

1 **BEFORE THE WASHINGTON STATE**
2 **EXECUTIVE ETHICS BOARD**

3 In the Matter of:

EEB Case No. 2014-088

4 **FINAL ORDER**

5 Respondent
6

7 **I. PROCEDURAL HISTORY**

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9 On July 8, 2016, the Executive Ethics Board (Board) found reasonable cause to believe
10 that the Respondent [REDACTED], violated the Ethics in Public Service Act while
11 employed with the University of Washington Medical Center. Notice of the Reasonable Cause
12 Determination and the right to request a hearing was served upon [REDACTED] by regular mail
13 and certified mail on July 11, 2016. [REDACTED] failed to respond to the Reasonable Cause
14 Determination within 30 days as required by WAC 292-100-060(2).

15 The Board entered an Order of Default on November 18, 2016. On November 22, 2016,
16 Board staff provided [REDACTED] with notice of the Board's Order of Default by regular and
17 certified mail. On December 6, 2016, Board staff received the certified mail receipt showing
18 that [REDACTED] took possession of the Board's Order of Default on December 2, 2016.

19 Pursuant to WAC 292-100-060(4), [REDACTED] was allowed 10 days to request vacation of
20 the Order of Default. [REDACTED] has not moved to vacate the order entered on November
21 18, 2016.

22 **II. FINDINGS OF FACT**

23 1. On November 22, 2014, the Executive Ethics Board (Board) received a
24 complaint referred by the State Auditor's Office (SAO) alleging that [REDACTED]
25 [REDACTED], former Anesthesia Technician at the University of Washington Medical Center
26

1 (UWMC), may have violated the Ethics in Public Service Act by using state resources for his
2 personal outside business.

3 2. [REDACTED] was hired by UWMC on July 14, 2008. For all times pertinent to
4 this investigation [REDACTED] worked at UWMC as an Anesthesia Technician.

5 3. The SAO whistleblower complaint alleged that [REDACTED] was using state
6 computer resources and time to support and promote his outside business in bodybuilding;
7 [REDACTED] Productions and NW Fitness magazine.

8 4. Upon receiving the whistleblower complaint the SAO obtained three work
9 computer hard drives, reviewed emails, and interviewed co-workers. Two of the three
10 computer hard drives were from computers available to all UWMC Anesthesiology staff
11 located within UWMC. The third computer hard drive was from the work computer of Erica
12 Ingbretsen (Ms. Ingbretsen), Anesthesia Manager at UWMC, and [REDACTED] direct
13 supervisor. Anesthesiology staff members are not assigned individual computer workstations.

14 5. Because of the shared use of computer log-ins, the SAO limited their search to
15 internet activities where [REDACTED] business sites were accessed through a site
16 administrator log in. The SAO limited the search period to January 1 through December 31,
17 2013. The search revealed the following evidence:

- 18 • A web building site, "sitebuilders.com," accessed using a site administrator log-
19 in on three days for a total of 68 minutes.
- 20 • [REDACTED] business magazine, "NWFitnessMagazine," accessed using a site
21 administrator log-in on one day for 20 minutes.
- 22 • Washington State Bodybuilders website accessed on one day for 20 minutes.
- 23 • Photo and Blog site, "dlsnapshot.wordpress.com," accessed using an
24 administrator log-in to upload photos and make edits to the site. Most of the
25 upload and edits were regarding "NPC- Washington-State-Bodybuilding" for a
26 total amount of 24 minutes.

1 6. ██████████ informed the SAO investigators that his former business partner,
2 Thomas Griffin (Mr. Griffin), who also works in the UWMC Anesthesiology Department, had
3 administrative right to these websites and that it was his former partner who accessed the sites
4 referenced above.

5 7. ██████████' work schedule was Monday, Tuesday, and Wednesday, 6:00 am
6 to 6:30 pm. Mr. Griffin's work schedule was Thursday and Friday, 6:00 am to 6:30 pm. The
7 site visits documented above occurred on days ██████████ was working, not when Mr.
8 Griffin was scheduled to work.

9 8. Mr. Griffin told SAO investigators that he was a former business partner of Mr.
10 ██████████ and that he assisted ██████████ in creation of his first website, but that Mr.
11 ██████████ has a new website that he did not help with. As far as Mr. Griffin knew, Mr.
12 ██████████ used his personal devices (laptop, cell phone) to conduct work on the website during
13 work hours. Mr. Griffin acknowledged that ██████████ was using the UWMC internet
14 network to conduct work on his business website during the hours of work at UWMC.

15 9. In addition to the internet history, the SAO reviewed emails from Mr.
16 ██████████ UW email folder from 2009 through November 18, 2013. The following is a
17 summary of the number of emails found related to ██████████ outside businesses:

- 18 • 37 emails related ██████████ business in 2013.
- 19 • 66 emails related ██████████ business in 2012.
- 20 • 65 emails related ██████████ business in 2011.
- 21 • 24 emails related ██████████ business in 2010.

22 10. In addition to using his UW email account for his personal business, Mr.
23 ██████████ also used the UW email system for other personal use such as sending and receiving
24 personal photos, videos, contacting sellers on Craigslist, receiving purchase confirmations for
25 purchases made on eBay, and sending divorce and loan documentation.
26

1 11. Board staff reviewed [REDACTED] emails for the period of January 2, 2010
2 through December 2, 2013. The following is a summary of the number of emails that were
3 determined to be personal or business related:

- 4 • Craigslist – 15
- 5 • NW Fitness Magazine – 83
- 6 • Williams Productions – 144
- 7 • Tonia Williams (personal) – 61
- 8 • Personal loan – 111
- 9 • Other personal – 22
- 10 • Stock market alerts – 95

11 12. Co-workers of [REDACTED] told SAO investigators that [REDACTED] spent a
12 lot of time working on his outside business but that he would use his personal phone and
13 laptop. They knew he was working on his outside business because it was all he talked about.

14 III. CONCLUSIONS OF LAW

15 1. RCW 42.52.160(1) – Use of persons, money, or property for private gain, states:

16 No state officer or state employee may employ or use any
17 person, money, or property under the officer's or employee's
18 official control or direction, or in his or her official custody, for
19 the private benefit or gain of the officer, employee, or another.

20 2. Under WAC 292-110-010 (use of state resources) state employees may use state
21 resources for personal use as long as the use is reasonably related to the conduct of the state
22 employees; authorized by an agency head or designee as related to an official state purpose; or
23 for a specific use that promotes organizational effectiveness or enhances job-related skills.
24 Additionally, state employees are allowed occasional but limited use of state resources as long
25 as the following conditions are met¹:

- 26 (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

¹ The rule was amended effective April 1, 2016. This language reflects the rule as in effect during the time of the allegations above.

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

3 3. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction
4 over [REDACTED] and over the subject matter of this complaint.

5 4. Based on the evidence included in the SAO investigation, [REDACTED] used
6 state computer resources for his private benefit or gain in violation of RCW 42.52.160. Mr.
7 [REDACTED] activities do not meet the permitted uses or exception for the use of state resources
8 as provided for in WAC 292-110-010.

9 5. The Board is authorized to impose sanctions for violations to the Ethics Act
10 pursuant to RCW 42.52.360.

11 6. In determining the appropriateness of the civil penalty, the criteria in WAC 292-
12 120-030 have been reviewed.

13 IV. FINAL ORDER

14 Based on the foregoing:

15 IT IS HEREBY ORDERED Respondent [REDACTED] is liable for and shall pay a
16 civil penalty of three thousand dollars (\$3,000). The payment shall be made to the Executive
17 Ethics Board within forty-five (45) days of this Order.

18 V. AUTHORITY AND PROCEDURE


19 Pursuant to RCW 34.05.470, Respondent has the right to file a Petition for
20 Reconsideration stating the specific grounds upon which relief is requested. The Petition must
21 be filed with the Executive Ethics Board at 2425 Bristol Court SW, Olympia, Washington
22 98504, or by U.S. Mail at P.O. Box 40149, Olympia, Washington 98504-0149, within ten (10)
23 days of service of the Final Order upon Respondent.


24 The Petition for Reconsideration shall not stay the effectiveness of this order nor is a
25 Petition for Reconsideration a prerequisite for seeking judicial review in this matter. A timely
26 Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the

1 petition is filed, the Board does not (a) dispose of the petition or (b) serve the parties with a
2 written notice specifying the date by which it will act on a petition.

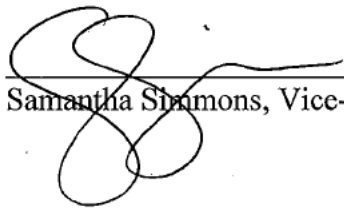
3 Respondent has the right to petition the superior court for judicial review of the Board's
4 action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition
5 for Judicial Review, see RCW 34.05.510 and sections following.

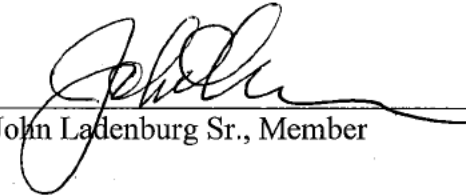
6 DATED this 24th day of March, 2017

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9 _____
10 Anna Dudek Ross, Chair



Lisa Marsh, Member

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13 _____
14 Samantha Simmons, Vice-Chair



John Ladenburg Sr., Member