

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Shawn Long

Respondent.

No. 2022-066

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Shawn Long 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 Shawn Long, Correctional Lieutenant with the Department of Corrections (DOC). Evidence suggested that Shawn Long 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, Shawn Long was hired on October 12, 2007. Shawn Long's current position with DOC is a Correctional Lieutenant.

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

- Multiple visits to Amazon, with evidence (photos) of personal shopping (April 22, April 26, April 27, May 6, May 10, May 24, May 25, July 12, August 11, August 18, August 22, September 15, September 26, September 29)
- Home Depot (June 30, August 19)
- Lowes.com (August 22)
- Littleleague.com (August 11, September 15)
- Livestrong.com (health and fitness) (September 2)
- Loveproperty.com (Home ideas/investments/news) (June 3)
- MLBshop.com (Baseball clothing website) (August 22)
- Roaringsprings.com (an Idaho waterpark website) (July 5, August 8)
- Rockler.com (A project, hardware, power tool website) (August 22)
- YouTube
 - July 4
 - July 6 1:02am – 3:18am
 - July 7 1:03am – 2:45am
 - July 8 12:25am – 2:23pm
 - July 10 7:43am – 10:09am
 - July 11 12:32am – 10:00am
 - July 12 10:59pm – 3:24am
 - July 13
 - July 14 12:05am – 3:16am
 - **Ongoing excessive YouTube viewing continued through September 26 12:11am – 8:43am
- Dailymail.com (News website) Several hundred visits between April 20 – September 26
- ESPN.com (April 18, April 20, April 26, April 28, April 29, May 3, May 5, May 9, May 19, May 25, May 26, May 27, June 2, June 6, June 7, June 8,

June 14, June 17, June 20, July 14, August 11, August 28, September 15, September 21, September 23, September 26, September 29)

- Travelocity.com (August 23)
- Worldlifestyle.com (trending news, travel, food, and health website) (August 9)
- Visits to Instagram, LinkedIn, Twitter, Reddit, and 9gag (funny memes and breaking news) (March 9 – September 29)
- Multiple Google searches, personal in nature, including: Fishing boats, sports gear, travel trailers, metal detectors, travel, hiking trails
- Additionally, Board staff was able to view Mr. Long's desktop background photo, along with text that read, "Don't be a lazy fuck like me. Get off your cell phone and go outside if you want to know the current conditions."

5. In Shawn Long's written response to Board staff, he stated, "I have completed the Department of Corrections Ethics Annual In-Service training and have realized to error of internet usage on my part."

6. On May 12, 2023, the Board found Reasonable Cause that Shawn Long may have violated sections of RCW 42.52 and that the penalty may be more than \$500.

7. Upon being notified of the Board's findings of the May 12, 2023 reasonable cause, Board staff was advised that DOC initiated an internal investigation surrounding Shawn Long's internet usage on state time.

DOC Internal Investigation:

8. The DOC investigation found that Shawn Long had submitted overtime/comp requests, on several days in which the Board staff investigation showed that Shawn Long was spending time on the internet for personal use. Shawn Long noted "too busy to take lunch" in the reason for overtime request field. In total, Shawn Long requested overtime/comp, for 30-minute increments, on seventy-one days, totaling 35.5 hours, in which Board staff flagged evidence of personal web browsing for those days.

9. DOC provided Board staff with a list, including overtime rate, of each day Shawn Long requested overtime/comp time. In total, Shawn Long was paid overtime on 8 days and granted comp time on 63 days, totaling \$1,426.67.

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 Shawn Long 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. Shawn Long 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. Shawn Long 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. Shawn Long 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. Shawn Long 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 Shawn Long 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 Shawn Long 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 Shawn Long 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, Shawn Long 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. Shawn Long agrees to pay a civil penalty in the amount of six-thousand dollars (\$6,000) associated with violations of RCW 42.52. The Board agrees to suspend one-thousand-dollars (\$1,000) on the condition that Shawn Long 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 five-thousand-dollars (\$5,000) 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, Shawn Long, 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.

 #7164 11/21/23
Shawn Long Date
Respondent

Presented by:

 3/8/2024
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 8th day of March 2024.

Jan M Jutte
Jan Jutte, Chair

Approved Virtually
Kelli Hooke, Vice Chair

Shirley Battan, Member

Approved Virtually
Megan Abel, Member

Ad Scott
Cam Comfort, Member

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

Shawn Long
Respondent

Date