ORIGINAL

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:	NO. 99-15
GARY BELL	STIPULATION AND ORDER
Respondent.	

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090 between Gary Bell and the EXECUTIVE ETHICS BOARD ("Board") through Margaret A. Grimaldi, Executive Secretary.

A. FACTS AND LAW

1. FACTS

a. The above-referenced complaint was filed on March 8, 1999, against Gary Bell, a Health Programs Specialist with HIV/AIDS Client Services at the Department of Health.

b. In addition to his official duties for the Department of Health, Mr. Bell has also been an active volunteer for the Department of Fish and Wildlife (DFW) since 1994. In March 1999, the supervisor of volunteers at the Department of Fish and Wildlife contacted Mr. Bell and other DFW volunteers and asked them to respond to a citizen's position ~~on~~ HB 1609 relating to management of the elk population in Washington State.

c. Mr. Bell acknowledges that on March 3, 1999, he sent a two-page e-mail message relating to HB 1609 to the citizen, using his Department of Health computer, and also sent a copy of his message to approximately 16 other government officials and members of the state legislature.

d. Mr. Bell acknowledges that use of his computer at the Department of Health to communicate on legislation relating to HB 1609 was not within the performance of his official

duties, and that his access to the Internet is available to him by virtue of his employment with that agency.

e. Mr. Bell has no previous ethics violations.

2. APPLICABLE LAW

a. 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.

b. WAC 292-110-010(4) provides that the occasional and limited private use of state resources does not include:

> (c) Any campaign or political use;
>
> ...

B. RESOLUTION

Mr. Bell admits that he violated RCW 42.52.160(1) and WAC 292-110 by using state resources to respond to a citizen's position on legislation that was not related to the performance of his official duties for the State of Washington.

Mr. Bell will pay a civil penalty in the amount of one hundred dollars ($100.00), comply with all terms and conditions of this Stipulation and Order, and commit no further violations of RCW 42.52.

The amount is payable to the state Executive Ethics Board in two payments of $50.00 each. The first payment is due within thirty (30) days of approval of this Stipulation and Order by the Board. The second and final payment shall be due on or before January 15, 2000.

C. CONCLUSIONS OF LAW

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Gary Bell and over the subject matter of this complaint.

2. When not related to the performance of official duties, use of state resources to comment on a bill pending before the Legislature is an inappropriate use of state resources.

3. Pursuant to WAC 292-100-090(1), the parties have the authority to resolve this matter under the terms contained herein.

4. Settlement of this matter on the terms herein is subject to WAC 292-100-090(2) which states 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.

D. RELEASE/EFFECT OF ORDER

1. If the Board accepts this Stipulation, the Board releases and discharges Mr. Bell from all further ethics proceedings under chapter 42.52 RCW for matters arising out of the facts contained in this complaint upon payment of the civil penalty in the amount of $100.00. Mr. Bell 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 Order.

2. If this Stipulation is accepted, this Stipulation and Order does not purport to settle any other claims between Mr. Bell and the Department of Health, the State of Washington, or other third party, which are now in existence or may be filed in the future.

3. If this Stipulation is accepted, this Stipulation and Order will be inadmissible for any purpose in any other proceeding involving Mr. Bell, the state, and/or third parties aligned with the state.

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

E. CERTIFICATION

I, GARY W. BELL, hereby certify that I have read this Stipulation and Order in its entirety; that I have had an opportunity to consult with legal counsel; that I knowingly and voluntarily waive my right to a hearing in this matter; and that I fully understand and voluntary agree to this Stipulation.

Gary W Bell
Respondent

11/5/99
Date

Stipulated to and presented by:

Margaret G. Grimaldi
Executive Secretary

3 November 1999
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 following modifications are approved by _____.

_____

_____

_____

_____

DATED this 12 day of November, 1999.

JANET LIM, Chair

REV. CHERYL ROHRET, Vice Chair

GWENDOLYN FOYD, Member

PAUL GILLIE, Member

SUTAPA BASU, Member

I, _____, accept/do not accept (circle one) the proposed modification.

Respondent — Date

Attorney for Respondent (if applicable) — Date