

Legislative Ethics Board



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COMPLAINT 2019 – No. 10

In re Das

February 28, 2020

REASONABLE CAUSE DETERMINATION AND STIPULATION

I. NATURE OF THE COMPLAINT

The complaint alleges that Respondent violated RCW 42.52.160 (public resources – private gain) and RCW 42.52.120 (compensation for outside activities) by making false statements to help promote her consulting business. The complaint also alleges a possible violation of RCW 42.52.140 (gifts) and .150 (limitations on gifts) depending on whether the contracts received by Respondent were also intended to influence her votes on certain legislation or whether these “contracts” or “gifts” were the concealment of gifts and rewards for how she voted.

II. JURISDICTION

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

III. PROCEDURAL HISTORY

The complaint was received by Board counsel on November 19, 2019 and was the subject of Board discussions at regularly scheduled meetings on December 2, 2019 and January 27, 2020.

IV. FINDINGS OF FACT

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

1. Respondent is a member of the Senate representing the 47th legislative district.
2. On June 3, 2019, Respondent’s LA received an email from the CEO of the Kent Chamber of Commerce, inviting Respondent to the Chamber’s Legislative Wrap up Luncheon scheduled for June 20, 2019.

3. In that email, the CEO asked Respondent to take 8-10 minutes to “highlight [her] personal accomplishments and reflections of the 2019 Legislative session.”
4. The two other legislators representing the 47th legislative district were also invited to speak at the luncheon and received the same invitation as Respondent.
5. The CEO’s expectation was that the legislative panelists would spend most of their time discussing their legislative accomplishments.
6. Respondent’s speech in pertinent part is as follows: “*I’m a business owner. So a little bit about me. I have run a business for about 14 years. I help first time homebuyers buy homes. I’ve run multiple businesses. I’m a startup queen. I ran two campaigns to get to where I am. I started running for the US Congress and ended up in the state Senate. . . .*

So what I want to share with you is that elections matter – who you bring to office matters. The people sitting at the table matter and if you didn’t vote last time? Shame on you. And you better vote now because it is important – my life, his life and all these lives are in danger every day when your elected officials don’t actually represent everybody. I know this is not what you expected to hear from me today but I am fired up. I just took a month vacation to overcome the trauma that I experienced running for office for 2 years.

I’m a business owner like I mentioned. I went to Hawaii and had some time and I launched a new business while I was there. And so I would talk to you about that because you know I live here in Kent. I love this community. Again, thank you. A lot of people in this room helped me get there and knocked on doors and all those things. Thank you. My new business is to promote people like me. I want to take away the secret message of what it’s like to run for office and shine a light to help folks like Awale for Kent. (waves to him in the audience.)

Awale is my first client. And I did call time today. I’m going to help him fundraise. I’m going to help candidates that look like me get there. We need more people at the table because the good news is when you have people in office and I won’t speak for Mia or Debra but I will speak for myself. When you have someone like me at the table and you are legislating for the bottom half, the bottom third, the bottom tenth you legislate for everybody. Because if we are not equal and there is no equality we are not free.

[A]nd Im so very proud of the legislation that we passed. 485 bills that help people of color, that help poor people, that help women, that help businesses, that help people like you and people like me everyday, I’m very proud of the work that we did. And I’m going to tell you how hard it was to pass some of this legislation. And I’m going to tell you the only reason why this legislation passed is because we had six new senators. Of the six of us, three of us were people of color, two were lesbians, one was Jewish two were hippies.

[A]nd activists and people are just tired of the status quo. So I hope you vote next time. And I hope you help people like me and Debra and Mia and anyone else that needs a helping hand to get elected. I look forward to your questions. I know this isn't - I mean I had no plans to do this when I spoke but I just can't help myself. And you know how absolutely grateful and honored I am to represent our community as a business owner, as a business woman, as an environmentalist, as a tree hugging hippy, as an Indian, as a woman who came here with her family with six dollars from India. I am fighting for all of you every day."

7. While speaking during this event, Respondent referred to a handout that she was holding. It was a document prepared by the Senate Democratic Caucus staff listing all the bills passed during the 2019 session. It was posted on the Caucus's Facebook page and Respondent's staff printed it for her to use during this presentation. Respondent did not hand it out or leave any copies for people to review.
8. Two candidates for public office filed reports with the PDC indicating that they paid Respondent for consulting services. Sophia Aragon, who was running for a Burien City Council seat, paid Respondent \$1500 on July 31, 2019 for "fundraising support." Awale Farah, who was running for a Kent City Council seat, paid Respondent \$1001.00 on July 26, 2019 for "fundraising and coaching."
9. Respondent indicated that she has since closed her consulting business and returned to the mortgage business.

V. CONCLUSIONS OF LAW/ANALYSIS

A. Gifts

The gift provisions of the Ethics Act prohibit a legislator from accepting a gift, gratuity or favor when it could be reasonably expected that the item would influence the member's vote, action or judgment or be considered a reward for action or inaction. RCW 42.52.140. The Act further provides that a legislator cannot accept a gift when the value of that gift is more than \$50. RCW 42.52.150. There are exceptions to these rules that are not applicable in this matter.

Complainant alleges that the money Respondent earned as a consultant from the two candidates could have influenced her votes on certain legislation. The investigation did not reveal any facts indicating that Respondent's acceptance of the fees paid to her for her consulting business were either gifts or were designed to sway her vote on certain legislation.

B. Public Resources – Private Gain

RCW 42.52.160 prohibits the personal use of state resources under a legislator's or legislative employee's official control or direction for the private benefit or gain of the legislator or another unless the use of public resources is to benefit others as part of official duties.

The Complainant alleges that Respondent, in making false claims about racism, sexism and misogyny in the Democratic Caucus, did so to generate clients and financial profit for her new consulting business, a business which Respondent announced at the Kent Chamber of Commerce luncheon.

Respondent's remarks about the Democratic caucus are not pertinent to this complaint and have been addressed in a separate investigation. What is pertinent is that Respondent announced her new business at an event in which she was invited and appeared in her official capacity as a legislator. Furthermore, she brought with her and referred to documents prepared by legislative staff in her presentation.

The Board has been very clear on numerous occasions that legislators cannot use state resources for personal gain. *In re Eickmeyer*, 2006 – No. 12; *In re Schmidt*, 2006 – No. 4. Respondent violated RCW 42.52.160 when she made the following remarks: *"I went to Hawaii and had some time and I launched a new business while I was there . . . My new business is to promote people like me. I want to take away the secret message of what it's like to run for office and shine a light to help folks like Awale for Kent. (waves to him in the audience.) Awale is my first client. And I did call time today. I'm going to help him fundraise. I'm going to help candidates that look like me get there."*

While Respondent may not have intended to attract clients to her new business by her remarks, the implication was that she was open for business and if people were interested, they should seek her services. To announce a new personal business at an event in which a legislator appears in his or her official capacity is a violation of RCW 42.52.160.

C. Compensation for Outside Activities

RCW 42.52.120(1) generally prohibits a legislator from receiving anything of economic value outside of his or her official duties unless four conditions are met: a) the contract¹ must be bona fide and actually performed; b) the performance of the contract must not be within the course of official duties or under the individual's official supervision; c) the performance of the contract would not require unauthorized disclosure of confidential information; and d) the contract cannot have been expressly created or authorized by the legislator in his or her official

¹ "Contract" or "grant" means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. "Contract" or "grant" includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement, or a sales agreement. RCW 42.52.010(6)

capacity. If the contract is with a state agency, legislators must meet additional responsibilities to comply with the statute. RCW 42.52.120(2).

Applying this statute to the facts of this case, Respondent's agreements with Sofia Aragon and Awale Farrah for consulting services meet the definition of a contract. Nevertheless, the investigation did not reveal any evidence to indicate the contracts were not bona fide or not performed. The contracts do not appear to have been performed within the course of Respondent's official duties or under her official supervision, no confidential information has been alleged to have been disclosed as part of performing the contracts, and the contracts were not created or authorized by Respondent in her official capacity as a legislator. See *In re Gombosky*, 2000 – No. 3; *In re Murray*, 1999 – No. 5; *Advisory Opinion* 1995 – No. 6. The contracts were not with a state agency so analysis of subsection (2) of RCW 42.52.120 is unnecessary.

The agreements Respondent entered into with Ms. Aragon and Mr. Farah met the requirements of RCW 42.52.120(1).

D. Use of Public Resources for Political Campaigns

RCW 42.52.180 prohibits a state officer from “using or authorizing 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 or opposition to a ballot proposition.” An exception to this general rule exists for “activities that are part of the normal and regular conduct of the office or agency.” RCW 42.52.180(2)(c).

In her speech at the Kent Chamber of Commerce luncheon, Respondent made the following comments: “*The people sitting at the table matter and if you didn't vote last time? Shame on you. And you better vote now because it is important – my life, his life and all these lives are in danger every day when your elected officials don't actually represent everybody.*” “*So I hope you vote next time. And I hope you help people like me and Debra and Mia and anyone else that needs a helping hand to get elected.*”

In *Advisory Opinion* 2004 – No. 2, the Board stated, “while members remain free to voice their views on electoral participation, the use of public resources to solicit constituents to register to vote, or solicit requests from constituents for voter registration forms or to advise on how to vote, is not “normal and regular conduct” for a legislative office and would violate RCW 42.52.180.” (emphasis added)

When Respondent suggested that the luncheon attendees help Rep. Entenman, Rep. Gregerson and herself get elected, she was advising the attendees how to vote while appearing in an official capacity which violates RCW 42.52.180.

VI. ORDER AND STIPULATION

IT IS HEREBY ORDERED that no reasonable cause exists that Senator Mona Das violated RCW 42.52.120, RCW 42.52.140 or RCW 42.52.150.

IT IS FURTHER ORDERED that reasonable cause exists that Senator Mona Das violated RCW 42.52.160 and RCW 42.52.180 and that she pay a civil penalty in the amount of Five Hundred Dollars (\$500), payable to the Washington State Treasurer; provided, however, that Four Hundred Dollars (\$400) of this penalty be suspended, with such suspension conditioned upon Sen Das having no further violations of Chapter 42.52 RCW (Ethics in Public Service Act) through January of 2025. In addition, within sixty (60) days of the date this Order is entered, the Respondent shall undergo one-on-one ethics training with Board Counsel with an emphasis on issues related to use of public resources for personal gain and use of public resources for political campaigns. Board Counsel's verification of training together with materials describing the agenda of such training will be submitted to the Board and shall constitute part of the public record of this case.



Eugene Green, Chair

Date: 7-28-2020


I, Mona Das, hereby certify that I have read this Reasonable Cause Determination, 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 and 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 this Stipulation.



Senator Mona Das

Date: 7-27-2020

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



Eugene Green, Chair