



**STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION**

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August 16, 2016

SENT VIA E-MAIL:

Complainant: Alec Matias
alec.matias@gmail.com

Candidate/Respondent: Larry Seaquist
larry@larryseaquist.com
alissahalemuller@gmail.com

26th LD Dem Vice Chair: Karen Urman
karenurman45@gmail.com

26th LD Dem Chair: George Robinson
georgerobison@centurytel.net

Subject: PDC Case 7359

Dear Mr. Matias, Mr. Seaquist, Ms. Urman, and Mr. Robinson:

Thank you for providing information regarding the complaint about Mr. Seaquist's alleged false claim of endorsement. Our normal process is to correspond with the complaining party, and the responding party, but in this case it is obvious that the 26th Legislative District (LD) Democrats are also an interested party, so I'm writing to all of you.

As I mentioned in my emails, recently the Public Disclosure Commission (PDC) resolved a federal lawsuit involving RCW 42.17A.335, and I have asked that all complaints involving that statute be assigned to me personally. The case we settled involved an allegation of a false claim of incumbency, but the same free speech issues and Constitutional arguments would apply to a claim of false endorsement.

Mr. Matias, you have complained that Mr. Seaquist violated RCW 42.17A.335 by claiming to have the endorsement of the 26th LD Democrats in an email sent on June 23, 2016. In that email, Mr. Seaquist stated:

Endorsements are also rolling in. Here are the organizations and people who have signed up in the past few days to help us win this election.

From all our LOCAL POLITICAL ORGANIZATIONS:

- 26TH District Democrats
- 23rd District Democrats
- Kitsap County Democrats
- Kitsap County Democratic Women's Club
- Kitsap County Young Democrats
- Pierce County Young Democrats

RCW 42.17A.335 provides in pertinent part: "(1) It is a violation of this chapter for a person to sponsor with actual malice a statement constituting libel or defamation per se under the following circumstances: ... (c) Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement." (Emphasis added.)

In reviewing this complaint, I first looked at the endorsement information on the 26th LD Democrats' website. The website has a page for endorsements, and on that page is a list of candidates for various offices. For ten candidates, "(approval)" is listed below the office they are seeking, but there is no information on the website about what "approval" means. From the website alone, one could conclude that everyone listed has been endorsed in some manner.

Because the website was not clear, I asked each of you the following questions:

1. What is intended when the 26th LD Democrats "approve" a candidate, as compared with "endorsing" a candidate? There is no information on the website explaining the difference.
2. If there is a difference between approving and endorsing, do you think that the campaign's email (attachment to the complaint--see below) was claiming an endorsement, or was it listing organizations that were "supporting" the Seaquist campaign?
3. If the email was listing the 26th LD Democrats as having "endorsed" Rep. Seaquist, do you have any evidence that the claim was made with actual malice as required by the statute?

I very much appreciate your thoughtful answers to my questions. You each have different perspectives on the endorsement decision, and what it means. Taking the information you have provided, here are my findings:

- The 26th LD Democrats have not provided “approval” in the past, and there is no provision for that variety of endorsement/support in the organization by-laws.
- Nevertheless, “approval” was used in 2016. It appears that “approval” was used in endorsements this year when there was more than one candidate supported by the organization. For example, the organization “approved” Cyrus Habib and Karen Fraser for Lieutenant Governor, and Chris Reykdal and Erin Jones, for Superintendent of Public Instruction, but “endorsed” Bob Ferguson for Attorney General.
- To the public, the inclusion of “approved” candidates on the 26th LD Democrats’ endorsement page would probably indicate that the 26th LD Democrats were generally supporting the candidate (even if there are two approved candidates in a race).
- The June 23, 2016 email from Larry Seaquist did not actually state that he had received the endorsement of the 26th LD Democrats. It listed the organization as having signed up to “help us win this election.” However, this followed the statement, “Endorsements are also rolling in” so a reasonable person would likely assume that the organizations helping the Seaquist campaign were also endorsing the campaign.
- This email was sent before the 26th LD Democrats held their endorsement meeting, so no candidate had been “endorsed” as of June 23, 2016.
- To the extent that there was a misstatement about endorsement, Mr. Seaquist explained: “It was I who drafted the campaign email in which I erroneously listed the 26th District Democrats among the party endorsers. The LD had endorsed my earlier campaign for Sup’t of Public Instruction; I’d forgotten that we’d not yet actually heard from the LD endorsement committee or had a membership vote on endorsement. I immediately acknowledged that mistake and have not again listed the 26th LD Dems as an endorsing group.”

I do not think there was a “false claim stating or implying the support or endorsement of any person or organization” in this case. At best, I think there was a timing error about when endorsements or support would be official. After the endorsement vote, there was imprecise language regarding the level of support from the 26th LD Democrats for a few positions listed on the endorsements page.

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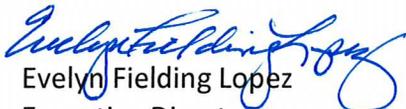
I also do not think any of the actions, by the candidate or anyone else, were actions taken with actual malice. Mistakes happen—and to the extent that there was a misstatement about endorsement, it was a mistake.

Based on these findings, I have determined the Larry Seaquist campaign did not, directly or indirectly, make a false claim stating or implying the support or endorsement of the 26th LD Democrats in violation of RCW 42.17A.335. Therefore, no further action is warranted.

For this reason, the PDC has closed the matter, and will not be conducting a more formal investigation into the complaint or pursuing enforcement action in this case.

If you have questions, you may contact me at 1-360-664-2735, or by e-mail at evelyn.lopez@pdc.wa.gov, or at pdc@pdc.wa.gov.

Sincerely,


Evelyn Fielding Lopez
Executive Director