

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

[REDACTED]

Respondent.

No. 2013-001

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 January 3, 2013, the Executive Ethics Board (Board) received a complaint alleging that [REDACTED] Mailroom Sergeant, Monroe Correctional Center; Department of Corrections (DOC) may have violated the Ethics in Public Service Act by using state resources to promote his political campaign for a Monroe City Council Position. On March 8, 2013, the Board found Reasonable Cause that Todd Fredrickson violated RCW 42.52, and ordered the ~~penalty be over \$500.00.~~

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 he 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, this matter will be scheduled for an administrative hearing in front of the Board and [REDACTED] 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, [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 the Mailroom Sergeant at the Monroe Correctional Center, Department of Corrections, for all times pertinent to this investigation.

2.2. In June of 2011, [REDACTED] was running for a Monroe City Council Position.

2.3. In June of 2011, [REDACTED] used his state email system to send/receive emails regarding his candidacy for a Monroe City Council Position. Date and time emails were sent/received are listed below:

- June 14, 2011, at 12:00 p.m. – Eric Liddiatt, Monroe Fire Department, advising Eric of his intentions on running for the city council position and was making a request to come to their next union meeting for consideration of their endorsement.
- June 14, 2011, at 12:04 p.m. – duplicate email to the one above, sent four minutes later.
- August 9, 2011, at 9:16 a.m. – From Eric Liddiatt asking if [REDACTED] was available to attend the union meeting on September 12.
- August 15, 2011, at 8:23 a.m. – To Mr. Liddiatt in reply to the August 9th email.

2.4. In [REDACTED] response to the allegation, he acknowledges that he sent emails to Mr. Liddiatt, but that he did so, on his break and at the time he did not believe sending the emails was a violation of the ethics laws. He also stated that he forwarded a copy of the local newspaper write up of the candidates to a coworker. That email was not located.

2.5. A letter regarding these allegations was placed into [REDACTED] supervisory file describing his action as inappropriate use of state resources for campaigning or other political activities.

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.

3.3. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from the use of public resources for political campaigns. In part :(*Effective January 1, 2012.*) RCW 42.52.180 states:

- 1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

3.4. Based on Findings of Fact 2.1 through 2.5, [REDACTED] used state resources in violation of RCW42.52.180.

3.5. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from using state resources to support a political candidate. 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.

3.6. Based on Findings of Fact 2.1 through 2.5, [REDACTED] used state resources to promote his political campaign for Monroe City Council in violation of RCW 42.52.180, 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

In determining the appropriateness of the civil penalty, the Board reviewed the criteria in WAC 292-120-030. It is an aggravating factor that [REDACTED] was in a supervisory position at the time of the violations and these types of violations significantly reduce the public respect and confidence in state government employees. It is a mitigating factor that, at the time of the violations [REDACTED] did not believe that sending a few emails would violate the law.

Section 5: AGREED ORDER

5.1 For the violation RCW 42.52.160 and 42.52.180, [REDACTED] will pay a civil penalty in the amount of, one thousand – two hundred and fifty dollars (\$1,250). The Board agrees to suspend (\$500) on the condition that [REDACTED] 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 \$750 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, [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 3 13

Respondent

Stipulated to and presented by:

Melanie deLeon

Melanie deLeon
Executive Director

Date

4-23-13

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):

Change in language on page one, last sentence.

DATED this 10th day of May, 2013.

Lisa Marsh
Lisa Marsh, Chair

Anna Dudek Ross
Anna Dudek Ross, Vice-Chair

M. Williams III
Matthew Williams III, Member

Samantha Simmons
Samantha Simmons, Member

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

_____ Respondent _____ Date