

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

██████████

Respondent.

NO. 01-49

STIPULATION AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090 between the Respondent, ██████████ and the EXECUTIVE ETHICS BOARD (Board) through BRIAN R. MALARKY, 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.

A. FACTS

1. On May 30, 2001, the Executive Ethics Board received a complaint that the Respondent, ██████████ was working as a private contractor offering professional advice related to her curatorial work for WSHS. Her private client was an organization that she provided services to in her state position as a Washington State Historical Society (WSHS) curator. The complaint alleges that when ██████████ encountered difficulty receiving payment for her outside consulting work, she sent a letter to the organization demanding payment and signed the letter using her title with WSHS.

2. [REDACTED] is a Curator 1 with the WSHS and during all times relevant to the allegations against her subject to the jurisdiction of the Washington State Executive Ethics Board under RCW 42.52.360.

3. In her state capacity, [REDACTED] applies specialized skills as a trained preservation specialist to fabricate mounts and frames for textiles, documents, books, works on paper, *and* photographs that are used in WSHS exhibits in Tacoma and Olympia area.

4. In September 2000, [REDACTED] formed an outside business called Preservation Specialists. The business is involved in the stabilization of textiles for mounting, using conservation techniques, and the cleaning and conservation of textiles, and making custom art covers for protecting works of art.

5. In February 2001, [REDACTED] in her private capacity, contracted with a private Tribal organization to produce an exhibit walkthrough and to be a "witness" to the organization's development of their museum. [REDACTED] encountered difficulty regarding payment for her work on this project.

6. On May 18, 2001, [REDACTED] sent an e-mail from her home computer to six members of the Tribal organization, stating in part:

... I have not received payment for my work on the NEH grant exhibit-walkthrough of \$350.00 from February 2001.

...

Since I have not received payment after 5 phone calls, I've concluded that I do not want to share my 12 years of museum experience and collection expertise with the current museum administration.

...

I will not dishonor the [organization] peoples good intentions and hard work because the current museum staff is inexperienced and unethical, but, I will warn other museum professionals of the consequences of working with the current museum administration and their unethical behavior.

7. [REDACTED] admits that she signed the May 18, 2001 e-mail to the organization using her state title, WSHS Museum Curator.

8. ██████ asserts she and the Tribe have apologized to each other and are working together.

9. On December 13, 2001, WSHS implemented a policy establishing a procedure for reporting outside employment. On January 24, 2002, ██████ submitted a Report of Outside Employment indicating that she was the sole proprietor of Preservation Specialists. Since this business involves the same or similar work as the employee's state position, the request required approval of ██████ supervisor and division lead. The outside employment was approved in March 2002.

B. APPLICABLE LAW

1. RCW 42.52.070 states:

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

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: (1) 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 circumstance that ██████ has expressed her regret for sending the subject e-mail using her state title. This was a one-time occurrence and there have been no subsequent violations (WAC 292-120-030(4)(e)).

D. RESOLUTION

1. ██████ admits that she violated RCW 42.52.070 by using her state job title when sending a letter to a private entity that she was doing business with in her private capacity.

2. Recognizing that she is personally responsible for her conduct, [REDACTED] will accept a letter of reprimand from the Executive Ethics Board, comply with all terms and conditions of this Stipulation and Order, and commit no further violations of Chapter 42.52 RCW.

E. 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.

F. 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. [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 Historical Society, the State of Washington, or other third party, which are now in existence or may be filed in the future.

3. If this Stipulation is accepted, this Stipulation and Order will be inadmissible for any purpose in any other proceeding involving [REDACTED] the state, and/or third parties aligned with the state.

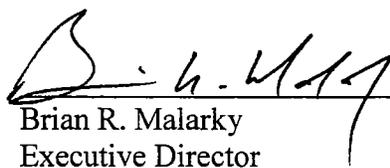
4. If this Stipulation is accepted, this Stipulation and Order is enforceable under RCW 34.05.578 and any other applicable statutes or rules.

G. 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:

 28 May 02
Brian R. Malarky Date
Executive Director

