

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

Withheld

Respondent.

No. 09-029

STIPULATED FACTS,  
CONCLUSIONS AND ORDER

**I. STIPULATION**

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent, Withheld and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS BOARD (Board) through MELANIE DeLEON, 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. During the investigation into an ethics complaint against another DSHS employee, Board staff discovered an email sent by Withheld to ten co-workers in which she encouraged the others to contact their state representatives to voice their objection to a proposed bill that would raise vehicle license fees. Withheld provided the email addresses for three state legislators in her email to her coworkers.

1.2. On September 11, 2009, the Board considered the email sent by Withheld and initiated a complaint against her.

1.3. 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.

1.4. Withheld 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).

1.5. Withheld 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.

1.6. 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 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.

1.7. If the Board accepts this stipulation, the Board will release and discharge 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. 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 [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 [Withheld] does not accept the Board's proposed modification(s), if any, [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). Further, [Withheld] 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. At all times pertinent, [Withheld] was employed by the Department of Social and Health Services as a Lead Financial Services Specialist at the Spokane Valley Community Services Office.

2.2. On August 19, 2008, the State Auditor's Office (SAO) received a Whistleblower complaint that alleged that a coworker of [Withheld] was using state resources for personal gain.

2.3. During the investigation into that complaint, the SAO retrieved emails sent and received by [Withheld] co-worker. When the SAO completed its investigation and released a copy of its working papers to Board staff, the email sent by [Withheld] to ten co-workers in

which she encouraged the others to contact their state representatives to voice their objection to a proposed bill that would raise vehicle license fees was discovered.

2.4. On September 11, 2009, the Board considered the email sent by [Withheld] and initiated a complaint against her.

2.5. On March 9, 2010, the Board received a letter from DSHS Secretary Susan Dreyfus that stated that a review of [Withheld] emails was conducted and no additional lobbying or other misuse of email was found. [Withheld] admitted to DSHS representatives that she did send the one lobbying email to her co-workers.

### Section 3: CONCLUSIONS OF LAW

3.1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over [Withheld] 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.

3.3. A state officer or employee is prohibited under WAC 292-110-010(5)(d) from using state resources to lobby the state legislature. Such use is not subject to the de minimis use exception provided by RCW 42.52.160.

3.4. Based on Findings of Fact 2.1 through 2.5, [Withheld] used state resources in violation of RCW 42.52.160 and WAC 292-110-010(5)(d).

3.5. 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.

## II. AGGRAVATING AND MITIGATING FACTORS

In determining the appropriateness of the civil penalty, the criteria in WAC 292-120-030 has been reviewed. It is a mitigating factor that [Withheld] will receive a letter from DSHS management to document the violation.

**III. AGREED ORDER**

3.1. For the violation of RCW 42.52.160 and WAC 292-110-010(5)(d), [Withheld] will pay a civil penalty in the amount of five hundred dollars (\$500). The Board agrees to suspend two hundred fifty dollars (\$250) of the civil penalty on the condition that [Withheld] complies with all terms and conditions of this Stipulation and Order and commits no further violations of chapter 42.52 RCW for a period of two years from the date this agreement is executed.

3.2. The civil penalty of \$250.00 is payable to the state Executive Ethics Board within forty-five (45) days of approval of this Stipulation and Order by the Board, or as otherwise agreed to by the parties.

**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]

Date

4/28/10

Respondent

Stipulated to and presented by:

Melanie deLeon 6/29/10

Melanie deLeon  
Executive Director

Date

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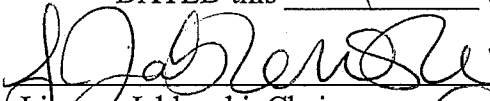
**IV. ORDER**

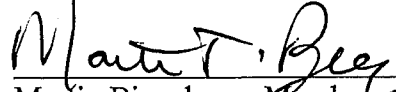
Having reviewed the proposed Stipulation, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, pursuant to WAC 292-100-090, HEREBY ORDER that the Stipulation is

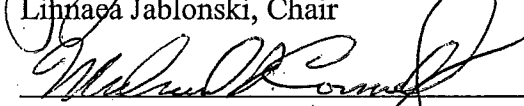
ACCEPTED in its entirety;  
 REJECTED in its entirety;  
 MODIFIED. This Stipulation will become the Order of the Board if the Respondent approves\* the following modification(s):

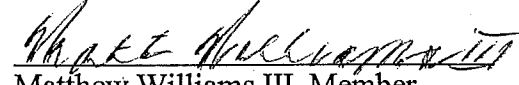
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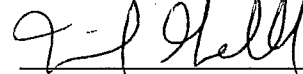
DATED this 9<sup>th</sup> day of July, 2010.


  
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Linnaea Jablonski, Chair


  
\_\_\_\_\_  
Martin Biegelman, Member

  
\_\_\_\_\_  
Michael F. Connelly, Vice-Chair

  
\_\_\_\_\_  
Matthew Williams III, Member

  
\_\_\_\_\_  
Neil Gorrell, Member

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

 Respondent \_\_\_\_\_ Date \_\_\_\_\_