BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of: MARIA (HOUGH) McBRIDE, Respondent.	NO. 07-020 STIPULATED FACTS, CONCLUSIONS AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent, Maria (Hough) McBride, and Board Staff of the Washington State Executive Ethics Board (Board) through Melanie de Leon, 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. A Whistleblower complaint was received by the State Auditor's Office (SAO) on or about July 28, 2006. The SAO investigated the allegations and concluded that reasonable cause existed to believe that Maria McBride used state resources for personal benefit. The SAO referred the Whistleblower Report to the Board on or about November 3, 2006.

1.2. On March 9, 2007, the Board initiated a complaint.

1.3. 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.

1.4. Maria McBride 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 for each violation found, or the greater of three times the economic value of anything received or sought in violation of chapter 42.52 RCW. The Board may also order the payment of costs, including reasonable investigative costs, under RCW 42.52.480(1)(c).

1.5. Maria McBride recognizes that the evidence available to the Board staff is such that the Board may conclude she 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.

1.6. Maria McBride waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or 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.

1.7. If the Board accepts this stipulation, the Board will release and discharge Maria McBride 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. McBride 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.

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

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

1.10. If the Board rejects this Stipulation, or if Maria McBride does not accept the Board's proposed modification(s), if any, Ms. McBride 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. McBride understands and agrees that, if this proposed Stipulation is rejected by Ms. McBride, with any applicable modification by the Board, this 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. At all times material hereto, Maria McBride was employed by the state Department of Labor and Industries (LNI).

2.2. In November 2006, the SAO found reasonable cause to believe that Maria McBride used state resources for personal benefit in violation of RCW 42.52.160(1). The specific findings included that McBride streamed music from the Internet for hours at a time; accessed personal email accounts, bill payment websites, shopping sites and news sites from her state computer; and stored 60 personal photos, and 244 personal emails in her deleted folder on her state computer.

2.3. On March 9, 2007, after Board staff reviewed the evidence gathered by the SAO, the Board initiated a complaint against Ms. McBride.

Section 3: CONCLUSIONS OF LAW

3.1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Maria McBride 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 benefit. 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.**

Maria McBride violated RCW 42.52.160(1), Use of persons, money or property for private gain, when she sent, received and stored emails and photos not related to LNI business on her state computer; used her state computer to access non-work-related Internet websites; and streamed music from the Internet

3.4. The Board is authorized to impose sanctions for violations of 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.

II. MITIGATING FACTORS

In determining the appropriateness of the civil penalty, the criteria in WAC 292-120-030 has been reviewed. It is a mitigating factor that Maria McBride's wages were reduced by five percent for a two-month period from July 1 through August 31, 2007, for a loss in wages of $328.80.

III. AGREED ORDER

Maria McBride will pay a civil penalty in the amount of five hundred dollars ($500.00). The Board agrees to suspend two hundred fifty dollars ($250.00) of the civil penalty on the condition that Maria McBride complies with all terms and conditions of this Stipulation and Order. If Maria McBride fully pays the remaining amount of two hundred fifty dollars ($250.00) and commits no further violations of chapter 42.52 RCW within two calendar years of the date this order is accepted by the Board, Maria McBride will have fully satisfied her 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.

CERTIFICATION

I, Maria McBride, hereby certify that I have read this Stipulation and Agreed 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 Agreed Order, I understand that I will receive a signed copy.

Maria McBride 11/4/08

Maria McBride Date
Respondent

Stipulated to and presented by:

Melanie de Leon

Melanie de Leon Date
Executive Director

* Per Phone Call to Melanie on 11/4/08, OK to Mail only back page

IV. 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):

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_____

_____

DATED this 14th day of November, 2008.

Judith K. Golberg, Chair

Neil Gorrell, Vice-Chair

~~Evelyn P. Yenson, Member~~

Linnaea Jablonski, Member

Michael F. Connelly, Member

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

Maria McBride, Respondent Date