

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Theresa Monteverdi
Respondent.

No. 2018-043

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, THERESA MONTEVERDI, 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 August 16, 2018, the Executive Ethics Board (Board) received a complaint referred by the agency alleging that Theresa Monteverdi (Ms. Monteverdi), former Social Service Specialist in the Aging and Long-Term Support Administration (AL TSA) with the Department of Social and Health Services (DSHS), may have violated the Ethics in Public Service Act. The complaint alleged that Ms. Monteverdi established an outside business, Seventh Generation Eldercare, prior to submitting notification to the agency creating a conflict of interest.

2. For all times pertinent to this investigation Ms. Monteverdi was a Social Service Specialist 3(SSS3), working in the Aging and Long-Term Support Administration (AL TSA), within the Department of Social and Health Services (DSHS).

3. Ms. Monteverdi had a work schedule of Tuesday through Friday, 6:30 am to 5:00 pm. She was not allowed to work from home. On most days, she worked outside of the office conducting in-home visits and brought her laptop computer with her on these visits. On occasion, she would bring her laptop home if one of these visits ended at the end of her shift. She indicated the purpose for this was to avoid overtime by driving back to the office just to drop off the computer.

4. As an SSS3, Ms. Monteverdi would plan, promote, develop and provide long-term care services that are responsive to the needs of the client with disabilities and the elderly, with a priority to low income individuals and families.

5. On June 8, 2017, Ms. Monteverdi obtained a business license through the Washington State Department of Revenue (DOR) for her business, Seventh Generation Eldercare. Ms. Monteverdi is identified on the license as the sole proprietor.

6. On October 28, 2017, Ms. Monteverdi applied for an In-Home Service License through the Department of Health (DOH). The application identified Ms. Monteverdi as the owner and sole proprietor. The application was received by DOH on November 15, 2017.

7. Ms. Monteverdi indicated in response to Board staff that she did not use her state computer to access the internet or emails to conduct outside business.

8. Ms. Monteverdi also indicated in her response to Board staff that during the time she was applying for the business license she had a well-equipped small home office to complete those tasks. She further indicated that she has never provided her work computer logon to anyone.

9. The review of Ms. Monteverdi's internet history by Board staff revealed that on August 25, 2017, at 7:00 am and on October 10, 2017, at 6:58 am, she visited the DOH website to obtain information regarding the application process to obtain a healthcare facility license from DOH. On both visits, she viewed DOH publication 505052; DOH publication 505052 is the In-Home Service License Application Packet.

10. As part of the application process, Ms. Monteverdi and her employees had to submit to a background check. Ms. Monteverdi included a background check for herself and her employee. The background checks were completed by CriminalBackgroundRecords.com. The certification of background check indicated that they were requested on October 11, 2017. The certificates indicate that no criminal records were found.

11. The computer analysis conducted by Board staff revealed that on October 11, 2017, at 1:16 pm, Ms. Monteverdi visited the CriminalBackgroundRecords.com website from her work computer and accessed her account history.

12. In addition, the DOH In-Home Service License Application submitted by Ms. Monteverdi indicated that services provided by Seventh Generation Eldercare would be limited to private pay only. This would exclude all clients using Medicaid to pay for services thus eliminating taking new clients that were receiving assistance from the state or federal governments.

13. On May 9, 2018, Ms. Monteverdi submitted an application to amend the In-Home Services License. The amended application was received by DOH on May 17, 2018. The review of Ms. Monteverdi's internet history by Board staff revealed that on May 3, 2018 at 12:51 pm, she visited the DOH website to obtain information regarding renewal or update of her healthcare facility license from the DOH.

14. The review of Ms. Monteverdi's internet history by Board staff revealed that on June 29, 2018, at 9:22 am, she visited the Washington Registered Agent website to obtain information regarding the registration of a business in Washington. On June 29, 2018, at 11:08 am, she visited the Washington State Labor and Industries internet site to obtain information regarding filing on online.

15. In addition to the above internet activity related to her outside business Board staff found the following;

Emails (7) – two sent and five received.

Google searches (7) –from May 23, 2017 to August 25, 2018.

16. Ms. Monteverdi resigned from her state position on August 27, 2018.

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, Ms. Monteverdi used state resources, in support of her outside business 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 these types of violations significantly reduce the public respect and confidence in state government employees. In the matter at

hand, it is a mitigating factor that Ms. Monteverdi reported her outside business to her agency prior to the internal investigation and that she has resigned from her state position to cure any potential conflicts of interest.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Theresa Monteverdi 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. Theresa Monteverdi 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. Theresa Monteverdi 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. Theresa Monteverdi 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 Theresa Monteverdi 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. Theresa Monteverdi 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 Theresa Monteverdi 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 Theresa Monteverdi 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 Theresa Monteverdi 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, Theresa Monteverdi 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, Theresa Monteverdi 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. Theresa Monteverdi agrees to pay a civil penalty in the amount of three-hundred and twenty-five dollars (\$325.00) associated with violations of RCW 42.52.

12. The civil penalty in the amount of three-hundred and twenty-five dollars (\$325.00) 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, Theresa Monteverdi, 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.

 7-10-2019

THERESA MONTEVERDI Date
Respondent

Presented by:

 7/10/19

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):

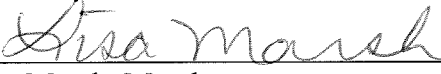
DATED this 12th day of July, 2019



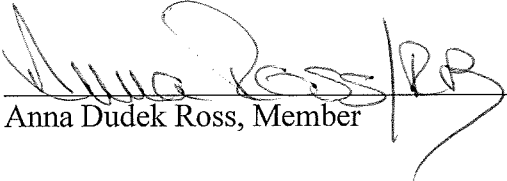
Shirley Battan, Chair



Gerri Davis, Vice-Chair



Lisa Marsh, Member



Anna Dudek Ross, Member

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

Theresa Monteverdi, Respondent Date