

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Paul McDole

Respondent.

No. 2023-016

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Paul McDole 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 February 14, 2023, the Executive Ethics Board (Board) received a complaint alleging that Paul McDole, an employee of the Washington State Department of Corrections (DOC), may have violated the Ethics in Public Service Act. The complaint alleged that Paul McDole violated RCW Chapter 42.52, by using state resources for non-work related activities.

2. According to the complaint, Paul McDole used DOC computers to browse the internet for personal usage.

3. According to DOC, Paul McDole was hired on July 31, 2008 as a Corrections and Custody Officer. On July 16, 2009, Paul McDole was promoted to a Corrections Officer 2 and still holds that position.

4. As part of this investigation, Board staff obtained forensic images of all DOC computers that Paul McDole has access to during the course of their duties. Board staff processed each computer image utilizing Magnet Forensics software and singled out all usage related to Paul McDole's DOC username.

5. In review of the contents, Board staff flagged the following activity as personal usage between the dates of April 14, 2022 thru March 4, 2023:

- **4/14/22:**

Bankofamerica.com
YouTube
eBay
Amazon
Facebook
Ups.com

- **8/18/22:**

Pacificpower.net

- **9/9/22:**

YouTube 8:13 – 9:10
Fmoviesto.cc (“a reliable streaming site to watch free movies”)

- **11/9/22:**

Dailymail.com (news, sports)

- **11/13/22:**

Dailymail
YouTube
Personal google searches
Yahoo Sports
9gag.com (Humor, memes, gaming, dating, pets, “wtf,” etc.)
NFLlivestream.org
9live.club (NFL news and livestream games)
123tv.live (livestream sports)

- **11/15/22:**

Dailymail
YouTube

- **11/16/22:**
 9gag.com
 Zyn.com (nicotine alternative products)
 Dailymail
 Asus.com (computer website)
 YouTube
 Netflix 2:51 – 4:55
- **11/17/22:**
 YouTube
 9gag.com
- **11/18/22:**
 YouTube
- **11/19/22:**
 Fox news
- **11/21/22:**
 YouTube
- **11/23/22:**
 Enphase.com (Solar energy info)
- **11/27/22:**
 Zyn.com (nicotine alternative products)
 YouTube 11:48 – 12:53
 Dailymail
 Amazon (evidence of personal shopping, Cyber Monday 2022)
 Best Buy (Cyber Monday sales)
- **11/30/22:**
 Personal Google searches
 Zyn.com
 YouTube
- **12/3/22:**
 Dailymail
 YouTube 11:38 – 12:17
 9gag
- **12/7/22:**
 Personal Google searches
 Revzilla.com (Motorcycle gear and videos)
 Enlighten.enphaseenergy.com (Board staff researched, appeared to be a solar power company with user login referred to McDole house)
- **12/8/22:**
 Dailymail

- **12/9/22:**
 Dailymail
 9gag
 Personal Google searches
 Rockauto.com (vehicle sales website)
 Enlighten.enphaseenergy.com
 YouTube
 News.google.com
- **12/10/22:**
 Dailymail
 Zyn.com
- **12/11/22:**
 YouTube 9:44 – 10:06
- **12/15/22:**
 9gag
 Personal Google searches
 YouTube
 Theaviationgeekclub.com
- **12/16/22:**
 YouTube
- **12/17/22:**
 Dailymail
 9gag
- **12/18/22:**
 Dailymail
 9gag
- **12/21/22:**
 YouTube
 9gag
 Dailymail
- **12/22/22:**
 Personal Google searches
 Discounttire.com
 Walmart.com
- **12/23/22:**
 Dailymail
 Personal Google searches
 YouTube
- **12/29/22:**
 YouTube

- **12/30/22:**
 Dailymail
 9gag
- **12/31/22:**
 Dailymail
 9gag
- **1/1/23:**
 YouTube (12:08 – 1:41)
- **1/4/23:**
 9gag
- **1/6/23:**
 YouTube
 Personal Google searches
 Dailymail
- **1/7/23:**
 Dailymail
 9gag
 YouTube
- **1/11/23:**
 Enlighten.enphase.com
 Dailymail
- **1/12/23:**
 YouTube
 Zyn.com
- **1/13/23:**
 Zyn.com
 9gag
 YouTube
 Personal Google searches
 Sportsman.com (Outdoor gear, hunting, etc.)
 Gunbroker.com (gun sales)
- **1/18/23:**
 Dailymail
 9gag
 YouTube (6:27 – 7:49)
- **1/20/23:**
 YouTube
- **1/21/23:**
 YouTube
 Enphaseenergy.com

- 1/22/23:
YouTube 10:39 – 12:53
- 1/24/23:
Dailymail
- 2/4/23:
Fmoviesto.cc
9gag.com
Dailymail
Netflix 11:25 – 1:20
- 2/7/23:
Powerball lottery
Personal Google searches
Facebook visits
Bremerton Health & Rehab Center
Kitsap Daily News
Dailymail
9gag
Cinemark.com (movie theatre show times/ticket info viewed)
- 2/9/23:
Dailymail
- 2/10/23:
Dailymail
- 2/11/23:
Dailymail
Personal Google searches
9live.club (Live NFL streams)
CNN.com
9gag
- 2/25/23:
Dailymail
Enphaseenergy.com
YouTube
Disneyplus.com
Netflix
Fmoviesto.cc
Cutestat.com (misc. news and links to other “top websites by Alexa traffic ranking”)
- 3/4/23:
Enphaseenergy.com
9gag.com
Dailymail
YouTube
Netflix
Bing searches, personal in nature

6. Board staff additionally noted logins of a personal Gmail and Hotmail account.
7. In Paul McDole's written response to Board staff, they stated, "I do not dispute the claim that I have misused state resources (internet usage). Since talking to other employees at WSP¹ and their Ethics board violations for internet usage I have proactively stopped my internet usage."

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.

¹ WSP stands for Washington State Penitentiary.

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 Paul McDole 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. Paul McDole 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. Paul McDole 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. Paul McDole 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. Paul McDole 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 Paul McDole 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 Paul McDole 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 Paul McDole 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, Paul McDole 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. Paul McDole 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 Paul McDole 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

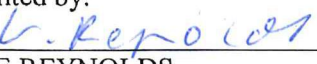
I, Paul McDole, hereby certify that I have read this stipulation in its entirety, that my counsel of record, if any, has fully explained the legal significance and consequence of it. I further certify that I fully understand and agree to all of it, and that it may be presented to the Board without my 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.



Paul McDole
Respondent

4-15-2024

Date

Presented by:


KATE REYNOLDS
Executive Director

4/30/2024

Date

