



August 18, 2020

Tabitha Townsend
Washington State Public Disclosure Commission
P.O. Box 40908
Olympia, WA 98504-0908

RE: PDC Case No. 74882, People for Jobs Enterprise Washington

VIA EMAIL ONLY

Dear Ms. Townsend:

I am replying on behalf of my client, People for Jobs Enterprise Washington (the Committee) to your emails of August 11 and August 13, 2020, requesting a response to a complaint filed with the Public Disclosure Commission (PDC), alleging violations of RCW 42.17A.320 and .335.

RCW 42.17A.320: Sponsor ID

The complaint alleges that the disclaimer on the mail piece identified as “#1” in the complaint is not ten-point type as required in [RCW 42.17A.320\(3\)\(A\)](#). In fact, the disclaimer is in ten-point type as evidenced by the attached PDF. Attachment No. 1. However, this mailer is not sponsored by the Committee but is instead sponsored by South Sound Future Enterprise Washington.

Alleged violations of RCW 42.17A.335

The complaint alleges that the mailers identified as “#2”, “#4”, and “#6” in the complaint made claims that constitute libel or defamation against state senate candidate Julie Door (the Candidate). The claims referenced suggested that the Candidate:

1. Supports higher property taxes,
2. Supported higher sales taxes, and
3. Supported higher fees on burial expenses in Puyallup.

It is a violation of RCW 42.17A.335 when a person sponsors “with actual malice a statement constituting libel or defamation per se” for political advertising containing “a false statement of material fact about a candidate for public office.” [RCW 42.17A.335\(1\)\(a\)](#). A violation of this section “shall be proven by clear and convincing evidence.” [RCW 42.17A.335\(4\)](#).

Property Taxes

The complaint includes a copy of the City of Puyallup Budget Appendix E which partially explains property tax increase limitations. However, this explanation does not refute the fact that the Candidate voted to raise the overall property tax rate the full 1% allowed under the law as cited in the advertising. Attachment 2. The Candidate could have instead voted against raising the property tax rate or even supported lowering it. The Candidate did not do so. The argument that the effective rate of taxation per \$1,000 of housing value is lower does not mean property taxes assessed on the community are lower. They are in fact higher because the council adopted the 1% maximum increase allowed under the law at their discretion.

Sales Taxes

In December of 2019, the Candidate supported Resolution No. 2395 to utilize taxpayer funds collected through a sales and use tax to expand affordable housing by supporting a resolution stating “the intent of the city council to adopt legislation to authorize a sales and use tax for affordable and supportive housing in accordance with substitute house bill 1406.” Attachment 3. In January 2020, the Candidate voted to approve an ordinance creating “a code section laying the foundation for the collection of tax monies from the state” to be used for affordable housing.

Fees on Burial Expenses in the City of Puyallup

The advertising in question suggests that the Candidate as a Puyallup City Councilmember supported increasing the fees and therefore the costs of burials with the City of Puyallup. The complaint is correct in that the advertising cites to minutes from a March 2019 city council meeting that the Candidate did not attend. However, the Candidate did attend a city council meeting in December 2019 where the candidate voted to increase burial fees. Attachment 3. No evidence has been presented suggesting the Candidate does not or did not support increasing burial fees in the City of Puyallup specific to any vote or in general.

The Complainant suggests that the evidence presented in the political advertising is insufficient to support the claims made in the advertising and that this is part of the basis for bringing a complaint under RCW 42.17A.335. However, it is important to note that statements made within the content of advertising are not required to be supported in any manner within the advertising itself. The Committee believes its political advertising is a fair and accurate description of the positions of the Candidate on issues of importance to the voters of the 25th Legislative District.

Libel and Defamation in Political Advertising Context

The burden of proof under any circumstance for libel or defamation is high and the same is true with RCW 42.17A.335(4). Regardless of the evidence presented here by the Committee, it is important to note the statute does not require a respondent to establish the truth of any statement but rather requires clear and convincing evidence of a false statement of material fact. Instead, the Complainant has provided virtually no evidence or explanation of any kind about why or how the political advertising by the Committee is not true. Under these circumstances, no false statement of material fact can be found.

Finally, this complaint is not brought by the candidate and no rebuttal from the candidate has been provided. The Complainant, Robin Farris, is not listed as an officer or representative of the Candidate or the Candidate’s committee. It is highly questionable whether a violation under RCW 42.17A.335 can ever be found where the Candidate that is the subject of the alleged libel or defamation has not raised a claim with the PDC herself and has taken no part in such a complaint.

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I hope you find this information useful. Please contact me if I can provide further information.

Sincerely,



Dan Brady

Attachments

1. Disclaimer with font measurement
2. Minutes of November 2015 Puyallup City Council meeting
3. Minutes of December 2019 Puyallup City Council meeting