



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 403, PO Box 40908 • Olympia, Washington 98504-0908 • (206) 753-1111 • FAX: (206) 753-1112

DECLARATORY ORDER NO. 9

A PRINTING COMPANY IS A COMMERCIAL ADVERTISER (RCW 42.17.020(6), RCW 42.17.110). A printing company, is a commercial advertiser pursuant to RCW 42.17.020(6) when the service it sells is that of communicating or producing messages for the general public or segment thereof.

Mr. Kevin F. Keefe
Attorney at Law
123 Third Avenue South
PO Box 4447
Seattle, WA 98104

Dear Mr. Keefe:

You petitioned for a declaratory order pursuant to RCW 34.05.240 and WAC 390-12-250 as to whether Boruck Printing, a printing company, is a commercial advertiser as defined in RCW 42.17.020(6) and must therefore comply with RCW 42.17.110. At our regular meeting held on July 28, 1992, we decided to issue a binding written declaratory order so as to provide guidance to all printing companies and other similar entities which might be faced with a similar situation.

Your request concerned the application and interpretation of RCW 42.17.020(6) which provides:

(6) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

FACTUAL BACKGROUND

You are an attorney for Boruck Printing, a printing company in Seattle, Washington. Boruck Printing engages in a variety of printing and silk screening services. For a number of years, it has been a major supplier of political yard signs used in the State of Washington and the Pacific Northwest. Pursuant to RCW

"The public's right to know of the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private."

RCW 42.17.010 (10)

42.17.110, the Seattle Post-Intelligencer made a request to Boruck Printing to examine certain company documents. Although it is not clear in your request, we assume that Boruck Printing has not complied with this request.

You state that you do not believe that Boruck Printing is subject to RCW 42.17.110 as it does not meet the definition of a "commercial advertiser" in RCW 42.17.020(6), however, you would like the commission's interpretation of this statute. Although Mr. Boruck does not want to impede the examination of information required by the law, he also does not want to release information and place himself in a position of liability if he does not come within the aforesaid statutory provisions.

ISSUE

Is a printing company a "commercial advertiser" within the meaning of RCW 42.17.020(6)?

ANALYSIS

Commercial advertisers must maintain certain records open for public inspection. This requirement, set forth in RCW 42.17.110, specifically provides:

(1) Each commercial advertiser who has accepted or provided political advertising during the election campaign shall maintain open for public inspection during the campaign and for a period of no less than three years after the date of the applicable election, during normal business hours, documents and books of account which shall specify:

(a) The names and addresses of persons from whom it accepted political advertising;

(b) The exact nature and extent of the advertising services rendered; and

(c) The consideration and manner of paying that consideration for such services.

In order to determine who must maintain these records open for public inspection, the legislature defined "commercial advertiser" in RCW 42.17.020(6) as:

(6) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

In interpreting this definition, it is important to keep in mind that Chapter 42.17 RCW, was adopted pursuant to a vote of the people to maintain openness in political financing and expenditures. RCW 42.17.020(6) was a part of the original legislation as was RCW 42.17.110.¹ The declaration of policy for Chapter 42.17 RCW makes clear that all provisions of this chapter should be liberally construed to promote this full disclosure of information to the public:

The provisions of this chapter shall be liberally construed to promote complete disclosure of all information respecting the financing of political campaigns and lobbying, and the financial affairs of elected officials and candidates, and full access to public records so as to assure continuing public confidence of fairness of elections and governmental processes, and so as to assure that the public interest will be fully protected.

Commercial advertiser, as contemplated by the statute, is meant to include any person who sells the service of communicating a message or producing printed material. This would include a printing company that produces written material for which the company is being compensated.

The second part of the definition is not meant to limit or define what entities are considered to be in the business of communicating messages or producing printed materials. This list of entities was meant to show that the medium used to ultimately distribute the message is not the deciding factor upon which to determine if an entity is a commercial advertiser. If the print shop produces a flyer, it is a commercial advertiser, regardless of whether the flyer is printed in a newspaper, given to a direct mailing company or placed on a sign. It is the act of selling the service of producing the printed material that makes the print shop a commercial advertiser.

The definition in RCW 42.17.020(6) was broadly written and should be so construed. This is consistent with the interpretation given this section in AGO 1973 No. 14. Question 17 in that AGO asked what reports a commercial advertiser must file. In answering this question, the AGO interpreted RCW 42.17.020(6). The answer stated:

¹ Originally, under RCW 42.17.110, commercial advertisers had to actually file reports. This was changed in 1975, when instead of filing reports with the listed information, commercial advertisers had only to keep their records which contained the information, open for public inspection.

Answer:

We begin by here noting the definition of "commercial advertiser" in RCW 42.17.020(7). As therein defined this term includes:

". . . any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise."

From this definition, it will be seen that this term covers any public relations firms or the like which may be employed by a candidate or a political committee, as well as the various news or other media through which their political advertising is communicated.

Based on the history of the statute, the statutory language itself and prior interpretatons, Boruck Printing, as a printing company, is a commercial advertiser pursuant to the definition set forth in RCW 42.17.020(6).

Alma M. Kimura

CHAIRMAN

James C. Springer

COMMISSIONER

Douglas Fine

COMMISSIONER

Ann Statton

COMMISSIONER

Betty G. Shreve

COMMISSIONER

ATTEST

Deborah E. Johnson

TITLE: Executive Director