

Legislative Ethics Board

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COMPLAINT 2015 – NO. 3

In Re Appleton

Determination of No Reasonable Cause – Order of Dismissal

December, 2015

1. Nature of the Complaint

The complaint was filed in late October, 2015. The Complainant, Master Chief Brian Anderson, is in the Navy and in 2014 his neighbor complained to the Navy about several alleged incidents which were characterized, generally, as evidencing rude behavior and not being a good neighbor. The Navy conducted an Inquiry and dismissed the complaint. The neighbor and Rep. Appleton (Respondent) have known each other for several years and the neighbor requested the Respondent's assistance in pursuing the former's allegations against the Complainant. The Respondent, through her Legislative Assistant, obtained contact information from the Navy and forwarded that information to the neighbor. In 2015, the neighbor again levied allegations with the Navy about the Complainant. The Navy declined to process this latest complaint because in the Navy's view the allegations concerned civil matters and disputes between neighbors and the Chiefs behavior did not violate the Uniform Code of Military Justice nor any Naval Good Neighbor policies. In her correspondence with the Navy, the neighbor cc'd the Respondent. The Complainant alleges that Respondent used her office, staff, and other public resources to improperly intervene in a private dispute between neighbors.

The relevant statute is RCW 42.52.160, which prohibits a legislator or legislative employee from using public resources to benefit others unless that use is part of the legislator's or employee's official duties.

The Board reviewed documentation from the Inquiry provided by the Complainant as well as the records of the Respondent's legislative office.

2. Determinations of Fact

There is reasonable cause to believe that the following are among the pertinent facts in this case.

1. Respondent was cc'd on at least two occasions when the neighbor contacted the Navy by email about the alleged actions of the Complainant.
2. The neighbor also communicated by email, sent to the Respondent's private email address, and requested that Respondent forward her concerns to the Navy.
3. The Respondent did not forward those concerns as requested but instead instructed her Legislative Assistant to obtain contact information from the Navy so that the neighbor would know where she could make contact.
4. Respondent did not respond to the neighbor in any other fashion and did not have any conversations with the neighbor about the allegations.
5. Respondent had no communication with the Navy about the allegations nor did she urge an Inquiry.
6. The Legislative Assistant did have communication with the Navy but those communications were directed at finding the proper naval personnel for the neighbor to contact.
7. The Navy, and Master Chief Anderson, perceived that the Respondent was actively assisting the neighbor. This perception was buttressed each time the Respondent's name appeared on the neighbor's emails and Navy correspondence.
8. The neighbor's use of Respondent's name, in the fashion described in #7, was apparently designed as a means of getting the Navy's attention in her efforts to pursue her allegations.

3. Determinations of Law

1. The allegations investigated by the Navy in 2014 involved disputes between neighbors, as did the allegations levied in 2015.
2. Respondent was not an advocate for the Complainant's neighbor.
3. Advisory Opinion 2006 – No. 1, provides in pertinent part:

"A legislator may not use public resources to assist a constituent when-

Either through a constituent's or the legislator's own initiative the legislator assumes the role of advocate in a dispute between parties not involving government officials or government offices..."

"A legislator may use public resources to assist constituents when-

Gathering or investigating facts surrounding an issue or dispute involving constituents and a government office or government official, or between constituents. Examples of the latter could include a claim by one constituent that his water rights were being adversely affected by adjoining landowners. A legislator is expected to respond to requests for information and, up to the point of advocacy in this dispute between neighbors, the legislator may certainly provide information on the status of the law, who to contact...etc."

4. Order

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the complaint be dismissed for lack of reasonable cause to believe Respondent committed a violation of the Ethics in Public Service Act.

A handwritten signature in cursive script that reads "Kenny Pittman". The signature is written in black ink and is followed by a horizontal line that extends to the right.

Kenny Pittman, Chair

Date: 12/11/2015