

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

Gilbert Lugo

Respondent.

No. 2022-059

STIPULATED FACTS;  
CONCLUSIONS OF LAW AND  
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Gilbert Lugo 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 Gilbert Lugo, an employee with the Department of Corrections (DOC). Evidence suggested that Gilbert Lugo 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, Gilbert Lugo was hired on January 1, 2005. Gilbert Lugo's current position with DOC is a Correctional Lieutenant.

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

5. Board staff identified the following web browsing, between the dates of October 6, 2020 to September 14, 2022 associated with Gilbert Lugo's username:

- Over 1,000 Google searches, personal in nature (**April 2022 – September 2022**)
- Chrome user login/password saved for Santanderconsumerusa.com (Banking website)
- Visits to Twitter and LinkedIn (**April 2022 – September 2022**)
- Lowes visits (**June 24, June 29**)
- Gasbuddy.com visits (**April 5, April 7, June 24, July 1, August 4, August 5**)
- Carvana visits (multiple visits recorded, no date/time stamp indicated)
- ESPN visits (**April 4, April 6, April 7, April 8, April 21, April 22, April 23, May 31, June 1, June 2, June 3, June 4, June 7, June 25, June 28, June 29, June 30, July 1, August 1, August 2, August 4, August 5, August 27, September 2, September 3, September 7, September 8, September 9**)
- Planetinflatables.com (website to rent party supplies) (**June 28**)
- Yahoo Sports and Yahoo News visits (multiple visits recorded, no date/time stamp indicated)
- MSN news visits (multiple visits recorded, no date/time stamp indicated)
- Filmoracle.com (News/Gossip/Hidden camera videos) (**April 7**)
- Newarena.com (Sports entertainment news) (**April 4**)
- Thesportsdrop.com (**April 23**)
- Amazon visits (multiple visits recorded, no date/time stamp indicated)
- Carfax, Cargurus, Carmax visits (**April 5, April 6, April 7, April 21, April 22, June 1, June 4, June 29, August 1, August 27, September 8**)

- Costco Travel visits (June 29, June 30)
- Travelocity (June 30)
- Danner.com (Boot supplier) (June 4)
- Enterprise, Hertz visits (June 29)
- Vroom.com visits (online car sales) (April 5, April 6, April 7, June 4, June 29, June 30, September 8)
- Healthygem.com (Health and Fitness related website) (August 27)
- Home Depot (June 4)
- Seattle Times, Yakimaherald, Spokesman.com visits (April 5, April 6, May 31, June 4, June 25, June 28, June 29, July 1, August 27, September 3, September 7, September 9)
- Trulia visits (Homes for sale) (April 6)

6. In Gilbert Lugo's written response to Board staff, they stated, "I am not contesting the findings of the Ethics Board, and I am asking for a quick resolution ...to this matter and leniency, so that I may move forward from this lapse in judgment."

## 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 Gilbert Lugo 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. Gilbert Lugo 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. Gilbert Lugo 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. Gilbert Lugo 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. Gilbert Lugo 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 Gilbert Lugo 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 Gilbert Lugo 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 Gilbert Lugo 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, Gilbert Lugo 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. Gilbert Lugo 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 Gilbert Lugo 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, Gilbert Lugo, 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.

  
\_\_\_\_\_  
Gilbert Lugo  
Respondent

6/28/23  
\_\_\_\_\_  
Date

Presented by:

  
\_\_\_\_\_  
KATE REYNOLDS  
Executive Director

7/14/2023  
\_\_\_\_\_  
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;

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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):

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\_\_\_\_\_

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, Gilbert Lugo, accept/do not accept (circle one) the proposed modification(s).

\_\_\_\_\_  
Gilbert Lugo  
Respondent

\_\_\_\_\_  
Date