BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of: JASON RAMYNKE, Respondent.	NO. 02-47 STIPULATED FACTS, CONCLUSIONS AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent, JASON RAMYNKE, and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS BOARD (Board) through BRIAN R. MALARKY, Executive Director. The following stipulated facts, conclusions, 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.

Section 1: PROCEDURAL FACTS

1.1. On September 23, 2002 the Executive Ethics Board received a complaint alleging that Jason Ramynke, an employee of the State of Washington, Department of Social and Health Services (DSHS), was using his state computer to access his home business website and sexual-content websites.

1.2. The Board is authorized under RCW 34.05.060 to 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.

1.3. Jason Ramynke understands that if Board staff proves any or all of the alleged violations 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).

1.4. Jason Ramynke recognizes that the evidence available to the Board staff is such that the Board may conclude Mr. Ramynke 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 set forth below.

1.5. Jason Ramynke waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or his acceptance of any modification(s) proposed by the Board, pursuant to the provisions of WAC 292-100-090(2) which provides 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.

1.6. If the Board accepts this stipulation, the Board will release and discharge Jason Ramynke 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, any other costs imposed, and compliance with all other terms and conditions of the agreed order. Mr. Ramynke 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 and agreed order.

1.7. If this Stipulation is accepted, this Stipulation and Order does not purport to settle any other claims between Jason Ramynke and the Washington State Executive Ethics Board, the State of Washington, or other third party, which may be filed in the future.

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

1.9. If the Board rejects this stipulation, or if Jason Ramynke does not accept the Board's proposed modification(s), if any, Mr. Ramynke waives any objection to participation at any subsequent hearing by any Board member to whom this stipulation was presented for approval under WAC 292-100-090(2). Further, Mr. Ramynke understands and agrees that this proposed stipulation and information obtained during any formal settlement discussions held between the parties shall not be admitted into evidence at a subsequent public hearing, unless otherwise agreed by the parties.

Section 2: FINDINGS OF FACT

2.1. When the complaint in this matter was filed, and at all times material hereto, DSHS employed Mr. Ramynke as a Financial Services Specialist in the Yakima Community Services Office (CSO).

2.2. In March and April 2000, Mr. Ramynke accessed the following websites using his state computer:

- "Sextracker.com" opening screen and possibly other screens;
- "Adult-space.com;"
- "PayPal" an online payment transaction service;
- "E-Bay" an on-line auction site; and
- "Xoom.com" a free web hosting company and host to many small storefront sites. Several storefronts were also accessed.

2.3. On June 7, 2001, the Yakima CSO Administrator issued a written reprimand to Jason Ramynke regarding his inappropriate Internet use detailed above. This letter was to be removed from Mr. Ramynke's personnel file on May 24, 2002.

2.4. DSHS Policy No. 15.15 addresses the "Use of Electronic Messaging Systems and the Internet." This Policy prohibits accessing the Internet for personal business, personal interest, or any other non-DSHS business use. It also requires that all DSHS employees with Internet access read and sign the "Internet Access Request and Agreement" acknowledging that they understand the department's policy.

2.5. Jason Ramynke signed the "Internet Access Request and Agreement" on January 5, 1999. This agreement states: "I have read the DSHS Internet policy and the list of unauthorized Internet activities on this form. I understand that Internet access and services are being provided for me to use in my current position/work assignment only. ..."

Section 3: CONCLUSIONS OF LAW

3.1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Jason Ramynke and over the subject matter of this complaint.

3.2. Pursuant to WAC 292-100-090, the parties have the authority to resolve this matter under the terms contained herein, subject to Board approval.

3.3. A state officer or employee is prohibited under RCW 42.52.160 from using state 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."

3.4. Use of state resources in a manner that is prohibited by a federal or state law or rule, or a state agency policy, is prohibited under WAC 292-110-010(6)(e).

3.5. DSHS Administrative Policy 15.15 prohibits agency staff from using state-provided electronic messaging systems and the Internet access in a manner prohibited by RCW 42.52.160 and WAC 292-110-010. The policy specifically indicates that state employees may not use state provided Internet access to: "Create, post, transmit, connect to or voluntarily receive obscene, pornographic, offensive, libelous, threatening or harassing material."

3.6. Based on Findings of Fact 2.1 and 2.2, Mr. Ramynke used state resources in violation of RCW 42.52.160 and WAC 292-110-010.

3.7. 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. It is an aggravating factor that Mr. Ramynke intentionally committed the violations addressed herein with knowledge that the conduct constituted a violation, as evidenced by his acknowledgement of the prohibitions of DSHS Policy 15.15. It is a mitigating factor that Jason Ramynke received a written reprimand as a result of his conduct.

Section 4: AGREED ORDER

4.1. Jason Ramynke will pay a civil penalty in the amount of seven hundred fifty dollars ($750.00). The Board agrees to suspend $250.00 of the civil penalty on the condition that Mr. Ramynke complies with all terms and conditions of this Stipulation and Order and commits no further violations of chapter 42.52 RCW. The civil penalty of $500.00 is payable to the state Executive Ethics Board within forty-five (45) days of approval of this Stipulation and Order by the Board.

CERTIFICATION

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

6/20/03

Jason Ramynke Date
Respondent

Stipulated to and presented by:

8/25/03

Brian R. Malarky Date
Executive Director

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

__X__ 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 12th day of September, 2003.

James M. Vaché, Chair

Marilee Scarbrough, Vice Chair

Laquita Fields, Member

Paul Zellinsky, Member

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

_____

Jason Ramynke, Respondent Date