

COMPLAINT 2010 – NO. 6

In Re Marr and Bumann

DETERMINATION OF NO REASONABLE CAUSE AND ORDER OF DISMISSAL

December, 2010

I. Nature of the complaint

The complaint alleges that the Legislative Assistant (LA) to Senator Chris Marr, Respondent Barb Bumann, used the facilities of the Senate (public resources in the form of her labor during agency working hours and a senate computer) to assist the Senator's campaign for reelection in violation of RCW 42.52.180. Senator Marr is named as a Respondent presumably because of his potential liability identified in .180:

(1)...Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section.

The Board has determined that it has both personal and subject-matter jurisdiction.

II. Conclusion

The complaint alleges the Respondent LA is well paid by the Senate, she received per diem during the 2010 Legislative Session pursuant to an approved senate policy, she contributed to the Senator's campaign, and the Marr campaign reimbursed her for campaign expenses charged to her personal credit card. Assuming they are correct, none of these actions would be a violation of the Ethics Act. The only actions on the part of the Respondent LA alleged to have violated the Ethics Act are that on three separate afternoons on three legislative workdays the Respondent LA used a senate computer to send campaign e-mails to third parties and that on those days she did not request or receive time off from the Senate.

Having conducted an investigation as required by the Act we conclude there is no reasonable cause to believe that the Respondent LA sent the questioned e-mails or that a senate computer was used. Accordingly, we determine there is no reasonable cause to conclude that Respondent Senator violated the Act.

III. Determinations of Fact

There is reasonable cause to believe the following are the pertinent facts of the case.

1. Respondent LA worked as the unpaid treasurer for the 2010 Marr campaign committee.
2. Senate records show that Respondent LA did not have a senate laptop computer during the Marr 2010 campaign or at any other time.
3. Respondent LA does own a personal laptop computer which she loaned to the campaign for its use in filing election reports with the Public Disclosure Commission and for sending campaign updates from Senator Marr.
4. The "headers" of the three campaign e-mails complained of in this case show the LA's name as the sender. Senator Marr and others associated with the campaign were given the LA's password and had access to the laptop. Both Respondents will testify that Senator Marr sent the campaign e-mails. No evidence to the contrary was discovered.
5. The content of the e-mails is consistent with a finding that Senator Marr authored the e-mails as they refer to "I," "me," and "my opponent" and each message concludes with "Chris Marr" and a cell phone number which is Senator Marr's personal cell phone number.
6. No facts were discovered to support the allegations that Respondent LA sent campaign e-mails during her legislative workday or that she used a senate computer to send campaign e-mails.

IV. Conclusions of Law

1. The Ethics Act does not prohibit a Legislative Assistant from volunteering to work on a legislative campaign.
2. The Ethics Act prohibits the use of a legislative computer to assist a campaign and prohibits a legislative employee from performing campaign tasks during working hours absent being on approved leave.

V. Order

It is HEREBY ORDERED, ADJUDGED AND DECREED that the complaint is dismissed for lack of reasonable cause to believe that the Ethics Act was violated.

David R. Draper, Chair

Date:

