

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Chris Malone

Respondent.

No. 2023-017

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Chris Malone 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 Chris Malone, an employee of the Washington State Department of Corrections (DOC), may have violated the Ethics in Public Service Act. The complaint alleged that Chris Malone violated RCW Chapter 42.52 by using state resources for non-work related activities.
2. According to the complaint, Chris Malone allegedly used state resources to browse the internet for personal use.
3. According to DOC, Chris Malone was hired on April 16, 2010 as a Corrections Officer 2. Chris Malone still remains in that position.

4. As part of this investigation, Board staff obtained forensic images of all DOC computers that Chris Malone 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 Chris Malone's DOC username.

5. In review of the contents, Board staff flagged the following activity as personal usage between the dates of October 6, 2022 thru April 21, 2023:

10/6/22:

Modernhealth.com

11/19/22:

Amazon

Hardtools.hu (power tool website)

Homefixated.com (power tool website)

EBay

Protoolreviews.com

Sydneytools.com.au (power tool website)

Bing searches related to tools

Contractortalk.com

Cottandco.com (Tool auctioneer website)

Electoolsaway.com

Gmesupply.com (power tool website)

Hnttools.com

Northerntool.com

Powerandcables.com

Protrade.co.uk (Power tool website)

Toolboxbuzz.com

Toolcrowd.com

12/6/22:

Eji.org (Equal Justice Initiative website)

Heavy.com (sports news website)

Instagram

1/5/23:

EBay

Bing searches, personal in nature

UTVsource.com (off road vehicle website)

Vendettamotorsports.com (off road vehicle website)

Personaldefenseworld.com (Firearms website)

Msn.com (news stories viewed)

Cretecarrier.com/company-driver (Truck driving website, new applicant application page)

3/2/23:

Dailymail.co.uk (news website)

3/7/23:

Medium.com (news website)

Modernhealth.com (mental health and wellness website)

3/12/23:

Dailymail.co.uk (news website)

3/16/23:

Dailymail.co.uk (news website)

3/26/23:

Dailymail.co.uk (news website)

3/27/23:

MSN.com (various news stories)

4/4/23:

Justia.com (legal website)

4/5/23:

Dailymail.com

4/21/23:

Dellinolaw.com (law firm website)

6. In Chris Malone's written response, they stated, in summary: "[a]t this time I have to say that whatever is found during this investigation is what it is. Although there was extra time allotted on the internet for necessary means I must say there will be other instances of usage that will not be of an authorized nature."

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 Chris Malone 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. Chris Malone 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. Chris Malone 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. Chris Malone 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. Chris Malone 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 Chris Malone 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 Chris Malone 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 Chris Malone 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, Chris Malone 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. Chris Malone 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 Chris Malone 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 one thousand five hundred dollars (\$1,500) 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, Chris Malone, 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.


Chris Malone
Respondent

5-17-24
Date

Presented by:


KATE REYNOLDS
Executive Director

7/12/2024
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;

_____ REJECTED in its entirety;

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

DATED this 12th day of July 2024.


Jan Jutte, Chair

Approved: Kelli Hooke
Kelli Hooke, Vice Chair

Approved Viterally
Megan Abel, Member

Cam Comfort
Cam Comfort, Member

Cam Comfort, Member



David Hankins, Member

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

Chris Malone, Respondent	Date
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