



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. 8

WHEN A PERSON BECOMES A "CANDIDATE" (RCW 42.17.020(5); WAC 390-05-200) A person who has neither consented to become a candidate, made a declaration of candidacy nor solicited or accepted campaign contributions is not a "candidate" within the meaning of RCW 42.17.020(5) merely because a nominating petition is being circulated by an independent group. (May 27, 1992)

Mr. Randall R. Walker
Attorney at Law
PO Box 0
605 Yelm Avenue
Yelm, WA 98597

Dear Mr. Walker:

You petitioned for a declaratory order pursuant to RCW 34.05.240 and WAC 390-12-250 as to whether, under the circumstances of which you described, you have become a "candidate" and must therefore comply with the campaign reporting requirements set forth in Chapter 42.17 RCW. At our regular meeting held on May 27, 1992, we decided to issue this binding written declaratory order so as to provide guidance to other persons who might be faced with similar situations.

Your request concerned the application and interpretation of RCW 42.17.020(5) which provides:

(5) "Candidate" means any individual who seeks election to public office. An individual shall be deemed to seek election when he first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or

(b) Announces publicly or files for office.

FACTUAL BACKGROUND

You are an attorney in Yelm, Washington. As such, you are eligible to run for Superior Court Judge in Thurston County, of which several positions are open and will be on the ballot in the general election in November, 1992.

"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)

You have been approached by a number of persons to urge you to consider running for one of the open Superior Court Judge positions in Thurston County. These persons proposed to circulate a nominating petition pursuant to RCW 29.18.053. Although you have not decided to run for judgeship, this procedure appeals to you to help discern whether there is support for your candidacy. However, the petitions have not been circulated pursuant to your request.

You may allow the petitions to be circulated, however, you would not be consenting to become a candidate. You will not be making a public statement or declaration of candidacy during this process. Further, you will neither solicit nor accept campaign contributions either in cash or in kind during this period.

ISSUE

Given the above facts, the question you ask and the issue which arises is whether you have become a "candidate" within the meaning of RCW 42.17.020(5)?

ANALYSIS

One of the basic purposes of the Public Disclosure Act is to permit interested citizens the ability to ascertain the source and amount of financial support provided to support or oppose candidates. It also allows citizens the ability to ascertain how a candidate spends his or her campaign funds in support of his or her own candidacy. Therefore, once a person becomes a candidate, he or she is required to file campaign finance reports which show the contributions and expenditures of the candidate. The candidate is also required to file a statement of financial affairs, disclosing the candidates personal financial interests and assets. It is important then, to determine when a person becomes a "candidate" since this determination triggers these various reporting requirements.

"Candidate" is defined in RCW 42.17.020(5). An individual becomes a "candidate" within this definition if he or she meets one of the three criteria set forth.

The first criteria is that the individual receives contributions or makes expenditures with the intent to promote his candidacy. You clearly do not meet this criteria as you stated that you will not be either soliciting or accepting contributions in cash or in-kind.

The next criteria is that the individual reserves space or facilities with the intent to promote his candidacy. Again, within the facts you've reported, you do not meet this criteria.

The last criteria is that the individual publicly announces or files for office. You have stated that since you have not as

yet determined whether you wish to seek office, you are not announcing a candidacy for office nor filing for office.

In addition to the above statutory definition, WAC 390-05-200 further defines when an individual becomes a "candidate" as defined in RCW 42.17.020(5). The rule lists two situations which give rise to the presumption that the individual is a "candidate." If one of these situations arises, the individual would be deemed a candidate.

The first situation is when a political committee exists to promote the election of the individual for public office with that individual's knowledge and consent. A political committee exists when any person except a candidate or individual dealing with his own funds or property, has the expectation of receiving contributions or making expenditures in support of or opposition to any candidate or ballot proposition. RCW 42.17.020(25). You will have knowledge and will be consenting to persons circulating a nominating petition on your behalf. However, as long as they neither receive contributions nor make expenditures to support you for the office, they will not have become a political committee. Therefore, under the present situation as you so described, this situation has not been met.

The second situation which gives rise to a candidacy is when a public declaration of candidacy is made, even if conditioned on a future occurrence. Presently, you have not made a public declaration or have stated that you will declare if enough signatures are received. As such, this situation has also not been fulfilled under your set of facts.

CONCLUSION

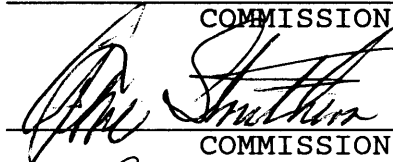
Based on the facts as presented, we hold that you are not a "candidate" within the meaning of RCW 42.17.020(5).



CHAIRMAN



COMMISSIONER



COMMISSIONER



COMMISSIONER

COMMISSIONER

Attest:



Executive Director

TITLE