BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of: STEVEN MEEKS, Respondent.	No. 03-020 STIPULATED FACTS, CONCLUSIONS AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent, Steven Meeks, and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS BOARD (Board) through KENT NAKAMURA, Interim Executive Director. The following stipulated findings of fact, conclusions of law, 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 this stipulation.

Section 1: PROCEDURAL FACTS

1.1. On March 13, 2003, the Executive Ethics Board (Board) received a complaint alleging that Steven Meeks, then an Assistant Attorney General for the State of Washington, may have used state resources in the Office of the Attorney General Office (AGO) for personal benefit in preparing documents related to private litigation in which Mr. Meeks was representing his wife. The complaint also alleged that Mr. Meeks' representation of his wife might conflict with the performance of his public duties.

1.2. On March 24, 2003, Board staff referred this complaint to the AGO for investigation pursuant to WAC 292-100-042. The AGO submitted the report of their investigation on May 9, 2003, in which it was concluded that there was no conflict between Mr. Meeks' official duties and his private representation, for which he sought and obtained prior approval pursuant to AGO policy. The AGO also concluded that Mr. Meeks' use of state resources was limited to two occasions. With respect to one occasion the AGO determined that the use of state resources was entirely appropriate (directing an outside party who initiated contact via AGO e-mail to cease using state resources to contact him). With respect to the other occasion (using a state computer after normal work hours to prepare a pleading and a state printer to print the document) the use was *de minimis*, and that failure to obtain prior approval was a technical violation at best, with extenuating circumstances. The AGO recommended that Mr. Meeks' "single technical violation" of the Ethics Act should be handled with remedial action at the agency level as permitted under Board rules.

1.3. Based on the preliminary AGO investigation of this matter, the Board's Executive Director dismissed the complaint by order dated July 2, 2003. The allegation of a possible conflict with official duties was unfounded. With respect to Mr. Meeks' private use of state resources, the Executive Director concluded that while use of the computer and printer may have exceeded *de minimus* use standards under WAC 292-110-010(3), the use was nevertheless "isolated" and at no cost to the state and therefore "any violation that may have occurred was inadvertent and minor and further proceedings in this matter would not serve the purpose of the Ethics in Public Service Act."

1.4. On July 11, 2003 the Executive Director presented his Order of Dismissal in this matter to the Board. On July 22, 2003, under the provisions of WAC 292-100-047, a Board member requested review of the dismissal action. On August 29, 2003, in executive (closed) session, the Board reviewed the initial complaint, the AGO preliminary investigation report, and the Executive Director's order of dismissal. The Board then directed Board staff to conduct further investigation of this matter.

1.5. Board staff conducted further investigation to include interviewing Mr. Meeks. On September 10, 2004, Board staff presented its preliminary investigative report and recommendation to the Board, wherein the Executive Director recommended that the Board dismiss the complaint. Specifically, the Director's written recommendation stated:

> Mr. Meeks used his state computer to prepare documents supporting his private litigation. There are several mitigating factors, however, under which the Board may conclude that a finding of no reasonable cause [to believe that a violation of RCW 42.52 has been committed] is appropriate. It appears that Mr. Meeks' use of an AGO computer to support a private litigation was isolated, did not involve a significant cost to the state, did not involve other AGO staff or AGO work time, and did not involve special privileges or access to AGO databases. Based on these mitigating factors the Executive Director recommends that the Board determine that further proceedings would not serve the purposes of this chapter [RCW 42.52] and enter a finding of no reasonable cause.

1.6. Notwithstanding the Executive Director's recommendation, on September 10, 2004 the Board made the determination that there was reasonable cause to believe that Mr. Meeks had committed one or more violations of chapter 42.52 RCW, and that the potential penalty was in excess of $500. The Board based its reasonable cause determination on alleged violations of RCW 42.52.160.

1.7. Mr. Meeks filed a written response to the reasonable cause determination in which he denied committing any violations of RCW 42.52.160. Mr. Meeks also exercised

his right under WAC 292-100-060(5) to request that an administrative law judge conduct any hearing on the alleged violations of RCW 42.52.160. The Office of Administrative Hearings has set hearing dates of March 14 and 15, 2005 in this matter.

1.8. The Board has authority 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.

1.9. Mr. Meeks 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).

1.10. Without admitting any of the allegations upon which the Board's reasonable cause determinations were made, Mr. Meeks nevertheless recognizes that there exists a likelihood the Board may conclude from the available evidence that he violated the Ethics in Public Service Act, even if only unintentionally or unknowingly. 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.

1.11. Mr. Meeks 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.

1.12. If the Board accepts this stipulation, the Board will release and discharge Mr. Meeks 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. Mr. Meeks 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.

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

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

1.15. If the Board rejects this stipulation, or if Mr. Meeks does not accept the Board's proposed modification(s), if any, Mr. Meeks 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. Meeks 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, the State of Washington, Office of the Attorney General employed Steven Meeks as an Assistant Attorney General in the Olympia office of the Torts Division.

2.2. In accordance with RCW 42.10.130(1) and AGO Policy No.I.3.09, Mr. Meeks requested and received prior approval to represent his wife in private litigation from his AGO supervisor. His approved representation of his wife did not interfere or otherwise conflict with the performance of his official duties.

2.3. Mr. Meeks used state AGO resources in support of his wife's litigation on two occasions. On one occasion, when Mr. Meeks received an e-mail message from an outside source, he responded by directing the individual to correspond with him with respect to his wife's litigation through his home e-mail address. Mr. Meeks also informed this individual that the AGO fax machine was not available to send him documents related to his wife's litigation.

2.4. The second occasion of Mr. Meeks' use of state resources occurred on February 4, 2003, when, without seeking the permission of his supervisor, Mr. Meeks prepared a pleading for his wife's litigation using an AGO computer and printer. Mr. Meeks decided to prepare the pleading using his state office computer because at the time his home office was under renovation and in no condition to prepare documents needed expeditiously to meet court deadlines. Mr. Meeks arrived at his state office about 7:30 p.m. in the evening, and finished working on an eleven-page amended complaint at about

4:00 a.m. the next morning. He printed a copy of the document using an office printer, but he did not use the office photocopier to make further copies. Mr. Meeks brought personal reference materials with him to his state office, with which he did the research necessary to complete the drafting of the amended complaint. He did not do legal research with any AGO reference materials or research aids, nor did he work on this pleading or any other documents pertaining to his wife's litigation during his normal work hours. Mr. Meeks did not use any AGO staff assistance on his wife's litigation.

Section 3: CONCLUSIONS OF LAW

3.1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Steven Mr. Meeks 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. The Ethics in Public Service Act prohibits state employees from using state resources for their personal benefit or the benefit of others. RCW 42.52.160(1) states:

> No state officer of 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.

3.4. AGO Policy No. I.3.09 requires that AGO attorneys seek approval from the office to participate in private litigation as counsel for an immediate family member. AGO approval of Mr. Meeks' representation of his wife in her private lawsuit was predicated upon a determination that such representation would not interfere with or otherwise conflict with Mr. Meeks' performance of his official duties with the AGO. The Board must accept that conclusion of the AGO, absent evidence to the contrary, of which there is none here. Therefore, no conflict of interest violation occurred.

3.5. Mr. Meeks' one use of the AGO e-mail to direct an outside source not to contact him by AGO e-mail was brief in duration, consisting of one e-mail exchange which was initiated in an attempt by others to communicate with Mr. Meeks through the AGO e-mail system. The purpose of Mr. Meeks' reply was to steer the communications away from the AGO system. This was in furtherance of his obligation to refrain from personal use of state resources, was the minimal use necessary to accomplish that end, and therefore does not constitute a violation of RCW 42.52.160(1).

3.7. Mr. Meeks' use of his state AGO computer and printer on February 4, 2003, over a period of about 8.5 hours, to prepare and print an eleven-page pleading in his wife's private litigation, exceeded *de minimis* standards under WAC 292-110-010(3)(b) in that the use was not brief in duration. Therefore, Mr. Meeks improperly used state resources in violation of RCW 42.52.160(1).

3.8. Based on Findings of Fact 2.1 and 2.4, and on Conclusion of Law 3.7, above, the Board may impose sanctions under the provisions of RCW 42.52.480, which under subsection (1)(b) includes a civil penalty of up to five thousand dollars ($5000) for each violation of chapter 42.52 RCW found.

Section 4: AGREED ORDER

Steven Meeks will pay a civil penalty in the amount of five hundred dollars ($500) for violation of RCW 42.52.160(1) as set forth in the foregoing Findings of Fact and Conclusions of Law. This civil penalty is payable to the Executive Ethics Board within twenty (20) days of approval of this Stipulation and Order by the Board.

CERTIFICATION

I, Steven Meeks, 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.

2/24/05

Steven Meeks Date
Respondent

Stipulated to and presented by:

Kent Nakamura 2/28/05

Kent Nakamura Date
Interim 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;

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

_____

_____

_____

DATED this 11th day of March, 2005.

Paul Zellinsky (Eng)
Paul Zellinsky, Chair

Trish Akana
Trish Akana , Vice Chair

Marilee Scarbrough, Member

Evelyn Yensen, Member

Judith Golberg, Member

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

_____
Steven Meeks, Respondent Date