

Legislative Ethics Board



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COMPLAINT 2022 – NO. 2

In re Klippert
March 20, 2022

ORDER OF DISMISSAL – LACK OF REASONABLE CAUSE

I. NATURE OF COMPLAINT

The complaint alleges that Respondent violated the Ethics in Public Service Act (Act) by attending, at state expense, the “Cyber Symposium” hosted by Mike Lindell in August 2021 in South Dakota. The complaint also alleges that Respondent lacks the ability to perform his duties as a deputy sheriff because of his belief that the 2020 Presidential election was “stolen.” Although the complaint does not cite a specific statute that has been violated, the allegations were investigated under RCW 42.52.160.

II. JURISDICTION

The Board has personal and subject matter jurisdiction over the allegations regarding Respondent’s travel to South Dakota at state expense. The Board lacks subject matter jurisdiction over the allegation that Respondent lacks the ability to perform his deputy sheriff duties. RCW 42.52.320.

III. PROCEDURAL HISTORY

Complaint 2022 – No. 3 was received on January 13, 2022 and was discussed at the Board’s regularly scheduled meeting on March 21, 2022.

IV. FINDINGS OF FACT

1. Respondent is a member of the state House of Representatives representing the 8th legislative district. He was elected to the House of Representatives in 2008 and has served since then.
2. Respondent has served as a county law enforcement officer for approximately 27 years.
3. In July 2021, Respondent received an invitation to a Cyber Symposium to be held in South Dakota in August 2021. The invitation read as follows:

*As a respected elected representative of the people of the United States, Mike Lindell is extending an invitation for you to attend the **Cyber Symposium** to see the cyber data from the November 2020 election captured from foreign sources, including China. The symposium will be held at the **ALLIANCE- South Dakota Military Heritage Alliance Center in Sioux Falls, South Dakota** on August 10th, 11th, and 12th, 2021. This will be a high-security event, with all invited attendees and guests cleared by Colorado Security. It will not be open to the public.*

There will be presentations by recognized and credentialed cyber experts from throughout the country. These experts will also be available to answer any questions you may have. Cyber packet captures from the November 2020 election will be available for review. Private breakout sessions will be available for you to analyze your state specific data, if you choose. The event program will be held over 3 days to best facilitate your needs and schedule. You may attend part or all of the symposium. It will be interactive in nature, and you will be free to move between rooms and presentations at any time. The main stage area will be livestreamed, but there will also be private breakout and interview rooms. The event program will run between 9am-5pm; with doors open at 8am and closing at 8pm. Complimentary food and beverages will be available throughout the event.

Invited attendees will include Governors, US Senators, Lieutenant Governors, Attorneys General, State Representatives, Secretaries of State, and State Auditors from both parties and all states in the United States; Cyber Experts; and Media Representatives.

*Please **RSVP** as soon as possible to reserve your admittance to: symposium@franksspeech.com, including the **names** of any staff who will accompany you and the **day or dates** you plan to attend. We recommend any cyber expert you bring have, at a minimum, CISSP credentials. Registration is required for admittance. Blocks of rooms have been reserved for the convenience of symposium attendees at several nearby hotels; please coordinate your individual reservations. There will be complimentary shuttle service to the symposium from the nearby Sioux Falls Regional Airport.*

We look forward to having you join other leaders and experts at this important event.

4. On August 3, 2021, Respondent's legislative assistant (LA) submitted a travel request on Respondent's behalf to House administration for approval to attend the symposium at state expense.
5. On August 5, 2021, Patty Moore in the Chief Clerk's office emailed Respondent's LA that she had asked the Chief Clerk and the Deputy Chief Clerk to weigh in on this travel request.
6. As a result, Ms. Moore requested that Respondent provide more details between the "election integrity/process legislation and the specifics for this event." House administration was concerned that there be sufficient legislative nexus between the symposium and the legislative work in which Respondent was engaged before the travel request was approved.
7. In response to Ms. Moore's request, Respondent's LA submitted the following information on August 6, 2021:

Rep. Klippert has been working with two policy staffers this interim on this issue, in State Govt. and in Appropriations/Budget. He has concerns about our state's election process stemming from the November 2020 election, and this view is shared by the many constituents in his district that have contacted us. This is the very subject this symposium addresses and will certainly inform any policy decisions he may need to make in the legislation he is planning to introduce. This past legislative session he introduced 4-5 election related bills, some related to restoring election integrity and voter confidence in our state's election systems, so the subject matter is not new to him. He has remained interested in election security and integrity. Rep. Klippert also plans to pursue some type of audit, but the exact scope and type is still being fleshed out. Allowing an audit requires one, maybe two, pieces of legislation as well as funding through proviso. The Symposium is important to help guide and inform what will be included in a proviso and legislation regarding an elections audit and bills to restore election integrity.

8. During the 2021-22 legislative session, Respondent was the prime sponsor of the following bills relating to elections: HB 1003 (mail in ballot watermarks); HB 1337 (in-person voting); HB 1360 (ballots missing postmarks); HB 1361 (mailing of ballots); HB 1778 (election security); HB 1884 (forensic election audits). During the 2019-2020 legislative session, Respondent was the prime sponsor of three elections-related bills.
9. Respondent's views on election reform are well-known. Many legislators as well as constituents both agree and disagree with his views. Respondent received many emails from constituents and others thanking him for attending the symposium and stating his views at the symposium. Respondent also responded to some of these emails by detailing the legislation he has introduced or plans to introduce to put these views into practice.
10. Respondent's travel request was approved after his LA submitted the additional documentation requested.
11. Respondent was reimbursed for approximately \$1050 of out-of-pocket expenses for attending this symposium. The reimbursement was issued from Respondent's expense account. Each member's expense account contains \$9000 per calendar year. Expenditures from that account must comply with House policies, ethics act requirements, and IRS accountable plan requirements. The plan requires that all expenses for which the member is seeking reimbursement to have a legislative purpose.

V. ANALYSIS AND CONCLUSIONS OF LAW

RCW 42.52.160 prohibits a legislator or legislative staff from using state resources¹ for the private benefit of self or others. In past cases decided by the Board dealing with whether travel by a legislator is permitted under the Act, the focus was the payment of travel expenses by a third party and whether such payment constituted a gift. Although the focus in those cases was whether an exception to the gift statute

¹ "Facilities of an agency" (also called state resources) "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." RCW 42.52.180 (1).

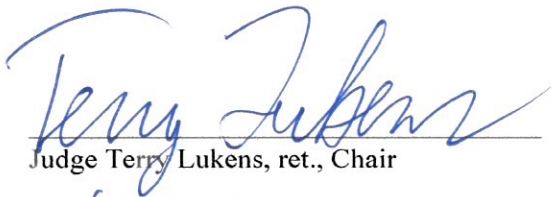
applied, the Board has consistently held that the purpose of the travel must have a strong legislative nexus with the legislator's official duties. *See, e.g., In re Fitzgibbon, 2017 – No. 1; In re Roach, 2014 – No. 3.*

In this matter, no third party paid for the travel. It was paid for through funds allocated to the member through his expense account. Clearly, the reimbursement constituted "state resources" as that term has been used by the Board in past cases. Furthermore, the content of the symposium was determined by House administration to have a sufficient legislative nexus to allow Respondent to be reimbursed for attending the event.

"Legislators may apply their professional and personal knowledge and opinions in their exercise of legislative duties. Legislators may disagree with one another. Legislators may disagree with decisions made by the majority in the chamber in which legislators serve." *In re Kretz, 2017 – No. 42.* Although Respondent introduced several bills during the 2022 legislative session that relate specifically to the topics discussed at the symposium, none was heard in committee. Although other legislators and constituents may disagree with Respondent's position on election policy or with his attendance at the Cyber Symposium, that does not mean that the Act was violated when state resources were used to reimburse Respondent for his attendance at the symposium. There was a sufficient legislative nexus in the symposium topics that the use of state funds to reimburse Respondent was appropriate under the Act.

VI. ORDER

IT IS HEREBY ORDERED: that reasonable cause does not exist that Respondent, Rep. Klippert, violated RCW 42.52.160.



Judge Terry Lukens, ret., Chair

3/30/22

Date