

## **COMPLAINT 2014 – NO. 7**

In Re Hurst

### Determinations of No Reasonable Cause and No Jurisdiction

August 2014

#### **1. Nature of the Complaint**

The complaint alleges interference in a potential candidacy for a judicial position. The Complainant states he was considering a challenge to an incumbent Judge, who he later discovered had been endorsed by the Respondent. The complaint alleges that the Respondent threatened him with a public disclosure of information which was related to a court file containing details of the Complainant's divorce. Apparently, it was the possible characterization of those details as indicative of an assault perpetrated by the Complainant on his now ex-spouse, and the dissemination of that characterization to the public by Respondent and others, that constituted one factor in his decision to drop out of the race. Complainant cites RCW 42.52.020, the conflicts of interest statute, as authority for his allegation that Respondent's actions, or threatened actions, constituted a violation of the Ethics Act. He also alleges he was the victim of extortion.

#### **2. Determinations of Fact**

The following are among the pertinent facts of this case.

1. Records provided by the Complainant establish that the Respondent used a cell phone to convey the alleged threats through voice and text messages.
2. Records of the House of Representatives establish that the cell phone is not a state-owned device, and that the Respondent has never sought reimbursement for his use of the phone.

#### **3. Determinations of Law**

1. RCW 42.52.020; Activities incompatible with public duties, is commonly referred to as the conflicts-of-interest statute. It is limited to conflicts between a legislator's official duties and other interests or obligations the legislator may have. Accordingly, the opinions of this Board (citations omitted) have identified the scope of the statute as pertaining to: (1) A legislator's non-legislative employment and how that employment might be affected by legislative duties; (2) issues related to a legislator's personal financial gain and the relationship of that gain to legislative office; and (3) issues related to the permissible role of a legislator in the sponsorship, support, or opposition to legislation in circumstances where the legislator might financially benefit. .020 is not applicable in this case which alleges Respondent was improperly involved in an individual's contemplated run for public office.
2. Based upon the facts of this case, the relevant statute is RCW 42.52.180, use of the facilities of an agency to support a campaign for election. The question for the Board is whether the Respondent used or authorized the use of the facilities of the Legislature for the purpose of assisting the election of the incumbent Judge? The cell phone use by Respondent is apparently the only fact in this case which presents this issue. Determinations of Fact, No. 2, answers that question in the negative and therefore there is no reasonable cause to believe Respondent violated .180.
3. Extortion is a criminal offense. It is defined in RCW 9A.56.110, and is a felony. As a criminal offense it is beyond the subject-matter jurisdiction of this Board.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that this complaint is dismissed for lack of reasonable cause to believe that Respondent violated RCW 42.52.180, and for lack of subject matter jurisdiction over the claim of extortion.

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Kristine F. Hoover, Chair

Date: