

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

[REDACTED]

Respondent.

No. 2014-050

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 September 12, 2014, the Executive Ethics Board (Board) initiated a complaint referred by the State Auditor's Office (SAO) alleging that [REDACTED], Publication Support Coordinator and Graphic Designer at Tacoma Community College (TCC), may have violated the Ethics in Public Service Act by using state resources for her personal benefit and her outside business, Moonstar Samoyeds.

2. [REDACTED] has worked for Tacoma Community College (TCC) since August 2000. First as an Office Assistant and then in 2004 she was promoted into her current position as a Publication Support Coordinator and Graphic Designer. She was in that position for all times pertinent to this investigation.

3. The SAO conducted a forensic examination of [REDACTED] work computer to search for evidence to support the allegations. The SAO reviewed [REDACTED] emails and internet browsing activities. Some of the internet history files had been overwritten through the computer's normal processes and as a result the data collected was sporadic relative to dates. The SAO's review of internet activity encompassed 74 days, between February 7, 2013 and October 2, 2013. The SAO investigator found the following activities:

- Created a social media page for her personal business.
- Visited other dog business websites.
- Conducted internet searches for other dog breeders.
- Used her college work telephone number as contact information.
- Created and published content for a business blog.
- Sent 15 emails, including a contract for the purchase of a dog and inquiries about the dog.
- Email confirmations of online purchases

4. [REDACTED] told SAO investigators that her dogs are a hobby and she considers them to be a part of her family and are not a business. She further stated that she would rarely breed them and the expense when she does is not covered by the sale of the puppies.

5. [REDACTED] also told SAO investigators that she created the Facebook community page "Samoyeds from the Pacific NW" as a practice exercise to learn more about Facebook. It was to be a resource for Samoyed owners in the Pacific Northwest to find fun things to do with their dogs – like getting together for a group walk around Green Lake. She admitted to

investigators that she did search other dog and dog breeder sites, she created and published content for blogs, and she sent and receive 15 emails related to dogs. She further stated that these activities were either done on her own time or as practice using the tools she was learning to use at work.

6. The following webpages related to Samoyed dog were located on [REDACTED] work computer:

- Moonlightersamoyed.com
- Dogbreedinfo.com
- Myteesamoyeds.com
- Legendarysamoyed.com
- Magellanssamoyedds.com
- ibarkbecauseido.com
- Waglivelove.com
- Samkotasamoyeds.com
- Sundancesamoyeds.com
- Moonstarsamoyeds.com [REDACTED] personal web page)

Other Dog Related sites

- Onofrio.com (Jack Onofrio Dog Shows)
- Akc.org (American Kennel Club)

7. In addition to time spent browsing dog related websites, the SAO found the subject also use her state computer for other personal purposes.

- Pinterest – A social media site intended for the collection of ideas and projects – 336 visits over 37 days.
- Facebook – A social media site for the connection of family and friends – 769 visits in 42 days
- Gmail – her personal email – 779 visits in 49 days.
- Three online purchases during work hours and using her state email system to receive purchase and shipping confirmation.

8. Board staff was able to look at four consecutive months (February through May) of internet history for [REDACTED] for 2013. Some examples of her internet use over those four months for non-work related subjects are shown below:

- February 14, 2013 – one hour and 20 minutes of non-work related use.
- February 26, 2013 – five hours and 55 minutes of non-work related use.
- March 14, 2013 – four hours and 47 minutes of non-work related use.
- March 26, 2013 – four hours and 25 minutes of non-work related use.
- April 8, 2013 – five hours and 33 minutes of non-work related use.
- April 17, 2013 – one hour and 30 minutes of non-work related use.
- April 30, 2013 – six hours and 59 minutes of non-work related use.
- May 3, 2013 – one hour and 35 minutes of non-work related use.
- May 14, 2013 – four hours and 37 minutes of non-work related use.

9. Board staff was able to identify personal blogs [REDACTED] participated in during work hours. Most of the blogs are related to crafts and do it yourself projects. A partial list is shown below:

- OhJoy.blogs.com
- pinterest.com/[REDACTED]/
- Marthastewart.com
- Justsomethingimade.com
- Livingwithlindsay.com
- Makeanddogirl.com
- Pottymouthmama.blogspot.com
- Susanbuckner.com
- Redheadmoma.com
- Xfinity.comcast.net/blog
- Twitter.com
- Addicted2decorating.com
- Facebook.com

10. In her written response, [REDACTED] stated the following as she describes her work and why she would spend time on the internet and blogs sites. “Being the type of person that wants to do/give the best at my job and in my life, I *research and practice* the skills and

knowledge I will need. When my responsibilities/tasks began to include the college's website and thinking about doing a blog, I attended workshops and *researched online* to learn more about web design, blogs and best practices. *Practice happened outside work* as I worked with my daughter in redesigning our kennel website (several times) and creating a blog, eventually moving from Dreamweaver HTML-based site to Word Press templates and becoming familiar with CMS (content management systems). I looked at other websites to compare and evaluate. This *practice* helped when the college's website went through a redesign and we became responsible for training department content managers, as well as using the CMS to update the website.”

11. Board staff was able to identify that [REDACTED] used at least three internet browsers, Internet Explorer (Microsoft), Chrome (Google), and Firefox (Mozilla) on her work computer.

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. WAC 292-110-010 Use of state resources states, in part:

.....

(2) **The following are permitted uses:**

(a) Use of state resources that is reasonably related to the conduct of official state duties, or which is otherwise allowed by statute.

(b) An agency head or designee may authorize a use of state resources that is related to an official state purpose, but not directly related to an individual employee's official duty.

(c) An agency may authorize a specific use that promotes organizational effectiveness or enhances the job-related skills of a state officer or state employee.

(d) A state officer or employee may make an occasional but limited personal use of state resources only if each of the following conditions are met:

(i) There is little or no cost to the state;

(ii) Any use is brief;

(iii) Any use occurs infrequently;

(iv) The use does not interfere with the performance of any officer's or employee's official duties; and

(v) The use does not compromise the security or integrity of state property, information, or software..

3. 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.

4. 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, an aggravating factor is that [REDACTED] was in a position of trust at TCC. These types of violations significantly reduce the public respect and confidence in state government employees and they were continuous in nature.

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 his 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.

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). The Board agrees to suspend one thousand dollars (\$1,000.00) on the condition that

██████████ complies with all terms and conditions of this stipulation and commits no further violations of chapter 42.52 RCW for a period of two years from the date this stipulation is signed and accepted by the Board.

12. The non-suspended civil penalty in the amount of two thousand dollars (\$2,000.00) 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, ██████████ 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.

██████████
Date 7-20-15
Respondent

Presented by:

K. Reynolds 8/10/15
KATE REYNOLDS 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 11th day of September 2015

Anna Dudek Ross
Anna Dudek Ross, Chair

Samantha Simmons
Samantha Simmons, Vice-Chair

Lisa Marsh
Lisa Marsh, Member

Approved via telephone
Sumeer Singla, Member

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

[REDACTED], Respondent Date