

COMPLAINT 2018 – No. 1

In Re Young

May 27, 2018
June

DETERMINATION OF REASONABLE CAUSE AND STIPULATION

I. Nature of the Complaint

The complaint alleges that Rep. Jesse Young used the facilities of an agency (state resources) in support of a campaign for public office. In February 2018, Rep. Young conducted four legislative town halls in the 26th legislative district. The complaint alleges that at each town hall, Rep. Young placed campaign materials that were available to the public, including several campaign brochures, campaign business cards and a business card of the 26th district Republicans.

The complaint alleges actions that could constitute a violation of RCW 42.52.180, which in part provides:

- (1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition.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 the agency, and clientele lists of persons served by the agency....

II. Background

Complaint 2018 – No. 1 was filed in February 2018. It was filed by a constituent who attended Rep. Young's town halls in the 26th District.

III. Jurisdiction

The Board has personal and subject-matter jurisdiction. RCW 42.52.320.

IV. Findings of Fact

1. Rep. Jesse Young is a member of the Washington State House of Representatives. He is a candidate for re-election in 2018. Public Disclosure Commission reports show that Rep. Young has raised funds in excess of \$25,000 to support his 2018 re-election campaign. He stated that his district office is separate from his campaign office, although both are located in Gig Harbor.
2. In late January 2018, Rep. Young's Public Information Officer (PIO), contacted Rep. Young regarding pre-scheduled town halls to be conducted Feb. 17. She subsequently drafted a proposed press release and e-newsletter; Rep. Young edited them slightly. These communications used the state email system.
3. Separately, Rep. Young arranged for four town halls. He reserved four rooms in offices maintained by local governments throughout his district. Once those rooms were reserved, Rep. Young forwarded an email to his PIO; the email contained the times and locations of the town halls. The PIO added the details to the e-newsletter and press release.
4. The email sent to the PIO originated with Rep. Young's campaign staff, using his campaign email. The campaign staff used an auto-signature containing only the person's name, Rep. Young's campaign telephone number, and "Office of Representative Young."
5. In early February, the PIO released an e-newsletter with Rep. Young's perspective on several legislative issues, together with the times and locations of the town halls.
6. On February 12, the PIO sent out the press release and final e-newsletter as instructed. Both contained the times and locations of the four town halls. The e-newsletter was entitled, "You're Invited!"
7. Prior to the town halls, his PIO sent Rep. Young several documents to assist his town hall presentations. These included talking points and data about the legislative

responses to the Hirst decision, state budgets, education spending, and approximately 25 other legislative issues.

8. Prior to the town halls, but after the school murders in Parkland FL, Rep. Young became concerned that being endorsed by the NRA could present an unbalanced picture of the breadth of his support.
9. On February 17, Rep. Young attended the four town halls. He (or his campaign staff) set up a table near the entry point of each meeting. Attached to the table was a large banner (2 X 3) reading:

Jesse Young
State Representative
26th Legislative District
Town Hall Meeting

On the left side of the banner was an image of the Great Seal of the State of Washington. There were also two directional signs used to guide attendees to the town halls. (In 2015, the legislative print shop produced and laminated the banner and directional signs and charged Rep. Young's legislative budget.)

10. In order to counteract any impression that he was a single-issue legislator due to the NRA endorsement, Rep. Young brought several pieces of campaign material from his 2016 election and placed them on the table behind the legislative banner in each of the town halls. At one or more of the town halls, materials available to attendees included:
 - a. Sign-in sheets produced without state resources. They included legislative contact information for Rep. Young, official addresses, and a logo designed without state resources. The logo shows an image of the capitol dome, surrounded by "Washington State Legislature" and a crossing banner reading "Office of Jesse Young." (The logo is displayed in several locations around Rep. Young's district office.)
 - b. Legislative contact cards produced at state expense.
 - c. Rep. Young's campaign business card containing contact and website information for his campaign. Rep. Young stated that his campaign staff placed the card without his knowledge.
 - d. Campaign flyers indicating that Citizens Alliance for Property Rights endorsed Rep. Young.

- e. Campaign flyers indicating that the Washington Education Association (WEA) endorsed Rep. Young and asking for “your vote this November.”
 - f. Campaign cards describing Rep. Young’s personal history.
 - g. Campaign flyers indicating that the National Federation of Independent Businesses endorsed Rep. Young, showing the NFIB scorecard.
 - h. Campaign flyers touting Rep. Young’s support for military families.
 - i. Business cards from Robin Melin, 26th District Leader for the Republican party. Rep. Young stated that Ms. Melin placed the cards without his knowledge.
11. None of the endorsement materials contained any dates or other information to indicate that they were from 2016.
12. After the town halls, the WEA contacted Rep. Young, advising him that in 2018 he should no longer be using his 2016 endorsement to show their support. In responding to the email, Rep. Young wrote, “The town hall events were ... not campaign related in any way shape or form. I did absolutely no campaigning in them (even though I could have).”
13. Rep. Young used a logo on his sign-in sheets which he produced using his own private funds. He uses the logo for name tags, banners, sandwich boards, and other materials to create a unique branding for himself. He asserts that this is neither a campaign nor a state resource.
14. In October, this Board found reasonable cause to believe that Rep. Young violated RCW 42.52.180 for using state resources to support his campaign. As a result, a civil penalty of One Thousand Five Hundred Dollars (\$1500.00) was imposed. At that time this Board suspended Five Hundred Dollars (\$500.00) of the penalty with the condition that Rep. Young have no further violations of Chapter 42.52.RCW (Ethics in Public Service Act) through the course of the 2022 general election cycle. (See Complaint 2017 – No. 41).

V. Statutory Provisions

1. RCW 42.52.180 prohibits the use of state resources in a campaign for public office:

No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election

of a person to an office or for the promotion of or opposition to a ballot proposition. 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. 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 the agency, and clientele lists of persons served by the agency.

2. RCW 42.52.185 (Restrictions on mailings) provides the only definition of "candidate" in the Ethics in Public Service Act. It references RCW 42.17A.005, which provides:

"Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

3. RCW 43.04.050 (2) prohibits the use of the state seal in campaigns. (Please note that the provision is not part of the Ethics in Public Service Act.)

The state seal shall never be used in a political campaign to assist or defeat any candidate for elective office.

V. Prior Board Decisions

Multiple prior decisions of the Board affirm the strict zero tolerance language of RCW 42.52.180.

1. Complaint Opinion 2001 – No. 5 (Marine): Two actions were found to support a reasonable cause determination that RCW 42.52.180 had been violated. First, the legislator's campaign staff used state-produced response cards included in a campaign mailing; those cards included the legislator's direct contact information. Second, in subsequent mailings, the campaign provided voters with the legislative toll-free hotline number and encouraged the voters to contact him through the number. (The legislative hotline number allows residents to contact the legislature and provide a

message to the callers' representatives.) The Board did not fine the legislator for use of the hotline number, and applied that portion of the decision prospectively.

2. Complaint Opinion 2002 – No. 2 (West): In a campaign mailing, legislator provided his individual telephone number and legislative hotline to voters, suggesting that the contact information was to be used only for legislative purposes (“During the session....”). The Board noted: “RCW 42.52.180 does not permit, in addition to the legislative toll-free hotline number, a legislator’s use of personal legislative addresses or telephone numbers in their campaign documents because of the inference that incumbent legislators running for re-election are inviting people to use these public resources for campaign purposes.” The Board further rejected use of a disclaimer (“during the session....”) to immunize the effort.
3. Complaint Opinion 2004 – No. 3 (O’Brien): A request for information from the Seattle Times asked for campaign contact, personal contact, and public contact information. Legislator provided his legislative contact information to the paper, which later published it as “contact information.” Legislator acknowledged that he should not have provided the legislative contact information when the initial request was clearly about his campaign. Complaint dismissed on grounds that legislator’s error was inadvertent and minor.
4. Complaint Opinion 2006 – No. 2 (Deccio): Legislator authorized the use of state equipment to obtain public documents, later used in campaign effort. “Facilities of an agency” include machines, equipment, and use of the legislator’s Legislative Assistant. (A legislative office is also a “facility of an agency.” Complaint Opinion 2012 – No. 1 (Hargrove).)
5. Complaint Opinion 2012 – No. 3 (Hargrove): In campaign handout used in doorbelling, a legislator included the website address for his caucus. Board concluded that providing caucus website information did not create the same level of risk that voters could begin to use public contact information for campaign purposes, as noted in West. Complaint dismissed. Board explicitly stated:
 - a. The Legislature’s website addresses may be provided in printed campaign materials, and
 - b. Neither printed campaign materials nor campaign websites may include the legislative toll-free hotline number, legislative phone numbers, legislative email addresses or legislative mailing addresses. This practice is not permitted even if the campaign included an admonishment or warning that the use of these contact points was limited to legislative purposes.
6. Complaint Opinion 2016 – No. 16 (Muri): Board stipulated to conditional sanction against legislator whose campaign staff used a legislative newsletter to produce a

substantially similar campaign mailer. Board cited legislator's acceptance of responsibility for actions of his campaign staff. Board made no distinction between actions of the legislator and actions of his campaign staff.

7. Complaint Opinion 2017 – No. 41 (Young): Legislator used his legislative assistant in his campaign. Documents showed multiple instances in which the LA performed campaign activity while on state time, and sent campaign emails referencing both her legislative and campaign roles; legislator either knew or should have known of the LA's campaign activities.

VI. Conclusions

Reasonable cause exists to conclude that Rep. Young violated RCW 42.52.180 based on the following factors:

1. Traditionally, a town hall is a legislative event in which constituents may question legislators about current legislative issues.
2. Legislative resources were used in support of the town hall. These resources include the time of Rep. Young's PIO, use of the state email system, the press releases and e-newsletters produced by the PIO, talking points provided to Rep. Young, state-produced contact cards, and the laminated banners and directional signs he used to organize the town halls.
3. Rep. Young is a candidate for public office as defined in RCW 42.17A.005.
4. Rep. Young intentionally chose several of the campaign materials brought to the town hall and made available to constituents.
5. Rep. Young's campaign staff played significant roles at the town halls. They organized and attended the town halls, and placed campaign cards on the table at one or more of them. Those cards contained Rep. Young's campaign contact information and website.

The Board is troubled by Rep. Young's use of personal branding through the creation of a logo produced with private resources. Rep. Young seems to assert that by simply spending private funds a legislator may create a category of material that is neither legislative nor campaign. The Board rejects this argument.

The Board cautions legislators against combining legislative and campaign activities.

VII. Order and Stipulation

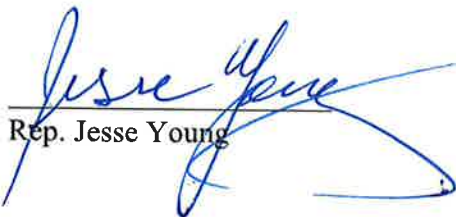
It is hereby ORDERED: that Rep. Jesse Young pay a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1500.00), payable to the Washington State Treasurer.

In addition, it is hereby ORDERED that Rep. Young pay an additional Five Hundred Dollars (\$500.00) to the Washington State Treasurer. This amount represents the portion of Rep. Young's 2017 penalty (Complaint 2017 – No. 41) that was suspended conditioned upon no further violations of Chapter 42.52 RCW (Ethics in Public Service Act).




Sen. Stephen Johnson
Chair

I, Jesse Young, hereby certify that I have read this Stipulation and Order in its entirety; that I have had the option of reviewing this agreement with legal counsel, or have actually reviewed it with legal counsel; fully understand its legal significance and consequence; agree to the entry of findings of fact and conclusions of law, and agree to personally sign it as a resolution of this matter, and have voluntarily signed.



Rep. Jesse Young

Having reviewed the proposed Stipulation, and on behalf of the Legislative Ethics Board, the Stipulation is accepted.



Sen. Stephen Johnson
Chair