

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:)
)
)
PAM CROWLEY,)
)
)
Respondent.)
_____)

No. 04-046
ORDER DENYING MOTION
FOR RECONSIDERATION

On July 13, 2006, the Executive Ethics Board entered an Order and Judgment in the above-entitled matter. On July 27, 2006, the complainant filed a request for reconsideration of the Board's Order and Judgment.

On September 8, 2006, the Board reviewed the matter and issues the following:

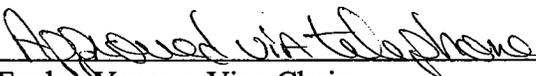
II. ORDER

Having reviewed the matter above and having determined that the conduct as alleged in the complaint constitutes a violation of the Ethics in Public Service Act, the Executive Ethics Board hereby denies the Motion for Reconsideration requested by the respondent in this matter.

DATED this 8th day of September, 2006.



Trish Akana, Chair



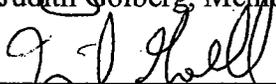
Evelyn Yenson, Vice-Chair



Paul Zellinsky, Member



Judith Golberg, Member



Neil Gorrell, Member

APPEAL RIGHTS
RECONSIDERATION OF FINAL ORDER – BOARD

- a. Any party may ask the Executive Ethics Board to reconsider a **Final Order**. The request must be in writing and must include the specific grounds or reasons for the request.
- b. The request must be delivered to Board office within **20 days** after the postmark date of this order.
- c. The Board is deemed to have denied the request for reconsideration if, within 20 days from the date the request is filed, the Board does not either dispose of the petition or serve the parties with written notice specifying the date by which it will act on the petition. (RCW 34.05.470).
- d. The Respondent is not required to ask the Board to reconsider the **Final Order** before seeking judicial review by a superior court. (RCW 34.05.470).

FURTHER APPEAL RIGHTS – SUPERIOR COURT

- a. A **Final Order** issued by the Executive Ethics Board is subject to judicial review under the Administrative Procedure Act, chapter 34.05 RCW. See RCW 42.52.440. The procedures are provided in RCW 34.05.510 - .598.
- b. The petition for judicial review must be filed with the superior court and served on the Board and any other parties within **30 days** of the date that the Board serves this **Final Order** on the parties. (RCW 34.05.542(2)). A petition for review must set forth:
 - (1) The name and mailing address of the petitioner;
 - (2) The name and mailing address of the petitioner's attorney, if any;
 - (3) The name and mailing address of the agency whose action is at issue;
 - (4) Identification of the agency action at issue, together with a duplicate copy, summary, or brief description of the agency action;
 - (5) Identification of persons who were parties in any adjudicative proceedings that led to the agency action;
 - (6) Facts to demonstrate that the petitioner is entitled to obtain judicial review;
 - (7) The petitioner's reasons for believing that relief should be granted; and
 - (8) A request for relief, specifying the type and extent of relief requested.

RCW 34.05.545.

- c. Service is defined in RCW 34.05.010(19) as the date of mailing or personal service.

ENFORCEMENT OF FINAL ORDERS

- a. If there is no timely request for review or reconsideration, this Initial Order becomes a **Final Order**. The Respondent is legally obligated to pay any penalty assessed.

- b. The Board will seek to enforce a **Final Order** in superior court and recover legal costs and attorney's fees if the penalty remains unpaid and no petition for judicial review has been timely filed under chapter 34.05 RCW. This action will be taken without further order by the Board.

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:)	No. 04-046
)	
)	ORDER AND JUDGMENT
PAM CROWLEY,)	
)	
Respondent.)	
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I.
APPLICABLE PROCEDURAL ISSUES

- I.1. On March 10, 2006, the Executive Ethics Board (Board) found reasonable cause to believe that the Respondent, Pam Crowley, violated the Ethics in Public Service Act while employed at the Board of Industrial Insurance Appeals (BIIA). Notice of the Reasonable Cause Determination and the right to request a hearing was served upon Ms. Crowley by certified mail on March 14, 2006.
- I.2. More than 30 days have passed since notice of the Reasonable Cause Determination and of the right to request a hearing was served upon Ms. Crowley. She has not responded to the notice, either by filing an answer, requesting a hearing, or otherwise.
- I.3. On May 16, 2006, Board staff provided Ms. Crowley with notice by regular and certified mail of the Board's Order of Default and Temporary Adjournment of Further Proceedings entered on May 12, 2006.
- I.4. Pursuant to WAC 292-100-060(4) Ms. Crowley was allowed 10 days to request vacation of the Order of Default. Ms. Crowley has not moved to vacate the order entered on May 12, 2006.

II.
FINDINGS OF FACT

- II.1. Pam Crowley is employed as a Program Administrator with the BIIA.
- II.2. A review of Ms. Crowley's computer for the period of April 2003 to May 2004 revealed the following files, all personal in nature: 28 Word files, 15 Publisher files, 2 Excel files and 45 picture files. Other files of a personal nature were present for the time prior to April 2003. Examples of these personal files are: homecoming dance pictures, cheerleading pictures, hiking pictures, high school cheerleading clip art, cheerleading

fundraising documents, banners, poems, personal correspondence to various persons, poems, and a birthday party invitation.

- II.3. During an interview on February 7, 2005, Ms. Crowley admitted she had printed some documents, primarily for editing purposes, but had not made copies on state equipment.
- II.4. Ms. Crowley is an exception workweek employee in a Washington Management Service position. Ms. Crowley has submitted leave slips for various reasons, including a leave slip for 32 hours for a trip to Hawaii. The allegation that Ms. Crowley took leave without submitting leave slips could not be substantiated.
- II.5. The BIIA issued a written reprimand to Ms. Crowley regarding her conduct in this matter.

III. 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.

IV. CONCLUSIONS OF LAW

- IV.1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Pam Crowley and over the subject matter of this complaint.
- IV.2. 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."
- IV. 3. The Ethics in Public Service Act allows for de minimis personal use of state resources. WAC 292-110-010(4) 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 and the employee's agency has adopted a policy authorizing Internet access consistent with the Board's de minimis rule. Ms. Crowley's personal use of state resources, when viewed as a whole, does not constitute de minimis use allowed for under WAC 292-110-010(4).
- IV. 4. The Board is authorized to impose sanctions for violations to the Ethics Act pursuant to RCW 42.52.360.

V.
AGGRAVATING AND MITIGATING FACTORS

V.1. In determining the appropriateness of the civil penalty, the criteria in WAC 292-120-030 has been reviewed. In the case at hand, it is a mitigating factor that Ms. Crowley received a written reprimand from BIIA regarding her conduct (WAC 292-120-030(4)(a)).

VI.
ORDER AND JUDGMENT

VI.1. Based on the foregoing Findings of Fact and Conclusions of Law, we, the Executive Ethics Board, hereby find that Pam Crowley has violated RCW 42.52.160(1), and order her to pay a civil penalty in the amount of One thousand five hundred
\$1,500⁰⁰.

VI.2. Payment of the civil penalty of \$1,500⁰⁰ shall be made to the Executive Ethics Board within forty-five (45) days of this Order.

DATED this 13th day of July, 2006.

Trish Akana
Trish Akana, Chair

Evelyn Yenson
Evelyn Yenson, Vice-Chair

Paul Zellinsky
Paul Zellinsky, Member

Judith Golberg
Judith Golberg, Member

Neil Gorrell
Neil Gorrell, Member