



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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September 26, 2013

THADDEUS B CURTZ JR
113 17TH AVE SE
OLYMPIA WA 98501

Subject: Complaint filed against Justin Kover, PDC Case No. 12-166

Dear Mr. Curtz:

The Public Disclosure Commission (PDC) has completed its investigation of your complaint received on March 13, 2012, alleging that Justin Kover violated RCW 42.17.510¹ by failing to identify himself as the sponsor of political advertising that opposed the 2011 Stephen Buxbaum campaign for Olympia Mayor, and by using an assumed name to identify the sponsor of the advertising.

Your complaint was considered in light of the following statute:

RCW 42.17.510(1) states, in part, that "All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address...The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful."

PDC staff reviewed your complaint, the enclosed declarations and exhibits, and Mr. Kover's formal response to the complaint. Staff conducted interviews under oath with Mr. Kover and Jackie Barrett Sharar, a potential witness. Finally, staff had a sealed political advertisement enclosed with your complaint analyzed for fingerprints by the Washington State Patrol Crime Laboratory. As a result of our review, we found the following:

- In your complaint, you alleged that Justin Kover created a fake Facebook profile for (former Olympia City Council Member) Matthew Green, and used this profile for the purpose of opposing Stephen Buxbaum's campaign. You alleged that this Facebook profile constituted political advertising as defined by RCW 42.17.020(38)¹, and that in allegedly creating the profile, Mr. Kover committed a violation of RCW 42.17.510.
- Regarding this allegation, in PDC Interpretation 07-04, *Campaign Activities on the Internet*, the Public Disclosure Commission has previously stated that emails, social networking Web pages and comments on Internet news sites are not subject to the

¹ Effective January 1, 2012, RCW 42.17.020 and RCW 42.17.510 were recodified as RCW 42.17A.005 and RCW 42.17A.320, respectively.

sponsor identification requirement for political advertising. The Commission updated its administrative rules concerning online political advertising on June 27, 2013; however, at the time relevant to your complaint, PDC staff advised persons inquiring with the agency that the sponsor identification requirement did not apply to social networking Web sites. Thus, this aspect of your complaint was not investigated.

- In your complaint, you alleged that Mr. Kover was the sponsor of a mailed and hand-distributed flyer that attacked Stephen Buxbaum during the closing weeks of Mr. Buxbaum's 2011 mayoral campaign. Mr. Kover denied under oath that he sponsored this flyer, or that he had any role in researching, producing, or distributing the flyer. He stated under oath that he had no knowledge of the identity of the flyer's sponsor. He stated that he first saw the flyer in November of 2011, the month following its distribution. He stated that prior to that time, he had no conversation with any person about Mr. Buxbaum's work history at the Washington State Department of Community, Trade, and Economic Development (CTED, now the Washington Department of Commerce), the general subject of the advertisement.
- Jackie Barrett Sharar acknowledged in an interview under oath that in 2009, she filed a public records request with CTED for records related to Stephen Buxbaum, including records from his personnel file. She stated that she filed the public records request because she wanted to learn whether there was any basis to rumors she had heard concerning Mr. Buxbaum's work history. She stated that having received the results of her records request, her concerns were abated, and the matter ended for her. She stated that she made no use of the records, and provided them to no one, including Justin Kover. She stated that she did not know Mr. Kover, and had never met, spoken, or corresponded with him. Ms. Barrett Sharar stated under oath that she did not sponsor the flyer, and had no knowledge of the identity of the sponsor.
- The Washington State Patrol Crime Laboratory performed fingerprint analysis of a sealed example of the mailed flyer attacking Stephen Buxbaum. The Patrol's forensic scientist reported that no latent fingerprint impressions of value for identification purposes were found on the contents of the mailing envelope.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation. PDC staff was unable to determine the identity of the sponsor of the 2011 flyer attacking Stephen Buxbaum. In addition, our investigation found no evidence that Justin Kover was the sponsor, or that he had knowledge of the sponsor's identity.

Because staff's investigation has not revealed evidence that Justin Kover violated any laws or regulations under the Commission's jurisdiction, I am dismissing your complaint against Mr. Kover with the concurrence of the Chair of the Public Disclosure Commission.

Thaddeus Curtz

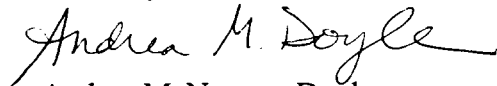
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Thank you for bringing this matter to our attention. The process relies on citizens monitoring campaign activity to promote full compliance with the law. Your actions will contribute to better awareness of campaign restrictions and prohibitions.

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,

A handwritten signature in black ink that reads "Andrea M. Doyle". The signature is fluid and cursive, with the first name "Andrea" being more prominent.

Andrea McNamara Doyle
Executive Director

c: Justin Kover
Robert Shirley