

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Withheld

Respondent.

NO. 08-025

STIPULATION AND ORDER

THIS STIPULATION is entered into under WAC 292-100-090 between Withheld Respondent, and the EXECUTIVE ETHICS BOARD ("Board") through MELANIE DE LEON, Executive Director. The following findings, conclusions, and agreements will be binding upon the parties to this agreement if the agreement is fully executed and accepted by the Board.

I. PROCEDURAL FACTS

1.1 On or about October 5, 2007, the Board initiated an investigation based upon allegations that the Respondent used the University of Washington e-mail system to send out e-mails regarding the Respondent's campaign for Port Commissioner, an elected office. The Respondent filed an ethics complaint on herself regarding her use of the university e-mail system and requested that the Board review the e-mails for a potential violation of the Ethics in Public Service Act, RCW 42.52.

1.2 The Board is authorized under WAC 292-100-090 to informally settle matters in lieu of formal proceedings under the Administrative Procedures Act.

1.3 Withheld understands that if the 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 [Withheld] admits that she sent e-mails to friends and family on the University of Washington e-mail system notifying them of her intent to seek a political office. She further admits that she sent e-mails from her University of Washington computer to other recipients not only notifying them of her intent to run for Port Commission, but to, *inter alia*, initiate communication regarding regional transportation issues pertinent to the political office she sought, design and order invitations for a “meet the candidate” party and seek campaign contributions and votes.

1.5 The Board recognizes that [Withheld] issued the complaint against herself and that she states that her actions were inadvertent. 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.

1.6 [Withheld] 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 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.

1.7 If the Board accepts this stipulation, the Board will release and discharge Ms. [Withheld] 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. [Withheld] 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.

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

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

1.10 If the Board rejects this stipulation, or if Ms. [Withheld] does not accept the Board's proposed modification(s), if any, Ms. [Withheld] 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).

II FINDINGS OF FACT

2.1 At all times material hereto, the University of Washington employed [Withheld] as a Special Assistant for Global Strategies.

2.2 On February 1, 2007, [Withheld] filed her notice to run for the Seattle Port Commission.

2.3 On or about or between August 25, 2006 and May 21, 2007, [Withheld] sent approximately 47 e-mails from her University of Washington computer announcing her candidacy or dealing with her campaign. Several of these e-mails asked the recipient to serve as an advisor, contribute to her campaign, or to vote for her.

III. CONCLUSIONS OF LAW

3.1 Under RCW 42.52, the Executive Ethics Board has jurisdiction over [Withheld] and over the subject matter of this complaint.

3.2 WAC 292-100-090(1) allows the parties to resolve this matter under the terms contained in this Stipulation, subject to the Board's approval.

3.3 Under RCW 42.52.180(1), no state employee may use the facilities of an agency, directly or indirectly, for political campaigns. Facilities of an agency include the use of state equipment and state employees during working time. The de minimis use rule does not apply to using state resources for political campaigns.

3.4 If the Board found that Ms. [Withheld] violated RCW 42.52.180(1), it could impose sanctions under RCW 42.52.360.

IV. AGGRIVATING & MITIGATING FACTORS

4.1 The Board reviewed the criteria in WAC 292-120-030 to determine the appropriateness of the civil penalty.

4.2 It is an aggravating factor that while the University of Washington sent Ms. [Withheld] an e-mail on May 15, 2007 informing her that she could not use any state resource, even a de minimis use, for campaigning, she sent two additional e-mails regarding her campaign. In one of these additional e-mails she discussed the wording and look of invitations to a "meet the candidate" party held on her behalf.

4.3 It is a mitigating factor that Ms. [Withheld] initiated the complaint against herself bringing the e-mails to the attention of the Board.

V. AGREED ORDER

5.1 [Withheld] admits to sending e-mails from her University of Washington computer regarding her political campaign.

5.2 [Withheld] will pay a civil penalty of two thousand dollars (\$2,000). The civil penalty is payable within forty-five (45) days of the entry of this Order.

VI. CERTIFICATION

I, [Withheld] hereby certify that I have read this Stipulation and 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 Order, I understand that I will receive a signed copy.

[Withheld]

1/31/2008
Date

Stipulated to and presented by:

Melanie de Leon 2/4/08
Melanie de Leon, Executive Director Date

VII. 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

following modifications are approved by the respondent, **Withheld**

DATED this 8th day of January, 2008.

Judith K. Golberg
Judith K. Golberg, Chair

Neil Gorrell
Neil Gorrell, Vice Chair

Evelyn P. Yenson
Evelyn P. Yenson, Member

Linnæa Jablonski
Linnæa Jablonski, Member

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

Respondent

Date