



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908
(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdca.wa.gov

November 7, 2019

Delivered electronically to “josie@bluewavepolitics.com, egan@pridefest.org”

Subject: Complaint filed by Darnell Hibbler, PDC Case 58807

Dear Egan Orion:

Below is a copy of an electronic letter sent to Darnell Hibbler concerning a complaint filed with the Public Disclosure Commission (PDC).

As noted in the letter to Darnell Hibbler, the PDC has dismissed this matter in accordance with RCW 42.17A.755(1) and will not conduct a more formal investigation into these allegations or take further enforcement action in this matter.

If you have questions, you may contact Tabitha Townsend at 1-360-586-4555 toll-free at 1-877-601-2828, or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

/s

Tabitha Townsend
Compliance Coordinator

Endorsed by,

/s

Barbara Sandahl
Deputy Director
For Peter Lavallee
Executive Director



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November 7, 2019

Delivered electronically to "hibbdh@gmail.com"

Subject: Complaint regarding Egan Orion, PDC Case 58357

Dear Darnell Hibbler:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on October 16, 2019. Your complaint alleged that Egan Orion (Respondent) may have violated RCW 42.17A.320 for failure to provide sponsor identification on political advertising; RCW 42.17A.335 for false or defamatory statements in political advertising.

PDC staff reviewed your allegations and, as a result of staff's review, we found the following:

RCW 42.17A.320 – Sponsor identification:

- Pursuant to RCW 42.17A.320(1) the Respondent is required to disclose sponsor identification on political advertising, including the sponsor's name and address.
- Pursuant to RCW 42.17A.320(3)(a) the sponsor identification is required to be displayed on the first page or fold of the political advertising.
- The Respondent placed a political advertisement in The Stranger to run on October 9, 2019, the ad included the lower 1/3 of a false cover appearing to display the paper's actual cover and the full page inside of this false cover.
- The Respondent included the sponsor identification on the full-page advertisement on the inside of the false cover, but failed to include the sponsor identification on the first page or fold of The Stranger's false cover, noted only by the words "PAID ADVERTISEMENT" placed along the spine by The Stranger next to the front 1/3 advertisement.
- The activity described falls under the jurisdiction of the Seattle Ethics and Elections Commission (SEEC), which addresses violations of the Seattle Elections Code, SMC 2.04.290.B.4.a, which states that sponsor identification stating the name and address of the person who paid for the ad must "[a]pppear on the first page or fold of [a] written communication."
- The SEEC entered into a settlement agreement with the Respondent on October 22, 2019, assessing a \$1,000 civil penalty for failure to disclose sponsor identification on the advertisement on The Stranger, in violation of SMC 2.04.290.

RCW 42.17A.335 – False or defamatory statements in political advertising:

- RCW 42.17A.335(1)(b) prohibits any person from sponsoring with actual malice in political advertising or electioneering communications, a false statement about a candidate, which constitutes libel or defamation per se, that represents endorsement of the candidate when the endorsement was not given.
- RCW 42.17A.335(2) defines libel or defamation *per se* as, “statements that tend (a) to expose a living person to hatred, contempt, ridicule, or obloquy, or to deprive him or her of the benefit of public confidence or social intercourse, or to injure him or her in his or her business or occupation, or (b) to injure any person, corporation, or association in his, her, or its business or occupation.”
- RCW 42.17A.335(4) requires violations of RCW 42.17A.335 to be proven with clear and convincing evidence, which is the same burden as beyond a reasonable doubt.
- RCW 42.17A.005(1) defines actual malice as action taken with, “knowledge of falsity or reckless disregard as to truth or falsity.”
- The evidence presented does not show by clear and convincing evidence that the Respondent sponsored, with actual malice, a false statement about his own endorsement with the intent to libel or defame a candidate.

Based on these findings, staff has determined that, pursuant to WAC 390-37-061(3), to defer the complaint regarding sponsor identification to the jurisdiction of the SEEC because the alleged violation was resolved under an analogous local ordinance, and in the matter of the false or defamatory statements in political advertising staff has determined that, in this instance, insufficient evidence supports a finding of a violation that warrants further investigation. The PDC has dismissed this complaint in accordance with RCW 42.17A.755(1) and will not be pursuing further investigation or enforcement action in this case.

If you have questions, you may contact Tabitha Townsend at 1-360-586-4555 toll-free at 1-877-601-2828, or by e-mail at pdcc@pdc.wa.gov.

Sincerely,

/s

Tabitha Townsend
Compliance Coordinator

Endorsed by,

/s

Barbara Sandahl
Deputy Director
For Peter Lavallee
Executive Director

cc: Egan Orion