BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of: LONI PARR, Respondent.	NO. 02-62 STIPULATED FACTS, CONCLUSIONS AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent, LONI PARR, 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 August 28, 2002, the Executive Ethics Board received a referral from the State Auditor's Office (SAO) alleging that Loni Parr, an employee of the State of Washington, Department of Labor and Industries (L&I), used her state computer, email and state telephone system for personal benefit. The Executive Ethics Board reviewed this referral and issued a complaint on May 9, 2003.

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. Loni Parr 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. Loni Parr recognizes that the evidence available to the Board staff is such that the Board may conclude Ms Parr 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. Loni Parr waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or her 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 Loni Parr from all further ethics proceedings under chapter 42.52 RCW for matters arising out of the facts contained in the complaint in this matter, subject to payment of the full amount of the civil penalty due and owing, any other costs imposed, and compliance with all other terms and conditions of the agreed order. Ms. Parr 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 Loni Parr 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 Loni Parr does not accept the Board's proposed modification(s), if any, Ms. Parr 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, Ms. Parr 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, L&I employed Loni Parr as an Occupational Nurse Consultant. Ms. Parr has been employed with L&I for approximately 15 years.

2.2. Loni Parr generated and stored non-work related documents on her state computer, such as personal stories, a personal letter, family genealogy, an expense budget, a sports document and a personal photograph. Ms. Parr also accessed her personal Yahoo account, the personal Yahoo account of a family member, and a Yahoo news message board with her state computer.

2.3. From December 10, 2001 to April 1, 2002, Loni Parr sent 80 personal e-mails from her state email account to her daughter. On February 7, 2002, Ms. Parr had a running conversation with her daughter using her state email system, corresponding eleven times between 10:50 a.m. and 2:24 p.m. On March 19, 2002, Ms. Parr sent three personal messages to her daughter. On January 7, 2002, Ms. Parr sent eleven personal messages between 11:01 a.m. and 2:24 p.m.

2.4. Loni Parr accessed the following Internet sites: Figure Skating World, Rocky Mountain Figure Skating Club, Frogs on Ice, US Figure Skating Association, BBC Online Homepage, and Allen and Overy Partner Profiles.

2.5. Loni Parr's long-distance telephone records from April 2001 through March 2002 revealed 241 personal calls, totaling 1,512 minutes. These calls cost the state $114.46. Ms. Parr also made 34 personal calls to various toll free numbers. During this period, Ms. Parr made a total of 275 personal telephone calls during work hours totaling 1,708 minutes or 28.46 hours.

2.6. L&I sent numerous notifications to employees via e-mail and the intranet regarding L&I's policies on the use of electronic communication by employees indicating that use of the state electronic data system is restricted to authorized users and is for official state business. Ms. Parr received the notifications sent on April 1, July 20, and December 21, 1998, August 3, October 22, and December 13, 2001, and March 12, 2002.

2.7. L&I Policy No. 3.30 states that state funds, equipment, supplies, and other resources are to be for state business only. Policy 3.30 also indicates that acceptable limited personal use includes occasional brief e-mail messages to other employees or family members in lieu of a telephone call.

2.8. L&I Policy No. AP 7.30 indicates that "L&I technology is available and intended for official business use which supports the agency's goals and priorities. State law does permit some limited personal use of technology, electronic mail, and the Internet by employees under very specific rules."

2.9. On January 31, 2003, L&I reduced Ms. Parr's monthly salary approximately 5 percent for a period of three months for the personal use of state resources described above. Ms. Parr's salary was $5,487.00 per month. Her salary was reduced to $5,222.00 from February 16, 2003 through May 15, 2003.

2.10. Ms. Parr reimbursed the State for the personal telephone calls made on the SCAN system.

Section 3: CONCLUSIONS OF LAW

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

3.2. Pursuant to WAC 292-100-090(1), 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. The Ethics in Public Service Act allows for de minimus personal use of state resources. WAC 292-110-010 states that employees may make occasional but limited personal use of state resources such as electronic messaging systems and the Internet if the use conforms with ethical standards. Those standards include that the use is of little or no cost to the state, brief in duration and frequency, does not disrupt other state employees and does not obligate them to make a personal use of state resources.

3.5. Based on Findings of Fact 2.1 through 2.8, Loni Parr used state resources in violation of RCW 42.52.160, WAC 292-110-010 and knowingly violated agency policy.

3.6. 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 Ms. Parr intentionally committed the violations with knowledge that the conduct constituted a violation (WAC 292-120-030(3)(a)). It is a mitigating factor that Ms. Parr received a written reprimand including financial sanctions from L&I as a result of her conduct (WAC 292-120-030(4)(a).

Section 4: AGREED ORDER

4.1. Ms. Parr will accept a letter of reprimand from the Executive Ethics Board as authorized by WAC 292-120-020(1). Ms. Parr will also pay a civil penalty in the amount of two hundred fifty dollars ($250.00). The Board agrees to suspend the $250.00 civil penalty on the condition that Ms. Parr complies with all terms and conditions of this Stipulation and Order and commits no further violations of chapter 42.52 RCW.

CERTIFICATION

I, Loni Parr, 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.

Loni Parr 8/26/03

Loni Parr Date
Respondent

Stipulated to and presented by:

Brian R. Malarky Sep 3, 2003

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

_____ ACCEPTED in its entirety;

_____ REJECTED in its entirety;

__X__ MODIFIED. This Stipulation will become the Order of the Board if the Respondent approves* the following modification(s):

Paragraph 4.1. The second sentence shall state: Ms. Parr will also pay a civil penalty in the amount of five hundred dollars ($500.00). Delete the third sentence.

DATED this 12th day of September, 2003.

James M. Vaché, Chair

Marilee Scarbrough, Vice Chair

Laquita Fields, Member

Paul Zellinsky, Member

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

Loni Parr, Respondent — Date 9/28/03