

Legislative Ethics Board

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COMPLAINT 2019 – No. 4

In re Shewmake

May 22, 2019

ORDER OF DISMISSAL: LACK OF REASONABLE CAUSE

I. Nature of the Complaint

The complaint was received on March 14, 2019 and was the subject of Board discussions at regularly scheduled meetings on March 25th and May 9th, 2019. The Complainant alleges that Respondent violated the prohibition on the use of public resources for private benefit, RCW 42.52.160, by blocking him from her Facebook site and, as a result, he was unable to see her town hall announcement which was posted on that site.

II. Jurisdiction

The Board has personal jurisdiction and subject matter jurisdiction. RCW 42.52.320.

III. Findings of Fact

There is reasonable cause to believe the following are the pertinent facts of the case.

1. Respondent is a member of the House of Representatives representing the 42nd legislative district.
2. Respondent held a town hall on March 23, 2019 at Whatcom Community College in Bellingham to discuss legislative issues.
3. Respondent posted notice of this town hall on her personal Facebook page. Notice of the town hall was also posted on Respondent's House Democratic caucus member page and her campaign Facebook page.
4. The town hall posting that appeared on Respondent's personal Facebook page was accomplished without the use of state resources.
5. Complainant was asked by a friend of his whether he was going to attend Respondent's town hall. He was unaware of it and when he tried to find the town hall notice using

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Respondent's personal Facebook page, he received the following message: "Sorry, this content isn't available right now. The link you followed may have expired, or the page may only be visible to an audience you're not in."

6. Respondent did block Complainant from her personal Facebook page but does not remember the specific reason why she did so. She indicated that he may have previously "creeped her out" and because she has pictures of her children posted on that website, she has blocked a number of people from being able to view her personal Facebook page.
7. Complainant posted two comments on Respondent's campaign Facebook page, both of which were comments on Respondent's position on issues. Those comments can still be viewed on Respondent's campaign Facebook page.

IV. Conclusions of Law

RCW 42.52.160 prohibits the use of persons, property or money (often referred to in the opinions as "public resources") under a legislator's official control or direction, or in his or her official custody, for the private benefit of self or another unless that use is part of the legislator's official duties. *In re Schmidt*, 2006 – No. 4.

A legislator's personal Facebook page is not a public resource under the legislator's "official control or direction" because it is not an account that was established because the person is a member of the legislature. A personal Facebook account is not subject to the policies of the House or Senate. As a result, Respondent's actions in blocking Complainant's access to her personal Facebook page did not violate RCW 42.52.160.

Although the Complainant does not argue in his complaint that he was kept from attending the town hall solely because he was blocked from Respondent's personal Facebook account, he did have other alternatives with which he could have discovered when the town hall was being held: it was posted on both the Respondent's member page as well as on her campaign page, to both of which Complainant had access.

No reasonable cause exists to believe Respondent violated RCW 42.52.160.

V. ORDER

IT IS HEREBY ORDERED that Complaint 2019 – No. 4 is dismissed.



Eugene Green, Chair

Date: May 22, 2019