

Legislative Ethics Board



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1007 WASHINGTON ST. SE
OLYMPIA, WA 98501
360-786-7343
www.leg.wa.gov/leb

JENNIFER STRUS - COUNSEL
Jennifer.Strus@leg.wa.gov

COMPLAINT 2022 – No. 12

In re Walsh
November 11, 2022

ORDER OF DISMISSAL

I. NATURE OF COMPLAINT

The complaint alleges that Respondent threatened and intimidated Complainant via Twitter when Complainant was exercising his First Amendment right to free speech. Although the complaint does not cite a provision of the Ethics Act (Act) as being violated, this complaint was investigated under RCW 42.52.070 (special privileges).

II. JURISDICTION

The Board has personal and subject matter jurisdiction.

III. PROCEDURAL HISTORY

Complaint 2022 – No. 12 was received on October 18, 2022, and discussed at the Board's regularly scheduled meeting on November 10, 2022.

IV. FINDINGS OF FACT

1. Respondent is a member of the House of Representatives representing the 19th legislative district. He was first elected in 2016.
2. On October 17, 2022, Complainant and Respondent engaged in a Twitter exchange. They have engaged in previous Twitter exchanges as they have opposing political positions on a number of issues.
3. Complainant and Respondent were involved in the following Twitter exchange:

Respondent: For your own sake, you may want to lever back on your obsessive and unhinged comments about [Joe] Kent. Your goofy posts and hysterical use of the word "fascism" don't hurt him. They actually help him with undecided voters. You've made yourself the unreasonable one.

Complainant: Representative Jim Walsh of Washington State threatening me, trying to infringe on my freedom of opinion and speech ladies and gentlemen. Welcome to the Republican Party of Donald Trump. If you don't agree with them, prepare to be battered.

4. Respondent does not have an official Twitter account. This exchange occurred on Respondent's personal Twitter account.
5. Complainant indicated that after this exchange, he felt intimidated and threatened and was especially concerned about Respondent's use of the phrase "for your sake" in the Tweet.
6. Respondent stated that he was not trying to intimidate Respondent; he was commenting on his previous tweets about candidate Joe Kent. Respondent also indicated that since this Twitter exchange occurred, Complainant has continued to comment on Respondent's tweets.

V. ANALYSIS AND CONCLUSIONS OF LAW

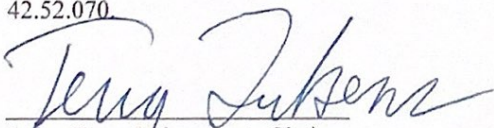
RCW 42.52.070 provides as follows:

- (1) *Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.*
- (2) *For purposes of this section, and only as applied to legislators and employees of the legislative branch, "special privileges" includes but is not limited to, engaging in behavior that constitutes harassment. As used in this section:*
 - (a) *"Harassment" means engaging in physical, verbal, visual or psychological conduct that:*
 - (i) *Has the purpose or effect of interfering with the person's work performance;*
 - (ii) *Creates a hostile, intimidating, or offensive work environment; or*

The term "work environment" as it is used in RCW 42.52.070 was meant to encompass – in addition to legislators and legislative staff – those who make a living working with legislators and legislative staff, such as professional lobbyists and agency staff. It was not meant to encompass those persons who occasionally work with legislators or legislative staff on certain issues but who make their living away from the legislature. For those persons, the legislature is not a "work environment." *In re Kraft*, 2022 – No. 9. Because Respondent does not make his living working with legislators or legislative staff, he is not covered by the harassment provisions of the Act.

VI. ORDER

IT IS HEREBY ORDERED that reasonable cause does not exist to believe Respondent violated RCW 42.52.070.



Judge Terry Lukens, ret., Chair

11/17/22
Date