

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Krystal Welch

Respondent.

No. 2012-050

STIPULATED FACTS,
CONCLUSIONS AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent, KRYSTAL WELCH, 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 August 23, 2012, the Executive Ethics Board(Board) received a complaint alleging that Krystal Welch, Fresh Start Instructor, Tacoma Community College (TCC), may have violated the Ethics in Public Service Act when she used her state computer to conduct personal business in regard to Pampered Chef and ItWorks. The Board found reasonable cause to believe a violation may have been committed at their November 9, 2012, meeting.

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. Krystal Welch 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. Krystal Welch 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. Krystal Welch 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 Krystal Welch 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. Krystal Welch 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 Krystal Welch 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 Krystal Welch does not accept the Board's proposed modification(s), if any, this matter will be scheduled for an administrative hearing in front of the Board and Krystal Welch waives any objection to participation by any Board member at any subsequent hearing to whom this stipulation was presented for approval under WAC 292-100-090(2). Further, Krystal Welch 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. Ms. Welch is an Instructor in the Fresh Start Program at Tacoma Community College, and was working in that capacity for all times pertinent to this investigation.

2.2. On August 23, 2012, the Executive Ethics Board(Board) received a complaint alleging that Krystal Welch, may have violated the Ethics in Public Service Act when she used her state computer to conduct personal business in regard to Pampered Chef and ItWorks.

2.3. As a result of the allegations in this case, EEB staff requested TCC's IT staff conduct a search of Ms. Welch's computer for evidence that would support the allegations that Ms. Welch was using her state owned computer to conduct outside business for Pampered Chef and ItWorks.

2.4. TCC's IT staff searched e-mail files and Ms. Welch's computer hard drive. Their search revealed the following evidence.

ItWorks Folder (IW):

- Ashley Wood Sinclair –how to move up quickly – docx.
- Big Al's Training – Part's one and two – PDF file.
- Brag Book (1) product brochure – PDF file.
- Compensation Plan 5-26-10 – PDF file.
- How do I get Paid – docx.
- Wrapping 101, product brochure, Crystal Welch
- Wrapping 101, product brochure, Sheila Kunivuki
- Usaucustomerorderform – PDF file.
- USAUDistributor Application Form – PDF file.

Pampered Chef (PC):

- Apr11 outside order form – PDF file
- Baker recipes – PDF file
- Cooking up success in 90 days Checklist – word doc
- 16 monthly recipes

- Wedding Fair drawing Slip – word doc
- Join us booklet – PDF file
- List of 100 – PDF file
- January and March 2011 recruitment brochures – PDF file

E-mails:

- 17 emails regarding Pampered Chef from September 15, 2010 to January 10, 2012.

Section 3: CONCLUSIONS OF LAW

3.1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Krystal Welch 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. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from using state resources for their benefit. RCW 42.52.160(1) states:

No state officer or state employee may employ or use any person, money, or 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.

3.4. Based on Findings of Fact 2.1 through 2.4, Krystal Welch used state resources to conduct her outside business in regards to Pampered Chef and ItWorks, in violation of RCW 42.52.160 and WAC 292-110-010.

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.

Section 4: AGGRAVATING AND MITIGATING FACTORS

In determining the appropriateness of the civil penalty, the Board reviewed the criteria in WAC 292-120-030. It is an aggravating factor that: 1) the violations were continuing in nature, 2) the violations significantly reduced the public respect for, and the confidence in, state government employees, and 3) involved personal gain.

Section 5: AGREED ORDER

5.1 For the violation RCW 42.52.160, Krystal Welch will pay a civil penalty in the amount of, two thousand, five hundred dollars (\$2,500.00). The Board agrees to suspend \$1,000.00 on the condition that Krystal Welch complies with all terms and conditions of this Stipulation and Order and commits no further violations of RCW 42.52 for a period of two years from the date this agreement is executed.

5.2 The civil penalty of \$1,500 is payable in full, to the State Executive Ethics Board within 45 days after this stipulation is accepted by the Board, or as otherwise agreed to by the parties.

II. CERTIFICATION

I, Krystal Welch, 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.

Krystal Welch 2/15/13
KRYSTAL WELCH Date
Respondent

Stipulated to and presented by:

Melanie deLeon 2/20/13
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 8th day of March 2013

Lisa Marsh
Lisa Marsh, Chair

Anna Dudek Ross
Anna Dudek Ross, Vice-Chair

Matthew Williams III
Matthew Williams III, Member

Michael Bahn
Michael Bahn, Member

Samantha Simmons
Samantha Simmons, Member

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

KRYSTAL WELCH, Respondent Date