

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

Withheld

Respondent.

NO. 2009-050

STIPULATED FACTS,  
CONCLUSIONS AND ORDER

**I. STIPULATION**

THE 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 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 July 17, 2009, the Executive Ethics Board received a complaint alleging that Withheld an employee with the Employment Security Department (ESD), used state resources to pursue a personal matter, sent personal documents containing the agency address and telephone number, placed her supervisor's name as a contact person on said documents, and used a state agency address on her car registration.

1.2. On January 8, 2010, upon receiving the Board staff's preliminary investigative report and recommendation, the Board made the determination that there was reasonable cause to believe that [Withheld] had committed one or more violations of chapter 42.52 RCW, and that the potential penalty was in excess of \$500.00.

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 [Withheld] 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 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 **Withheld** **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 any 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. [Withheld] is an employee of the Employment Security Department.

2.2. A process server attempted to serve [Withheld] with documents related to a personal matter. The process server attempted to serve [Withheld] with these personal papers at [Withheld] work place. On July 6, 2009, [Withheld] used state resources to prepare and send a 2-page letter to LSS International, Department of Licensing, and the BBB of Alaska, Oregon and Western Washington. The letter addressed the issue: *Notice: State employee illegally contacted at State Work Site with Vehicle/Vessel Record Disclosure Notification by Ron Belec on July 1, 2009.* The document further stated:

A No-contact-Order is not required to file a Harassment Suit and Civil Liability Damages when a consumer is contacted at the workplace, on state property. Civil Liability damages apply when contacting a consumer at their place of employment or through a third party and/or when attempting to collect on medical bills.

WorkSource Redmond received notice that an attempt to contact worker (consumer) formerly known as Natalie Duffy, at the workplace located at 7735 178<sup>th</sup> PI NE, Redmond, WA 98052-4921. All contacts will cease and desist. You may speak to Teresa Southard-Kobuki for further information on Illegal Workplace Contacts, whether or not processing is to occur against a former/current employee.

Thank you, WorkSource Redmond, (425) 861-3724.

2.3. The letter further listed regulations regarding civil liability issues, communications with consumers, ceasing communications and a website address for a Seattle Weekly article concerning a process server.

2.4. On July 6, 2009 at 1:08 p.m., [Withheld] used her state computer to send an email to "DOL INT Titles" regarding Vehicle/Vessel Record Disclosure Notification. This email stated in part:

... State employee illegally contacted at State Work Site with Vehicle/Vessel Record Disclosure Notification by Ron Belec on July 1, 2009. ... You may speak to Teresa Southard Kobuki for further information on Illegal Workplace Contacts, whether or not processing is to occur against a former/current employee. Thank you, WorkSource Redmond, (425) 8861-3724. ...

2.5. On July 6, 2009 at 1:18 p.m., [Withheld] sent an email to "info@thebbb.org" regarding Northwest Legal Support, the service attempting to serve her with documents relating to a personal matter, using her state computer. This email stated in part:

... State employee illegally contacted at State Work Site with Vehicle/Vessel Record Disclosure Notification by Ron Belec on July 1, 2009. ... You may speak to Teresa Southard Kobuki for further information on Illegal Workplace Contacts, whether or not processing is to occur against a former/current employee. Thank you, WorkSource Redmond, (425) 861-3724. ...

2.6. LLS International received these emails via their chat feature from their website and the letter was received via U.S. Mail.

2.7. The return address was handwritten by [Withheld] and reflected the address of the Redmond WorkSource office. [Withheld] asserts that she used her own envelope and stamp.

2.8. On July 17, 2009 during a meeting between Anna Snellgrove, Human Resource Consultant and Paul Christopherson, Redmond WorkSource Office Administrator, [Withheld] admitted that she used her work computer to write the emails; however, she asserts that she performed this personal business during her break and that her use of state resources was de minimis.

2.9. On July 15, 2008, [Withheld] signed the Required Policies List, indicating that she has reviewed specific policies on-line or has been provided a copy of said policies. The policies included:

- ESD Policy No. 2009 which states that employees are obligated to conserve and protect state resources for the benefit of the public interest rather than their private interests. Improper or illegal use of ESD telecommunications resources poses serious risk and liability to both the department and the individual employee. These risks include but are not limited to loss of public trust in ESD/State service and service and performance interference. The policy further states that employees need to seek clarification of assistance for their supervisor before using the resources in a personal manner, and that if in doubt, the employee needs to limit the use of telecommunication technology resources to official state business purposes only.
- ESD Policy 1016 states that employees will not use their position of public trust to make or obtain, or attempt to make or obtain any private gain or advantage and those employees are to avoid conflicts of interest between any personal interest and their official duties. Employees are vested with regulatory authority and are expected to use it responsibly.

2.10. [Withheld] used her work address as her mailing address when she purchased her vehicle license tabs from the Department of Licensing in both 2007 and 2008.

2.11. On August 10, 2009, ESD issued a formal reprimand to [Withheld] based on misrepresenting the Redmond WorkSource Office when conducting her personal business. [Withheld] grieved this reprimand under the Collective Bargaining Agreement. On October 27, 2009, a Step 3 Grievance Response was issue and the reprimand was upheld.

### 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.

3.2. A state employee is prohibited under RCW 42.52.070 from using his or her position to secure special privileges for himself. 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.*

3.3. 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 her or her official custody, for the private benefit or gain of the officer, employee or another.*

3.4. Based on Findings of Fact 2.2 through 2.11, **Withheld** violated the Ethics in Public Service Act when she used state resources to pursue a personal matter.

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 92-120-030 for imposing sanctions and consideration of any mitigating or aggravating factors.

#### **Section 4: AGREED ORDER**

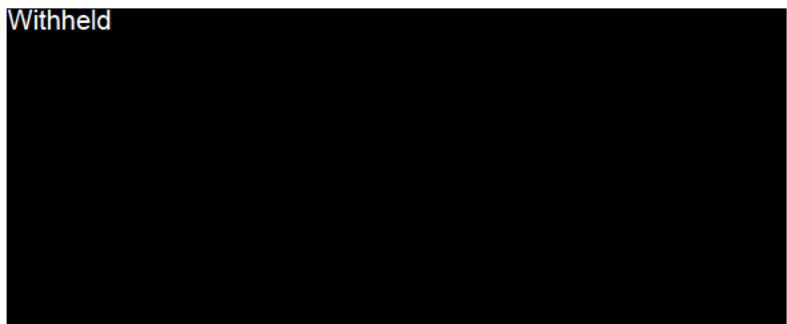
4.1 **Withheld** will pay a civil penalty in the amount of five hundred dollars (\$500.00). The civil penalty of \$500.00 is payable to the state Executive Ethics Board within forty-five (45) days of approval of this Stipulation and Order by the Board.

#### **CERTIFICATION**

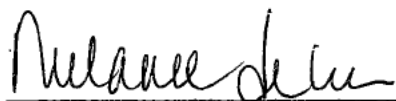
I, **Withheld** hereby certify that I have read this Stipulation and Agreed Order in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Board without my 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



Stipulated to and presented by:



5-4-10

Melanie de Leon  
Executive Director

Date



**II. 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 12<sup>th</sup> day of March, 2010.

*Linnaea Jablonski*  
Linnaea Jablonski, Chair

*Michael F. Connelly*  
Michael F. Connelly, Vice-Chair

*Martin T. Biegelman*  
Martin T. Biegelman, Member

*Absent*  
Matthew Williams III, Member

*Neil Gorrell*  
Neil Gorrell, Member

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

Withheld Respondent Date