

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Andrew Burson

Respondent.

No. 2023-028

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Andrew Burson 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 March 15, 2023, the Executive Ethics Board (Board) received a complaint alleging that Andrew Burson, an employee of the Washington State Department of Corrections (DOC), may have violated the Ethics in Public Service Act. The complaint alleged that Andrew Burson violated RCW Chapter 42.52 by using state resources for non-work related activities.

2. According to the complaint, Andrew Burson used their DOC position to conduct background checks on individuals without permission. Additionally, Andrew Burson sent an email containing classified DOC documents from their DOC email to their personal email address on July 10, 2021.

3. According to DOC, Andrew Burson was hired on January 2, 2014, as a non-permanent Correctional Officer (CO). On July 1, 2014, Andrew Burson was appointed as a permanent CO and remains in that position.

4. As part of this investigation, Board staff requested any prior disciplinary reports on Andrew Burson, related to this complaint. DOC provided Board staff with copies of a prior investigation conducted, related to these allegations.

5. In summary, an internal investigation was conducted and Andrew Burson was interviewed by investigators, on March 8, 2023. During the interview, Andrew Burson admitted that they utilized OMNI¹ to obtain information pertaining to an individual that was now living with their ex-wife. Upon finding information related to the individual being a convicted felon, Andrew Burson then emailed those DOC files to their personal email address. Andrew Burson further indicated that they notified their supervisor, Sgt. James Palmer, of their actions the very same day. Sgt. Palmer allegedly “verbally corrected” Andrew Burson and informed them to never utilize OMNI for personal reasons again. Andrew Burson was additionally instructed to submit a “report of contact” form.²

6. In Andrew Burson’s written response to Board staff, they stated, “[t]his happened nearly 2 years ago and I was given a supervisory counseling into the proper and improper use of OMNI. This was merely a training issue and has since been resolved. During my entire career at DOC, I have never had any type access to any program capable of conducting background checks. Nor do I have the ability to gain access to these type of programs in any official capacity.

¹ OMNI is the DOC Offender Management Network Information system, for DOC use only.

² Board staff obtained a copy of the report of contact form. Andrew Burson filled out the standard DOC form, indicating that their ex-wife was living with a DOC convicted felon, however they did not report using DOC databases to look up the individual or that they emailed themselves confidential information.

I am confident that I did not access any confidential information, this was all publicly disclosable information. I have not improperly concealed records in any way shape or form.”

7. As part of this investigation, Board staff requested a forensic image of Andrew Burson’s DOC computer. Utilizing Magnet Axiom, the contents of Andrew Burson’s computer were reviewed. Board staff located several documents, personal in nature, including:

- **J[omitted name]³ attendance.doc:** A word document of JB’s school attendance.
- **Kids activities.doc:** A word document letter, presumably typed by Andrew Burson – about two children (JB/LB) that they supervised in Boy Scouts, including their history/activities.
- **K[omitted name] attendance.doc:** A word document of KB’s school attendance.
- **L[omitted name] attendance.doc:** A word document of LB’s school attendance.
- **FL Divorce 221 Motion for Immediate Restraining Order_2022 07.doc:** A blank/fillable word document of a Washington State Superior Court “Motion for Immediate Restraining Order (Ex Parte).”

8. Board staff additionally flagged 19 saved photographs as personal in nature, including: inappropriate memes, photographs of guns, and what appeared to be family photographs.

9. Board staff also flagged several websites visited, personal in nature, between the dates of *October 13, 2022 – March 30, 2023*, including:

- **October 13, 2022:** Dailymail.co.uk (news website), Space.com, Cnn.com
- **October 17, 2022:** King5.com, Foxnews.com, Cnn.com, Dailymail.co.uk, Space.com, infowars.com, YouTube.com, Kiro7.com, Heraldnet.com
- **October 18, 2022:** Tmz.com (celebrity news/gossip), Foxnews.com, Cnn.com, Dailymail.co.uk
- **October 20, 2022:** Foxnews.com, Dailymail.co.uk, Space.com, infowars.com, nasa.gov, Herald.net, 9gag.com (breaking news and memes), Tmz.com, YouTube.com, King5.com, Komonews.com, Cbssports.com
- **October 24, 2022:** Dailymail.co.uk, Heraldnet.com, Foxnews.com, YouTube.com

³ Presumed minor’s names have been omitted or initials used.

- **October 25, 2022:** Dailymail.co.uk, Cbssports.com, Foxnews.com, Space.com, King5.com
- **November 3, 2022:** Dailymail.co.uk
- **November 8, 2022:** Foxnews.com, Cnn.com, Dailymail.co.uk, King5.com
- **November 21, 2022:** Space.com, Nasa.gov, Dailymail.co.uk, YouTube.com, Tmz.com, Foxnews.com, Cbssports.com, 9gag.com
- **November 22, 2022:** Dailymail.co.uk, Space.com, Nasa.gov, Tmz.com, Cnn.com, YouTube.com, 9gag.com, Foxnews.com
- **November 23, 2022:** Foxnews.com, Cnn.com
- **November 29, 2022:** Dailymail.co.uk, Cbssports.com, ESPN.com, Nasa.gov, heraldnet.com, 9gag.com, YouTube.com, Space.com, King5.com, Foxnews.com, Tmz.com
- **December 6, 2022:** Dailymail.co.uk, Foxnews.com, Cnn.com, Cbssports.com, heraldnet.com, King5.com, Tmz.com, Foxnews.com, Space.com, Nasa.gov, YouTube.com, ESPN.com, 9gag.com
- **December 7, 2022:** Foxnews.com, Dailymail.co.uk, YouTube.com, Space.com, 9gag.com, Amazon.com, memeland.com, usa.phillips.com (Sleep apnea website), Tmz.com, heraldnet.com, maxpreps.com (high school sports), Cbssports.com, ESPN.com
- **December 8, 2022:** Foxnews.com
- **December 13, 2022:** Foxnews.com, Tmz.com, ESPN.com, Space.com, Dailymail.co.uk
- **December 14, 2022:** Dailymail.co.uk, Cnn.com, 9gag.com, Foxnews.com, King5.com, Space.com, Nasa.gov, ESPN.com, YouTube.com
- **December 15, 2022:** Dailymail.co.uk, heraldnet.com, King5.com, Cbssports.com, ESPN.com, YouTube.com, Space.com, 9gag.com
- **December 21, 2022:** Dailymail.co.uk, Foxnews.com, Tmz.com, ESPN.com
- **January 3, 2023:** Foxnews.com, Cbssports.com
- **January 4, 2023:** Cbssports.com, Foxnews.com, Cnn.com, ESPN.com, 9gag.com, heraldnet.com
- **January 5, 2023:** Foxnews.com, Tmz.com, King5.com, Komonews.com, Cnn.com, Cbssports.com, 9gag.com, Space.com

- **January 9, 2023:** YouTube.com, Foxnews.com, Cbssports.com, Tmz.com, Cnn.com, heraldnet.com, maxpreps.com
- **January 10, 2023:** Foxnews.com, Cbssports.com, ESPN.com, Space.com, Dailymail.co.uk
- **January 11, 2023:** Dailymail.co.uk, Foxnews.com, Space.com, Tmz.com, heraldnet.com, YouTube.com, Newarena.com (Sports website), Cnn.com
- **January 12, 2023:** Foxnews.com, Dailymail.co.uk, printyourbrackets.com (NFL playoff website), bonvoyaged.com (travel website), Cnn.com
- **January 18, 2023:** Foxnews.com, Cbssports.com, ESPN.com, Space.com, Tmz.com
- **January 19, 2023:** Dailymail.co.uk, Foxnews.com, Tmz.com, YouTube.com, Cnn.com, Space.com, Nasa.gov, Thespacestore.com, Cbssports.com, Komonews.com, King5.com
- **January 23, 2023:** Foxnews.com
- **January 24, 2023:** Dailymail.co.uk, Foxnews.com, Space.com, YouTube.com, Cnn.com
- **January 26, 2023:** Foxnews.com, Dailymail.co.uk, Space.com, Tmz.com, Heraldnet.com, YouTube.com, 9gag.com
- **January 31, 2023:** Foxnews.com, Dailymail.co.uk, Heraldnet.com, King5.com
- **February 1, 2023:** Foxnews.com, Dailymail.co.uk, Space.com, Heraldnet.com, Cbssports.com, Tmz.com, YouTube.com, 9gag.com
- **February 2, 2023:** Foxnews.com, Dailymail.co.uk, Space.com, Heraldnet.com, Tmz.com, YouTube.com, Nasa.gov
- **February 6, 2023:** Foxnews.com, Dailymail.co.uk, Space.com, Heraldnet.com, Komonews.com, 9gag.com, Tmz.com, Cnn.com, Cbssports.com, ESPN.com
- **February 7, 2023:** Foxnews.com, Dailymail.co.uk, ESPN.com, Space.com, Nasa.gov, Cnn.com, Heraldnet.com, Tmz.com
- **February 9, 2023:** Foxnews.com, Cnn.com, Dailymail.co.uk, Space.com, Tmz.com, Cargurus.com
- **February 13, 2023:** Foxnews.com, Dailymail.co.uk, Tmz.com, Space.com, YouTube.com, 9gag.com, ESPN.com, Heraldnet.com, Cbssports.com

- **November 14, 2023:** Nasa.gov, Dailymail.co.uk, Tmz.com, Classaction.com (lawsuit information), Space.com, 9gag.com, Foxnews.com, King5.com, Komonews.com, Cnn.com
- **February 22, 2023:** Foxnews.com, Dailymail.co.uk, Tmz.com, King5.com, Space.com, Heraldnet.com
- **February 23, 2023:** Cnn.com, Classaction.com, Foxnews.com, Dailymail.co.uk, Space.com, Thespacestore.com
- **February 27, 2023:** HRblock.com, Foxnews.com, Dailymail.co.uk, Cnn.com
- **February 28, 2023:** Cnn.com, Dailymail.co.uk, Heraldnet.com, Space.com, Nasa.gov, ESPN.com, Foxnews.com
- **March 1, 2023:** Dailymail.co.uk, Tmz.com, Space.com, Nasa.gov, Foxnews.com
- **March 2, 2023:** Foxnews.com, Dailymail.co.uk, Tmz.com, Space.com, 9gag.com, Cnn.com, Heraldnet.com
- **March 6, 2023:** Heraldnet.com, Cbssports.com, Space.com, 9gag.com, Foxnews.com, Dailymail.co.uk
- **March 7, 2023:** Dailymail.co.uk, Heraldnet.com, Tmz.com, Nasa.gov, Foxnews.com, Space.com, Cnn.com
- **March 11, 2023:** Foxnews.com, Dailymail.co.uk, Cnn.com, Nasa.gov, King5.com
- **March 13, 2023:** Dailymail.co.uk, Foxnews.com, King5.com, Kiro7.com, Space.com, Nasa.gov
- **March 14, 2023:** Cnn.com T-Mobile.com, Space.com
- **March 15, 2023:** Foxnews.com
- **March 21, 2023:** Dailymail.co.uk, Foxnews.com, Netflix.com, Paramountplus.com, Hulu.com, Space.com, Zillow.com, Heraldnet.com, King5.com, ESPN.com, Nasa.gov, 9gag.com, Kiro7.com
- **March 22, 2023:** Dailymail.co.uk, 9gag.com, Nasa.gov, Heraldnet.com, Space.com, Tmz.com, Foxnews.com, Kiro7.com, King5.com
- **March 23, 2023:** King5.com, Cnn.com, Foxnews.com, Dailymail.co.uk, ESPN.com, 9gag.com
- **March 30, 2023:** Cnn.com, Foxnews.com, Heraldnet.com, Tmz.com, Dailymail.co.uk, Nasa.gov, 9gag.com, Space.com

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.

And;

RCW 42.52.050 – Confidential Information, which states, in part:

....
(2) No state officer or state employee may make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.

(3) No state officer or state employee may disclose confidential information to any person not entitled or authorized to receive the information.

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 Andrew Burson 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. Andrew Burson 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. Andrew Burson 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. Andrew Burson 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. Andrew Burson 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 Andrew Burson 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 Andrew Burson 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 Andrew Burson 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, Andrew Burson 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. Andrew Burson agrees to pay a civil penalty in the amount of four-thousand dollars (\$4,000) associated with violations of RCW 42.52. The Board agrees to suspend one-thousand-five-hundred dollars (\$1,500) on the condition that Andrew Burson 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 two-thousand-five-hundred dollars (\$2,500) 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, Andrew Burson, 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.

Andrew Burson

10/24/2023

Andrew Burson
Respondent

Date

Presented by:

K. Reynolds

11/7/2023

KATE REYNOLDS
Executive Director

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 17th day of November 2023.

Jan M Jutte
Jan Jutte, Chair

Approved Kelli Hooke
Kelli Hooke, Vice Chair

Shirley Batten
Shirley Batten, Member

Megan Abel
Megan Abel, Member

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

Andrew Burson, Respondent

Date