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**WASHINGTON STATE OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE EXECUTIVE ETHICS BOARD**

In the matter of:

DIAMANTE MUHAMMAD,

Respondent.

OAH No. 01-2025-AGO-00071
EEB No. 2023-074

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
FINAL ORDER

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I. PROCEDURAL HISTORY

1.1 On or about September 15, 2023, the Executive Ethics Board (the Board) received an agency referral from the Health Care Authority (HCA) that former employee Diamante Muhammed may have violated the Ethics in Public Service Act (the Ethics Act) by using state resources for activities not related to their work. Declaration of Justin Cotte, ¶ 3, Ex. 1. Board Staff opened an investigation and reviewed an HCA internal report concerning HCA's investigation of Muhammad's conduct. Cotte Decl., ¶ 6, Ex. 3.

1.2 On November 8, 2024, the Board found reasonable cause to believe Diamante Muhammad violated RCW 42.52, as set forth in the Investigative Report and Board Reasonable Cause Determination.

1.3 After due and proper notice, a hearing was held on Board Staff's Motion for Summary Judgment, convening on May 9, 2025, conducted via Zoom. ALJ Laura Bradley from the Office of Administrative Hearings conducted the proceedings, and Board Chair Kelli Hooke, along with members Megan Abel, Cam Comfort, David Hankins and Mark Rapozo were present.

1 Chad Standifer, Senior Assistant Attorney General and legal advisor to the Board was also
2 present.

3 1.4 Julia Eisentrout, Assistant Attorney General for Board Staff, argued on behalf of
4 Board Staff. The Board's Executive Director, Kate Reynolds, and other Board Staff members
5 were present.

6 1.5 Diamante Muhammad appeared.

7 1.6 Board Staff filed the following documents:

- 8
- 9 • Board Staff's Motion for Summary Judgment; and
 - 10 • Declaration of Justin Cotte in Support of Motion for Summary Judgment,
with attached Exhibits 1-7.

11 1.7 Diamante Muhammad did not file a response to Board Staff's Motion for
12 Summary Judgment.

13 1.8 The proceedings were recorded and open to the public.

14 1.9 The hearing adjourned on May 9, 2025.

15 Based on the evidence presented, the Board enters the following Findings of Fact,
16 Conclusions of Law, and Final Order:

17 **II. FINDINGS OF FACT**

18 2.1 HCA hired Diamante Muhammad on December 16, 2020, as a Medical
19 Assistance Specialist 3, and terminated Diamante Muhammad from the position of Medical
20 Assistance Specialist 4 on August 8, 2023. Cotte Decl., ¶ 5, Ex. 2. At all times relevant to this
21 matter, HCA employed Muhammad. *Id.*

22 2.2 During Muhammad's employment, in October of 2021, HCA approved them to
23 telework and accordingly, Muhammad signed a telework agreement. Cotte Decl., ¶ 8, Ex. 3,
24 pp. 31 – 34. The agreement provided Muhammad would "be accountable for my time and be
25 actively conducting state business during my scheduled work time," and that Muhammad
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1 understood they were required to “[meet] all performance and attendance requirements while
2 teleworking.” *Id.*

3 2.3 According to the HCA report, Diamante Muhammad’s supervisors had concerns
4 over Muhammad’s performance and attendance, including their failure to follow call-in
5 procedure for absences, low productivity, and failure to follow management directives.
6 Cotte Decl., ¶ 9, Ex. 3. Based on these concerns, HCA Human Resources requested IT gather
7 data from Diamante Muhammad’s computer usage. *Id.* This data included Muhammad’s website
8 activity, Outlook, ServiceNow, and Xtender activity. *Id.* ServiceNow and Xtender are programs
9 used by HCA to track work productivity, and they generate employee activity logs which include
10 login information and other actions taken by the employee. Cotte Decl., ¶ 10, Ex. 4.

11 2.4 HCA’s review of the activity logs for Diamante Muhammad indicated that
12 Muhammad did not complete any work for 280.55 hours of a possible 289 working hours during
13 the period from March 17, 2023, to May 9, 2023. Cotte Decl., ¶ 11, Ex. 3, pp. 4 – 5. Per the
14 activity logs, instead of closing the HCA minimum fifteen cases per day, Muhammad closed
15 only six cases in the entire month of April 2023. Cotte Decl., ¶ 7, Ex. 3, pp. 115 – 116.
16 Muhammad did not submit leave for the 280.55 hours not worked. Cotte Decl., ¶ 11, Ex. 5.
17 Muhammad’s failure to submit leave resulted in payment to them of \$6, 637.81 from HCA,
18 based on their hourly rate of \$23.66, less the mandatory employee deductions and any voluntary
19 employee deductions. Cotte Decl., ¶ 12, Ex. 6.

20 2.5 After May 9, 2023, HCA continued to monitor Diamante Muhammad’s work
21 activity. Cotte Decl., ¶ 13, Ex. 3. From May 10, 2023 – June 30, 2023, Diamante Muhammad
22 logged in late or missed days, and had to be prompted by their supervisor to submit leave for
23 their absences and time not worked. *Id.* at Ex. 3, p. 6.

24 2.6 On June 22, 2023, HCA investigators interviewed Diamante Muhammad.
25 Cotte Decl., ¶ 14, Ex. 3, p. 10. During this interview, Muhammad admitted they had not been
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1 doing work or submitting leave to cover their absences. *Id.* at Ex. 3, pp. 6, 10. Muhammad
2 alleged they had medical issues which affected their work activity and at the time, had only
3 recently “woke up” to that. *Id.* at ¶ 14, Ex. 3, pp. 6, 10 – 11.

4 2.7 After the Board found reasonable cause to believe Diamonte Muhammad violated
5 the Ethics Act, Muhammad provided a response. Cotte Decl., ¶ 16, Ex. 7. Therein, Muhammad
6 acknowledged their “performance and attendance issues” while employed at HCA, but denied
7 they used state resources for their personal benefit or gain. *Id.*

8 III. CONCLUSIONS OF LAW

9 3.1 The Board has jurisdiction to hear this matter pursuant to RCW 42.52.360(1),
10 which authorizes the Board to enforce the Ethics Act with respect to employees in the executive
11 branch of state government. The Board has jurisdiction over Diamonte Muhammad. The conduct
12 at issue took place while they worked as a state employee. The complaint was filed in accordance
13 with RCW 42.52.410, the Board found reasonable cause pursuant to RCW 42.52.420, and an
14 adjudicative proceeding was conducted pursuant to RCW 42.52.430 and RCW 42.52.500. All
15 the required procedural notices have been provided.

16 3.2 WAC 10-08-135¹ provides that a motion for summary judgment may be granted
17 and an order issued if the written record shows that there is no genuine issue as to any material
18 fact and that the moving party is entitled to judgment as a matter of law. “A material fact is one
19 upon which the outcome of the litigation depends.” *Hudesman v. Foley*, 73 Wn.2d 880, 886,
20 441 P.2d 532 (1968). Summary judgment is proper if (1) there is no genuine issue of material
21 fact, (2) reasonable persons could reach but one conclusion, and (3) the moving party is entitled
22 to judgment as a matter of law. *Ellis v. City of Seattle*, 142 Wn.2d 450, 458, 13 P.3d 1065 (2000);
23 CR 56(c).
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26 ¹ The Board has adopted the model rules of procedures, chapter 10-08 WAC. WAC 292-100-006.

1 The material facts in this matter are not in dispute, rendering summary judgment
2 appropriate. Diamonte Muhammad does not contest that they did not complete any HCA work
3 nor take leave for 280.55 hours, and was paid as if they had worked for HCA that entire.
4 **As discussed below, summary judgment is granted in favor of Board Staff based on**
5 **Diamonte Muhammad's violations of the Ethics Act.**

6 3.3 The Ethics Act governs the conduct of state officers and employees. Under
7 RCW 42.52.430(5), Board Staff must establish by a preponderance of the evidence that
8 Diamonte Muhammad violated the Ethics Act.

9 3.4 RCW 42.52.160(1) provides the following:

10 No state officer or state employee may employ or use any person, money, or
11 property under the officer's or employee's official control or direction, or in his
12 or her official custody, for the private benefit or gain of the officer, employee, or
another.

13 3.5 Based on the preponderance of the evidence established in the Findings of Fact,
14 the Board concludes that Diamonte Muhammad violated RCW 42.52.160(1) by misusing state
15 resources. Diamonte Muhammad did not complete any HCA work nor submit leave for 280.55
16 hours of time they should have been working for the HCA. Therefore, they used their HCA work
17 hours for their own private benefit and/or gain.

18 3.6 RCW 42.52.160(4) provides the following:

19 The appropriate ethics boards may adopt rules providing exceptions to this
20 section for occasional use of the state officer or state employee, of de minimis
21 cost and value, if the activity does not result in interference with the proper
performance of public duties.

22 WAC 292-110-010(3) provides, in relevant portion, that:

23 **Permitted personal use of state resources.** This subsection applies to any
24 use of state resources not included in subsection (2) of this section.

25 (a) A state officer or employee's use of state resources is de minimis only if
each of the following conditions are met:

26 (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.

Diamonte Muhammad's personal use of time that should have been dedicated to HCA work was not "brief" or "infrequent." Instead of closing fifteen cases per day, the agency minimum, Diamonte Muhammad closed six cases for the entire month of April 2023. HCA systems showed they were not completing work during scheduled work hours. Muhammad's conduct also resulted in a cost to the HCA, as the HCA paid Muhammad for work that was not completed. As well, failing to perform work for the HCA interfered with Muhammad's performance of official HCA duties. Thus, Muhammad's use of their state work time cannot be considered de minimis.

3.7 Under RCW 42.52.480, the Board may impose a civil penalty of up to \$5,000 per violation or three times the economic value of anything received or sought in violation of the Ethics Act, whichever is greater. The Board concludes that a \$4,000 penalty is appropriate.

3.8 In determining the appropriate sanction, the Board reviewed the nature of the violation, as well as the aggravating circumstances and mitigating factors set forth in WAC 292-120-030. Diamonte Muhammad's violations were continuing in nature and tend to significantly reduce public respect for or in state government or state government officers or employees. WAC 292-120-030(2)(a) and (e). No mitigating factors are present.

IV. FINAL ORDER

4.1 Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that Diamonte Muhammad is assessed monetary civil penalty of \$4,000 based on their violations of RCW 42.52.160(1).

1 4.2 The total amount of \$4,000 is payable in full within 90 days of the effective date
2 of this order.

3 DATED this 6th day of June 2025.

4
5 WASHINGTON STATE EXECUTIVE ETHICS BOARD

6 *Kelli Hooke*
7 _____
8 Kelli Hooke, Chair

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10 **APPEAL RIGHTS**

11 **RECONSIDERATION OF FINAL ORDER – BOARD**

12 Any party may ask the Executive Ethics Board to reconsider a Final Order. The request
13 must be in writing and must include the specific grounds or reasons for the request. The request
14 must be delivered to Board office within 10 days after the postmark date of this order.

15 The Board is deemed to have denied the request for reconsideration if, within 20 days
16 from the date the request is filed, the Board does not either dispose of the petition or serve the
17 parties with written notice specifying the date by which it will act on the petition.
18 RCW 34.05.470.

19 The Respondent is not required to ask the Board to reconsider the Final Order before
20 seeking judicial review by a superior court. RCW 34.05.470.

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23 **FURTHER APPEAL RIGHTS – SUPERIOR COURT**

24 A Final Order issued by the Executive Ethics Board is subject to judicial review under
25 the Administrative Procedure Act, chapter 34.05 RCW. See RCW 42.52.440. The procedures
26 are provided in RCW 34.05.510 - .598.

1 The petition for judicial review must be filed with the superior court and served on the
2 Board and any other parties within 30 days of the date that the Board serves this Final Order on
3 the parties. RCW 34.05.542(2).

4 A petition for review must set forth:

- 5 (1) The name and mailing address of the petitioner;
- 6 (2) The name and mailing address of the petitioner's attorney, if any;
- 7 (3) The name and mailing address of the agency whose action is at issue;
- 8 (4) Identification of the agency action at issue, together with a duplicate copy, summary,
9 or brief description of the agency action;
- 10 (5) Identification of persons who were parties in any adjudicative proceedings that led to
11 the agency action;
- 12 (6) Facts to demonstrate that the petitioner is entitled to obtain judicial review;
- 13 (7) The petitioner's reasons for believing that relief should be granted; and
- 14 (8) A request for relief, specifying the type and extent of relief requested.
15 RCW 34.05.546.

16 **ENFORCEMENT OF FINAL ORDERS**

17 If there is no timely request for reconsideration, this is the Final Order of the Board. The
18 Respondent is legally obligated to pay any penalty assessed.

19 The Board will seek to enforce a Final Order in superior court and recover legal costs
20 and attorney's fees if the penalty remains unpaid and no petition for judicial review has been
21 timely filed under chapter 34.05 RCW. This action will be taken without further order by the
22 Board.