



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908
(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

MINUTES – SPECIAL MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

10:30 a.m.
July 8, 2014

COMMISSION MEMBERS PRESENT

Grant Degginger, Chair
Katrina Asay, Vice Chair
Amit Ranade, Member
Kathy Turner, Member

STAFF PRESENT

Andrea McNamara Doyle, Executive Director
Linda Dalton, Sr. Assistant Attorney General
Chip Beatty, Filer Specialist
Kurt Young, Compliance Officer
Jana Greer, Acting Executive Assistant

The Special meeting of the Public Disclosure Commission was called to order by Commission Chair Grant Degginger at 10:34 a.m. in the Evergreen Plaza Building, Room 206 Olympia, Washington.

Opening Comments

Commissioner Degginger called the meeting to order.
Chair Degginger recused himself from consideration of the next agenda item and turned the Commission meeting over to Vice Chair Asay.

Reporting Modification – Renewal
With No Change

Grant Degginger, Commissioner,
Public Disclosure Commission

Chip Beatty presented Grant Degginger's request for renewal of his reporting modification with no change.

Motion 14-118

Moved by Commissioner Ranade, seconded by Commissioner Turner that:

The Commission grant the partial reporting modification as requested, finding that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Commissioner Asay returned the meeting to Chair Degginger.

Declaratory Order

Presentation of and possible hearing on Petition for Declaratory Order regarding Human Life of Washington

Andrea Doyle presented the staff analysis and recommendations concerning the petition for Declaratory Order and noted that Linda Dalton was

and Human Life PAC regarding political advertising and party preference requirements.

available to address the Commission's legal questions if they had any.

Ms. Doyle presented the procedural history, the issues for consideration, and summary of staff recommendations for the Commission.

Ms. Doyle noted that through the Petitioners' Counsel, staff had confirmed that the Petitioners have not already undertaken advertising that omits the party preference and that the agency had no pending complaints at this time that involve this factual scenario.

She reviewed the Petitioners' request to the Commission to address three issues:

1. Whether to declare that the political advertising laws and rules require them to include a candidate's party or independent preference in the advertising that Human Life of Washington intends to sponsor;
2. Whether an omission of those party preferences statements constitutes a false statement under the Commission's false advertising statute, RCW 42.17A.335; and
3. Whether an intentional omission of those party preference statements could subject the Petitioners to enforcement or potential criminal prosecution for violations committed with actual malice under RCW 42.17A.750.

She stated that staff analyzed the petition, submitted questions to the Petitioners and received supplemental responses, and received and considered public comments.

Notice of a possible public hearing was provided to stakeholders and via the special meeting agenda.

Staff recommended that the Commission decline the Petitioners' invitation to opine or make a declaration on the constitutionality of the statute or rules.

With respect to the three issues the Petitioner raised, Staff recommended:

ISSUE 1. Whether a candidate's party preference must be included in the Petitioner's political advertising: Staff recommended that the Commission decline to issue an

order as requested.

ISSUE 2. Whether an omission of those party preferences statements constitutes a false statement under the Commissions false advertising statute: Staff recommended the Commission consider issuing a declaratory order that states that the false advertising law applies only to actual statements made, not to omissions, or alternatively that the Commission decline to issue an order because the petition does not present a set of facts involving false statements.

ISSUE 3. Whether an intentional omission of party preference statements could subject the Petitioners to enforcement or potential criminal prosecution under RCW 42.17A.750: Staff recommended that the Commission issue an order declaring as a matter of statutory interpretation that the criminal referral statute does not apply in the particular circumstances presented by the Petitioner.

John White, Counsel for the Petitioner, addressed the Commission and presented the Petitioners' issues and request.

Motion 14-119

Moved by Commissioner Turner, seconded by Commissioner Ranade that:

The Commission hold a public hearing on the declaratory order petition during the July 8, 2014 Special Commission Meeting.

The motion passed unanimously.

Public Hearing

Commissioner Degginger invited those signed in to address to Commission.

Laura Ewan, Attorney at Schwerin Campbell Barnard Iglitzin & Lavitt LLP, representing Service Employees International Union, and the Washington State Labor Counsel addressed the Commission.

Commissioner Degginger asked if the Commission desired a closed-session to discuss the issues raised by the declaratory order.

Motion 14-120

Moved by Commissioner Ranade, seconded by

Commissioner Asay that:

The Commission close the public hearing and move into closed session to discuss the issues presented in this matter.

The motion passed unanimously.

The Commission deliberated in a closed session and returned to the special meeting at about 11:25 a.m.

Motion 14-121

ISSUE 1

Moved by Commissioner Turner, seconded by Commissioner Ranade that:

The Commission accept the staff recommendation as presented regarding Petitioners' Issue 1, and decline to issue a binding declaratory order as requested regarding RCW 42.17A.320(1) and WAC 390-18-020 on the basis that there is no uncertainty that the requirement to include candidates' self-stated party or independent preference applies to petitioner's proposed advertising.

The motion passed unanimously.

Motion 14-122

ISSUE 2

Moved by Commissioner Ranade, seconded by Commissioner Asay that:

The Commission decline to issue a declaratory order regarding Petitioners' Issue 2 on the basis that there is no actual controversy because there are no false statement to be considered.

The motion passed unanimously.

Motion 14-123

ISSUE 3

Moved by Commissioner Ranade, seconded by Commissioner Turner that:

The Commission decline to issue a declaratory order regarding Petitioners' Issue 3 on the basis that there is no actual controversy because the Petitioners are not proposing to make a statement.

The motion passed unanimously.

Commissioner Turner noted that she was impressed with comments submitted by The League of Women Voters and strongly agrees that

providing information and knowledge to the voters is very important.

Enforcement

Bill Littlejohn, Case No. 14-013 involving alleged violations of RCW 42.17A.435 by concealing the identity of the true source of seven contributions totaling \$7,500, made in cash; and RCW 42.17A.475 by failing to make the seven contributions by a written instrument, for contributions made to Citizens Against Fire District 2 Levy, a political committee registered in opposition to Proposition 1, a fire district levy lid lift ballot proposition on the November 5, 2013 general election ballot.

Sr. Assistant Attorney General Linda Dalton presented a Stipulation as to Facts, Violation, and Penalty which the parties have agreed to and signed.

She stated that Mr. Littlejohn has agreed that he committed multiple violations of the concealment statute by being the "true" source of contributions that were reported as having been contributed by seven other individuals and that he failed to make those contributions with a written instrument. He has agreed to a Civil penalty of \$60,000 with a suspended amount of \$30,000 based on two conditions;

- 1) The non-suspended portion of the penalty be paid within 60-days of the final order; and
- 2) An agreement to not commit any similar or same violations of RCW 42.17A within four years of the date of the final order.

She stated Mr. Littlejohn also agreed to pay \$4,000 investigative costs incurred by the Commission as a result of this violation within 60-days of the final order.

He affirms his intention to comply with the terms of RCW 42.17A in the future.

Staff recommends the Commission accept the Stipulation as to Facts, Violation, and Penalty as presented.

John White, Attorney, representing Mr. Littlejohn was present; he did not address the Commission.

Moved by Commissioner Asay, seconded by Commissioner Turner that:

The Commission accept the Stipulation as to Facts, Violation, and Penalty as presented.

The motion passed unanimously.

The meeting adjourned at 12:15 p.m.

Motion 14-124

Adjournment

Approved by the Commission on July 24, 2014.