

**BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD**

In the Matter of:

Les Ling

Respondent.

No. 2016-046

**STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER**

THIS STIPULATION is entered into by Respondent, LES LING, 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 April 24, 2016, the Executive Ethics Board (Board) received a complaint alleging that Les Ling (Mr. Ling), Management Analyst for the Office of Minority and Woman's Business Enterprises (OMWBE), may have violated the Ethics in Public Service Act by using state resources for his personal benefit and gain.

2. Mr. Ling was first hired by OMWBE in June of 2006 and was so employed for all times pertinent to this investigation. Mr. Ling is currently a Management Analyst 4 with OMWBE.

3. In May of 2010, the Board received an agency referral from the OMWBE alleging that Mr. Ling violated the Ethics in Public Service Act when he used state resources; agency time, computer and email, during work hours to conduct unauthorized and non-agency related activities from June 2006 to March 2, 2010.

4. During the course of the 2010 ethics investigation, a search of Mr. Ling's computer revealed that he used his state computer for the storage of family photographs, religious documents and information regarding nutrition, cub scouts and music.

5. After the completion of the 2010 investigation and issuance of a reasonable cause by the Board, Mr. Ling entered into an agreed settlement and stipulation with the Board¹. As part of the stipulation, Mr. Ling agreed to pay a civil monetary penalty of \$2,500. The Board agreed to suspend \$1,000 on the condition that Mr. Ling complied with all terms and conditions of the stipulation and commit no further violations of chapter 42.52 RCW for a period of three years from the date the Board entered the order.

6. On April 24, 2016, the Board received another complaint that Mr. Ling was using state resources for his personal benefit. OMWBE management advised Board staff that on March 10, 2016, they received information from one of Mr. Ling's co-workers that he may be using state computer resources inappropriately.

7. After being notified of a potential ethics violation, OMWBE requested their IT support, provided through Washington State Department of Transportation (WSDOT), to conduct a review of Mr. Ling's internet history for the past 90 days (December 14, 2015 through March 16, 2016).

¹ EEB Case No. 2010-022

According to WSDOT, the following are some of the non-work related internet sites visited by Mr.

Ling:

Business and Economy

- www.woodlawnforest.com (12/15/15 @ 7:27 am to 7:29 am)
- www.funeralalternatives.org (12/15/15 @ 7:29 am to 7:31 am)
- www.woodlawnforest.com (12/15/15 @ 7:31 am to 7:32 am)
- www.americanmemorial.org (12/15/15 @ 7:32 am)
- www.newhopefh.com, obituary of a former state employee (12/15/15 @ 7:38 am).
- www.accountingcoach.com, accounting treatment for stockholders equity (12/30 @ 6:47 am to 6:49 am)
- www.investopedia.com (12/23/15 @ 7:02 am)
- http://accounting-simplified.com, statement of change in equity (12/30/15 @ 7:02 am)
- www.accountingtools.com, treasury stock accounting (12/30/15 @ 7:09 am)
- www.accountingcoach.com, what is capitol stock (12/30/15 @ 7:12 am to 7:14 am)

Education

- www.evergreen.edu, Winter Quarter Course catalog(12/15/15 at 5:59 am to 6:09 am)
- www.evergreen.edu, Winter Quarter Course catalog(12/17/15 at 10:54 am)
- www.evergreen.edu, Winter Quarter Course catalog(1/4/16 at 10:45 am to 10:58 am)

Entertainment

- www.allthelyris.com, lyrics for the song "goodbye Daddy" and songs by the artist Kaleo O Kalani (12/31/15 @ 10:49 am)
- www.allmusic.com, searching for song from artist Kaleo O Kalani (12/31/15 @ 10:57 am)
- www.audible.com, blocked by agency (3/2/16 at 9:38 am).
- www.hoopladigital.com, a digital download website, the site was requesting a password change and Mr. Ling entered his personal email address (inokidu@hotmail.com).

Job Search

- www.indeed.com, job search, Sellen-Construction (2/2/16 @ 8:20 am, last activity @ 8:32 am).

Travel

- www.orbits.com, flight, vehicle rental, Honolulu, Hawaii (1/25/16 @ 8:32 am).
- www.tnetnoc.com, hotels, Honolulu, Hawaii (1/25/16 @ 8:32 am).
- www.hotwire.com, car rental (1/25/16 @ 8:34 am).

Society and Lifestyles

- www.meetup.com, Introverts, reviewing photos of group members (1/7/16 @ 6:34 am to 6:35am).
- www.howitworksdaily.com, fly by wire systems (1/14/16 @ 7:09 am).

- www.cabage-soup-diet.com, how to lose weight in 7-days on a cabbage soup diet (1/22/16 @ 7:20 am).
- <http://thepaleodiet.com>, what the pre-historic man supposedly ate (2/11/16 @ 10:53 am).

Shopping

- www.amazon.com, USB flash drives storage add-ons (12/16/15 @ 9:32 am)
- www.amazon.com, Rich Dad, Poor Dad Classics, Robert T. Kiyosaki (2/16/15 @ 12:25 pm).
- www.compare.com, compare car insurance (2/16/15 @ 12:27 pm)
- www.ebay.com (2/16/15 @ 12:27 pm)
- www.zillow.com, looking at homes in the Kaiserwood neighborhood of Olympia (12/17/15 @ 2:57 pm), getting an on-line appraisal on home in Lake Forest Park, Settle @ 2:59 pm (wrong address), search for address for home in Lake Forest Park, WA, the website provided an appraisal value of \$750,773 to \$790, 201 for the residential home.
- www.zillow.com, viewing multiple residential homes (2/16/16 @ 7:30 am to 7:51 am).
- <http://mcassessor.maricop.gov>, official website for the Assessor's Office of Maricopa County Arizona, FAQ – "I just bought a house, how long before the property will be transferred to my name?" (2/16/16 @ 7:37 am and again at 9:19 am).
- www.zillow.com, browsing photos of a home in Fountain Hills, Arizona.

1. In an agency response, it was indicated that, as an official function of Mr. Ling's position with OMWBE, he could on occasion have a business reason to access Zillow.com to verify ownership of a property or assess the value of an asset.

2. Board staff conducted a review of Mr. Ling's work computer hard drive and work emails for the period of August 17, 2013 through April 14, 2016. The following are some examples of the non-work related activity found on Mr. Ling's work computer:

Dolf Deroos – Property Investment School – CDs

- CD 02 Track 1.mp3 – Last accessed 3/10/16 @ 10:09 am.
- CD 02 Track 2.mp3 – Last accessed 3/14/16 @ 7:48 am.
- CD 03 Track 3.mp3 – Last accessed 3/14/16 @ 7:48 am.
- CD 03 Track 3.mp3 – Last accessed 3/14/16 @ 7:49 am.
- CD 04 Track 1.mp3 – Last accessed 3/14/16 @ 7:49 am.
- CD 04 Track 4.mp3 – Last accessed 3/14/16 @ 7:50 am.
- CD 05 Track 1.mp3 – Last accessed 3/14/16 @ 7:55 am.
- CD 05 Track 2.mp3 – Last accessed 3/14/16 @ 12:26 pm.
- CD 06 Track 2.mp3 – Last accessed 3/15/16 @ 11:51 am.
- CD 07 Track 1.mp3 – Last accessed 4/16/16 @ 7:38 am.

Live streaming and website access to FM Radio KCCN FM 100, a Hawaiian radio station.

- November 2014: 9 of 20 possible workdays.
- December 2014: 15 of 23 possible workdays.
- January 2015: 13 of 22 workdays.
- February 2015: 15 of 20 work days.

- March 2015: 15 of 22 possible work days
- April 2015: 13 of 22 possible work day works.

Microsoft mail – login.live.com

- October 2014: 20 of 23 possible workdays.
- November 2014: 11 of 20 possible workdays.
- December 2014: 11 of 23 possible workdays.
- January 2015: 13 of 22 workdays.
- February 2015: 13 of 20 work days.

Facebook

- October 2014: 7 of 23 possible workdays.
- November 2014: 9 of 20 possible workdays.
- December 2014: 15 of 23 possible workdays.
- January 2015: 13 of 22 workdays.
- February 2015: 15 of 20 work days.

Internet sites requiring login

- Steamguys.com/login (KCCN FM100 live streaming radio)
- Login.live.com/login (Microsoft webmail)
- Twitter.com/account
- Papajohns.com/order/menu
- Paypal.com/signin

Other shopping sites

- eBay
- Amazon

8. Board staff also reviewed 300 emails found on Mr. Ling's state email Outlook account for the period of August 1, 2013 through April 4, 2016. Of those 300 emails, 73 were identified as personal.

9. Board staff reviewed Mr. Ling's server folder identified as "Temporary Burn Folder." Two folders were identified as containing personal documents; "Les's Odds & End" and "Les's Odd & ends 2." The two folders contained over 35 personal documents. The following are some examples of the documents found:

Folder 1 – Les’s Odds & End

Title	Document Type	Last saved Date/Time	Created Date/Time	Edit time (minutes)
Chiropractic Continuing Education	Word	12/23/13 at 5:55 pm		
Colorado marital property defined	PDF	8/29/13		
DD form 214 (US Army discharge document)	PDF,	9/26/14		
Evergreen State College, 50 % Veterans Tuition Waiver	Word	9/26/14 at 10:39 am		
Dice Coach Itinerary (craps training)	Word	8/4/14 at 9:42 am		
Directions to Les’s daughters Graduation Lua’u	Word	6/11/14 at 10:05 am		
Evergreen State College Creative Development Program	PDF	8/14/13 at 3:36 pm		
Evergreen State College Student Registration Form	PDF	7/21/14 at 7:54 am		
Association of Hawaiian Civic Clubs, Resolution No. 14-21(1 through 3)	PDF	10/13/14 at 1:07 pm		
Rock N Roller Workshop, Presented by Howard “Rock n Roller” and Bean “The Dice Coach,”	PDF, 30 pages	8/27/14 at 7:26 am		
HowardRockNRoller on Moloka’I	Word	9/22/14 at 2:42 pm	8/27/14 at 8:37 am	
KCCN FM 100, login and email password	Word	11/3/14 8:23 am		
LBGShoota, (Craps Instructions)	Word	5/8/14 at 9:44 am		
The Monk who sold his Ferrari, by Robin S. Sharma	Word	8/20/14 at 8:27 am		
Folder “Les,” 5.75 MB of data, 7 files;2 files relate to his outside chiropractic business, 4 file are of personal photographs.				
Folder “ImportVideos”, 971 MB of data, 6 files, 1 folder, Folder “2014-04-09” contains six personal video files				

Folder 2– Les’s Odds & End 2

Title	Document Type	Last saved Date/Time	Created Date/Time	Edit time (minutes)
Evergreen Upcoming Classes	Word	10/2/15 at 11:15 am		
In the Zone, Mental Toughness, Sports Psychology Coaching, Bill Coles, et al.,	Word	4/28/16 at 7:52 am		
Mindsets to Help Athletes Perform in the Zone, internet link	Word	4/28/16 at 7:53 am		
Letter to Son’s Baseball Coach	Word	4/28/16 at 4:14 pm	4/28/16 at 3:16 pm	58 minutes
Son’s Baseball Schedule	Excel	3/3/16 at 5:36 pm		
Pathwise Leadership	Word	3/10/16 at 11:10 am	3/10/16 at 10:28 am	42 minutes
Letter to the Department of Health requesting that his status as a chiropractor be reinstated to active status	Word	11/8/13 at 3:35 pm	11/8/13 at 3:01 pm	34 minutes
Reggie Gold Tapes – Application and Study of Chiropractic Philosophy - outline of a training course	Word	12/23/13 at 4:06 pm		
Letter to Land Lord	Word	2/29/16 at 7:52 am	2/29/16 at 7:34 am	17 minutes
Rutherford Chiropractic, Directions	Word	11/8/13 at 12:49 pm	11/8/13 at 12:14 pm	28 minutes
ShannynS (photo)	PDF	2/6/14 at 6:54 am	2/6/14 at 6:52 am	
SherryJamie (photo)	PDF	2/6/14 at 7:48 am		
Moloka’i HomesteadWaitListPg27Rez251	PDF	10/11/15 at 3:05 pm		
Information about YTbNtvHwn	Word	10/1/15 at 1:19 pm	10/1/15 at 7:05 am	166 minutes

10. Mr. Ling’s use of his work computer for personal reasons were not for private financial gain to support his interest in his outside business.

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, Mr. Ling 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 this is the second violation of the ethics within the last five years 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 Les Ling 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. Les Ling 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. Les Ling further agrees that the evidence available to the Board 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.

6. Les Ling 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 Les Ling 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. Les Ling 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 Les Ling 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 Les Ling 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 Les Ling 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, Les Ling 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, Les Ling 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. Les Ling agrees to pay a civil penalty in the amount of two-thousand, five-hundred dollars (\$2,500) for the violations associated with RCW 42.52.

12. The civil penalty in the amount of two-thousand, five-hundred dollars (\$2,500) 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, Les Ling, 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.


LES LING
Respondent

11/02/16
Date

Presented by:


KATE REYNOLDS
Executive Director

11/3/16
Date

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):

~~The \$1,000.00 suspended penalty in EEB Case No. 2010-022 is reinstated under the findings of fact and conclusions of law in this stipulation and is payable in full to the Executive Ethics Board within forty-five (45) days after this stipulation is accepted by the respondent. The total fine under both cause numbers is three-thousand, five hundred dollars (\$3,500.00).~~

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, Les Ling, accept / do not accept (circle one) the proposed modification(s).

[Signature] Les Ling, Respondent 12/2/16 Date