

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Gerrod Martin

Respondent.

No. 2022-057

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Gerrod Martin 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 (Board) initiated a complaint. Board staff located evidence of personal web browsing by Gerrod Martin, an employee with the Department of Corrections (DOC). Evidence suggested that Gerrod Martin 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, Gerrod Martin was hired on January 5, 2017. Gerrod Martin's current position with DOC is a Correctional Lieutenant.

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

5. Board staff located the following web browsing, between the dates of February 11, 2022 to June 25, 2022, associated with Gerrod Martin's username:

- Multiple Google searches, personal in nature (**February 12 – June 24**)
- Twitter, LinkedIn, Reddit, and Instagram visits (**May 13 – June 24**)
- Amazon visits (**April 22 4:45pm – 5:20pm**)
- Cabelas (**April 22**)
- Classicaccessories.com (similar to WeatherTech products) **April 22**
- Flycraftusa (fishing boats/accessories) **April 22**
- Kayak/fishing gear searches
- RvTrader.com visits (**April 22, May 13, May 14**)
- YouTube visits (**February 19, February 25, February 26, March 4, March 18, March 26, April 2, April 4, April 9, April 16, April 22, April 23, May 7, May 21, May 27, June 11, June 25**)
- BroadmoorRV.com visits (**April 22, May 13**)

6. In Gerrod Martin's written response to Board staff, they stated, "I did use websites during the time listed but did not purchase anything or use it for personal gain. I have taken my Department's Ethics Training and have recently reviewed it again and have gone over our department's policy on internet use so that I will not abuse this resource in the future."

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 Gerrod Martin 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. Gerrod Martin 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. Gerrod Martin 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. Gerrod Martin 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. Gerrod Martin 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 Gerrod Martin 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 Gerrod Martin 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 Gerrod Martin 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, Gerrod Martin 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. Gerrod Martin agrees to pay a civil penalty in the amount of two thousand five hundred dollars (\$2,500) associated with violations of RCW 42.52. The Board agrees to suspend one thousand dollars (\$1,000) on the condition that Gerrod Martin 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.

I. CERTIFICATION

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 July 2023.

Approved via Zoom
Jan Jutte, Chair

Approved via Zoom
Kelli Hooke, Vice Chair

Shirley Battan
Shirley Battan, Member

Absent
Earl Key, Member

Approved via Zoom
Megan Abel, Member

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

Gerrod Martin
Respondent

Date