

BEFORE THE WASHINGTON STATE EXECUTIVE ETHICS BOARD

In the Matter of:

NO. 99-01

STIPULATION AND ORDER

Respondent.

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090 between [REDACTED] [REDACTED] an employee of the Department of Transportation (DOT) and the State of Washington Executive Ethics Board ("Board") by and through MARGARET A. GRIMALDI, Executive Secretary.

A. FACTS AND LAW

1. The Board filed the above referenced complaint on January 14, 1999, against [REDACTED] [REDACTED] Project Team Leader for Executive Information Systems, DOT. The complaint was issued pursuant to a whistleblower report by the State Auditor.
2. Upon learning of the State Auditor's whistleblower investigation, [REDACTED] deleted files from her assigned DOT computer. Of the files remaining after the computer was seized, 148 were created after January 1, 1995, the effective date of Chapter 42.52 RCW. Of these 148 files, 41 were related to [REDACTED] personal affairs and 107 were related to a non-profit ice skating organization with which [REDACTED] is associated.
3. During an investigative interview, [REDACTED] acknowledged that she may have spent up to one hour on certain days either for personal tasks or for work relating to an ice skating organization while acting as a coordinator for skating competitions during a three-year period.
4. [REDACTED] e-mail inbox contained a copy of DOT's Internet Use Guidelines which limited use of the Internet and computers to uses directly related to job function and in the interests of the department. [REDACTED] acknowledges that her personal affairs and those of the non-profit ice skating organization are neither related to her official duties for DOT, nor in the interests of the department.
5. [REDACTED] personal use of state resources and use for the benefit of the ice skating organization exceeded de minimis use standards as defined under WAC 292-110-010.

6. [REDACTED] acknowledges her conduct violated RCW 42.52.160(1) which states:

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

II. RESOLUTION

As a consequence of having violated RCW 42.52.160(1) and WAC 292-110-010, [REDACTED] agrees to pay the Board a civil penalty in the amount of three thousand dollars (\$3000.00) pursuant to RCW 42.52.480(1)(b).

The civil penalty is payable to the *State of Washington* and shall be forwarded to the Board in twelve equal payments of two hundred fifty dollars (\$250.00) each. The first payment shall be due within thirty (30) days of approval of the Stipulation and Order by the Board. Subsequent payments will be due on or before the 15th of each month beginning in November 1999 and ending in September 2000. Failure to make timely payment will cause the entire civil penalty to become due and payable within ten (10) days of the missed payment.

III. CONCLUSIONS OF LAW

1. The Washington State Executive Ethics Board has jurisdiction over [REDACTED] and over the subject matter of the complaint.
2. Pursuant to WAC 292-100-090(1), the parties have the authority to resolve this matter under the terms contained herein.
3. Settlement of this matter on the terms herein is subject to WAC 292-100-090(2) which gives the Board the option of accepting, rejecting, or modifying the proposed Stipulation. If the Board accepts the Stipulation or modifies it with the agreement of the respondent, the Board will enter an order in conformity with the terms of the Stipulation. If the Board rejects the Stipulation or the respondent does not agree to the Board's proposed modification, the Stipulation becomes null and void and the normal process continues. The proposed stipulation and information obtain during formal settlement discussion shall not be admitted into evidence at a subsequent public hearing.

IV. RELEASE/EFFECT OF ORDER

1. If the Board accepts this Stipulation, the Board releases and discharges [REDACTED] from all further ethics proceedings under chapter 42.52 RCW arising out of the facts contained in this complaint. [REDACTED] 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 and Order.
2. This Stipulation and Order is not binding unless and until accepted by the Board, which may reject or propose modifying it. If accepted, this Order is enforceable under RCW 34.05.578 and any other applicable statutes or rules.
3. If this Stipulation is accepted, this Stipulation and Order does not purport to settle any other claims between [REDACTED] the Department of Transportation, the State of Washington, or other third party, which are now in existence or may be filed in the future.

V. CERTIFICATION

I, [REDACTED] hereby certify that I have read this Stipulation and Order in its entirety; that I have had an opportunity to consult with legal counsel; that I knowingly and voluntarily waive my right to a hearing in this matter; that I fully understand and agree voluntarily agree to this Stipulation.

[REDACTED]

September 3, 1999
Date

Stipulated to and presented by:

Margaret A. Grimaldi
MARGARET A. GRIMALDI
Executive Secretary

1 September 1999
Date

VI. ORDER

Having reviewed Complaint No. 99-01, the Stipulation, and the Agreement, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, pursuant to WAC 292-100-090, HEREBY ORDER, this Stipulation is:

 Accepted in its entirety.

 ✓ Modified and, if approved by [REDACTED] becomes the Order of the Board with the following modifications:

Add to section II. under Resolution following first sentence: [REDACTED]

also agrees to attend three hours of ethics training conducted by the Board's Executive Secretary within six months of the date of this Stipulation and Order.

 Rejected in its entirety.

DATED this 16th day of September, 1999.

JANET LIM, Chair

Cheryl P. Rohret

CHERYL ROHRET, Vice Chair

Gwendolyn Foyd

GWENDOLYN FOYD, Member

Sutapa Basu

SUTAPA BASU, Member

Paul Gillie

PAUL GILLIE, Member

*I accept or do not accept (circle option) the proposed modification.

9/30/99
Date

[REDACTED]