

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Danielle Palmer
Respondent.

No. 2019-046

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, DANIELLE PALMER, 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 November 11, 2019, the Executive Ethics Board (Board) received a referral from the State Auditor's Office (SAO) Whistleblower program alleging that Danielle Palmer (Ms. Palmer), Secretary Supervisor with Central Washington University (CWU), may have violated the Ethics in Public Service Act. The referral indicated that the SAO received a complaint alleging that Ms. Palmer was taking time off from work without submitting the proper leave.

2. The SAO concluded that there was no reasonable cause to believe that Ms. Palmer had failed to submit leave for her time away from work but as a result of their investigation the SAO found

evidence on Ms. Palmer's computer that she was using her work computer for her private benefit or gain in violation of the Ethics in Public Service Act.

3. Ms. Palmer was hired by CWU as a Secretary Supervisor on September 4, 2018 and she was in that position for all times pertinent to this investigation.

4. The SAO review of Ms. Palmer's computer hard drive revealed that she saved many personal files on her work computer and that she accessed them frequently. In addition, the SAO found that Ms. Palmer used the internet for non-work related activity; including paying bills, accessing student loan sites, purchasing items through various companies, accessing Facebook and her personal email account, and streaming music, audiobooks and videos.

5. The SAO examined Ms. Palmer's internet activity for the period of September 18, 2018 through May 30, 2019. During that period they found that Ms. Palmer had activity on 23 days where she accessed personal files located on her computer desktop (SeneGence) or the CWU "N" drive (personal) or browsed the internet for 618 minutes for non-work related activity. Four hundred and thirty-four of those minutes was in four consecutive work days, including two days with over two hours of personal browsing.

6. Ms. Palmer told SAO investigators that during her breaks and downtime she would access internet sites and files that were of interest to her. Ms. Palmer told the SAO investigator that she would access Facebook because she manages social media for her programs, but would also access for personal purposes. Ms. Palmer also told SAO investigators that the time she spent on the student loan site was work related because she had planned on enrolling in classes at CWU. Ms. Palmer indicated that she would stream music, audiobooks and videos because her office was quiet.

7. CWU's Chief of Staff, Linda Schlactler (Ms. Schlactler), advised the SAO that time spent on the internet related to student loans was not considered work related. CWU's Internal Audit Manager,

Jesus Baldevenos (Mr. Baldevenos), told the SAO investigators that streaming music and audio books is not allowed. He stated in his response, “these things could not be considered de minimis because the person would not be listening to a second here and there.”

8. Ms. Palmer told the SAO investigator that she had not received ethics training except when it was briefly touched on during new employee orientation. CWU’s Human Resource Director, Staci Sleigh-Layman (Ms. Sleigh-Layman), told the SAO investigators that in addition to the ethics training given at new employee orientation (9/4/18), Ms. Palmer attended a two-day supervisory course (1/17/19 and 1/24/19), which included 1.5 hours of ethics.

9. Ms. Sleigh-Layman told the SAO investigator that she provided the 1.5 hours of ethics training to Ms. Palmer during the two-day supervisory training. She indicated that she discusses the state ethics laws including use of state resources.

10. Board staff received a copy of Ms. Palmer’s work computer hard drive and Outlook emails on December 9, 2019. On December 10, 2019, Board staff created a copy of the imaged hard drive provided by CWU using FTK Imager software. Board staff processed the copy of the imaged hard drive and Ms. Palmer’s Outlook emails using Magnet Forensic Axion 3.7 software. Once processed, the data was analyzed for evidence regarding the allegation that Ms. Palmer had used state computer resources for her private benefit and gain.

11. On December 17, 2019, Board staff requested a copy of Ms. Palmer’s “personal” folder located on the CWU “N” drive. Board staff received a copy of Ms. Palmer’s “N” drive on December 19, 2019. Board staff’s review of Ms. Palmer’s current “N” drive revealed that she no longer had any personal files stored on the drive.

12. Ms. Palmer indicated in a response to Board staff that she would download files onto the “N” drive on occasion to access them for her personal use or to move them to her Google drive or Amazon

photo account. She indicated that when she finished moving them or was done using them, she would delete them. She did not recall any specific time or date when she would have deleted files.

13. Board staff's examination of Ms. Palmer's internet activity revealed that she was using two different internet browsers; Google Chrome and Internet Explorer. See examples below of personal use found by Board staff:

Internet (4/19/19 through 5/30/19)

SeneGence¹

- Login created on 10/26/18 at 3:49 pm.
- <https://seneweb.senegence.com/us/contact/distributor-login> - Last log on 5/24/19 at 9:36 am. Login title describe the site as "Distributor Login - SeneGence International"

Ms. Palmer told the SAO investigator that she was not a distributor but she registered as one to get discounts on beauty care products. She indicated she never sold the products. Board staff's review of Ms. Palmer's computer and email activity found no evidence that Ms. Palmer was selling SeneGence products.

Logins (9/7/18 through 5/28/19 – 128 logins, 14 related to CWU) See some examples of the non-CWU related logins.

- Pandora – created– 9/18/18 at 1:41 pm – user name – dm_palmer@live.com.
- Microsoft – login.live.com – created – 9/19/18 at 4:28 pm – user name - dm_palmer@live.com.
- WM (Waste Management) – wm.com/myaccount – created 9/19/18 at 4:31 pm - user name - dm_palmer@live.com.
- SeneGence – senegence.com/senegence/distributor_login – created – 10/26/18 at 3:49 pm. No user name indicated.
- Ebooks Now – ebooksnow.org/my-account – created 2/11/19 at 4:47 pm, no user name identified.
- Book Bud – bookbud.com/user/signin – created 11/26/2018 at 10:30 am – no user name identified.
- Citi Bank – online.citi.com/US/login – created 12/3/18 at 2:32 pm – no user name identified.
- Fed Loan – myfedloan.org/ - created 12/19/18 at 10:01am – no user name identified.
- Xfinity – login.xfinity.com/login – created 12/21/18 at 1:25 pm – no user name identified.
- Chase Bank – chaseonline.chase.com – created 4/1/19 at 9:55 am – no user name identified.

Designs by Danielle

- Facebook – six visits to Designs by Danielle using Facebook to respond to mail and post comments. (4/8/19 through 5/29/19)

¹ SeneGence is a privately owned, network marketing company that is in the business of developing and selling personal care products through an independent sales network.

- Designs by Danielle folders used to store images located on her computer desktop and in the “N” drive.

Ms. Palmer indicated in a response to Board staff that Designs by Danielle is a private page that she used as a digital scrapbook for her artwork and other crafty creations. She indicated that during her breaks and free time she would occasionally access the site to look at comments from friends and family on her recent posts of pictures or to move pictures from the site to her Google drive account or Amazon photo account, or to upload pictures of ideas she saw for future use. She further indicated that she used this account to follow and post other artsy groups/pages on Facebook instead of her personal page for privacy reasons. Ms. Palmer indicated in her response that she created the folders on her desktop and on the “N” drive to temporarily store pictures/images as she was moving from Facebook to her Amazon photo and Google accounts. Once the pictures/images were moved from the folders she would delete them.

Other personal Internet activity

- **Facebook** – (4/1 through 5/29/19)
 - #Lipfix (senegence) – 4/1/19 at 11:48 am
 - Brows-by-Stephanie Ritter – 4/2/19 at 9:28 am
 - Designs by Daniellp/inbox – 4/8/19 at 10:29 am.
 - Kittitas Community Connect – 4/8/19 at 10:32 am
 - Roxie Allen Art – 4/8/19 at 10:38 am
 - A Walk on the Wild Side - 5/13/19 at 12:56 pm
 - Kristen and Peaches – 5/23/19 at 4:20 pm.
 - Linsey Haskell.96 – 5/23/19 at 4:21 pm
 - Valerie Adams - 5/21/19 at 4:21 pm

Ms. Palmer indicated in a response to Board staff that she managed three CWU Facebook pages/groups as a part of her CWU duties. She indicated that she would access the CWU Facebook page through her personal Facebook account. Because of this, she would browse her personal news feed frequently for information relevant to CWU that she could post on the CWU Facebook pages/groups she managed. She further indicated that she would leave Facebook open all day and that on her breaks and down time, she would occasionally click on a post or picture that were not related to CWU.

- Student Loans (5/23 through 5/28/19)
 - Student debt relief – last visit date/time – 5/23/19 at 12:54 pm.
 - Navient – last visit date/time – 5/23/19 at 12:31 pm.
 - Account Access my Fed Loan – last visit date/time – 5/23/19 at 12:40 pm.
 - Edfinancial – last visit date/time – 5/23/19 at 12:42 pm.
 - Student aid - last visit date/time – 5/23/19 at 12:42 pm.
 - Fafsa.ed.gov – last visit date/time – 5/28/19 at 10:12 pm.
 - Studentloans.gov - last visit date/time – 5/28/19 at 11:07 am.

Student loan internet activity for 5/23/19 started with a Google search for student loan forgiveness programs at 12:25 pm and ended at 12:54 pm, overall time of 29 minutes. Student loan internet activity for 5/28/19 started at 10:12 am and ended at 10:29 am, overall time of 17 minutes.

Ms. Palmer indicated in a response to the SAO and Board staff that she mistakenly assumed pursuing a degree in higher education would be considered professional development and browsing the internet to obtain information on student loans would be included.

- Online banking
 - FlagStar – <https://www.flagstar.com/myloans/secure/account-summary> - last access date 5/17/19 at 9:10 am.
 - Chase – <https://chaseonline.chase.com/> - last access date 5/23/19 at 9:46 am
 - Capitol one - <https://www.capitalone.com> – last access date 5/28/19 at 9:33 am
 - First Merchants – <https://cibng.ibanking-services.com> – 5/28/19 at 9:46 am
 - American Express – <https://online.americanexpress.com/myca/statementimage/> - 4/22/19 at 4:10 pm.

Ms. Palmer indicated in her response to Board staff that during breaks and downtime she would access her personal bank accounts to check balances and transactions.

- Online bill paying
 - Eburg rentals - https://eburgrentals.appfolio.com/connect/payments_flow/payments/new - last access date 5/24/19 at 9:17 am.
 - Waste Management - <http://www.wm.com/pay-my-bill/index.jsp> - last access date 5/24/19
 - The Hartford - <https://service.thehartford.com/consumer/service/paybill> – last access date 5/28/19 at 9:52 am.
 - Xfinity - <https://customer.xfinity.com/#/billing/payment> - last access date 5/28/19 at 9:55 am.
 - Frontier Communications – <https://frontier.com/account#> - last access date 5/28/19 at 10:00 am.

Ms. Palmer indicated in her response to Board staff that she would occasionally access web sites to pay personal bills.

- Online shopping (5/6 through 5/24/19)
 - Amazon – <https://www.amazon.com> - Amazon.com: Outdoor Research Cathode jacket size 2xl: Sports & Outdoors.
 - REI - <https://www.rei.com/product/820769/platypus-platy-water-bottle-70-fl-oz>
 - Paypal - <https://www.paypal.com/myaccount/summary>
 - ESTY - <https://www.etsy.com/cart/2282826694/purchase>
 - Whistle - <https://shop.whistle.com/2317673/checkouts>
 - Blick - <https://www.dickblick.com/products/legion-yupo-watercolor-paper-pads/>

Ms. Palmer indicated in a response to Board staff that she would occasionally make personal purchases on Amazon, possibly Fred Meyers, and other online shopping sites. She further indicated that she would use her personal credit/debit cards.

- Microsoft Outlook live (4/1 through 5/30/19)
 - Microsoft internet mail - <https://outlook.live.com/mail/inbox>
 - Accessed on 21 days during this period

Ms. Palmer indicated in her response that she used live.com as her personal email account. She further indicated that up until June/July 2019 she was unaware of the “minimal” use rule that prohibited her from doing so.

14. Ms. Palmer resigned from her position at CWU on January 10, 2020.

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. Palmer 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 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 Danielle Palmer 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. Danielle Palmer 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. Danielle Palmer 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. Danielle Palmer 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 Danielle Palmer 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. Danielle Palmer 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 Danielle Palmer 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 Danielle Palmer 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 Danielle Palmer 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, Danielle Palmer 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, Danielle Palmer 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. Danielle Palmer agrees to pay a civil penalty in the amount of two-thousand, seven-hundred and fifty dollars (\$2,750) associated with violations of, RCW 42.52.

12. The civil penalty in the amount of two-thousand, seven-hundred and fifty dollars (\$2,750) 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.

I. CERTIFICATION

I, Danielle Palmer, 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.

Danielle Palmer

DANIELLE PALMER

Respondent

8/24/2020

Date

Presented by:

K. Reynolds

KATE REYNOLDS

Executive Director

9/11/2020

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):

DATED this 11th day of September, 2020

Approved via Virtual Meeting
Shirley Battan, Chair

Approved
Gerri Davis, Vice-Chair

Approved via Virtual Meeting
Lisa Marsh, Member

Approved via Virtual Meeting
Anna Dudek Ross, Member

Approved via Virtual Meeting
Jan Jutte, Member

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

Danielle Palmer, Respondent Date