

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

Withheld

Respondent.

No. 11-004

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. On January 11, 2011, the Executive Ethics Board received a referral from the State Auditor's Office (SAO) alleging that Withheld an employee of the State of Washington, Department of Social and Health Services (DSHS) may have violated state law when she used state resources, including the state computer, to pursue her private business interests. The Board reviewed this referral and issued a complaint on March 11, 2011.

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. Ms. [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 [Withheld] 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 [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). Further, Ms. [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 to this matter, [Withheld] was Chief, Social Services Payment System, Administrative Services Division, Department of Social and Health Services. She has since retired from state service. Her job duties included operational control over the entire division, working directly for the division director. Everyone else in the division fell under her supervisory chain of command.

2.2. Ms. [Withheld] makes jewelry as a hobby and sells it at hobby and craft shows. In 2006, she reported to DSHS that she made and sold jewelry as an outside business. She asserts that she does not sell the items at work, but does admit that she handed out invitations to a jewelry party while at work, using the invitations as a way to provide employees with her home address.

2.3. An inspection of Ms. [Withheld] computer revealed correspondence to and from her to division employees requesting information on ordering jewelry.

2.4. DSHS policy No. 18-64, *Standards of Ethical Conduct for Employees*, prohibits a DSHS employee, anywhere in the chain of command from personally or financially benefitting from any contract, sale, lease, purchase, or grant made under the employee's supervision or control.

### 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.

3.4. 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 his or her official custody, for the private benefit or gain of the officer, employee or another." WAC 292-110-010(5)(a) prohibits the use of state resources for the purpose of conducting an outside business, private employment or other activities conducted for private financial gain.

3.5. Based on Findings of Fact 2.1 through 2.4, Ms [Withheld] used state resources in violation of RCW 42.52.160, WAC 292-110-010 and agency policy.

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: AGREED ORDER

4.1. For the violation of RCW 42.52.160, [Withheld] will pay a civil penalty of two hundred-fifty dollars (\$250.00).

4.2. 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.

**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

*10/4/2011*  
Date

Respondent

Stipulated to and presented by:

*Melanie deLeon* *10/6/11*

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):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATED this 18<sup>th</sup> day of November 2011.

Matthew Williams, III  
Matthew Williams, III, Vice-Chair

Linnaea Jablonski  
Linnaea Jablonski, Member

Lisa Marsh  
Lisa Marsh, Member

Nancy Biery  
Nancy Biery, Member

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

Withheld Respondent Date