

COMPLAINT 2010 – NO. 2

In Re Gordon

DETERMINATION OF NO REASONABLE CAUSE – ORDER OF DISMISSAL

June, 2010

1. Nature of the Complaint

The complaint alleges that Senator Randy Gordon (Respondent) improperly used the facilities of the Senate in support of his election campaign in violation of RCW 42.52.180 when he included notice of three legislative town hall meetings on his campaign website. The Board has both personal and subject matter jurisdiction.

II. Conclusion

Based upon a review of the complaint and the Board's investigation, the Board concludes there is no reasonable cause to believe that the inclusion of the schedule of these legislative meetings on the campaign site constituted the use of the facilities of the Senate in support of Respondent's campaign. This case involves the use of campaign resources to advertise a legislative event whereas RCW 42.52.180 is directed at, among other things, prohibiting the use of public resources to advertise a campaign event.

III. Determinations of Fact

Respondent is a candidate for election this November and has established a campaign website. On the introductory page there are a number of other pages that may be selected including: Events; News; Issues; Sponsored Bills; Volunteer; Donate and Contact Us. By clicking on "Events" a visitor to the website is presented with a calendar for the current month. The complaint was filed on May 12. On the May calendar three town hall meetings in Respondent's

legislative district were noted, together with their locations and starting times. This information was also available on legislative sites.

The campaign site did not contain legislative contact information such as legislative addresses or phone numbers nor any discretionary, legislative materials prepared for Respondent at public expense. Legislators often discuss legislative matters on their campaign websites and in other campaign materials. They sometimes refer to their voting record, the committees to which they were appointed, and the issues likely to be discussed in the next legislative session. Readers may also be asked for input on these issues with the responses to be directed to the campaign. If someone is interested in obtaining more legislative information the campaign website may provide links to that information.

IV. Determinations of Law

1. RCW 42.52.180 (Use of public resources for political campaigns) prohibits the use of facilities of an agency for the purpose of assisting a campaign.

“... Facilities of an agency include, but are not limited to, use of stationery, postage, machines and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of an agency, and clientele lists of persons served by the agency.”

2. Legislative town hall meetings involve the use of agency facilities (public resources) as defined by RCW 42.52.180. For a legislator in her or his election year these meetings must take place before June 30.
3. The complaint does not allege that the legislative town hall meetings were substantively illegal under the Ethics Act or that they were conducted in such a manner as to constitute a violation of the Act.
4. Facilities of an agency, as defined in the non-exclusive list of items found in .180, cannot reasonably be interpreted to include the mere notice of a legislative event.
5. Campaign resources may be utilized to convey legislative information which is not otherwise prohibited by the Act or Board opinions. In Complaint Opinion 2002 – No. 2, a legislator sent a newsletter on legislative issues to individuals who would be included in his legislative district when the new boundaries established by redistricting became official. Senate policy did not allow Senators to mail at state expense to voters who would soon be but were not currently residents of the legislative district. His campaign staff prepared the newsletter and the campaign was clearly noted on the correspondence as the publishing entity. We determined that while the duplication and campaign use of a newsletter prepared at public expense would constitute a violation of .180, the Ethics Act did not prohibit the legislator from using campaign resources to develop and mail this newsletter containing legislative news.

V. Summary and Order

A notice of a legislative event is legislative news of the type permitted to be conveyed through the use of campaign resources as it is clearly not within the class or types of items and resources identified by the Legislature as a “facility of an agency” when it enacted RCW 42.52.180.

The complaint infers that Respondent’s advertising of town hall meetings featuring him and his invitation to readers to attend is a promotion of his election efforts. However, such an inference may be entertained by some whenever a legislator makes a legislative appearance during an election cycle. The inference cannot stand alone as constituting reasonable cause to believe the Act has been violated.

We believe it is possible that a visitor to this campaign site could conclude that these meetings were intended to be campaign meetings. This is because not only do they appear on the campaign site but also because the website does not clearly identify the town hall meetings as legislative meetings. Legislators may wish to consider making that distinction when they give notice to the public of such events as that may help avoid confusion.

IT IS HEREBY ORDERED that the complaint is dismissed for lack of reasonable cause.

David R. Draper, Chair
Date: