



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

April 6, 2011

MATT RICHARDSON
14807 RIVERGROVE DR
SUMNER WA 98390

Subject: Complaint filed against Pam Roach - PDC Case No. 11-022

Dear Mr. Richardson:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint, received on October 25, 2010 and certified on October 29, 2010, against State Senator Pam Roach and her 2010 campaign. In your complaint, you alleged that two political advertising mailings sponsored by Senator Roach's campaign contained false statements of material fact about you, made with actual malice, that constituted libel or defamation per se, alleged violations of RCW 42.17.530(1)(a). The alleged false statements were as follows:

- 1) That on some occasion you have broken the law, and so may be described as "a lawbreaker";
- 2) That in 1993 you were charged with sexually assaulting or molesting two girls aged 5 and 8 over multiple years;
- 3) That you pled guilty to the molestation charges;
- 4) The implication, through the use of images, that either the alleged molestation or the criminal charges against you occurred when you were an adult, and that you represent a continuing danger to children;
- 5) That administrative leave you took in 2010 from your teaching position at the Wa He Lut Indian School either followed, or directly resulted from, news coverage of your past, including allegations of sexual molestation;
- 6) That in 2002 you were charged with unlawful harassment;
- 7) That in 2005 there was a "civil disturbance" involving you at the City of Sumner police station;

- 8) That in 2006 you received a written reprimand from your employer at the Federal Way School District, and that this reprimand either followed, or directly resulted from, allegations that you had engaged in sexual misconduct; and
- 9) That in 2010 you were charged and sentenced for reckless driving.

PDC staff reviewed your allegations in light of the following statutes:

RCW 42.17.530(1)(a) prohibits any person from sponsoring, with actual malice, political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office constituting libel or defamation per se.

RCW 42.17.530(2) defines “libel or defamation per se” as statements that tend (a) to expose a living person to hatred, contempt, ridicule, or obloquy, or to deprive him or her of the benefit of public confidence or social intercourse, or to injure him or her in his or her business or occupation, or (b) to injure any person, corporation, or association in his, her, or its business or occupation.

RCW 42.17.020(1) defines “Actual malice” as to act with knowledge of falsity or with reckless disregard as to truth or falsity.

RCW 42.17.530(4) requires that violations of RCW 42.17.530(1)(a) be proven with clear and convincing evidence.

We reviewed your complaint, including the mailings at issue, a November 13, 2010 letter from you containing supplemental information, and additional email correspondence from you or the staff of your legal counsel. We performed an *in camera* inspection of sealed court documents you provided related to your 1993 prosecution in King County Superior Court. We reviewed the response of Pam Roach to the complaint, including other documents the senator provided related to your 1993 prosecution. We reviewed records obtained from the King County Sheriff’s Office concerning the connected police investigation. We conducted interviews with you, with Senator Roach, Representative Chris Hurst, Yvonne Ward, and with current and former staff of the King County Prosecutor’s Office. We reviewed records related to various civil, criminal, and police matters in Pierce County District Court, Puyallup Municipal Court, and the City of Sumner. Finally, we reviewed records related to your former employment with Federal Way Schools, and items from the news media.

As a result of our review, we found the following:

- **Statements concerning sexual molestation or assault:** The statements in Senator Roach’s mailings concerning sexual molestation or assault were based on documents stemming from your 1993 prosecution in King County Superior Court.

These documents included a "*Certification for Determination of Probable Cause*," the resulting arrest warrant, your written guilty plea, and the judgment entered in your case. Statements made by members of your extended family to Senator Roach and the media in 2010 provided an additional basis for the statements in Senator Roach's advertisements.

- PDC staff's review of the "*Order of Dismissal*" issued in connection with your 1993 case, the "*Order Vacating Record of Conviction and Order to Seal Court File*," and the "*Order to Seal Superior Court File Pursuant to GR15*," indicates that the Orders were concerned with procedural matters, and did not contravene the facts of the underlying case. For example, the "*Order of Dismissal*" states that charges against you were dismissed in part because you fulfilled the terms of your deferred sentence; the "*Order to Seal Superior Court File Pursuant to GR15*" states that before hearing your motion to seal court documents, attempts were made to notify "the victims of the offense."
- Although the Orders described above allow you to state truthfully that you were never convicted in the 1993 criminal matter, they do not appear to preclude other persons, including Senator Roach, from discussing your prosecution. Moreover, because the Orders do not refute or otherwise address the facts of the underlying case, including the contents of prosecutors' "*Certification for Determination of Probable Cause*," they do not show the falsity of the claims in Senator Roach's mailings, or provide clear and convincing evidence of actual malice.
- Finally, although Senator Roach's mailings contained no explicit claim that you were an adult at the time of the alleged molestation, or at the time that criminal charges were issued against you, PDC staff noted that you were 27 years old at the time of your 1993 prosecution.
- **Statements concerning 2010 administrative leave:** Senator Roach's mailings contained no explicit claim that leave taken in 2010 from your teaching position at Wa He Lut Indian School was both compulsory and resulted from news coverage about your past. Rather, the mailings placed one event after the other in sequence. PDC staff found that controversies concerning your campaign were reported by the media prior to the beginning of your leave.
- **Statement concerning 2002 charge of unlawful harassment:** The statement in Senator Roach's mailing concerning a "charge of unlawful harassment" against you in 2002 was based on a civil action filed in Pierce County District Court on June 6, 2002 by Kenneth Kaseburg. In his civil action, Mr. Kaseburg alleged that you threatened his life, and sought to restrain you from contacting him or his minor children.

- **Statement concerning 2005 civil disturbance incident:** The statement in Senator Roach's mailing concerning a 2005 "civil disturbance incident" was based on a three-page "*Crime / Incident Report*" issued by the City of Sumner Police Department on July 1, 2005, and a one-page supplemental report issued on July 6, 2005. According to the report, the incident began when you arrived at the Sumner Police Station to report alleged custodial interference by your former wife for failing to bring your daughter to your home. After consulting with your former wife, the reporting officer learned that it was your daughter who refused to go to your house, and that the girl's mother was responding to her daughter's wishes.
- **Statement concerning 2006 reprimand following allegations of sexual misconduct:** Senator Roach's mailings contained no explicit claim concerning the findings that resulted from the Federal Way School District's investigation of alleged sexual misconduct. Rather, the relevant mailing stated only that a letter of reprimand was issued to you following the allegations. This statement was based on a letter to you dated April 18, 2006 from Courtney Wood, Director of Labor and Employee Relations for Federal Way Public Schools.
- Ms. Wood's letter, which had the subject line "Letter of Reprimand," stated that its purpose was to inform you of the outcome of the district's investigation of allegations that you engaged in sexually inappropriate conduct towards students at Sequoyah Middle School. Ms. Wood stated that although there was insufficient evidence to conclude that you engaged in conduct that met the criteria for sexual and/or malicious harassment as defined in school district policies, she concluded that the testimony offered by students in support of the allegations was "predominantly veracious, and a generally credible account of events."
- Ms. Wood went on to reprimand you for actions that caused fear of reprisals or retaliation among your students, or that created a hostile learning environment. She stated that she would join in recommending to the district superintendent that your provisional teaching contract with Federal Way Schools not be continued.
- **Statement concerning 2010 sentence for reckless driving:** The statement in Senator Roach's mailing concerning a 2010 charge and sentence for reckless driving was based on a "*Waiver, Stipulation and Order of Continuance,*" signed by you on August 12, 2010 and entered in Puyallup Municipal Court on August 16, 2010. The document stated that you were charged with the crime of reckless driving; it stated that the matter of the charge against you would be continued without finding until the following year and dismissed at that time provided that you fulfilled certain stated conditions. The conditions for your continuance and dismissal included payment of \$150 in court monitoring costs, attendance at a defensive driving class, maintenance of law-abiding behavior, notification to the

court of any change of address, and performance of 10 hours of community service.

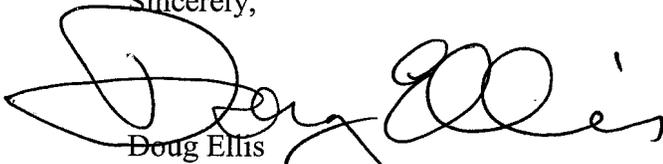
- Although the Puyallup Municipal Court issued no finding or sentence in the matter of the reckless driving charge against you, given the fact of the charge, and the imposition of the conditions described above, PDC staff found no evidence that the relevant statement in Senator Roach's mailing was a false statement of material fact, constituting libel or defamation per se, made with actual malice.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against State Senator Pam Roach and the 2010 Citizens for Pam Roach campaign.

Thank you for bringing this matter to our attention. The process relies on citizens monitoring campaign activity to promote full compliance with the law. Your actions will contribute to better awareness of the Public Disclosure Law and better public disclosure of important campaign information.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll-free at 1-877-601-2828 or by e-mail at phil.stutzman@pdc.wa.gov.

Sincerely,



Doug Ellis
Interim Executive Director

c: State Senator Pam Roach