

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

[REDACTED]

Respondent.

No. 2015-033

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 May 20, 2015, the Executive Ethics Board (Board) received a referral from the State Auditor's Office (SAO) alleging that [REDACTED], former Residential Care Services (RCS) Manager with the Department of Social and Health Services (DSHS), may have violated the Ethics in Public Service Act by spending time and computer resources visiting online shopping sites to make personal purchases.

2. [REDACTED] was hired by DSHS in 1999 and for all times pertinent to this investigation [REDACTED] was the RCS manager for DSHS. [REDACTED] resigned from state service on February 17, 2015.

3. On April 3, 2014, [REDACTED] was notified by letter of her alternate work assignment at the Everett Home and Community Service office located at 840 North Broadway (Bldg. B), Everett WA. The letter further indicated that during the alternate assignment she was still subject to all applicable DSHS policies, rules and regulations, including safety rules. She remained in the alternate assignment until July 15, 2014.

4. In [REDACTED] response to Board staff she indicated that during the time she was on alternate work assignment she was remiss in protecting her computer by leaving it unattended and unlocked at these various state office locations.

5. [REDACTED] told the SAO investigators that during the time of the alternate work assignment she was required to browse the internet looking for information related to nursing homes that needed mental health or other services and research effective leadership and management. Ms. Molchiori confirmed these assignments.

6. [REDACTED] told the SAO investigator that she was required to travel around the state a lot so any browsing activity related to hotels are most likely a result of that travel.

7. On Thursday, August 21, 2014, Scott McCarron (Mr. McCarron), forensic investigator with the Division of Child Support, made a forensic copy of [REDACTED] work computer.

8. Mr. McCarron explained to the SAO investigator that the internet setting on Ms. [REDACTED]'s computer was set for "in-private filtering" which prevents third party files from being stored. Because of this, there is an incomplete record of sites visited by the user. Due to the "in-private" configuration, it could not be determined with a high-level of certainty how the internet activity was created.

9. Mr. McCarron provided an Excel spreadsheet showing the internet history found on Ms. [REDACTED] computer and her response to the DSHS internal investigator, David Rivera. Some examples are shown below:

- Hotel, Disney, Tmart.com, Amazon, and Food/Recipe sites: **7/1/13 through 7/31/13.** [REDACTED] denied shopping at the Amazon site but acknowledge viewing hotels, Disney, and food (to obtain recipes for monthly fundraisers), but does not acknowledge shopping at Target or Tmart.
- Macy's: **8/2/13 through 8/27/13.** [REDACTED] acknowledged shopping and buying a rug from the Macy's website.
- Hotels, NFL, Macys, Barnes and Noble, Food/Recipe sites, Disney: **9/3/13 through 9/26/13.** [REDACTED] acknowledged going to the entertainment site to look for the Seahawks schedule, but did not purchase anything. She stated that all hotel visits were work related. She stated that Barnes and Noble will send her emails but she deletes them upon receipt. She again acknowledged going to the food site but again indicated that it was work related.
- Hotels, Entertainment, and Disney: **11/19/2013 through 11/21/13.** [REDACTED] acknowledged these but indicated that this browsing occurred during her lunch break. The access time confirmed that some of her browsing did occur during the normal lunch break period (12 pm to 1pm).
- Hotels, Food/Recipe sites, Macy's, Etsy, and LL Bean: **12/2/13 through 12/31/13.** Ms. [REDACTED] attests to shopping at LL Bean for a sweater but was uncertain if she ever purchased anything. [REDACTED] acknowledged that she would also go to the Starbucks site to register her Starbucks card.
- Hotels, Amazon, Disney, and QVC: **2/4/14 through 2/25/14.** [REDACTED] acknowledges visiting these sites with the exception of Amazon. [REDACTED] admitted that sometimes when she would be browsing the internet she would leave her computer on all day and that sometimes she would leave it on for the entire night.
- Amazon, Hotels, Disney, Food/Recipe sites, QVC, LL Bean, and Real Estate: **3/5/14 through 3/31/14.** [REDACTED] indicated in her response to the SAO investigator that some of the visits to real estate sites (Zillow, Realtor.com, Trulia, Remax, and Estately) were work related.
- Food/Recipe sites, Disney, Amazon, Real Estate, Hotels, and QVC: **4/2/14 through 4/22/14,** [REDACTED] expressed her concern at the amount of time Amazon appears to

have been visited and stated that she has never logged onto that site from her state computer.

- Disney, Hotels, LL Bean, Amazon, Kohl's, Target, Nordstrom, QVC, Macy's, Food/Recipe sites, UPS, and Real Estate: **5/4/14 through 5/29/14.** [REDACTED] did not recall ever shopping at Kohl's.
- Disney, Amazon, Real Estate, QVC, and Hotels: **6/2/14 through 6/17/14.** [REDACTED] admitted that she visited all of the sites with the exception of Amazon.
- QVC, Disney, Hotels, Food/Recipe sites, UPS, Charming Shoppe's, Barnes and Noble, Amazon, and Food/Recipes sites: **7/2/14 through 7/31/14.** [REDACTED] admitted that she visited all of the sites with the exception of Amazon.
- Hotels, Amazon, Food/Recipe sites, and UPS: **8/1/14 through 8/18/14.** [REDACTED] admitted that she visited all of the sites with the exception of Amazon.

10. [REDACTED] told the DSHS internal investigator, that during the time she was near the end of her alternate work assignment in Everett she did not have much work to do and acknowledges that she used work time to browse the internet and knows that it was wrong. She apologized and hoped that she could be forgiven.

## **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.

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 Management within the Department of Social and Health Services and these types of violations significantly reduce the public respect and confidence in state government employees.

### **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. 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 one-thousand dollars (\$1,000) for the violations associated with RCW 42.52.

12. The civil penalty in the amount of one-thousand dollars (\$1,000) 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] 10/26/2016  
Date  
Respondent

Presented by:

L. Reynolds 11/2/16  
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 18<sup>th</sup> day of November, 2016

absent  
Anna Dudek Ross, Chair

[Signature]  
Samantha Simmons, Vice-Chair

Lisa Marsh  
Lisa Marsh, Member

absent  
Sumeer Singla, Member

[Signature]  
John Ladenburg, Sr., Member

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

[redacted], Respondent \_\_\_\_\_ Date