

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Robyn Hofstad

Respondent.

No. 2020-004

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, ROBYN HOFSTAD, 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 June 12, 2020, the Board received an agency referral from the Department of Social and Health Services/Division of Vocational Rehabilitation (DSHS/DVR), alleging that Robyn Hofstad (Ms. Hofstad), Administrative Assistant 4 with DSHS/DVR, may have violated the Ethics in Public Service Act by using state resources for her private benefit and gain and for use in support of her outside business Le-Vel Brands.¹

¹ Le-Vel Brands business is part of a company called Thrive. Le-Val is a multi-leveled marketing (legal pyramid scheme) wherein people purchase vitamins based on a recommendation of a Le-Vel consultant. The consultant would then receive a commission from the sales from any subsequent referral made by the Le-Vel consultant.

2. Ms. Hofstad has worked for the state for 24 years and has been employed with DSHS/DVR since December 2017. For all times pertinent to this investigation, Ms. Hofstad was an Administrative Assistant 4 working for DSHS/DVR.

3. On February 6, 2020, a DSHS/DVR employee and their son were in the office in Lacey when they observed that Ms. Hofstad had Facebook open on her state issued computer. The son later commented to the employee that it must be nice to be a state employee and hang out on Facebook all day. The employee advised his supervisor what he had observed. This information was subsequently shared with the DSHS/DVR Director, Robert Hines (Mr. Hines). On February 12, 2020, Mr. Hines requested an internal investigation into the allegation that Ms. Hofstad was accessing her personal Facebook account from her work computer.

4. On March 5, 2020, Ms. Hofstad was notified of the internal investigation and placed on alternate assignment.

5. The DSHS internal investigation revealed evidence to show that for the period of November 14, 2019 through February 10, 2020, Ms. Hofstad used her DSHS work computer to access the internet for her own private benefit and gain. See below:

- Ms. Hofstad used her computer as a part of a multi-leveled marketing (legal pyramid scheme) through her outside business, Le-Val Brands LLC, through a company called Thrive.
- Downloaded her 2019 IRS form 1099 showing her Le-Val Brand LLC business made \$1,457.35.
- Online Banking – Boeing Employees Credit Union (BECU), Wells Fargo, PayPal.
- Online Bill pay – Puget Sound Energy, Home Depot, Xfinity
- Online shopping – JC Penny, Josten's, Esty
- Streaming Videos

6. In addition to Ms. Hofstad's internet use, the DSHS internal investigation found a folder titled "Robyn" located on the "C" drive of her work computer that contained over 6,000 personal pictures.

7. DSHS investigators also found that Ms. Hofstad was using her state issued computer to check personal emails on Yahoo.com.

8. DSHS investigators found 62 personal passwords saved on Ms. Hofstad's state computer. Ms. Hofstad would have had to give her permission for these passwords to be saved onto her work computer. The DSHS investigator indicated in his report that when Ms. Hofstad logged on or signed in using these passwords, she would be outside of the state's firewall, increasing the chance for the download of malicious malware onto the state computer system.

9. The DSHS investigator showed Ms. Hofstad a printout of her internet usage and she did not dispute any of data displayed. Ms. Hofstad apologized and indicated that she thought her use to be de minimis and was done during her breaks and lunch break going back to 2017.

10. Board staff's examination of Ms. Hofstad's state issued desktop computer and Outlook emails showed the following data related to her personal use in her support of her outside business Le-Vel Brands. See details below:

INTERNET

Google Chrome – 11/18/19 through 1/30/20

- **Browser Activity (99 artifacts ²)** examples below:
 - Le-Vel. Com – 11/18/19 at 11:25 am.
 - Ryleelroo7.le-vel.com – 11/20/19 at 8:05 am
 - Cloudoffice.le-vel.com/login – 11/20/19 at 11:26 am.
 - Premiumbodyfuel.le-vel.com/login – 12/19/19 at 9:08 am.
- **Chrome Logins (5)**
 - Ryleelroo7.le-vel.com, created date/time – 7/25/19 at 12:45 pm.
 - Le-vel.com, created date/time – 3/1/19 at 9:22 am.
 - Rhofstad5.le-vel.com, created date/time – 5/1/19 at 8:20 am.
 - Cloudoffice.le-vel.com, created date/time – 9/12/19 at 9:38 am.
 - Primiumbodyfuel.le-vel.com, created date/time – 1/10/20 at 11:41 am.
- **Chrome Downloads (15)**, examples below:
 - Thrive skin step 1.pdf – 5/9/2019 12:46:10 PM

² Artifact – anything left on the computer from an action involving internet activity. This could be anything from a URL's to download history, and any other background communication occurring between the internet and local machine.

- Step 1 -Capsule.pdf – 6/18/2019 3:20:02 PM
- Mask.pdf – 9/3/2019 – 10:18:32 AM
- FB_Channel Art (1).zip – 9/26/2019 1:36:37 PM
- Le-vel 1099.pdf – 1/29/2020 12:29:39 PM
- **EDGE/INTERNET EXPLORER (170 artifacts), examples below:**
 - Le-Vel.com – 8/28/19 at 7:56 am.
 - Cloudoffice.le-vel.com/login – 12/19/19 at 9:11 am.
 - Le-Vel.com/home – 1/21/20 at 3:39 pm
 - Cloudoffice.le-vel.com/commissions – 1/21/20 at 3:44 pm.
 - Cloudoffice.le-vel.com/rewards – 1/21/20 at 3:44 pm.
 - Cloudoffice.le-vel.com/invoice/14073180 – 1/21/20 at 3:45 pm.
 - Kimobi09.le-vel.com – 1/24/20 at 3:10 pm.

DOCUMENTS some examples below:

- **PDF (11)**
 - Le-vel 1099.pdf – File system last assessed date/time – 1/29/20 at 12:29 pm.
 - Infinite Daily Detox Purifying Bar.pdf – File system last assessed date/time – 9/3/19 at 10:18 am.
 - Thrive skin step 1.pdf – File system last assessed date/time – 5/9/19 at 12:26 pm.
 - THRV032.pdf - File system last assessed date/time – 10/29/19 at 10:46 am.
- **Word (14)**
 - Jeanette.docx. – last modified date/time by Ms. Hofstad – 8/6/19 at 10:56 am.
 - Letter to Stacy.docx - last modified date/time by Ms. Hofstad – 4/30/19 at 4:04 pm.
 - Tammie.docx – last modified date/time by Ms. Hofstad – 4/30/19 at 4:06 pm.
 - How to get started.docx – last modified date/time by Ms. Hofstad – 9/10/19 at 3:02 pm.

Board staff's review of Ms. Hofstad's computer hard drive found additional personal use. See some of the results below:

ONLINE SHOPPING (24 sites)

- Handstone .com
- Jostens.com
- Jcpenny.com
- Zappos.com
- Esty.com
- Overstock.com
- Walmart.com
- Homedepot.com

ONLINE BILL PAY (4 sites)

- Pse.com (Puget Sound Energy)
- Ci.lacey.wa.us (City of Lacey)
- Comcast.com
- Secure.oceanpayment.com (Global payment service provider)

ONLINE BANKING (6 sites)

- Capitalone.com
- Wellsfargo.com
- BECU.org
- Pennymacusa.com
- Usbank.com
- WSECU.org (Washington State Employee Credit Union)

PERSONAL INTERNET BROWSING

- **Chrome web visits – 5,627 artifacts**
 - Ketodietyum.com/keto diet plan, last visit – 1/7/20 at 7:34 am.
 - Thatlowcarbife/keto-peanut-butter balls/, last visit – 1/7/20 at 7:38 am.
 - Ketocustomplan.com/quiz/main, last visit, 1/8/20 at 1:27 pm.
 - Ditchthecarbs.com/keto-instant-pot-beef-chili, last visit, 1/8/20 at 3:09 pm
 - Grove.com/home. Last visit – 1/13/20 at 9:36 am
 - Gofundme.com/f/melba-nacht039s-memorial-fund, last visit – 1/10/20 at 12:00 pm.
 - Facebook.com/robyn.hofstad, last visit – 1/10/20 at 11:58 am.
 - Faithlutheranlacey.org, last visit – 11/22/19 at 7:27 am.
- **Yahoo**
 - Mail-285 artifacts
 - Chrome – 68
 - Edge/Internet Explorer – 217
 - Downloads – 7
- **Facebook** – 422 artifacts
 - Robyn.hofstad Facebook home page – 108 artifacts
 - Facebook.com – 151 artifacts
- **KAYO AM** – online streaming radio – 106 artifacts

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. Hofstad 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 Robyn Hofstad 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. Robyn Hofstad 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. Robyn Hofstad 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. Robyn Hofstad 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 Robyn Hofstad 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. Robyn Hofstad 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 Robyn Hofstad 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 Robyn Hofstad 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 Robyn Hofstad 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, Robyn Hofstad 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, Robyn Hofstad 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. Robyn Hofstad agrees to pay a civil penalty in the amount of three-thousand dollars (\$3,000) associated with violations of RCW 42.52. The Board agrees to suspend one thousand, five-hundred dollars (\$1,500) on the condition that Ms. Hofstad complies with all terms and conditions of this Stipulation and Order and commits no further violations of RCW 42.52 for a period of two years from the date this agreement is executed.

12. The civil penalty in the amount of one-thousand, five-hundred dollars (\$1,500) 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.

I. CERTIFICATION

I, Robyn Hofstad, 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.

Robyn Hofstad 5/7/21
ROBYN HOFSTAD Date
Respondent

Presented by:

Kate Reynolds 5/14/21
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 14th day of May, 2021

Shirley Battan
Shirley Battan, Chair

Gerri Davis
Gerri Davis, Vice-Chair

Jan M. Jutte
Jan Jutte, Member

Earl Key
Earl Key, Member

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

Robyn Hofstad, Respondent Date