

COMPLAINT 2000 - NO. 7

March, 2001

JURISDICTION DETERMINATION - ORDER OF DISMISSAL

I. Nature of the Complaint

The complaint alleges that Senator Don Benton violated RCW 42.52.180 by using the Seal of the State of Washington on his campaign webpage. RCW 42.52.180 forbids the use of the "facilities of an agency" for the purpose of assisting a campaign.

II. Facts

Senator Benton contracted for the design of his campaign webpage and the designer used the State Seal in constructing the page. RCW 43.04 directs the Secretary of State, as custodian of the Seal, to enforce its proper use and provides for criminal and civil penalties, including damages and injunctive relief for unlawful use. RCW 43.04.050(2) forbids the use of the Seal in a political campaign.

Upon receipt of a complaint, the Secretary of State notified the Senator that the Seal could not be used on his campaign webpage and the Seal was removed the same day as the notification. The Secretary notified the complainant that he was satisfied by the response and would take no further enforcement action. The complainant then filed this complaint with the Legislative Ethics Board.

III. Jurisdictional Determination

RCW 42.52.320 limits the jurisdiction of the Legislative Ethics Board to alleged violations of that chapter (42.52) and related rules, by members and employees of the legislature.

RCW 42.52.180 defines "facilities of an agency" to include, but not limited to ". . . use of stationary, 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."

RCW 43.04, enacted by the legislature in 1988, grants specific enforcement authority over the use of the State Seal to the Secretary of State. The Secretary exercised that jurisdiction in this case by successfully ordering the immediate removal of the Seal from the webpage.

It is clear to this Board that it was the legislature's intent to grant jurisdiction over the Seal to the Secretary of State and that the Secretary invoked that jurisdiction in this matter. In view of this clear legislative intent, and the actions of the Secretary, we are not convinced that the definition of "facilities" found in RCW 42.52.180 encompasses enforcement issues related to the Seal.

IV. Conclusion and Order

After a thorough investigation and full consideration of this matter, the Board concludes that proper jurisdiction has been exercised over the subject matter of this complaint. The complaint is hereby dismissed.

James A. Andersen, Chair