

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

Daniel Bayer

Respondent.

No. 2022-055

STIPULATED FACTS,  
CONCLUSIONS OF LAW AND  
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Daniel Bayer 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 December 22, 2022, the Executive Ethics Board initiated a complaint. Board staff located evidence of personal web browsing by Daniel Bayer, Correctional Lieutenant with the Department of Corrections (DOC). Evidence suggested that Daniel Bayer may have used state resources for private benefit or gain.

2. Board staff located personal web browsing by several DOC usernames, in addition to the respondent, while reviewing records on a specifically assigned computer. Board staff reached out to DOC and inquired as to why other users were using a computer issued to a specific DOC staff member, and DOC looked into it internally.

3. According to DOC, Daniel Bayer was hired on January 1, 2005. Daniel Bayer's current position with DOC is a Correctional Lieutenant.

4. As part of this investigation, Board staff requested a copy of Daniel Bayer's user profile, to review for additional evidence of potential personal usage.

5. Board staff located the following web browsing, between the dates of January 20, 2022 to September 29, 2022 associated with Daniel Bayer's username:

- Google searches, personal in nature (**May 20, 2022 – September 28, 2022**)
- Login/password credentials saved in Chrome for: Collegeboard.org, Xtremebullets.com, Midwayusa.com
- Several visits to Twitter (**September 6-8, September 13, September 15, September 20, September 28, September 29**)
- Visits related to hunting (**May 22, September 6, September 8, September 9**)
- Fox News visits:
  - **September 1**
  - **September 2 6:30am – 8:40am**
  - **September 6 4:15am – 11:24am**
  - **September 7 4:31am – 11:10am**
  - **September 8 4:15am – 11:50am**
  - **September 9 6:47am – 11:06am**
  - **September 10 6:05am – 11:12am**
  - **September 13 7:40am – 11:46am**
  - **September 15 6:11am – 11:39am**
  - **September 16 6:53am – 9:57am**
  - **September 17 5:35am – 11:08am**
  - **September 20 7:08am – 11:47am**
  - **September 21 6:12am – 11:23am**
  - **September 22 5:06am – 11:21am**
  - **September 23 5:11am – 11:26am**
  - **September 28 4:48am – 10:50am**
  - **September 29 8:14am – 11:22am**
- Solarstore.com (Solar panels for sale) (**September 15**)
- Aljazeera.com visits (News website) (**September 15, September 21-23, September 28, September 29**)

- Amazon visits (September 10, September 13, September 17, September 23), multiple other visits noted without saved date/time stamps
- APnews (September 10)
- Carvana (September 20)
- CNN visits (September 6, September 10, September 13, September 17, September 29)
- Lego.com (August 18)
- MSN visits (September 6-10, September 13, September 15, September 17, September 20-23, September 28)
- Newsweek visits (September 8-10, September 13, September 22, September 28)
- Multiple Onxmaps.com visits (Mapping website often used by hunters)
- Solarmagazine.com (September 15)
- Yahoo visits (September 9-10, September 15, September 17, September 22, September 29)
- Yeahmotor.com (September 16)

6. In Daniel Bayer's written response to Board staff, they stated, "I do not deny the allegation..."

## B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from Use of persons, money or property for private gain. RCW 42.52.160 states:

No state officer or state employee may employ or use any person, money, or property under the officers or employees official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee or another.

WAC 292-110-010 Use of state resources, states, in part:

.....  
**(3) Permitted personal use of state resources.** This subsection applies to any use of state resources not included in subsection (2) of this section.

(a) A state officer or employee's use of state resources is de minimis only if each of the following conditions are met:



- (i) There is little or no cost to the state;
- (ii) Any use is brief;
- (iii) Any use occurs infrequently;
- (iv) The use does not interfere with the performance of any state officer's or employee's official duties;
- (v) The use does not compromise the security or integrity of state property, information systems, or software;
- (vi) The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain; and
- (vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.

2. 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, there are no mitigating factors.

#### **D. STIPULATION AND AGREED ORDER**

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Daniel Bayer 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. Daniel Bayer 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. Daniel Bayer further agrees that the evidence available to the Board is such that the Board may conclude they 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. Daniel Bayer waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or their 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 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. Daniel Bayer 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 Daniel Bayer 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 Daniel Bayer 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 Daniel Bayer 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, 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, Daniel Bayer 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. Daniel Bayer agrees to pay a civil penalty in the amount of five-thousand dollars (\$5,000) associated with violations of RCW 42.52. The Board agrees to suspend one-thousand-dollars (\$1,000) on the condition that Daniel Bayer 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 four-thousand-dollars (\$4,000) 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.

### **I. CERTIFICATION**

I, Daniel Bayer, 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.

Daniel Bayer      6-28-2023  
Daniel Bayer      Date  
Respondent

Presented by:

K. Reynolds      7/14/2023  
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;

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REJECTED in its entirety;

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MODIFIED. This stipulation will become the order of the Board if the Respondent approves\* the following modification(s):

\_\_\_\_\_  
\_\_\_\_\_

DATED this 14th day of July 2023.

Approved via Zoom

Jan Jutte, Chair

Approved via Zoom

Kelli Hooke, Vice Chair

Shirley Battan

Shirley Battan, Member

Abstain

Earl Key, Member

Approved via Zoom

Megan Abel, Member

\* I, Daniel Bayer, accept/do not accept (circle one) the proposed modification(s).

\_\_\_\_\_  
Daniel Bayer  
Respondent

\_\_\_\_\_  
Date