

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

[REDACTED]

Respondent.

No. 2014-037

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, [REDACTED] and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS BOARD (Board) through Kate Reynolds, Executive Director pursuant to chapter 42.52 RCW, chapter 34.05 RCW, and WAC 292-100-090(1). The following stipulated facts, conclusions of law, 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. This stipulation is based on the following:

A. STIPULATED FACTS

1. On July 11, 2014, the Executive Ethics Board (Board) initiated a complaint referred by the State Auditor's Office (SAO) alleging that [REDACTED] Executive Assistant at Pierce College, may have violated the Ethics in Public Service Act by using state resources for her personal benefit.

2. [REDACTED] has worked for Pierce College as an Executive Assistant since July 1999 and was in that position for all times pertinent to this investigation.

3. On July 26, 2013, the SAO received an anonymous complaint alleging that Ms. [REDACTED] was using state resources for her personal benefit including online shopping for personal items. The SAO conducted a forensic examination of [REDACTED] work computer to search for evidence to support the allegation. The SAO reviewed [REDACTED] emails and internet browsing activities from July 21 through August 17, 2013. The SAO investigator's found the following:

- Numerous electronic receipts from retail stores.
- An online purchase for a five-week membership to Vital Fitness, a fitness club. (July 25, 2013)
- Online purchases through Amazon.com for massages, a facial package, and window washing. (August 1, 2013)

4. In addition to time spent browsing shopping websites, the SAO found the subject also browsed entertainment, home decorating and health-related websites.

5. A total of 517 minutes over a four-week period (20 workdays) equals approximately 26 minutes per day of non-work related internet browsing.

6. [REDACTED] told SAO investigators that she made an online purchase of a fitness club membership through Amazon on July 15, 2013. She did not believe that she made it from her state computer explaining that the browsing history must have been uploaded onto her computer from her Kindle.

7. Kindle for PC was loaded onto her state computer on March 4, 2013, and was last accessed on June 3, 2013. A total of 124 book covers were located in the Amazon/Kindle/Cache file. This would indicate that [REDACTED] was using her state computer to read Kindle e-books while at work. The browsing history shows that she browsed erotic romance novels on Amazon at the Kindle store. A review of [REDACTED] state computer hard drive by Board investigators

located a folder identified as "My Kindle Content". The folder contained 103 e-books viewed or read from March 2, 2012 through August 20, 2013, most if not all of these e-books were not work related.

8. As a result of the SAO investigation [REDACTED] received a Letter of Reprimand.

B. CONCLUSIONS OF LAW

1. 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.

2. Based on the stipulated facts above, [REDACTED] used state resources for a personal benefit in violation of RCW 42.52.160 and WAC 292-110-010.

3. 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.

C. AGGRAVATING AND MITIGATING FACTORS

In determining the appropriateness of the civil penalty, the Board reviewed the criteria in WAC 292-120-030. In the matter at hand, it is an aggravating factor that, [REDACTED] was in a position of trust within Pierce College and these types of violations significantly reduce the public respect and confidence in state government employees. It is a mitigating factor that, any

violation of the ethics act regarding the use of a state resource was unintentional, and when she became aware of her violation, she took immediate steps in ensure it would not happen again.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over [REDACTED] and over the subject matter of this complaint.
2. Under RCW 34.05.060, the Board can 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.
3. 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.
4. [REDACTED] agrees that if any or all of the alleged violations were proven 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).
5. [REDACTED] further agrees that the evidence available to the Board 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.

6. [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).

7. If the Board accepts this stipulation, the Board agrees to release and discharge [REDACTED] from all further ethics proceedings under chapter 42.52 RCW for any allegations arising out of the facts 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 stipulation. [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.

8. If the Board accepts this stipulation, it 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. No other claims of alleged violations are pending against [REDACTED] at this time.

9. If the Board accepts this stipulation, it is enforceable under RCW 34.05.578 and any other applicable statutes or rules.

10. 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 before the Board. If an administrative hearing is scheduled before the Board, [REDACTED] waives any objection to participation by any Board member at the hearing to whom this stipulation was presented for approval under WAC 292-100-090(2). Further, [REDACTED] understands and agrees that this stipulation as well as information obtained during any settlement discussions

between the parties shall not be admitted into evidence during the administrative hearing, unless otherwise agreed by the parties.

11. [REDACTED] agrees to pay a civil penalty in the amount of three thousand dollars (\$3,000) associated with the improper use of public resources, RCW 42.52.160. The Board agrees to suspend one thousand five hundred dollars (\$1,500) 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.

12. The civil penalty of one thousand five hundred dollars (\$1,500) is payable in full to the Washington State Executive Ethics Board within forty-five (45) days after this stipulation is signed and accepted by the Board, or as otherwise agreed to by the parties.

II. CERTIFICATION

I, [REDACTED] hereby certify that I have read this stipulation in its entirety, that my counsel of record, if any, has fully explained the legal significance and consequence of it. I further certify 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, I understand that I will receive a signed copy.

[REDACTED] _____
Date 1/7/2015
Respondent

Presented by:
KATE REYNOLDS _____
Executive Director Date 2/11/15

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 13th day of March, 2015

Lisa Marsh
Lisa Marsh, Chair

AN
Anna Dudek Ross, Vice-Chair

Samantha Simmons
Samantha Simmons, Member

Sumeer Singla
Sumeer Singla, Member

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

 Respondent Date