

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

WILLIAM H. BRUBAKER

NO. 00-12

STIPULATION AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090 between WILLIAM H. BRUBAKER and the EXECUTIVE ETHICS BOARD ("Board") through RICHARD A. McCARTAN, Assistant Attorney General.

A. FACTS AND LAW

1. FACTS

a. Mr. Brubaker is director of the Aviation Division of the Department of Transportation (DOT).

b. Brian Holmes, a former DOT employee once supervised by Mr. Brubaker, filed the above-captioned ethics complaint that Mr. Brubaker used his state computer for personal purposes.

c. Mr. Brubaker admits that approximately 20 personal e-mails were on his state computer, as well as seven other documents, and that this material was not related to DOT business. Mr. Brubaker states the he spent very little time working on these personal documents. Mr. Brubaker states that any time spent did not impede the performance of his state duties. He notes that, as an exempt employee without set hours of work, he is able to work outside regular hours to compensate for any time spent on personal business.

d. Mr. Brubaker wishes to settle this matter prior to the Board making a Reasonable Cause Determination.

2. APPLICABLE LAW

a. RCW 42.52.160(1) states:

(1) 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.

B. RESOLUTION

1. William H. Brubaker admits that he violated RCW 42.52.160(1) by using his state computer for private purposes.
2. Mr. Brubaker agrees to accept from the Board a letter of instruction regarding the use of state property for private purposes.
3. Mr. Brubaker agrees to refrain from any further violations of RCW 42.52.160(1).
4. Mr. Brubaker agrees that if the Board subsequently finds that he has further violated RCW 42.52.160(1), evidence of this Stipulation may be taken into account in setting the amount of penalty for the further violation.

C. CONCLUSIONS OF LAW

1. Pursuant to RCW 42.52, the Executive Ethics Board has jurisdiction over William H. Brubaker and over the subject matter of this 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 states in part:

The board has the option of accepting, rejecting, or modifying the proposed stipulation or asking for additional facts to be presented. If the board accepts the stipulation or modifies the stipulation with the agreement of respondent, the board shall enter an order in conformity with the terms of the stipulation. If the board rejects the stipulation or respondent does not agree to the board's proposed modification to the stipulation, the normal process will continue. The proposed

stipulation and information obtained during formal settlement discussion shall not be admitted into evidence at a subsequent public hearing.

D. RELEASE/EFFECT OF ORDER

1. If the Board accepts this Stipulation, the Board releases and discharges William H. Brubaker from all further ethics proceedings under RCW 42.52 for matters arising out of the facts contained in this complaint. Mr. Brubaker 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. If this Stipulation is accepted, this Stipulation and Order does not purport to settle any other claims between Mr. Brubaker and the Department of Transportation, the State of Washington, or other third party, which are now in existence or may be filed in the future.

3. If this Stipulation is accepted, this Stipulation and Order will be inadmissible for any purpose in any other proceeding involving Mr. Brubaker, the state, and/or third parties aligned with the state.

4. If this Stipulation is accepted, this Stipulation and Order is enforceable under RCW 34.05.578 and any other applicable statutes or rules.

E. CERTIFICATION

I, William H. Brubaker, hereby certify that I have read this Stipulation and Order in its entirety; that I am aware of my right to consult with legal counsel; that I fully understand the legal significance of this Stipulation; that I knowingly and voluntarily waive my right to a hearing in this matter; that I fully understand and voluntary agree to this Stipulation.

William H. Brubaker
WILLIAM H. BRUBAKER

ATTORNEY FOR MR. BRUBAKER

9-29-10
DATE

DATE

Stipulated to and presented by:

Richard A. McCartan
RICHARD A. McCARTAN
Assistant Attorney General

10-3-00
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;
 X *MODIFIED. This Stipulation will become the Order of the Board if the following modifications are approved by William H. Brubaker.

1. Mr. Brubaker will pay a civil penalty in amount of two hundred and fifty dollars (\$250.00). The amount is payable to the state Executive Ethics Board within ten (10) days of approval of this modification by Mr. Brubaker.
2. Mr. Brubaker will attend Ethics Training by June 1, 2001.
3. Paragraph D3 will be modified as indicated in text.

DATED this 30th day of November, 2000.

CHERYL ROHRET
CHERYL ROHRET, Chair *by W.H.B.*

SUTAPA BASU, Vice Chair

JANET LIM *by*
JANET LIM, Board Member *W.H.B.*

JAMES VACHE *by*
JAMES VACHE, Board Member *W.H.B.*

LAQUITA FIELDS, Board Member

I, William H. Brubaker accept do not accept (circle one) the proposed modification.

William H. Brubaker
Respondent

Nov 11, 2001
Date

Attorney for Respondent

Date