BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of: W. H. KNIGHT, Respondent.	NO. 2007-014 STIPULATION AND ORDER

THIS STIPULATION is entered into under WAC 292-100-090 between W. H. KNIGHT, Respondent, and the EXECUTIVE ETHICS BOARD ("Board") through MELANIE DE LEON, Executive Director. The following findings, conclusions, and agreements will be binding upon the parties to this agreement if the agreement is fully executed and accepted by the Board.

I. PROCEDURAL FACTS

1.1 On or about December 5, 2006, the Board initiated an investigation based upon allegations that the Respondent used state resources to conduct outside employment. The Board investigated this complaint for a potential violation of the Ethics in Public Service Act, RCW 42.52.

1.2 The Board is authorized under WAC 292-100-090 informally, to settle matters in lieu of formal proceedings under the Administrative Procedures Act.

1.3 W. H. Knight understands that if the 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 W. H. Knight recognizes that the evidence available to the Board staff is such that the Board may conclude he 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 W. H. Knight 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 Mr. Knight 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. Knight 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 Mr. Knight 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 Mr. Knight does not accept the Board's proposed modification(s), if any, Mr. Knight waives any objection to participation by any Board member at any subsequent hearing to whom this stipulation was presented for approval under WAC 292-100-090(2).

II FINDINGS OF FACT

2.1 At all times material hereto, the University of Washington ("UW") employed W. H. Knight as Dean of the University of Washington School of Law.

2.2 On or about or between April 25, 2003 and October 25, 2005, W. H. Knight used his UW e-mail address to conduct business with State Farm as a member of their board of directors.

2.3 On or about or between April 25, 2003 and October 25, 2005, W. H. Knight received or sent communications via the UW electronic mail system with State Farm 191 times. These e-mails contained a variety of content including travel arrangements for board meetings, board committee meeting notes, and other information regarding State Farm's business.

2.4 During the period of time W. H. Knight used the UW's computer system to communicate with State Farm, the UW's policies prohibited any use of university resources to conduct outside business or private employment.

III. CONCLUS IONS OF LAW

3.1 Under RCW 42.52, the Executive Ethics Board has jurisdiction over W. H. Knight and over the subject matter of this complaint.

3.2 WAC 292-100-090(1) allows the parties to resolve this matter under the terms contained in this Stipulation, subject to the Board's approval.

3.3 Under RCW 42.52.160(1), no state employee may use any person, money or property under the employee's official control or direction for the private benefit or gain of the officer, employee or another. The de minimis use rule does not apply to this situation as under WAC 292-100-010(6)(a), the Ethics in Public Service Act strictly prohibits any use of state resources for the purpose of conducting an outside business or private employment.

3.4 If the Board found that Mr. Knight violated RCW 42.52.160(1), it could impose sanctions under RCW 42.52.360.

IV. AGGRAVATING & MITIGATING FACTORS

4.1 The Board reviewed the criteria in WAC 292-120-030 to determine the appropriateness of the civil penalty.

4.2 It is an aggravating factor that Mr. Knight signed Request for Approval of Outside Professional Work for Compensation forms encompassing the periods between July 2001 through June 2007 and checked "No" to question (28a), which asked, "Will University of Washington facilities, equipment, computers, employees and students or other resources be used?" yet he proceeded to send and receive e-mails regarding his work for State Farm using the UW computer system and his official UW e-mail address.

4.3 The following are mitigating factors:

1. There was no intentional violation of University policy or state law or regulation.

2. The outside work for the State Farm Board existed before the University hired Mr. Knight. The work was fully disclosed at the time of employment and was approved by the University. The work did not detract from Mr. Knight's ability to perform his duties at the University.

There is no evidence that University resources were used to perform substantive work for the outside position. The majority of emails were e-mails transmitted to Mr. Knight, and related to scheduling issues or simply transmitted documents. A minority of the emails involved emails sent by Mr. Knight, and these typically were perfunctory responses to emails. Mr. Knight sought to avoid improper use of state resources by purchasing and paying for his own Blackberry device, even though most of its use was for "official" University business.

V. AGREED ORDER

5.1 W. H. Knight used state resources in his service as a member of the board of directors of a private business.

5.2 W. H. Knight will pay a civil penalty of seven hundred fifty dollars ($750). The Board agrees to suspend two hundred fifty dollars ($250.00) of the civil penalty on the condition that W. H. Knight complies with all terms and conditions of this Stipulation and Order. If W. H. Knight fully pays the remaining amount of five hundred dollars ($500) and commits no further violations of chapter 42.52 RCW within three calendar years of the date this order is accepted by the Board, W. H. Knight will have fully satisfied his civil penalty obligations with regard to this matter and will be released from any obligation to pay the remaining suspended two hundred fifty dollars ($250.00) of civil penalty. The civil penalty is payable within forty-five (45) days of the entry of this Order.

VI. CERTIFICATION

I, W. H. Knight, hereby certify that I have read this Stipulation and Order in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Board without my appearance. I knowingly and voluntarily waive my right to a hearing in this matter; and if the Board accepts the Stipulation and Order, I understand that I will receive a signed copy.

W.H. Knight 5/24/08

W. H. Knight, Respondent Date

Stipulated to and presented by:

Melanie de Leon 6/11/08

Melanie de Leon, Executive Director Date

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 13 day of June, 2008.

Judith K. Golberg, Chair

Neil Gorrell, Vice-Chair

Evelyn Yenson, Member

Linnaea Jablonski, Member

Michael Connelly, Member

* I, W. H. KNIGHT, JR., accept/do not accept (circle one) the proposed modification(s).

_____

W. H. KNIGHT, JR., Respondent Date