BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of: FRED WATTERSON Respondent.	NO. 01-21 STIPULATION AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090 between the Respondent, FRED WATTERSON, and the EXECUTIVE ETHICS BOARD ("Board") through Brian R. Malarky, Executive Director. The following findings, conclusions, and agreements will be binding upon the parties to this agreement, if the agreement is fully executed, and if accepted by the Washington State Executive Ethics Board, and not otherwise.

A. FACTS

1. On August 3, 2001, the State Auditor's Office (SAO) referred the final report of Whistleblower Case No. 01-095 to the Executive Ethics Board.

2. Fred Watterson was the Manager of Technical Support Services at the Shoreline Community College (SCC) and subject to the jurisdiction of the Washington State Executive Ethics Board under RCW 42.52.360. Mr. Watterson resigned from state employment in June 2001.

3. The SAO investigation of the Whistleblower complaint revealed that Mr. Watterson used his work computer to visit Internet sites unrelated to his SCC work. Mr. Watterson tracked and monitored stocks on the Internet during work hours. He had downloaded software that enabled him to chart stock prices on his college computer. He denied using his college computer to initiate any stock trades and the evidence is inconclusive that any stock trades were made during working hours using his state computer.

4. In the SAO investigation, Mr. Watterson admits to repeatedly accessing multiple web sites to research stock prices and to obtain investment news using his college computer.

5. At the time of the discovered behavior, the SCC did not have a policy regarding the proper use of college computers and networks. However, Mr. Watterson admitted he was aware of the state ethics laws prohibiting personal use of state equipment.

6. On January 16, 2001, SCC began drafting an Acceptable Use Policy for their computer systems. Some of the procedures implemented to notify faculty and staff and enforce the policy are:

- As computer desktop systems are upgraded to NT the new systems have a notification of the ethical use of computer systems that appears each time the system is booted up;
- The policy will be posted on the SCC Intranet for better visibility;
- The policy will be explained in the campus newspaper;
- The policy will be explained during introductory technology training classes for faculty and staff; and
- Regularly scheduled governance meetings will be held.

7. The SCC counseled Mr. Watterson for his inappropriate use of state resources.

B. APPLICABLE LAW

RCW 42.52.160(1) 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.

C. AGGRAVATING AND MITIGATING FACTORS

1. In determining the appropriateness of the civil penalty, Board staff reviewed criteria in WAC 292-120-030. In the case at hand: the violations significantly reduced the public respect for, and the confidence in, state government employees (WAC 292-120-030(2)).

2. It is a mitigating factor that the SCC counseled Mr. Watterson on state ethics laws and regulations. A copy of that letter will be placed in Mr. Watterson's personnel file for two years.

D. RESOLUTION

1. Mr. Watterson admits that he violated provisions of RCW 42.52.160 by using his state computer to access multiple web sites to research stock prices and to obtain investment news using his college computer.

2. Recognizing that he is personally responsible for his conduct, Mr. Watterson will pay a civil penalty in the amount of five hundred dollars ($500.00). The Board agrees to suspend two hundred fifty dollars ($250.00) on the condition that Mr. Watterson complies with all terms and conditions of this Stipulation and Order and commits no further violations of chapter 42.52 RCW while employed by the State of Washington.

3. The civil penalty of two hundred fifty dollars ($250.00) is payable to the state Executive Ethics Board within forty-five (45) days of approval of this Stipulation and Order by the Board.

II. CONCLUSIONS OF LAW

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Fred Watterson 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.

III. RELEASE / EFFECT OF ORDER

1. If the Board accepts this Stipulation, the Board releases and discharges Fred Watterson from all further ethics proceedings under chapter 42.52 RCW for matters arising out of the facts contained in this complaint, subject to payment in full of the civil penalty owed in the amount of $250.00 and compliance with all other conditions of this Stipulation. Fred Watterson 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 Fred Watterson and the Washington State Executive Ethics Board, the State of Washington, or other third party, which may be filed in the future.

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

4. If this Stipulation and Order is not accepted, it shall be null and void, and may not be used for any purpose in connection with the above-entitled action.

IV. CERTIFICATION

I, Fred Watterson, hereby certify that I have read this Stipulation and Order in its entirety; that I knowingly and voluntarily waive my right to a hearing in this matter; that I fully understand and voluntary agree to this Stipulation.

Fred Watterson 03/07/03

Fred Watterson Date
Respondent

Stipulated to and presented by:

B. R. Malarky March 17, 2003

Brian R. Malarky Date
Executive Director

V. 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

___X___ ACCEPTED in its entirety;

_____ REJECTED in its entirety;

_____ *MODIFIED. This Stipulation will become the Order of the Board if the following modifications are approved by Fred Watterson.

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DATED this 11th day of April, 2003.

James M. Vaché, Chair

Marilee Scarbrough, Vice-Chair

Laquita Fields, Member

Paul Zellinsky, Member

I, Fred Watterson, accept/do not accept (circle one) the proposed modification.

_____

Fred Watterson, Respondent Date