal settlement discussions shall not be admitted into evidence at a subsequent public hearing.

1.6. If the Board accepts this stipulation, the Board will release and discharge Karla Short from all further ethics proceedings under chapter 42.52 RCW for matters arising out of the facts contained in the complaint in this matter, subject to payment of the full amount of the

civil penalty due and owing, any other costs imposed, and compliance with all other terms and conditions of the agreed order. Ms. Short in turn 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 agreed order.

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

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

1.9. If the Board rejects this stipulation, or if Karla Short does not accept the Board's proposed modification(s), if any, Ms. Short waives any objection to participation at any subsequent hearing by any Board member to whom this stipulation was presented for approval under WAC 292-100-090(2). Further, Ms. Short understands and agrees that this proposed stipulation and information obtained during any formal settlement discussions held between the parties shall not be admitted into evidence at a subsequent public hearing, unless otherwise agreed by the parties.

Section 2: FINDINGS OF FACT

2.1. Karla Short was the Enrollment Services Coordinator at WSU in Tri-Cities. Ms. Short is now a Program Support Supervisor at WSU.

2.2. The SAO reviewed Ms. Short's e-mail and Internet data and found that Ms. Short used her computer to pursue personal interests. The SAO found the following personal uses of state resources on the computer assigned to Ms. Short:

Email Use--Ms Short had hundreds of personal e-mails going back to 2003.

- One folder contained 171 emails related to her child's academic progress dated from September 2005 through June 2007. Ms. Short received several progress reports throughout the week.
- 510 emails were saved in a folder titled "My Personal" ranging from May 2003 through July 2007. The folder contained personal emails including communications from banks/credit card companies, bill statements and confirmation of on-line payments, cellular telephone bills and a mortgage loan application. There were also confirmation emails from an online auction website regarding purchases made on the site, confirmation of purchases made from movie and book websites, websites for a perfume retailer and a clothing retailer, and communications from a postal shipping website confirming delivery dates. Ms. Short received regular email communications from food and health websites.
- Ms. Short's sent folder contained 2,419 emails from October 24, 2006 through July 18, 2007. Between October 30, 2006 and July 13, 2007, Ms. Short exchanged 172 e-mails with a personal acquaintance. Ms. Short accessed video and audio file links contained in e-mails. A folder titled: "SUZ" contained an email that included 13 personal photos. Within the sent and deleted folders were personal emails including photos, inspirational messages, jokes, personal communications and emails from various magazines.

Internet Use

- Ms. Short used her state computer to perform personal banking, bill paying, personal purchases and web surfing.
- Ms. Short set up accounts with two on-line retailers for purchasing personal items. She used WSU as a means to facilitate the purchases as the companies only sold to other businesses. She used her own account name, but used the WSU address and deliveries were made to the campus. Other on-line purchases were from perfume and clothing companies, a music retailer, a book retailer, an on-line auction site, and a general merchandise company.
- Ms. Short accessed retail sites, entertainment gossip sites, recipe sites, a sports team site, magazine sites and a website for a local band.

2.3. Ms. Short admits using the state computer for personal use; however, she asserts that she did not know that her use violated rules to the degree of an ethics violation. After Ms. Short attended ethics training in September 2007, she acknowledged that her use appears to be abusive.

2.4. On December 6, 2007, WSU issued a letter notifying discontinuing Ms. Short's appointment as Enrollment Coordinator with WSU Tri-Cities on June 4, 2008. Ms. Short is now a Program Support Supervisor with WSU. Prior to her demotion, her salary was \$3507 per month; she is now making a salary of \$3,479 per month.

Section 3: CONCLUSIONS OF LAW

3.1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Karla Short and over the subject matter of this complaint.

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

3.4. A state officer or employee is prohibited under RCW 42.52.160 from using state 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."

3.5. The Ethics in Public Service Act allows for *de minimis* personal use of state resources. WAC 292-110-010 states that employees may make occasional but limited personal use of state resources if the use conforms with ethical standards. Those standards include that the use is of little or no cost to the state, brief in duration and frequency, does not disrupt other state employees and does not obligate them to make a personal use of state resources. Ms. Short's use of state resources went beyond the *de minimis* standard.

3.5. Based on Findings of Fact 2.1 through 2.4, Ms. Short used state resources in violation of RCW 42.52.160 and WAC 292-110-010.

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

mitigating factor that Ms. Short's appointment to the WSU Enrollment Coordinator position was discontinued on June 4, 2008.

Section 4: AGREED ORDER

4.1. For the violation of RCW 42.52.160, Karla Short will pay a civil penalty in the amount of seven hundred fifty hundred dollars (\$750.00).

4.2. The civil penalty of \$750.00 is payable to the state Executive Ethics Board within forty-five (45) days of approval of this Stipulation and Order by the Board.

CERTIFICATION

I, Karla Short, 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.

Karla Short 8/29/08
Karla Short Date
Respondent

Stipulated to and presented by:

Melanie de Leon 9/5/08
Melanie de Leon Date
Executive Director

