

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

[REDACTED]

Respondent.

No. 2010-061

STIPULATED FACTS,  
CONCLUSIONS AND ORDER

**I. STIPULATION**

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent, [REDACTED] 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. On March 30, 2010, the Executive Ethics Board received a referral from the State Auditor's Office (SAO) alleging that [REDACTED] a Correctional Records Supervisor at the Department of Corrections (DOC), may have violated state law when she used state resources for personal benefit. The Board reviewed this referral and issued a complaint on September 17, 2010.

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. [REDACTED] 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. [REDACTED] 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. [REDACTED] 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 [REDACTED] 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. [REDACTED] 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 [REDACTED] 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 [REDACTED] does not accept the Board's proposed modification(s), if any, [REDACTED] 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, [REDACTED] 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. [REDACTED] was a Correctional Records Supervisor at the DOC East Region Records Division since December 1987. She began working for DOC in May 1986. She no longer works for DOC.

2.2. On June 17, 2009, the State Auditor's Office (SAO) received a Whistleblower Complaint alleging that [REDACTED] used state resources to conduct a personal business.

2.3. The SAO analyzed [REDACTED] Internet use for May 26 to June 30, 2009 and August 24 through September 18, 2009. Evidence indicated that [REDACTED] accessed her personal email website 97 times and sent 77 emails using her personal email account on 49 workdays. [REDACTED] indicated that she generally had her personal email account up and

running during the day and that she checked the site multiple times each day. [REDACTED] accessed the Mermaids of the Lake website 46 times during the 49 workdays Internet logs were available. Mermaids of the Lake is a non-work related website that is maintained by [REDACTED]. She also visited sites such as match.com, Better Homes and Gardens, vanessabehan.org, visitkitsap.com, ice-cream-recipes.com, bettyconfidential.com, and Stamper family web.

2.4. [REDACTED] computer contained 26 personal emails in the "sent items" and 10 in the "In Box." Twelve of the emails related to Mermaids of the Lake.

2.5. Mermaids of the Lake is a website that is similar to an on-line newsletter. [REDACTED] asserts that the intent of the website is to inspire and encourage people. She shares the website information with her employees. Internet research that [REDACTED] did on her state computer relating to state parks, travel, and ice cream is referenced on Mermaids of the Lake website. [REDACTED] does not believe Mermaids of the Lake is a business because she does not make a profit from it; however, the website charges for advertising.

2.6. [REDACTED] has another business called Beading Babes, devoted to selling handmade jewelry and giving workshops on beading. Three emails on her state computer discuss the sale of handmade jewelry. [REDACTED] asserts that she did not bring jewelry to the office to sell -that another employee wanted to see the jewelry so [REDACTED] brought it in and the other employee sold the jewelry.

2.7. [REDACTED] used the office printer to print invitations to her son's high school graduation party. [REDACTED] indicates that she printed them at work because she could not do double-sided copies at home. She brought in her own card stock and estimates she printed about 30 double-sided color copies.

2.8. [REDACTED] July 2006 performance evaluation states, in part: [REDACTED] worked with her staff this past year to develop rules for the records office, which included not talking negatively about other staff and not using their position for personal gain.”

### **Section 3: CONCLUSIONS OF LAW**

3.1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over [REDACTED] 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 resources for personal benefit.

3.5. WAC 292-110-010 strictly prohibits the use of state resources for “any use for the purpose of conducting an outside business, private employment, or other activities conducted for private financial gain...”

3.6. Based on Findings of Fact 2.1 through 2.8, [REDACTED] 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.

### **Section 4: AGGRAVATING AND MITIGATING FACTORS**

4.1 It is a mitigating factor that as a result of this violation [REDACTED] is no longer employed by DOC.

4.2. Aggravating factors: 1) [REDACTED] trained and coached her staff to not use their state position for personal gain, 2) she was in a supervisory position, and 3) her personal use of state resources was continuing in nature.

### **Section 5. AGREED ORDER**

5.1. For the violation of RCW 42.52.160, [REDACTED] will pay a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00).

5.2. The civil penalty of \$1,500.00 is payable to the state Executive Ethics Board within forty-five (45) days of approval of this Stipulation and Order by the Board, or as otherwise agreed to by the parties.

**CERTIFICATION**

I, [REDACTED] 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.

[REDACTED]

4-1-11

Stipulated to and presented by:

Melanie deLeon 4-25-11

Melanie deLeon Date  
Executive Director

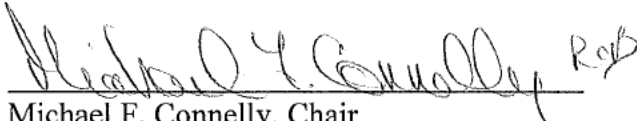
**II. ORDER**

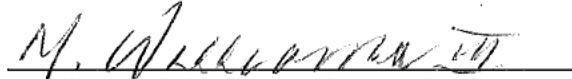
Having reviewed the proposed Stipulation, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, pursuant to WAC 292-100-090, HEREBY ORDER that the Stipulation is

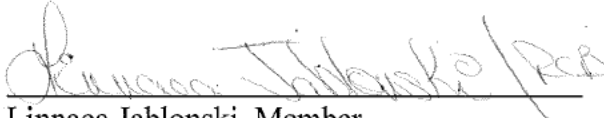
- ACCEPTED in its entirety;
- REJECTED in its entirety;
- MODIFIED. This Stipulation will become the Order of the Board if the Respondent approves\* the following modification(s):

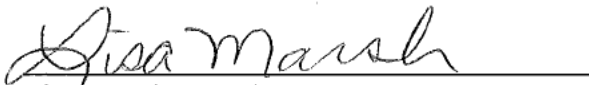
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DATED this 13<sup>th</sup> day of May, 2011.

  
Michael F. Connelly, Chair

  
Matthew Williams III, Vice Chair

  
Linnaea Jablonski, Member

  
Lisa Marsh, Member

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

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