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*Sent via e-mail to: pdc@pdc.wa.gov*

March 13, 2020

Fox Blackhorn  
Compliance Officer  
Public Disclosure Commission  
711 Capitol Way S. #206  
P.O. Box 40908  
Olympia, WA 98504-0908

RE: PDC Case No. 65026  
Our File No. 6550-006

Dear Mx. Blackhorn:

We write to you today on behalf of our client, Kshama Sawant, in response to your February request for a written response to the allegations in the complaint filed February 11, 2020. The complaint alleges that Ms. Sawant engaged in several violations of RCW 42.17A. We hereby address each of the allegations identified in your e-mail.

**Allegation One: Violations of RCW 42.17A.555 for misuse of public facilities to support a ballot proposition.**

Ms. Sawant has not violated RCW 42.17A.555. RCW 42.17A.555 prohibits elected officials from using public office facilities “for the promotion of or opposition to any ballot proposition.” “Ballot proposition” is defined as a measure, initiative, recall, or referendum “from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency before its circulation for signatures.” RCW 42.17A.005(4).

No ballot proposition exists at this time. One has not been filed with the election officer or been circulated for signatures. Because there is no ballot proposition, RCW 42.17A.555 does not apply.

Although not directly on point, decisions by the Seattle Ethics and Elections Commission (SEEC) reach the same result. The Seattle Municipal code prohibits the use of public facilities to promote or oppose ballot issues. SMC 2.04.300. The Code also defines a ballot proposition as “any measure, question, initiative, referendum, recall, or Charter amendment submitted to, or proposed for submission to, the voters of the City.” SMC 2.04.010. The SEEC has explained that given this definition, “[a]n issue of interest does not become a ballot issue, under the law, until some paperwork is in progress to perfect certification. An issue of interest becomes a ballot issue when the first step is taken for certification.” SEEC Adv. Op. 94-1E (Sea.Eth.Elect.Com.), Op. Sea. Ethics & Elects Comm’n 1E (1994), 1994 WL 903573. The SEEC explained that:

RCW 42.17.130 and SMC 2.04.300 only prohibit use of facilities to promote or oppose a ballot issue, not an issue of interest that has not yet become a ballot issue. **Since no ballot title had been submitted to the Secretary of State for a state initiative and no signature gathering had begun to certify a City initiative** to prohibit legislation that bars discrimination based on sexual orientation when Hands Off Washington made the request, **the issue of interest was not a ballot issue**. Therefore, even if the Code did not include an exemption for public officials in this case, **using City facilities to oppose the issue of interest would not have violated the state or City law**.

*Id.* (emphasis added).

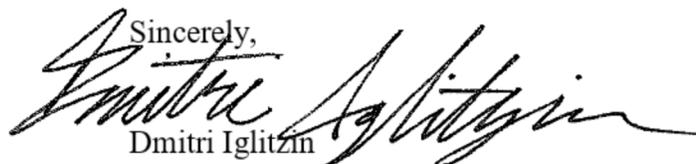
Because no ballot proposition exists, no violation of RCW 42.17A.555 exists.

**Allegation Two: Violations of RCW 42.17A.635 for indirectly lobbying the legislature outside of authorized channels for public agency lobbying.**

Ms. Sawant has not violated RCW 42.17A.635 because she has not engaged in lobbying and the complainants have not put forward any evidence that she intended to lobby. In fact, the complaints filed by Mr. Schofield and Mr. Morgan do not contain any specific allegation or evidence that Ms. Sawant has engaged in lobbying at all. Instead, Mr. Schofield contends that Ms. Sawant has supported Tax Amazon, including by linking to their information on her website or providing information about how to get involved with Tax Amazon, and that Tax Amazon has engaged in grass roots lobbying. Even assuming that either of these contentions was correct, which we do not concede, this chain of events would not mean that Ms. Sawant herself engaged in grass roots lobbying. Ms. Sawant's support of an organization does not mean that all the allegations against that organization can be attributed to Ms. Sawant. By analogy, under the complainant's logic, any donor who gives to an organization that engages in grass roots lobbying is responsible for any failure by that organization to properly report such lobbying.

The complainants allege that Ms. Sawant has used City resources to support Tax Amazon, which, as is discussed above, does not equate to a violation of RCW 42.17A.555. But even assuming for the sake of argument that Ms. Sawant had used *de minimis* City resources to support Tax Amazon by linking Tax Amazon materials on her council webpage, and that Tax Amazon itself engaged in grass roots lobbying, neither of which we concede, this action does not equate to lobbying, it equates to, at most, support of Tax Amazon.

If you have any follow-up questions on this matter, please do not hesitate to contact me at 206-257-6003.

Sincerely,  
  
Dmitri Iglitzin  
Sarah Derry

Counsel for Kshama Sawant