



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

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TO: Commissioners

FROM: Tony Perkins, Acting Assistant Director

DATE: February 20, 2015

SUBJECT: Thomas Albro, Case No. 14-006
Stephanie Bowman, Case No. 15-034
Courtney Gregoire, Case No. 15-033
John Creighton, Case No. 15-032

This matter involved allegations that the above Respondents, all Port of Seattle Commissioners, violated RCW 42.17A.555 by using or authorizing the use of Port of Seattle facilities to play four recorded audio messages over the public address system at Seattle-Tacoma International Airport (Sea-Tac Airport) between April and October of 2013, and in so doing, assisted the campaigns of Tom Albro, Stephanie Bowman, John Creighton, and Courtney Gregoire for election or reelection in 2013. The recordings featured the voices of the four commissioners, and identified them by name, five to 32 times per hour, continuously, for the six months leading up to the 2013 election.

At the February 26, 2015 meeting, staff will recommend a finding that the four respondents violated RCW 42.17A.555. Staff will also address a separate allegation in the complaint that the recorded commissioner messages constituted unreported, over-limit contributions to the Respondents' campaigns, alleged violations of RCW 42.17A.240 and RCW 42.17A.405. Finally, staff will address whether the recorded commissioner messages constituted Public Service Announcements by municipal officers, which under RCW 42.17A.575 are prohibited between January 1 and the date of an election in which the officer is a candidate.

Staff and the Respondents will jointly present a Stipulation of Facts relevant to the alleged violations. The parties will also present exhibits and witnesses.

You have previously received a copy of the Notice of Administrative Charges, the Report of Investigation with exhibits, and a Stipulation as to Facts from Respondent Stephanie Bowman. Those materials are attached to this memo, together with the additional materials described below.

Enclosures:

- Notice of Administrative Charges
- Stipulation as to Facts
- Public Disclosure Commission Staff's Prehearing Brief
- Respondent Tom Albro's Prehearing Brief/Legal Argument

Memo to Commissioners – February 20, 2015

Port of Seattle Commissioners, Case Nos. 14-006, 15-034, 15-033, and 15-032

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- Respondents Courtney Gregoire and Stephanie Bowman's Pre-hearing Brief
- Respondent Creighton's Joinder in Other Respondents' Prehearing Briefs and Additional Argument
- Report of Investigation
- Exhibits to the Report of Investigation
- Stephanie Bowman Stipulation as to Facts (October 22, 2014)
- Updated Chart of Comparable cases



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PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In the Matter of Enforcement Action
Against:

Port of Seattle Commissioners:

Tom Albro, Case No. 14-006
John Creighton, Case No. 15-032
Courtney Gregoire, Case No. 15-033
Stephanie Bowman, Case No. 15-034

Respondent.

PDC Case Nos. 14-006, 15-032,
15-033, and 15-034

Notice of Administrative Charges

IT IS ALLEGED as follows:

I. Jurisdiction

1. The Public Disclosure Commission (PDC) has jurisdiction over this proceeding pursuant to RCW 42.17A, the Public Disclosure Act; RCW 34.05, the Administrative Procedure Act; and WAC 390. These charges incorporate the Report of Investigation and all related exhibits by reference.

II. Allegations

2. Staff alleges that the following Respondents, all Port of Seattle Commissioners, violated RCW 42.17A.555 by using or authorizing the use of Port of Seattle facilities to play four recorded audio messages between April and October of 2013, over the public address system at Seattle-Tacoma International Airport (Sea-Tac Airport), and in so doing, assisted the campaigns of Tom Albro, Stephanie Bowman, John Creighton, and Courtney Gregoire, candidates for election or reelection in 2013. The recordings featured the voices of the four commissioners, and identified them by name, five to 32 times per hour, continuously, for the six months leading up to the 2013 election:

- A. **Tom Albro** by using and authorizing the use of Port of Seattle facilities as noted above;

- B. **John Creighton** by using Port of Seattle facilities as noted above;
- C. **Courtney Gregoire** by using Port of Seattle facilities as noted above;
- D. **Stephanie Bowman** by using Port of Seattle facilities as noted above.

III. Background & Facts

3. The Port of Seattle has aired recorded commissioner messages in Sea-Tac airport since at least 2004. The messages aired in 2013 were similar in substance to messages aired in prior years, in that they focused on the port's business, environment and trade initiatives and other port accomplishments. However, the messages aired in 2013 departed from the port's normal and regular conduct in airing recorded commissioner messages, because the messages in 2013 were longer, aired more frequently, and featured all five members of the port commission rather than only the commission president. These changes were brought about at the request of Port of Seattle Commission President Tom Albro.
4. On April 19, 2013, two recorded messages featuring the voices of Port of Seattle Commission President Tom Albro, Commissioner Bill Bryant (not up for election), and Commissioner Courtney Gregoire began playing along the six sky bridges from the Sea-Tac airport garage to the terminal. The message scripts promoted the port's impact on employment, the economy, and the environment, as follows:

Albro / Bryant (“with emphasis on environment”)

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

Bill: And I'm Commissioner Bill Bryant. Welcome to Sea-Tac, one of the greenest airports in the country.

Tom: Our dedication to making the Port of Seattle the greenest and most energy efficient port in North America is an essential part of our Century Agenda.

Bill: We are committed to balancing economic growth with environmental responsibility.

Tom: Because nothing matters if we don't preserve our environment for future generations.

Albro / Gregoire (“with emphasis on small business opportunities”)

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

Courtney: And I'm Commissioner Courtney Gregoire. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region.

Tom: The Port promotes small business growth and the development of a strong workforce as part of our Century Agenda.

Courtney: This is important to accomplishing our vision of adding 100,000 new jobs here over the next 25 years.

Tom: More jobs, economic growth, led by the Port of Seattle.

5. On May 16, 2013, two additional recorded messages featuring the voices of Port of Seattle Commission President Tom Albro, Commissioner Stephanie Bowman, and Commissioner John Creighton began playing along the Sea-Tac airport sky bridges. The message scripts promoted the port's impact on employment and the economy, as follows:

Albro / Bowman (*"with emphasis on small business opportunities"*)

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

Stephanie: And I'm Commissioner Stephanie Bowman. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region.

Tom: The Port also promotes small business growth and the development of a strong workforce as part of our Century Agenda.

Stephanie: This is important to accomplishing our vision of adding 100,000 new jobs here over the next 25 years.

Tom: More jobs, economic growth, led by the Port of Seattle.

Albro / Creighton (*"with emphasis on jobs and airline flights/destinations"*)

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

John: And I'm Commissioner John Creighton. Welcome to Sea-Tac Airport, the Northwest's busiest and a leading international gateway.

Tom: We want to tell you about our efforts to create another 100,000 jobs here in the Northwest. It's our Century Agenda.

John: One way we can do this is by growing our number of flights and destinations. That's important for local businesses and tourism.

Tom: And...doing so means more jobs...that's what the Port of Seattle is all about.

6. By touting the accomplishments and efforts of the Port of Seattle (as the greenest and most energy efficient port in North America... that supports over 200,000 jobs, directly and indirectly, in our region... and that has a vision of adding 100,000 new jobs here over the next 25 years), and identifying themselves by name during the months leading to the election in which they appeared as candidates on the ballot, the incumbent Port Commissioners benefitted from the use of Port of Seattle facilities in a manner that was not normal and regular conduct for the agency.
7. The recorded messages ran 24 hours a day, seven days a week along the airport's six sky bridges, and were heard in no other location. The messages were 20-30 seconds in duration, and were aired in rotation with directional messages recorded by port staff or by Northwest musicians.
8. The messages began airing on April 19, 2013 and played at the rate of five messages per hour. Beginning May 16, 2013, when recordings with Commission President Albro and Commissioners Stephanie Bowman and John Creighton were added to the playlist, the messages ran at 12 messages per hour, with each commissioner pair running four times each hour. On July 19, 2013, the playback of commissioner messages increased to 32 messages per hour, with each commissioner pair running eight times each hour. Port Commission President Tom Albro requested the increase in frequency of playing the recorded messages.
9. With the exception of one commissioner message used in 2004, recorded messages played in prior years were on average half as long as the commissioner messages used in 2013, and included only the voice of the commission president.

IV. Law and Rules

RCW 42.17A.555 states, in part, "No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency."

Tom Albro, John Creighton, Courtney Gregoire, and Stephanie Bowman

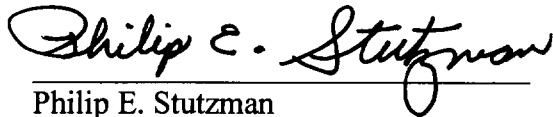
Notice of Administrative Charges

PDC Case Nos. 14-006, 15-032, 15-033, and 15-034

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WAC 390-05-273 defines the “normal and regular conduct” of a public office or agency as “conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner.”

Respectfully Submitted this 9th day of September, 2014.

A handwritten signature in cursive script that reads "Philip E. Stutzman". The signature is written in black ink and is positioned above a horizontal line.

Philip E. Stutzman
Director of Compliance

**BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON**

In the Matter of Enforcement Action
Against:
Thomas Albro; John Creighton;
Courtney Gregoire; and, Stephanie
Bowman

Case No. 14-006; 15-032; 15-033;
15-034

STIPULATION AS TO FACTS

Respondents.

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Andrea McNamara Doyle, and Respondents Thomas Albro, John Creighton, Courtney Gregoire and Stephanie Bowman submit this Stipulation as to Facts in this matter.

I. JURISDICTION

The Public Disclosure Commission has jurisdiction over this proceeding pursuant to RCW 42.17A, the state campaign finance disclosure law; RCW 34.05, the Administrative Procedure Act; and the Commission's rules located at WAC 390.

II. STIPULATED FACTS

Identification of Respondents

1. The Port of Seattle is a municipal corporation and special purpose district authorized under Title 53 RCW. The port owns and operates, among other properties, Seattle-Tacoma International Airport ("Sea-Tac Airport").
2. As adopted by the Port Commission on December 4, 2012 as part of the Century Agenda, the mission of the Port of Seattle, as a public agency, is to advance trade and commerce, promote industrial growth, stimulate economic development and create jobs.
3. The Port of Seattle is governed by a five-member elected Board of Commissioners.

4. Respondent Thomas Albro is a Port of Seattle Commissioner, and the current secretary of the board of commissioners. In 2013, Mr. Albro held the position of commission president. Mr. Albro was first elected to the port commission in the November 3, 2009 general election. In 2011 and 2012, Mr. Albro, together with Mr. Creighton, served as co-Chair of the Century Agenda strategic planning effort. He filed a C-1 Candidate Registration on February 11, 2010, registering his 2013 campaign for re-election.

5. Respondent John Creighton is a Port of Seattle Commissioner. Mr. Creighton was first elected to the port commission in the November 5, 2008 general election. In 2011 and 2012, Mr. Creighton, together with Mr. Albro, served as co-Chair of the Century Agenda strategic planning effort. He filed a C-1 Candidate Registration on December 18, 2009, registering his 2013 campaign for re-election.

6. Respondent Courtney Gregoire is a Port of Seattle Commissioner. Ms. Gregoire was appointed to the Port Commission on March 5, 2013 and was officially sworn in as a Commissioner on March 15, 2013. She filed a C-1 Candidate Registration on March 15, 2013, registering her 2013 campaign to seek election to her position.

7. Respondent Stephanie Bowman is a Port of Seattle Commissioner. Ms. Bowman was appointed to the port commission on May 3, 2013. She filed a C-1 Candidate Registration on May 15, 2013, registering her 2013 campaign to seek election to her position.

8. Mr. Albro and Mr. Creighton were re-elected to the Port of Seattle Commission in the November 5, 2013 general election. Ms. Bowman and Ms. Gregoire were elected to office in the same election.

Role of the Commission

9. Commissioners bear ultimate responsibility for the Port's operations. As part of their duties, Commissioners frequently appear in public or before private organizations to discuss Port operations and other trade-related issues. For example,

Commissioners regularly sit on panels related to regional or international trade issues, frequently address trade-industry groups, interest groups including labor, the environment, neighborhood groups, and others, and interact regularly with the media.

Century Agenda Development

10. The Century Agenda articulates the Port's mission, vision, commitments, its 25-year strategies and objectives, and calls for broader collective action through regional initiatives. The initial planning phase of the Century Agenda started in 2008 and concluded in 2009, and resulted in the August 4, 2009 adoption by the Commission of the Century Agenda Guiding Principles.

11. The second phase of developing the Century Agenda began with the appointment of a Century Agenda committee of the Commission in January 2011 and concluded with the adoption of the Century Agenda in December 2012. This second phase was co-chaired by Commissioners Albro and Creighton, and the work included all the then-sitting Commissioners. In 2011, the Port Commission held nine publicly-noticed and publicly-broadcast "roundtables" with outside experts to help it develop the Century Agenda. Included within these roundtables was a March 8, 2011 media roundtable that focused on how the Commission could better communicate the Port's operations, vision, and goals to the public.

12. On December 4, 2012, the Commission unanimously adopted the Century Agenda.

2013 Recorded Commissioner Greetings

13. Sea-Tac airport has a public address system on the skybridges leading from the parking garage to the airport terminal. The public address system is used to communicate airport information, regional information including the Port's current local music program, and other Port-related messages. It is never used for commercial advertisements.

14. On January 30, 2013, Mr. Albro (serving as Commission President) engaged the Port of Seattle’s public affairs staff and informed them of his intention to use the airport skybridge announcements to publicize the Century Agenda. He further described his hope that the four main thrusts of the Century Agenda would each be described in a recording including two Commissioners – himself and each of his colleagues in turn.

15. On February 11, 2013, the scripts for each message were finalized and Commissioner Albro emailed each of the other commissioners to begin the recording effort.

16. On February 12, 2013, former commissioner Robert Holland resigned, and the recording efforts were suspended while his replacement—and the replacement for former Commissioner Gael Tarleton, who resigned to join the State House of Representatives –were appointed.

17. On April 9, 2013, Mr. Albro recorded skybridge announcements with Mr. Bryant and Ms. Gregoire. On that date, Commissioner Gregoire arrived at the Port of Seattle Commission office for a regularly scheduled commission meeting. Commissioner Albro asked her to tape a greeting for Sea-Tac International Airport. She was provided a prepared script by Port staff to record alongside Commission President Tom Albro. She was not consulted nor informed about when the messages would start airing, in what frequency, or for what duration.

18. On April 19, 2013, these messages began airing along the Sea-Tac airport sky bridges. The recorded message featuring the voices of Port of Seattle Commission President Tom Albro and Commissioner Gregoire promoted the port’s impact on employment and the economy, as follows:

Albro / Gregoire (“with emphasis on small business opportunities”)

Tom: Hello, I’m Port of Seattle Commissioner Tom Albro

Courtney: And I'm Commissioner Courtney Gregoire. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region.

Tom: The Port promotes small business growth and the development of a strong workforce as part of our Century Agenda.

Courtney: This is important to accomplishing our vision of adding 100,000 new jobs here over the next 25 years.

Tom: More jobs, economic growth, led by the Port of Seattle.

19. On May 16, 2013, two additional recorded messages featuring the voices of Port of Seattle Commission President Tom Albro and Commissioners Bowman and Creighton began playing along the Sea-Tac airport sky bridges. Mr. Albro asked both Ms. Bowman and Mr. Creighton to record the messages. Neither Ms. Bowman nor Mr. Creighton were consulted nor informed about when the messages would start airing, in what frequency, or for what duration. The message scripts promoted the port's impact on employment and the economy, as follows:

Albro / Bowman (*"with emphasis on small business opportunities"*)

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

Stephanie: And I'm Commissioner Stephanie Bowman. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region.

Tom: The Port also promotes small business growth and the development of a strong workforce as part of our Century Agenda.

Stephanie: This is important to accomplishing our vision of adding 100,000 new jobs here over the next 25 years.

Tom: More jobs, economic growth, led by the Port of Seattle.

Albro / Creighton (*"with emphasis on jobs and airline flights/destinations"*)

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

John: And I'm Commissioner John Creighton. Welcome to Sea-Tac Airport, the Northwest's busiest and a leading international gateway.

Tom: We want to tell you about our efforts to create another 100,000 jobs here in the Northwest. It's our Century Agenda.

John: One way we can do this is by growing our number of flights and destinations. That's important for local businesses and tourism.

Tom: And...doing so means more jobs...that's what the Port of Seattle is all about.

20. As of April 19, 2013, when recordings with Commission President Albro and Commissioner Gregoire began airing in Sea-Tac airport, the messages played at the rate of 5 messages per hour. Beginning May 16, 2013, when recordings with Commission President Albro and Commissioners Stehanie Bowman and John Creighton were added to the playlist, the messages ran at 12 messages per hour, with each commissioner pair running 4 times each hour. On July 19, 2013, the playback of commissioner messages increased to 32 messages per hour, with each commissioner pair running eight times each hour. Commission President Tom Albro requested the increase in frequency of playing the recorded messages.

21. The messages played along the airport's six sky bridges, and were heard in no other location. The messages were aired in rotation with directional messages recorded by port staff or messages by Northwest musicians.

22. On October 18, 2013, PDC staff contacted Craig Watson, General Counsel to the Port of Seattle, to inform him that the PDC had received a complaint regarding the recorded commissioner messages. On October 21, 2013, Mr. Watson contacted PDC staff and stated that the recorded messages had been pulled from the airport's sky bridges, per PDC staff's instructions.

History of Port of Seattle Commissioner Greetings

23. The Port of Seattle has aired recorded commissioner messages in Sea-Tac airport since at least 2004. The frequency of these messages for the years 2007 through 2012 was as follows:

YEAR	DATE	COMMISSIONER	FREQUENCY/hr
2007	2/6/2007	Davis	12
	3/1/2007	Creighton	60
	5/23/2007	Creighton	7
	10/16/2007	Creighton	15
2009	3/1/2009	Bryant	20
	11/19/2009	Bryant	15
2010	2/17/2010	Bryant	15
2011	8/24/2011	Bryant	15
2012	1/26/2012	Bryant	13
	2/15/2012	Tarleton	13

24. The messages aired in 2013 were similar in substance to messages aired in prior years, as prior messages focused on the port's business, environment and trade initiatives and other port accomplishments. However, recorded messages played in prior years included only the voice of the commission president. The individual messages aired in 2013 featured all five members of the port commission. These changes were brought about at the request of Port of Seattle Commission President Tom Albro.

Andrea M. Doyle
 Andrea McNamara Doyle, Executive Director
 Public Disclosure Commission

2/13/15
 Date Signed

s/ approved by email
 Robert Klein, attorney for Respondent Albro

2/12/15
 Date Signed

s/ approved by email
 Becky Roe, attorney for Respondents Bowman
 and Gregoire

2/12/15
 Date Signed

s/ approved by email
 Keith Scully, attorney for Respondent Creighton

2/12/15
 Date Signed

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7 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**
8 **OF THE STATE OF WASHINGTON**

9 IN RE THE MATTER OF
10 ENFORCEMENT ACTION AGAINST

11 Tom Albro, Case No. 14-006,
12 John Creighton, Case No. 15-032,
13 Courtney Gregoire, Case No. 15-033,
14 and
15 Stephanie Bowman, Case No. 15-034

16 Respondents.

PDC CASE NO. 14-006, 15-032,
15-033, and 15-034

PUBLIC DISCLOSURE
COMMISSION STAFF'S
PREHEARING BRIEF

17 **I. INTRODUCTION**

18 The Public Disclosure Commission Staff (Commission Staff), by and through its
19 attorneys of record, ROBERT W. FERGUSON, Attorney General and
20 CHAD C. STANDIFER, Assistant Attorney General, submits this prehearing brief.

21 **II. PROCEDURAL HISTORY**

22 On October 14, 2013, Andrew Pilloud filed complaints with Commission Staff alleging
23 that Tom Albro, Stephanie Bowman, John Creighton, and Courtney Gregoire violated
24 RCW 42.17A.555 by using the facilities of the Port of Seattle to assist their 2013 campaigns
25 for Port Commissioner. Following investigation, Commission Staff charged the Respondents
26 with violating RCW 42.17A.555. The matter was set for hearing on October 23, 2014, and
then continued pursuant to the Order on Motion for Continuance of Hearing

1 dated October 29, 2014. A prehearing conference was held on January 22, 2015. The hearing
2 is scheduled for February 26, 2015.

3 III. FACTS

4 The parties have agreed to a Stipulation to Facts in this matter, which has been filed
5 with the Commission in this matter.

6 IV. LEGAL AUTHORITY AND ARGUMENT

7 A. RCW 42.17A.555 Prohibits The Use Of Public Resources For Campaign Related 8 Purposes

9 RCW 42.17A.555 prohibits the use of public resources for political campaigns by
10 elected officials. RCW 42.17A.155 directs:

11 No elective official nor any employee of his office nor any person appointed to
12 or employed by any public office or agency may use or authorize the use of any
13 of the facilities of a public office or agency, directly or indirectly, for the
purpose of assisting a campaign for election of any person to any office or for
the promotion of or opposition to any ballot proposition.

14 The statute then provides a nonexclusive list of what comprises “facilities of a public office or
15 agency”:

16 Facilities of public office or agency include, but are not limited to, use of
17 stationery, postage, machines, and equipment, use of employees of the office or
18 agency during working hours, vehicles, office space, publications of the office or
agency, and clientele lists of persons served by the office or agency. . . .

19 RCW 42.17A.155 (formerly RCW 42.17.130), “was enacted to ensure that public resources are
20 not used to provide advantages to a particular candidate . . .”. *Herbert v. Public Disclosure*
21 *Commission*, 136 Wn. App. 249, 264 (2006).

22 The prohibition set forth in RCW 42.17A.555 does not apply if the particular use of
23 resources falls within an agency’s “normal and regular conduct.” RCW 42.17A.555(3).
24 RCW 42.17.155(3) exempts “[a]ctivities which are part of the normal and regular conduct of
25 the office or agency” from the prohibition against use of government facilities for political
26 purposes. To satisfy this exception, officials must establish that their use of public resources is

1 both “usual or customary” and “lawful or conducted in conformity with established rules.”
2 *King County Council v. Public Disclosure Commission*, 93 Wn.2d 559, 561-562, 611 P.2d
3 1127 (1980) (finding a county council's action of endorsing an initiative to be “normal” in that
4 it was consistent with historical practice). WAC 390-05-273 provides further clarification and
5 guidance regarding the meaning of this phrase:

6 Normal and regular conduct of a public office or agency, as that term is used in
7 the proviso to RCW 42.17.155, means conduct which is (1) lawful, i.e.,
8 specifically authorized, either expressly or by necessary implication, in an
9 appropriate enactment, and (2) **usual, i.e., not effected or authorized in or by
10 some extraordinary means or manner.** No local office or agency may
authorize a use of public facilities for the purpose of assisting a candidate's
campaign or promoting or opposing a ballot proposition, in the absence of a
constitutional, charter, or statutory provision separately authorizing such use.

11 (Emphasis added.)

12 RCW 42.17A.155 advances the public’s interest in preventing public resources from
13 being used to sway voters’ opinions during campaigns. *See* RCW 42.17A.001 for policy
14 declarations. In regulating the use of public resources, Washington voters recognized that
15 government neutrality in elections is an important public purpose with historic origins. The
16 provision of Initiative 276 prohibiting use of public facilities in campaigns “is basically a
17 codification of preexisting common-law principles—forbidding or restricting the uses of public
18 funds for certain purposes—which were recognized in this state long prior to the passage of the
19 initiative.” AGO 1975 No. 23, at 3; *see, e.g., State v. Superior Ct. in and for King Cy.*,
20 93 Wash. 267, 160 P. 755 (1916). The fact that officials have access to publicly funded
21 resources does not entitle them to use those resources for political activities.

22 **B. The Respondents’ Use of Port Facilities**

23 There is no dispute of facts concerning the broadcast of the messages using the Sea-Tac
24 International Airport sky bridges. The recorded messages featured the voices of the
25 Port of Seattle Commissioners, and promoted the port’s impact on employment and the
26 economy. Stipulation to Facts (Stip. Facts), ¶¶18-19. As of April 19, 2013, when recordings

1 with Commission President Albro and Commissioner Gregoire began airing, the messages
2 played at the rate of 5 messages per hour. Stip. Facts, ¶20. Beginning May 16, 2013, when
3 recordings with Commission President Albro and Commissioners Stephanie Bowman and
4 John Creighton were added to the playlist, the messages ran at 12 messages per hour, with each
5 commissioner pair running 4 times each hour. *Id.* Finally, on July 19, 2013, the playback of
6 commissioner messages increased to 32 messages per hour, with each commissioner pair
7 running eight times each hour. *Id.*

8 While the parties agree on these facts concerning use of Port facilities, they have
9 significant differences of opinion as to the legality of Respondent's actions. Here, the
10 Respondents' use of facilities for the purpose of broadcasting messages in the Sea-Tac airport
11 sky bridges at increasing frequencies in the months leading up to the 2013 election violated
12 RCW 42.17A.555.

13 **C. The 2013 Messages Were A Significant Departure From The Normal And Regular**
14 **Conduct of the Port of Seattle**

15 Understanding the historical practice of the Port with respect to Commissioner sky
16 bridge messages informs whether the 2013 messages were part of the normal and regular
17 conduct of the Port, and therefore not in violation of RCW 42.17A.555. In fact, the 2013
18 messages were inconsistent with the Port's normal and regular use of the sky bridge public
19 address system. The messages utilized by the Respondents in the months leading up the
20 general election in 2013 differed greatly with respect to the manner in which they were
21 broadcast, rendering inapplicable the exception found in RCW 42.17A.555(3).

22 First, sky bridge messages historically involved only the commission president.
23 Stip. Facts, ¶23. In contrast, the 2013 messages paired the president with another
24 commissioner. Stip. Facts, ¶¶17-21. Second, with the exception of one message used in 2004,
25 the 2013 messages were twice as long on average as those previously used. Report of
26 Investigation (Rpt. Investigation), Exhibit (Ex.) 5. Finally, the frequency at which the 2013

1 messages were played increased substantially from what was the Port's historical practice.
2 Dating back to at least 2007, messages had been broadcast at frequencies of between 7 and 20
3 messages per hour. Stip. Facts, ¶23.¹ In contrast, the frequency of the 2013 messages
4 increased steadily, culminating with the broadcast of 32 messages per hour in the month
5 leading up to the election. Stip. Facts, ¶20.

6 The use of the sky bridges to broadcast the 2013 messages was not consistent with the
7 normal and regular use of the sky bridges by the Port. By utilizing all of the Commissioners in
8 the messages, and by broadcasting the messages at rates well beyond what was the regular
9 practice as the election grew closer, the Respondents' use of the sky bridges constituted an
10 extraordinary use of Port facilities. WAC 390-05-273. Consequently, the Respondents' use of
11 Port facilities does not qualify for the exemption found in RCW 42.17A.555(3).

12 **D. Proof That The Respondents Intended To Violate The Statute Is Not Required**

13 The Commission should also reject any attempt by the Respondents to argue that no
14 violation may be established because their *subjective* intent in participating in the messages
15 was only to promote the Century Agenda, not to aid their respective campaigns. First, it is a
16 "universal maxim" that ignorance of the law is no excuse to its application. *Kingery v. Dep't*
17 *of Labor and Industries*, 132 Wn.2d 162, 175, 937 P.2d 565 (1997). Thus, the Commission
18 should give no weight to any argument by the Respondents as to their lack of knowledge
19 concerning the restrictions on the use of the Port's facilities in the months leading up to the
20 election.

21 Second, no intent element is included in the language of RCW 42.17A.555. In order to
22 interpret a statute, each of its provisions "should be read in relation to the other provisions, and
23 the statute should be construed as a whole." *In re Detention of Williams*, 147 Wn.2d 476, 491,
24 55 P.3d 597 (2002). In contrast to RCW 42.17A.555, others provisions of RCW 42.17A

25
26 ¹ The sole exception to this is the time-frame of March 1, 2007 through May 22, 2007, during which
messages were run at 60 times per hour.

1 specify when proving an intent to violate the law is required. *See, e.g.,* RCW 42.17A.335
2 (requiring sponsored false political advertising or electioneering communications to be made
3 with actual malice). Thus, Commission Staff need only establish that the Respondents'
4 extraordinary use of Port facilities may have assisted their campaigns, regardless of whether
5 the Respondents' participation in the messages was motivated by their campaign.

6 Finally, the Commission has already declared that a Respondent's intent is not relevant
7 in determining whether a violation of RCW 42.17A.555 has occurred. *See attached*
8 Washington State Public Disclosure Commission Declaratory Order No. 2 to Ms. Patricia
9 Thorpe, October 23, 1979 (Declaratory Order No. 2). In Declaratory Order No. 2, the
10 Commission was examining whether a proposed mailing by King County at public expense
11 during the two-month period before the general election featuring a Councilwoman seeking re-
12 election violated RCW 42.17.130 (former codification of RCW 42.17A.555). In finding that
13 the mailing would violate the law, the Commission held that the test to be used when
14 interpreting RCW 42.17.130 (RCW 42.17A.555) is an *objective* one:

15 We reject a test which would involve examining the subjective intentions as to
16 this mailing. The test to be applied is an objective one: whether your mailing
17 would assist your campaign. **We cannot approve a use of facilities which**
18 **results in actual assistance to a campaign simply because an official states**
that he did not intend that result. The danger of such a subjective test is
obvious. We must deal with the actual result, not the result someone says they
intended.

19 Declaratory Order No. 2 at 5 (Emphasis added). Here, the Respondents used the facilities of
20 the Port in a manner which benefited their campaigns by raising their public profiles.
21 Regardless of their awareness of the RCW 42.17A.555's restrictions, or even their own
22 subjective intent to violate that provision, the result of their use of public resources was the
23 same. The messages benefitted their respective campaigns through an increase in public
24 exposure.

25 The Respondents may seek to distinguish this prior interpretation from the current
26 situation by arguing that, unlike the mailer at issue in Declaratory Order No. 2 which was sent

1 to all registered voters, the sky bridge messages were not necessarily heard by *all* registered
2 voters in King County. To sustain a violation of RCW 42.17A.555, Commission Staff need
3 not establish that every King County registered voter heard the messages, nor show the precise
4 number of voters that heard the messages. It can not be disputed that countless voters heard
5 these messages, and that is sufficient to establish an improper benefit in the form of public
6 resources was provided to the Respondents' campaigns.

7 **E. RCW 42.17A Restricts The Participation Of Elected Officials In Public**
8 **Announcements During Election Seasons**

9 A related provision in RCW 42.17A demonstrates the broad limitations placed on the
10 participation of elected officials in public announcements during election seasons.
11 RCW 42.17A.575 provides that, “[n]o state-elected official or municipal officer may speak or
12 appear in a public service announcement that is broadcast, shown, or distributed in any form
13 whatsoever during the period beginning January 1st and continuing through the general
14 election if that official or officer is a candidate.” *See also* WAC 390-05-525(1) (defining the
15 term “public service announcement”). While the sky bridge messages do not appear to be
16 public service announcements as narrowly defined by Commission rule, the underlying
17 rationale of that provision is applicable here.

18 Participation in public service announcements in the period between January 1st and
19 the general election is prohibited by RCW 42.17A.575 *despite* the fact that: 1) the
20 announcements themselves may have significant value to the public; and 2) the announcements
21 do not specifically mention the elected official's reelection campaign. As with
22 RCW 42.17A.555, the intent of the elected official is not relevant - participation in the
23 announcements during the restricted time period is itself a violation.

24 It is appropriate to apply RCW 42.17A.555 in a manner consistent with
25 RCW 42.17A.575. *See Hallauer v. Spectrum Properties, Inc.*, 143 Wn.2d 126, 146,
26 18 P.3d 540 (2001) (In ascertaining legislative purpose, statutes which stand in *pari materia* (on

1 the same subject) are to be read together as constituting a unified whole, to the end that a
2 harmonious, total statutory scheme evolves which maintains the integrity of the respective
3 statutes). Here, the Respondents participated in the sky bridge messages during the election
4 season. They argue that the sky bridge messages promoted the Century Agenda, not their
5 reelection campaigns. But the restrictions placed by both RCW 42.17A.555 and
6 RCW 42.17A.575 on the participation of elected officials in such announcements during an
7 election season apply, whether or not the announcement at issue reference the official's
8 reelection campaign.

9 **F. The Commission Has Found A Violation In Comparable Cases**

10 The Commission has consistently found that the use of public agency resources for
11 campaign purposes violates RCW 42.17A.555. The following is a list of Commission
12 decisions which include a description of the activity engaged in and the penalty assessed
13 related to violations of RCW 42.17A.555:

14 Respondent/Case Number	Penalty
15 1. Brian Skeahan, 15-039	\$500, with \$500 suspended for four years
16 Mark McCrady, 13-022	\$500, with \$250 suspended for four years

17 Respondent Mark McCrady, a sitting Cowlitz Public Utility District (Cowlitz PUD)
18 Commissioner, and Respondent Brian Skeahan, Cowlitz PUD's General Manager, stipulated to
19 a violation for: a) authorizing the use of Cowlitz PUD facilities (staff time, camera, vehicles,
20 and other facilities) for a photo shoot that occurred in May 2012 for the purpose of assisting
21 Mark McCrady's 2012 reelection campaign; and b) authorizing the use of Cowlitz PUD
22 facilities to prepare a briefing document used for a local newspaper editorial board interview
23 by Mr. McCrady in September 2012.

24 2. Sharon Condrey, 14-025 **First-time violation; no penalty**

25 Respondent Sharon Condrey stipulated to a violation for using the email of Spokane School
26 District 81 to coordinate a contribution to a school levy committee.

3. Shawn Bunney, 11-006 **\$1,700, with \$850 suspended for four years**

Respondent Shawn Bunney stipulated to a violation for his use of Pierce County funds to
design, produce, and disseminate his July 2, 2010 County Council mailer to 22,000 registered
voters in Pierce County Council District 1 at a time when he was running for State
Representative.

1 4. Jim Wilson, 06-249


\$1,000, with \$500 suspended for two years

2 Respondent Jim Wilson stipulated to a violation for authorizing the publication of and
3 approved the content of the September 2005 and October 2005 editions of the *Fireline News*,
4 which assisted the campaigns of incumbent fire commissioners in the Vashon Island Fire &
5 Rescue District. The September 2005 edition featured biographical and other information
6 regarding an incumbent commissioner. The October 2005 edition addressed issues raised
7 during the campaign in defense of two incumbent commissioners.

8 **V. CONCLUSION**

9 Following the presentation of evidence and argument, Commission Staff will
10 respectfully request that the Commission find the Respondents violated RCW 42.17A.555 and
11 assess an appropriate penalty.

12 ROBERT W. FERGUSON
13 Attorney General

14 
15 CHAD C. STANDIFER, WSBA #29724
16 Assistant Attorney General
17 Attorneys for Commission Staff
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1 **PROOF OF SERVICE**

2 I certify that I served a copy of this document on all parties or their counsel of record
3 on the date below as follows:

4 Electronic Mail

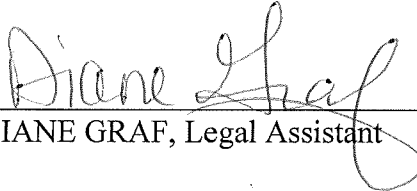
5 Robert Klein
6 Short Cressman & Burgess PLLC
rklein@scblaw.com

Becky Roe
Schroeter Goldmark & Bender
roe@sgb-law.com

7 Keith Scully
8 Newman Du Wors LLP
keith@newmanlaw.com

9
10 I certify under penalty of perjury under the laws of the state of Washington that
11 the foregoing is true and correct.

12 DATED this 18 day of February, 2015, at Olympia, WA.

13
14 
15 _____
DIANE GRAF, Legal Assistant

Attachment A



DECLARATORY RULING NO. 2

COUNTY COUNCIL QUESTIONNAIRE MAILED DURING ELECTION CAMPAIGN (RCW 42.17.130; WAC 390-05-271 and -273): The production and mailing of a budget questionnaire at county expense during an election campaign would violate RCW 42.17.130 if it includes a cover page which is unrelated to the questionnaire and which draws special attention to a council member who is a candidate. (October 23, 1979).

Ms. Patricia Thorpe
Councilwoman
King County Courthouse
516 3rd Avenue
Seattle, WA 98104

Dear Ms. Thorpe:

You petitioned for a declaratory ruling pursuant to RCW 34.04.080 and WAC 1-08-580 and -590 as to whether a proposed mailing would violate RCW 42.17.130 if mailed at public expense during the two-month period before the general election in which you are a candidate for re-election. At our special meeting held on September 13, 1979, we orally issued a binding declaratory ruling that the proposed format of your mailing would violate RCW 42.17.130 and, further, that an alternative format would not violate that statute.

At our regular meeting held on September 18, 1979, we decided to issue this written ruling so as to provide guidance to elected officials and their advisors who might be faced with similar situations.

Your petition concerned the application of RCW 42.17.130 which reads:

"No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.

Declaratory Ruling: 1

"Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: PROVIDED, That the foregoing provisions of this section shall not apply to the following activities:

"(1) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

"(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

"(3) Activities which are part of the normal and regular conduct of the office or agency."
(Emphasis supplied.)

FACTS

The testimony before us may be summarized as follows. You were appointed a member of the King County Council from the 6th District on December 18, 1978. You are a candidate for election to that position. Although you were unopposed in the primary election on September 18, 1979, you will be opposed in the general election on November 6, 1979.

Since 1975, the members of the Council have prepared and mailed a budget questionnaire to their constituents. Generally, the purpose of the questionnaire is to ascertain the views of constituents to assist the Council members in setting budget priorities and funding levels for the following year. The questionnaires are prepared, printed, and mailed with public funds appropriated for that purpose.

Declaratory Ruling: 2

In 1979, the questionnaire consists of 12 pages. Pages 3 through 10 contain questions which are identical for all members of the Council. Pages 2 and 11 were made available to each member who could then add more questions which related to the special concerns of that member's district. Page 12 was for a mailing label. Page 1 (the cover page) was made available for each member of the Council to include a message to his or her constituents.

An April 11, 1979, you submitted a letter to be placed on the cover page. The proposed text is attached as Exhibit "A." An example of the format which was used by Council Member Stern is attached as Exhibit "B."

During June, 1979, before the cover page had been printed, you were approached by a staff member regarding the format to be used for your cover page. Councilman R. R. "Bob" Grieve and a member of his staff had designed an alternative format. You agreed to change the format from your April 11, 1979, letter to their alternative "Who cares? I care" format. We have attached a copy of your alternative format as Exhibit "C." You testified that the new format would get a better response from your constituents than the letter format.

The contract for the printing of these questionnaires provided that the printer would have them ready to mail 15 working days after receipt of the copy by the printer. The printer was provided the necessary copy on June 5, 1979. The printer delayed the printing until September, 1979. The delay was beyond the control of the Council or any of its staff. At the time of our hearing, the printer had estimated that he could produce a new cover page for the questionnaire in four days; however, you testified that in view of his earlier problem, you had doubts about his four day estimate.

Your questionnaire would be mailed to 41,000 registered voters in your district during the last two weeks in September. As noted earlier, the primary election was on September 18, 1979, and the general election will be held November 6, 1979.

You testified that the mailing of a budget questionnaire was a part of the normal and regular conduct of your duties as a member of the Council. You stated that you lacked the expertise to assess the impact on the electorate of the "Who cares? I care" cover page. You stated that the responses to the questionnaire were very important to you because they provided necessary citizen input into the budget priorities which would otherwise be lacking.

ANALYSIS

1. Questionnaire Alone

We have previously adopted criteria which are used in addressing the use of public funds or facilities in election campaigns. Your mailing must be tested by viewing it as a whole to determine whether it would influence the vote of a disinterested reader taking into consideration such factors as its style, tenor (or content) and the timing in relation to the election. (See Declaratory Ruling No. 1 to Senator Bottiger, November 15, 1977.) The Attorney General has opined that the timing is the most critical factor (AGO 1975 No. 23).

In analyzing the potential impact of this mailing on a disinterested reader, we focused our attention on the cover page. The portion of the questionnaire (pages 2-12) devoted to questions to constituents cannot be said to influence the vote of a disinterested reader. The questions seem objective and unbiased. They do not draw attention to any ballot proposition or candidate. The questions seem calculated to obtain responses which would assist in developing budgetary priorities.

This kind of questionnaire is clearly related to the performance of your official duties. A similar mailing has been made in previous years by all the members of the Council. Thus, except for the cover page, the mailing would be both lawful and usual and would not be prohibited by RCW 42.17.130. See WAC 390-05-273.

2. Cover Page

We found that the "Who cares? I care" format (Exhibit "C") as the cover page was improper for several reasons. First, it seems calculated to draw attention to you, the candidate. You testified that this format was more "attention getting" and would get a better response from the recipient than the alternate letter format. We agree that this is true-- whether the recipient is a person who may give answers to the questionnaire and/or a potential voter. (All of the 41,000 recipients of this mailing were drawn from the registered voters list.)

Second, the "Who cares? I care" format is unrelated to the content of the mailing. The text of the cover page is essentially an offer of assistance to the recipient who might encounter problems with county government which is described as "big and complicated." That format does not mention the attached questionnaire or refer to it in any way. It only serves to identify you as a member of the Council who desires to provide assistance. Unquestionably, one of the most important

goals for any candidate in any election campaign is positive name recognition by the electorate. We believe the "Who cares? I care" format would assist your name recognition among the 41,000 registered voters who would receive it.

Third, the mailing was to occur during the last two weeks of September. You and your opponents were announced candidates and the election campaign would be in progress at the time of the mailing. You argued that the general election would be a month and a half after the proposed mailing, and any effect on the campaign would be minimal. We do not agree. If the mailing had occurred during the week immediately before the election, its impact on the electorate would be more serious than your proposed mailing. Conversely, if it had been sent in June before anyone had filed for election, its probable impact would have been minimal. Ultimately, the issue of timing is a matter of degrees and must be determined by the exercise of our best judgment. Given the style and tenor of your mailing, it is our judgment that the timing of your proposed mailing would result in assistance to your election campaign.

You raised two additional arguments in support of this mailing. First, you stated that you did not intend that this mailing influence the voters in your favor nor did you intend that it be mailed as close to the election. Second, you argued that any effect the cover page might have on the election would be offset by the questionnaire, which is recognized to be a part of your official duties.

We reject a test which would involve examining your subjective intentions as to this mailing. The test to be applied in these cases is an objective one: whether your mailing would assist your campaign. We cannot approve a use of facilities which results in actual assistance to a campaign simply because an official states that he did not intend that result. The danger of such a subjective test is obvious. We must deal with the actual result, not the result someone says they intended.

We also reject your contention that the effect of the cover page was outweighed by the attached questionnaire. We found, as noted above, that the cover page would assist your election campaign. The impact of the cover page is not minimized by the attached questionnaire. If part of a mailing is proper, it cannot legitimize another part which is improper.

There was testimony that the cover page did not expressly advocate your election. It did not say "vote for" Patricia Thorpe. The statute does not contain any such limitation. It prohibits an elected official from using the

facilities of his office to assist his election campaign. We have aligned our decisions with the court decisions on this question which have specifically held that assistance to a campaign may be given even without express advocacy. See Stanson v. Mott, 17 Cal.3d 206, 551 P.2d 1, 130 Cal.Rptr. 697 (1976) and cases cited therein.

3. Original Letter Format

During the hearing you requested that we also issue a binding declaratory ruling that your original choice of a letter format (Exhibit "A" substituted for the text of Exhibit "B") would not violate RCW 42.17.130 if mailed during the same time period. As you know, we did so.

As noted earlier, we found that the portion of the mailing devoted to questions was proper as a part of the normal and regular conduct of your office. Your original letter format is clearly related to the attached questions. It states the reason for the mailing, i.e., citizen input in determining budget priorities. It encourages a prompt response. Finally, it provides a means for constituents to gain information regarding burglary prevention programs. It does not extol the virtues of the sender. It does not prominently display the name and picture of a candidate.

We are aware that it could be argued that the letter format also assists your campaign in that it provides name identification to you. We believe that such an argument would have more validity if the mailing occurred closer to the election. As noted earlier, this mailing was delayed by means beyond your control and it must be mailed during this period if it is to serve its admittedly beneficial purpose of providing citizen input. We find that the letter format (Exhibit "B" with the text of Exhibit "A") would not influence the vote of a disinterested reader. We do not believe that RCW 42.17.130 was intended to prohibit any communication during an election campaign; however, communications during that period must be subjected to close scrutiny. Such a communication must be directly and necessarily related to the performance of the official's duties and responsibilities. It must not draw undue attention to the candidate.

This written binding declaratory ruling was adopted at the regular Commission meeting in Olympia on October 23, 1979.


Chairman

Lawrence B. Bradley
Commissioner

M. F. Vanik
Commissioner

Jan L. Lewis
Commissioner

Attest:

Chip Holcomb

NOTARY PUBLIC
Title

EXHIBIT "A"

Dear County Resident:

You have been selected from the registered voters in your precinct to give direction to the County Council in determining budget priorities for the 1980 County Budget. Page 9 of this questionnaire reports how the 1979 budget reflects community opinion expressed in last year's questionnaire.

I am interested in knowing where you think the County Council should expand or curtail services. By responding promptly to the questionnaire, it will be possible for me to compile the responses and determine the priorities indicated by them in time for use in the budget making process. Pages 2 and 11 have questions of particular interest to residents of District 6.

Also, please fill out the postcard in the center of the questionnaire if you wish to have an opportunity to participate in burglary prevention programs sponsored by the Department of Public Safety.

EXHIBIT "B"



King County Council
Bernice Stern, District No. 4
Room 402, King County Court House
Seattle, Washington 98104
(206) 344-3475

DEAR KING COUNTY RESIDENT:

YOU HAVE BEEN SELECTED FROM THE KING COUNTY VOTER REGISTRATION LIST TO HELP THE KING COUNTY COUNCIL DETERMINE VOTER OPINION ON CERTAIN BUDGET ISSUES.

THE COUNCIL WANTS TO KNOW CITIZEN OPINION ON ISSUES BEFORE WE BEGIN WORK ON THE 1980 BUDGET. PAGE 9 OF THE QUESTIONNAIRE EXPLAINS HOW LAST YEAR'S QUESTIONNAIRE AFFECTED THE 1979 BUDGET. YOUR CONTRIBUTION IS IMPORTANT.

KEEP IN MIND IN ANSWERING THESE QUESTIONS THAT CERTAIN PROGRAMS AND SERVICES REFERRED TO IN THE QUESTIONNAIRE DO NOT PERTAIN TO THE CITY OF SEATTLE OR OTHER INCORPORATED CITIES. YOU NEED NOT ANSWER ALL THE QUESTIONS IN ORDER TO PARTICIPATE. WE WOULD GREATLY APPRECIATE YOUR TAKING A FEW MINUTES TO COMPLETE THIS QUESTIONNAIRE AND HOPE IT WILL BE POSSIBLE FOR YOU TO MAIL IT BACK WITHIN A WEEK. NO RETURN POSTAGE IS REQUIRED.

YOUR RESPONSE WILL BE ANONYMOUS. THE SURVEY RESULTS WILL BE ANALYZED AND CONSIDERED BY THE COUNCIL AS AN IMPORTANT MEASURE OF COMMUNITY OPINION.

SINCERELY,
Bernice Stern
BERNICE STERN, COUNCILWOMAN
KING COUNTY COUNCIL
DISTRICT NO. 4

Who cares ?

Government today is big and complicated.
If you don't know the right place to go and the right
person to talk to, it's often hard to get anything done --
and frustrating.
So who cares?
I do.

County government is here to serve you and I am
here to see it does.

When you have a problem or you feel County
government isn't doing its job right, call or write so I
can get to work on your problem and show you I care.



I care

**Patricia
Thorpe**



King County
Council
District No. 6
344-3457

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**BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON**

IN THE MATTER OF ENFORCEMENT
ACTION AGAINST:

NOS. 14-006, 15-032, 15-033, and
15-034

Port of Seattle Commissioners:

Tom Albro, Case No. 14-006;
John Creighton, Case No. 15-032;
Courtney Gregoire, Case No. 14-033;
Stephanie Bowman, Case No. 15-034,

Respondents.

RESPONDENT TOM ALBRO'S
PREHEARING BRIEF/LEGAL
ARGUMENT

Respondent Tom Albro,¹ by and through his counsel of record, respectfully presents this Prehearing Brief/Legal Argument in advance of the February 26, 2015, hearing before the Public Disclosure Commission ("PDC").

I. INTRODUCTION

Elected public officials are the prime point of contact for their constituents. They are expected—in fact required—to be the spokespeople for their agencies. PDC staff has charged Respondents with violating RCW 42.17A.555 because they broadcast messages about the Port's Century Agenda on the airport's sky bridge public address system. However, the staff's case must fail for two reasons. First, the messages were recorded to promote the Port's Century Agenda, not to benefit a campaign. Second, the messages are part of the Port's

¹To avoid duplicative briefing, Respondents Creighton, Gregoire, and Bowman join in this brief. They submit separate briefing only to address issues unique to their own defenses.

1 normal and regular conduct. The sky bridge public address system has been used since 2004
2 to promote exactly the kind of messages at issue here.

3 There is no election law violation. Staff's misguided attempt to build one out of the
4 facts of this case would create a dangerous precedent: If public officials must worry every
5 time they make an official announcement during an election year, it will have a chilling effect
6 on their execution of office. The business of government will be adversely impacted and the
7 public harmed.

8 The Public Disclosure Commission is dedicated to encouraging public officials to
9 engage in outreach. PDC's Basic Principle 2, PDC Interpretation No. 04-02. Respondents ask
10 that the Public Disclosure Commission dismiss the charges against them and make a clear
11 statement that public officials may promote their governmental agendas.

12 II. FACTUAL BACKGROUND

13 This enforcement action concerns messages by four Port of Seattle Commissioners,
14 including Commissioner Albro, that were recorded and played in the Seattle-Tacoma
15 International Airport ("Sea-Tac") sky bridges between April and October 2013 to promote the
16 Port's Century Agenda.

17 A. Stipulated Facts

18 See the "Stipulation as to Facts," executed by the parties and submitted to the PDC.

19 B. Additional Facts

- 20 1. The Port has used the Sky Bridge Announcements since 2004 to inform the
21 public about the Port's operations.

22 The Port of Seattle Commission's use of sky bridge announcements at Sea-Tac Airport
23 is not new. The Commission has delivered these promotional announcements since at least
24 2004 to describe the critical public work of the Port, including economic development,
25 environmental stewardship, and facility improvements, and long-term objectives of the
26

1 Commission. The announcements have aired before Commissioner Albro was Commission
2 President, and have aired regardless of whether any Commissioner was up for election.

3 In 2012, Commissioner Tarleton's 7 distinct announcements promoted the Port's
4 leadership in biofuels, greenhouse gas emission reductions, recycling, water quality,
5 passenger growth, promoting Northwest musicians and providing free wi-fi. Commissioner
6 Bill Bryant ran 10 distinct messages during his tenure from 2009 through 2011. Topics
7 included noise reduction, third runway operation, energy conservation, passenger safety, clean
8 energy, recycling, and wayfinding. In 2007 and 2008, Commissioner Creighton used his
9 messages to describe the Port's noise reduction efforts, the benefits of the upcoming opening
10 of the third runway, and energy conservation programs. Even earlier, Commissioner Miller's
11 announcement trumpeted the opening of the then-new Gina Maria Lindsay Arrival Hall.

12 Commissioners made sky bridge announcements regardless of whether they were
13 campaigning for office. For example, Commissioner Tarleton's 2012 promotion of the Port's
14 successful initiatives ran as she was a candidate for the legislature. Similarly, Commissioner
15 Bryant's promotional messages ran in 2011 while he was a candidate for re-election to the
16 Port Commission.

17 There is no historic pattern to the quantity and timing of sky bridge announcements.
18 In 2007, messages ran as many as 60 times per hour (varied from 7 to 60). In 2008, the
19 messages ran 15 times per hour. From 2009 through 2011, the messages ran between 15 and
20 20 times per hour. In 2012, messages ran 13 times per hour.

21 2. The Century Agenda

22 The particular sky bridge announcements at issue here were part of the Port's Century
23 Agenda, which had its genesis years before the announcements actually aired, and was totally
24 unrelated to any election. Prior to the Century Agenda, the Port and the Commission came
25 under criticism for a lack of public transparency and accountability, unclear goals, and being
26 insular and inwardly focused. Public agencies and civic groups began a sustained call for

1 better leadership from the Commission and more effective communication with the public.
2 The Port addressed the cry for transparency as it created the Century Agenda. The missions
3 of the Century Agenda are to create jobs by advancing trade and commerce, promote
4 industrial growth, and stimulate economic development. In order to achieve these missions,
5 the Port resolved to better communicate its efforts to industry and the public in order for them
6 to understand the Port's programs and policies.

7 Planning for the Century Agenda began in 2008. In 2009, the Port of Seattle
8 concluded the initial phase of the Century Agenda strategic planning process with the
9 Commission's August adoption of Guiding Principles. The Guiding Principles were
10 developed by four expert panels comprised of 40 recognized civic and community leaders
11 (including two former Washington State governors). The final report advised:

12 The Port is obligated to sustain the public trust through an ongoing commitment
13 to transparency, accountability and equity, and to effectively communicate its
14 core activities to industry, the regulatory and environmental community and the
people of King County.

15 Panel members felt strongly that public trust and accountability are crucial to the
16 relationship between the Port and King County communities. They were
17 concerned about the low level of public awareness about Port operations, and
18 urged the Port to find ways to show how its core operations benefit the wider
19 community. Better outreach efforts to explain and promote understanding of the
Port's programs and policies were recommended, including "reader-friendly"
public information tools that explain how the Port's activities create economic
opportunity in the region. [Emphasis added]

20 Expert Panels' Century Agenda Guiding Principles, August 9, 2009. The Guiding Principles
21 informed all subsequent efforts in creating and implementing the Century Agenda.

22 In addition to the Expert Panel, the auditor and other stakeholders emphasized the
23 importance of public outreach and the Century Agenda. See Municipal League of King
24 County's June 2009 Report "The Port of Seattle: Where it's been and where it's going with the
25
26

1 Public's Dollars"; and see League of Women Voters of Seattle 2010 Report "The Seattle Port
2 Commission: Challenges, Resolutions, and Public Accountability."

3 On December 13, 2010, the State Auditor issued a performance audit focusing on
4 "Port of Seattle, Real Estate Management and Selected Programs." The first recommendation
5 of the audit was, "We recommend the Port complete its Century Agenda as soon as
6 possible..." Brian Sonntag, State Auditor, December 13, 2010 Audit Report. In developing
7 and implementing the Century Agenda, the Commission heeded the input of its stakeholders
8 and asserted its leadership of the Port of Seattle and its role in communicating directly with
9 the public.

10 The Century Agenda articulates the Port's mission, vision, commitments, its 25-year
11 strategies and objectives, and calls for broader collective action through regional initiatives.
12 The initial planning phase of the Century Agenda started in 2008 and concluded in 2009, and
13 resulted in the Guiding Principles. The second phase of developing the Century Agenda
14 began with the appointment of a Century Agenda committee of the Commission in January
15 2011. This second phase was co-chaired by Commissioners Albro and Creighton, and the
16 work included all Commissioners. Throughout 2011 and 2012, every Commissioner actively
17 and publicly engaged in developing the draft plan, creating a summary video, and presenting
18 the plan to the public, other elected bodies, and community groups. By all accounts, this was
19 by far the most extensive public engagement conducted by the Commission in memory – and
20 probably ever. Throughout the public engagement, and to underscore that the Century
21 Agenda work was key to the Commission as a whole, the Commission made an effort to have
22 two Commissioners speak whenever possible. The second phase culminated with the
23 Commissioners formally adopting the Century Agenda by unanimous vote on December 4,
24 2012.

1 3. The Commission's 2013 Sky Bridge Announcements

2 With the December 2012 adoption of the Century Agenda, it was timely and
3 appropriate to communicate the final plan through all outlets available to the Commission.
4 Once adopted, the Century Agenda became a constant reference in Commission
5 communications – press releases, the Port website, Commissioner speaking points, the
6 updated side bar on Commission agendas, and – at issue in this hearing – sky bridge
7 announcements. In 2013, the Commission took advantage of its historical practice of
8 publicizing the Port's important initiatives on Sea-Tac sky bridges in order to further public
9 engagement for the Century Agenda. Engaging all Commissioners in Century Agenda related
10 sky bridge announcements was a powerful compliment to the entire effort to clearly and
11 “effectively communicate the (the Ports) core activities...to the people of King County,” as
12 had been recommended by the Century Agenda Expert Panels.

13 Although the first announcements did not air until April 2013, Commissioner Albro
14 began planning them with his colleagues almost immediately after he assumed the
15 Commission presidency. After discussing with Commissioners Holland, Bryant, and
16 Creighton (Commissioner Tarleton had announced her resignation) in the first weeks of
17 January, all agreed to participate in the joint sky bridge Century Agenda announcements by
18 the end of January 2013. By February 11, 2013, the scripts were finalized, but not recorded
19 because of the unexpected announcement by Commissioner Holland of his resignation,
20 effective March 15, 2013. Courtney Gregoire was appointed by unanimous vote of the
21 Commission on March 5, 2013, to fill the vacancy left by Commissioner Tarleton, and
22 Stephanie Bowman was appointed by unanimous vote of the Commission on April 23, 2013,
23 to fill the vacancy left by Commissioner Holland. After some thought as to whether to
24 proceed with the announcements, Commissioner Albro concluded that the importance of
25 involving all Commissioners had only increased because of the two new members – neither of
26 whom was involved in the Century Agenda development. Commissioners Gregoire and

1 Bowman each agreed to participate in the sky bridge Century Agenda announcements. While
2 the Commissioners introduced themselves in the announcements, they made no mention,
3 reference, or inference to any campaigns and made no mention, reference, or inference to any
4 commissioner's individual achievements – the focus was entirely on the Port and its Century
5 Agenda.

6 All joint announcements had been recorded and were playing by sometime in May
7 2013. On June 3, 2013, Commissioner Albro received an email update from the Port
8 employee responsible for the sky bridge announcements. In that email, the employee
9 indicated that the frequency for each recording was four times per hour. Concerned that the
10 frequency was insufficient to meaningfully represent the Century Agenda to the public,
11 Commissioner Albro asked the employee to evaluate the play schedule and fix a frequency
12 that achieved the purpose, left room for other recordings, and did not become overly frequent
13 (and therefore annoying) to the frequent traveler. Commissioner Albro learned on July 9,
14 2013, that the recordings had been set so that each would air eight times per hour starting July
15 19. He believed that to be appropriate for travelers to be given the opportunity to hear one of
16 the Century Agenda announcements.

17 III. STATEMENT OF ISSUES

18 Whether Commissioner Albro violated RCW 42.17A.555 and assisted a campaign for
19 election by authorizing, recording, and playing sky bridge announcements during the 2013
20 campaign for Port Commission?

21 IV. STATEMENT OF APPLICABLE LAW

22 The Notice of Administrative Charges alleges Commissioner Albro violated RCW
23 42.17A.555:

24 No elective official ... may use or authorize the use of any of the facilities of a
25 public office or agency, directly or indirectly, for the purpose of assisting a
26 campaign for election of any person to any office or for the promotion of or

1 opposition to any ballot proposition. ... However, this does not apply to the
2 following activities:

3 * * *

4 (3) Activities which are part of the normal and regular conduct of the office or
5 agency.

6 RCW 42.17A.555 (Emphasis added). Commissioner Albro did not violate RCW 42.17A.555
7 for two independent reasons: (a) the Sky Bridge Announcements were not for *the purpose of*
8 *assisting a campaign for election*; and (b) the Sky Bridge Announcements were part of the
9 *normal and regular conduct* of the Port Commission.

10 **A. The Sky Bridge Announcements were not for the purpose of assisting a campaign**
11 **for election.**

12 The purpose of the 2013 sky bridge announcements was public outreach and publicity
13 for the Port's important Century Agenda. Public outreach has always been the purpose of sky
14 bridge announcements. The Port's need to engage in outreach – as made evident through the
15 years-long process of creating and implementing the Century Agenda – has become more
16 urgent since the Port initiated the sky bridge announcement program in 2004. There will be
17 no evidence at the hearing that the announcements were made "for the purpose of assisting a
18 campaign for election," and there will be no basis for the PDC to hold otherwise.

19 The PDC bears the burden of proving that Commissioner Albro violated RCW
20 42.17A.555 by using sky bridge announcements for the purpose of assisting a campaign. *See*
21 *e.g. In re A.D.*, 140 Wn. App. 579, 590, 166 P.3d 837 (2007) (holding that a party seeking
22 relief in an administrative hearing bears the burden of proof). Neither the Campaign
23 Disclosure and Contribution Act nor the Administrative Procedure Act identify the burden the
24 PDC must meet to establish a violation of RCW 42.17A.555, and there appears to be no
25 Washington case addressing the issue. However, the Washington Supreme Court has held
26 that due process in the context of professional disciplinary hearings requires application of a

1 "clear and convincing standard." *Nguyen v. Dep't of Health*, 144 Wn.2d 516, 518, 29 P.3d
2 689 (2001) (considering a Department of Health Medical Quality Assurance Commission
3 hearing on the revocation of a doctor's license).² Regardless of whether the PDC applies a
4 preponderance of the evidence standard or a clear and convincing evidence standard,
5 however, it cannot meet the burden required to show a violation of RCW 42.17A.555.

6 To show a violation of RCW 42.17A.555, the PDC must show that Commissioner
7 Albro's actions were taken "for the purpose of assisting a campaign for election." The purpose
8 of 42.17A.555 is to "prohibit the use of public facilities for partisan campaign purposes."
9 *State v. Seattle*, 100 Wn.2d 232, 247 (1983). Further, the *State v. Seattle* Court reasoned:

10 When [RCW42.17A.555] refers to "assisting a campaign for election of any
11 person to any office" it means assisting a specific campaign at the expense of
12 other campaigns. *Id.* at 247-48. [Emphasis in original]

13 The phrase, "for the purpose," is not defined in the Campaign Disclosure and
14 Contribution Act. Phrases that are not defined by the Act "should be given their ordinary
15 meaning." *King County Council v. Public Disclosure Comm'n*, 93 Wn.2d 559, 561, 611 P.2d
16 1227 (1980). Black's Law Dictionary defines a "purpose" to require an intent to achieve a
17 goal:

18 That which one sets before him to accomplish or attain; an end, intention, or aim,
19 object, plan, project. Term is synonymous with ends sought, an object to be
20 attained, an intention, etc.

21 Black's Law Dictionary, 6th ed. at 1236. Thus, in order for the PDC staff to succeed in its
22 allegations, it must establish Mr. Albro's objective intent – specifically, that Commissioner
23 Albro's use of the sky bridge announcements was done with the objective intent of assisting a

24 _____
25 ² Also, the standard of proof for disputed issues of fact under the federal APA is
26 preponderance of the evidence, though Congress or courts can establish a higher burden to
apply to particular classes of disputes. Pierce, Richard J., II *Administrative Law Treatise*
§10.7 at 971 (5th Ed. 2010). Washington courts may look to the federal government for
interpretation of the State APA. RCW 34.05.001.

1 campaign. See PDC Interpretation 04-02, Basic Principle 6 ("...intent is to be
2 considered..."). The PDC cannot meet this burden.

3 The evidence at the hearing will show that Commissioner Albro's only objective intent
4 in the sky bridge announcements was for public outreach and for publication of the Port's
5 Century Agenda. This purpose is evident from the traditional use of sky bridge
6 announcements, the timing and roll out of the Century Agenda, the text of the 2013
7 announcements and from the audience, which consisted of SeaTac customers walking to and
8 from their vehicles. While the announcements identified the speakers as Port of Seattle
9 Commissioners, they addressed the efforts of the Port – not of the commissioners and
10 certainly not of any particular commissioner. None of the announcements mentioned any
11 election or sought support for a particular commissioner. The length and frequency of the
12 announcements were also consistent with the purpose of public outreach, particularly given
13 the importance of the Century Agenda and the Guiding Principles as announced by the Expert
14 Panel in 2009. The inclusion of other Commissioners in the announcements was also not for
15 the purpose of assisting a campaign, but to show the support of the Commission for the
16 Century Agenda. The inclusion of other Commissioners is also consistent with State Law's
17 requirement that the Port is run by the Commission as a whole – not by the president alone.³

18 In the Thorpe decision, the PDC concluded it would apply an objective test rather than
19 examining the subjective intentions of a candidate to determine whether her actions violated
20 the statute. PDC Declaratory Ruling No. 2 (October 23, 1979). In that matter, the PDC
21 announced its criteria for reviewing the use of public funds or facilities in election campaigns:

22 Your mailing must be tested by viewing it as a whole to determine if it would
23 influence the vote of a disinterested reader taking into consideration such factors
24 as its style, tenor (or content) and its timing in relation to the election. **** The
25 Attorney General has opined that the timing is the most crucial factor. (AGO
26 1975 No. 23). [Emphasis added]

³ RCW 53.12.010 vests all authority at the Port of Seattle in the Commission as a public body. No one Commissioner alone has authority over the Port.

1 In Thorpe, the PDC considered whether the statute would be violated by a county
2 candidate's proposed mailing that would accompany a voter questionnaire. The mailing,
3 which focused on candidate Thorpe, would be circulated close to the election and would warn
4 her constituents that:

5 Government today is big and complicated.
6 If you don't know the right place to go and the right person to talk to, it's often
7 hard to get anything done – and frustrating.
8 So who cares?
9 I do.
10 County government is here to serve you and I am here to see it does,
11 When you have a problem or you feel County government isn't doing its job right,
12 call or write so I can get to work on your problem and show you I care.
13 I care. Patricia Thorpe.

14 The PDC found this to be a violation of the statute, concluding that "[w]e believe that the
15 'Who cares? I care' format would assist your name recognition among the 41,000 registered
16 voters who would receive it." Id. at 5.

17 The timing and promotional tenor of Thorpe's letter contrasts sharply with the facts at
18 issue here. The PDC must make a detailed inquiry of the whole picture. This approach
19 follows the Attorney General's advice:

20 As we have previously advised, "compliance or noncompliance with [RCW
21 42.17A.555] requires a detailed factual analysis of the conduct involved, on a case
22 by case basis, in the light of the constitutional and statutory powers of the elected
23 official whose activities are in issue. AGO 1975 No. 23, at 3." AGO 1994 No. 20.

24 Accordingly, the PDC must consider the long development of the Port's Century Agenda,
25 which started years before the 2013 election season and in which the 2013 sky bridge
26 announcements were but a small part. The sky bridge announcements – which focused solely
on the Port's Century Agenda and made no suggestion about a particular commissioner's
efforts or achievements – are a far cry from the "call or write so I can get to work on your
problem and show you I care" language at issue in Thorpe. Thorpe's promotional letter was a
one-time targeted mailing to voters shortly before an election. By contrast, the sky bridge

1 announcements had a long history unrelated to election seasons, were a small part of
2 publicizing the Century Agenda and were broadcast to SeaTac customers, not registered
3 voters as in Thorpe.⁴

4 PDC staff's narrow focus on the frequency of sky bridge announcements between
5 April and October 2013 distorts history and trivializes the Port's outreach program for the
6 Century Agenda. PDC staff disregards the decade long history of sky bridge announcements
7 and the five year non-partisan development of the Century Agenda.

8 In order to show a violation of RCW 42.17A.555, the PDC must show Commissioner
9 Albro acted *with the purpose* of assisting a campaign (his or another Commissioner's). Public
10 officials take actions while in office all the time that may incidentally assist their chances for
11 re-election. For example, they preside over public meetings, sign important resolutions, and
12 make public appearances. When an issue of importance happens—for example, a public
13 health campaign for a County government official, an education-funding development at the
14 State level, or the culmination of a years-long effort to define and communicate the Port's
15 mission—elected leaders are expected and required to communicate those issues to their
16 constituents. These actions are not violations of the Campaign Disclosure and Contribution
17 Act unless they both use public facilities and are taken for the purpose of assisting campaigns.
18 While the traditional use of the Sea-Tac sky bridge announcements use public facilities, they
19 are (and have always been) done for the purpose of public outreach, and not for the purpose of
20 assisting Commissioners' campaigns.

21 **B. The Sky Bridge Announcements are part of the *normal and regular conduct* of the**
22 **Port Commission.**

23 Even if Commissioner Albro acted with the purpose of assisting an election campaign,
24 PDC still cannot prove a violation of RCW 42.17A.555(3) because the announcements are
25 part of the normal and regular conduct of the Port Commission. In the context of the

26 _____
⁴ According to Port census data, only 23% of SeaTac customers have King County zip codes.

1 Campaign Disclosure and Contribution Act, the Washington Supreme Court has interpreted
2 "normal" to mean "usual or customary," and "regular" to mean "lawful or conducted in
3 conformity with established rules." *King County Council*, 93 Wn.2d at 561. Subsequent to
4 this court decision, the PDC adopted a regulation to define normal and regular conduct:

5 Normal and regular conduct of a public office or agency, as that term is used in
6 the proviso to RCW 42.17A.555, means conduct which is (1) lawful, i.e.,
7 specifically authorized, either expressly or by necessary implication, in an
8 appropriate enactment, and (2) usual, i.e., not effected or authorized in or by
9 some extraordinary means or manner. No local office or agency may authorize a
use of public facilities for the purpose of assisting a candidate's campaign or
promoting or opposing a ballot proposition, in the absence of a constitutional,
charter, or statutory provision separately authorizing such use.

10 WAC 390-05-273. The sky bridge announcements satisfy the regulation's elements.

11 The use of sky bridge announcements was a lawful exercise of Commissioner Albro's
12 office. WAC 390-05-273(1). Conduct is lawful if it is specifically authorized, either
13 expressly or by necessary implication, in an appropriate enactment. *Id.*

14 The Port is regulated by Title 53 RCW. Chapter 53.08 sets out the powers of a port
15 district. RCW 53.08.160 expressly authorizes port districts to promote and advertise their
16 properties, utilities, and facilities:

17 All port districts organized under the provisions of this act shall be, and they are
18 hereby, authorized and empowered to initiate and carry on the necessary studies,
19 investigations and surveys required ... for the proper promotion, advertising,
improvement and development of such port properties, utilities and facilities
[Emphasis added]

20 Port districts are also expressly authorized to conduct promotion of resources and facilities by
21 "advertising, publicizing, or otherwise distributing information" to attract visitors and
22 encourage tourist expansion. RCW 53.08.255(1).⁵ Port districts are authorized to engage in
23 economic development programs. RCW 53.08.245(1). The Sky Bridge Announcements,
24

25
26 ⁵ This express statutory authorization is consistent with PDC's Basic Principle 2, PDC
Interpretation No. 04-02, which encourages public officials to engage in outreach.

1 which promote its Century Agenda, are authorized, either expressly or by necessary
2 implication, by RCW 53.08.160, .245(1) and .255(1).⁶ They are therefore lawful and meet the
3 test of WAC 390-05-273(1).⁷ See PDC Declaratory Order No. 10 (1995) ("...the activity
4 must be lawful, that is, must be specifically authorized by statute....."); and see AGO 1975
5 No. 23.

6 The Sky Bridge Announcements were also usual. WAC 390-05-273(2). The
7 announcements were not effected or authorized in or by some extraordinary means or manner.
8 The Attorney General has formulated the issue as, "Does the conduct constitute a normal or
9 usual use of the public facilities of the agency involved as opposed to an extraordinary though
10 lawful activity?" AGO 1994 No. 20. The regulations do not define "extraordinary," but the
11 common meaning of the word in this context is "very unusual; very different from what is
12 normal or ordinary." <http://www.merriam-webster.com/dictionary/extraordinary>. The Sky
13 Bridge announcements were not unusual at all. In fact, the Commission has been using the
14 public address system on the sky bridges for public outreach since at least 2004. They were
15 effected or authorized in the same manner as prior sky bridge announcements – by the
16 Commission president. To the extent the announcements differed from prior messages in
17 length, frequency, or number of commissioners on the recorded messages, these differences
18 cannot be considered "extraordinary." Any differences are trivial. The 2013 messages are
19 less frequent than messages played in 2007, which aired at up to 60 messages per hour. They
20 are within a few words in length from some previous years. And although this was the first
21 year the messages featured the voice of Commissioners other than the Commission President,
22 that difference is both minor and cannot have been to benefit Commission President Albro's
23

24 ⁶ The powers of a port district are cumulative. RCW 53.08.047.

25 ⁷ RCW 53.08.160, .245(1), and .255(1) also meet the test for statutory authorization under the
26 final sentence of WAC 390-05-273 ("No local office or agency may authorize a use of public
facilities for the purpose of assisting a candidate's campaign ... in the absence of a
constitutional, charter, or statutory provision separately authorizing such use").

1 campaign. The messages were not "very unusual" or "very different" from the normal
2 messages because they were made to accomplish what they have always intended to
3 accomplish – public outreach for Port initiatives to travelers at Sea-Tac during the short walk
4 from the parking garage to the terminal. The messages were not effected or authorized in or
5 by some extraordinary means or manner, and were therefore usual under WAC 390-05-
6 273(2).


7 The Port Commission's use of the Sky Bridge Announcements were normal ("usual or
8 customary"), and regular ("lawful or conducted in conformity with established rules").
9 Therefore, even if the PDC finds that Commissioner Albro's actions were for the purpose of
10 assisting Commissioners' campaigns, the exclusion in RCW 42.17A.555(3) applies and the
11 administrative charges must be dismissed.

12 V. CONCLUSION

13 The Port Commission has used sky bridge announcements since at least 2004. The
14 announcements accomplish the Port's goal of public outreach, and were especially important
15 in 2013 because of the implementation of the Port's Century Agenda. The announcements
16 were normal and regular and for the purpose of public outreach. The PDC staff cannot
17 establish a violation of RCW 42.17A.555, and the administrative charges against
18 Commissioner Albro must be dismissed.

19 DATED this February 18, 2015.

20 SHORT CRESSMAN & BURGESS PLLC

21
22 By 
23 Robert S. Klein, WSBA #6007
24 Athan E. Tramountanas, WSBA No. 29248
25 Attorneys for Port Commissioner Thomas Albro
26

CERTIFICATE OF SERVICE

I, Linda F. Sutton, certify and declare:

I am over the age of 18 years, make this Declaration based upon personal knowledge, and am competent to testify regarding the facts contained herein.

On February 18, 2015, I served true and correct copies of the document to which this certificate is attached on the parties and in the manner listed below:

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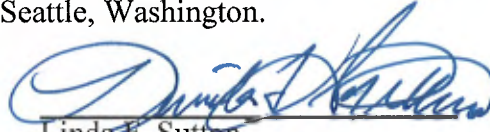
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1 I certify under penalty of perjury pursuant to the laws of the State of Washington that
2 the foregoing is true and correct.

3 SIGNED on February 18, 2015 at Seattle, Washington.

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5 Linda F. Sutton
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7 BEFORE THE PUBLIC DISCLOSURE COMMISSION
8 OF THE STATE OF WASHINGTON

9 In the Matter of Enforcement Action
10 Against:

11 Tom Albro, Case No. 14-006
12 John Creighton, Case No. 15-032
13 Courtney Gregoire, Case No. 15-033
14 Stephanie Bowman, Case No. 15-034,

15 Respondents.

Case Nos. 14-006, 15-032, 15-033
and 15-034

RESPONDENTS COURTNEY
GREGOIRE AND STEPHANIE
BOWMAN'S PRE-HEARING BRIEF

16 Respondents Courtney Gregoire and Stephanie Bowman join in the Pre-Hearing Brief
17 filed on behalf of Co-Respondent Tom Albro.

18 Additional Argument

19 The airport messages alleged as violations in this case present a different and greatly
20 expanded interpretation of RCW 42.17A.555 (Use of Public Facilities in Campaigns –
21 Prohibited). Most cases alleging violation of the statute involve clear electioneering activity
22 such as the preparation and dissemination of campaign literature on office time, or the use of
23 uniforms and equipment in campaign literature. *In Re Compliance Steve Strachan*, PDC
24 Case No. 13-013. *See also* "Examples of PDC Enforcement Cases Involving Uniforms."
25
26

1 Other recent enforcement actions pursuant to 42.17A.555 likewise involve activity
2 specifically directed at helping or harming a campaign through use of public and agency
3 facilities. *In Re Compliance of Brian Skeahan*, PDC Case No. 15-039 (use of Cowlitz PUD
4 staff time, camera and vehicles for a friend's campaign photo shoot); *In re Compliance of*
5 *William Neal*, PDC Case No. 13-002 (permitting use of water district property to receive and
6 disseminate campaign literature). *In Re Sarah Matheny* (pending) (use of office equipment
7 to conduct a criminal background check on opponent). Such cases have a clearly established
8 factual basis for believing the conduct is "for the purpose of assisting a campaign . . .".

10 The messages at issue here are entirely different. Under the "Basic
11 Principles" of PDC Interpretation 04-02, "Guidelines for Local Government Agencies in
12 Election Campaigns" (revised May 22, 2013) the Commission acknowledges that it is a
13 responsibility, not just a right of local governments to inform the community of operations
14 issues to the extent it is not for the purpose of influencing an election:
15

- 16 2. The Public Disclosure Commission holds that it is not only the right, but the
17 responsibility of local government to inform the general public of the
18 operational and maintenance issues facing local agencies. This includes
19 informing the community of the needs of the agency that the community may
20 not realize exist. Local governments may expend funds for this purpose
provided that the preparation and distribution of information is not for the
purpose of influencing the outcome of an election.

21 The PDC accepts that the respondent must have "the purpose of assisting his/her
22 campaign" and the time, tone and tenor of the activities in relation to elections must be
23 considered in determining the purpose.

- 24 6. The PDC is charged with enforcing RCW 42.17A.555. This requires
25 consideration and analysis of activities, which may or may not be determined
26 to be in violation of the statute. The PDC has, over the years, developed
methods of considering and analyzing activities engaged in by public offices.
Among the factors considered are the normal and regular conduct and the

1 timing, tone, and tenor of activities in relation to ballot measure elections. As
2 in any matter where intent is to be considered, hard and fast rules, which will
3 be applicable to all situations, are difficult to establish.

4 Applying the guidance to the airport messages, make it clear they have none of the
5 features of campaign activity.

- 6 • The airing of Port of Seattle promotional messages existed years before
7 Commissioners Gregoire and Bowman were appointed.
- 8 • The messages were not directed at a target electorate, such as in the Thorpe case
9 (PDC Declaratory Ruling No. 2), but rather were in the nature of Port promotions
10 that were directed at all airport users – not King County voters.
- 11 • The fact the messages in 2013 were longer and aired more frequently was not a
12 departure from regular activity indicative of a campaign purpose: no individual
13 Commissioner’s name was stated more than one time, nor would the listeners hear
14 more than one message given the time it takes to walk across the Skybridge.
15

16 The PDC’s Interpretation 04-02 contains examples of activity that is “permissible” or
17 “not permissible.” The examples describe activity promoting ballot measures and campaigns
18 illustrate how far short of “election campaign activity” these airport messages are. There is
19 quite simply no factual basis from which to infer the purpose of the messages of assisting
20 their campaigns.
21


22 PDC staff is promoting a strained reading and an unworkable interpretation of the
23 statute. If all the statute requires is an incumbent participate in ongoing activity that reflects
24 well on the agency and make any change, no matter how inconsequential, they are deemed
25 assisting their campaign. There is no direct or indirect evidence of the prohibited purpose for
26 any of the Commissioners but such evidence is particularly non-existent for Gregoire and

1 any of the Commissioners but such evidence is particularly non-existent for Gregoire and
2 Bowman who were not involved in any planning or decision making about any aspect of the
3 messages.

4 For these reasons, Respondents Gregoire and Bowman ask the charges be dismissed.

5 DATED this 18th day of February, 2015.

6
7 SCHROETER, GOLDMARK & BENDER

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11 _____
12 Rebecca J. Roe, WSBA #7560
13 Counsel for Respondents Courtney Gregoire
14 and Stephanie Bowman
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1 **CERTIFICATE OF SERVICE**

2 On February 18, 2015, I served true and correct copies of the foregoing document on
3 the parties and in the manner listed below:

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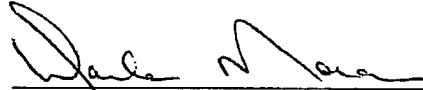
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- Via Facsimile
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DATED: February 18, 2015, at Seattle, Washington.



Darla Moran, Legal Assistant

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**BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON**

IN THE MATTER OF
ENFORCEMENT ACTION AGAINST:

NOS. 14-006, 15-032, 15-033, and 15-034

Port of Seattle Commissioners:
Tom Albro, Case No. 14-006
John Creighton, Case No. 15-032
Courtney Gregoire, Case No. 15-033
Stephanie Bowman, Case No. 15-034,

Respondents.

**RESPONDENT CREIGHTON'S
JOINDER IN OTHER
RESPONDENTS' PREHEARING
BRIEFS AND ADDITIONAL
ARGUMENT**

I. JOINDER IN OTHER RESPONDENTS' PREHEARING BRIEFS

In an effort to minimize duplicative briefing, Respondent Creighton joins in the other Respondents' prehearing briefs and adds only facts and argument relevant to Creighton's particular defenses.

II. ADDITIONAL FACTS AND ARGUMENT

A. Respondent Creighton's decision to record a message at Commissioner Albro's request is not a violation of RCW 42.17A.555.

PDC staff must prove that, with the intent to aid his campaign, Respondent Creighton used Port facilities in a manner that was outside of the normal and regular conduct of Creighton's office as a Commissioner. RCW 42.17A.555; *see also* Albro's Prehearing Brief at pp 7-12. It is axiomatic that a respondent cannot be liable for the acts of another person absent proof of agency, conspiracy, or some other joint-responsibility

1 theory. e.g. *City of Vancouver v. State Pub. Employment Relations Comm'n*, 180 Wn. App.
2 333, 339, 325 P.3d 213, 217 (2014)(PERC could not impose liability on police commander
3 under APA for unfair labor practice absent evidence of a principal/agent relationship.)
4 PDC staff has not alleged a joint agency theory and there is no evidence of joint agency
5 here.

6 PDC staff does not challenge the Port's ongoing use of the skybridge system for
7 Port-related announcements, but instead fixates on the duration of the messages, the
8 frequency of the playback, and that other commissioners besides the president were
9 involved. As outlined in Respondent Albro's brief, these minor differences either do not
10 exist or are not outside of the normal and regular conduct of the Port's business. But even
11 if they were deviations from the normal practice, Respondent Creighton did not make the
12 decisions about them. Instead, as Commission President, Respondent Albro had authority
13 to decide the content and frequency of the skybridge announcements. Respondent Albro
14 decided that he would add other commissioners to the skybridge announcements, worked
15 with Port staff to create the scripts, and later set the frequency of playback.

16 **B. Creighton did not intend to assist his campaign.**

17 Respondent Creighton did not make any decisions about the announcements. He
18 did not write the script, nor did he decide that all commissioners rather than just Albro
19 would speak. He was not consulted on the frequency. His only action was agreeing, at
20 Albro's request, to say a few words about the Century Agenda. Accordingly, this one act
21 must be the sole basis of the charge against Respondent Creighton.

22 That one act was not aimed at aiding Respondent Creighton's campaign,
23 regardless of whether intent is evaluated subjectively or objectively. Subjectively,
24 Creighton will testify that he made the recording at President Albro's request because
25 Creighton wanted to help advance the Century Agenda. Objective intent is measured by
26 viewing the announcements "as a whole to determine if it would influence the vote of a
27 disinterested reader taking into consideration such factors as its style, tenor (or content)
28 and its timing in relation to the election." PDC Declaratory Ruling No. 2 (October 23,

1 1979). The message is in the same style and tenor as all previous skybridge
2 announcements, and planning for the Century Agenda and the announcements started
3 years before the election. The announcement itself was recorded early in the election
4 year, and released promptly after it was recorded.

5 **C. Creighton’s message was not outside the normal and regular conduct of the**
6 **Port’s operations.**

7 Even if Creighton had intended to aid his campaign, his act is not outside the scope
8 of the Port’s normal and regular operations. Uncontested evidence will demonstrate that
9 messages just like the one Creighton recorded were played over the skybridge
10 announcements dating back to 2004. If the frequency the messages were played at, the
11 contents of the script, and the fact that it was two commissioners rather than one are
12 removed—all facts outside of Creighton’s control—then Creighton’s message is 100% in
13 line with the exact practice followed by the Port in the past.

14 **III. CONCLUSION**

15 PDC Staff asks the Commission to open a dangerous Pandora’s Box of new rules
16 for incumbent elected officials during an election year. If the Commission finds that
17 Respondent Creighton violated by agreeing to record a message promoting the Port’s
18 Century Agenda—just like messages dating back a decade had always been recorded—
19 then no incumbent elected official can do their job without fear of repercussions from the
20 PDC. Elected leaders have to be able to lead their organizations and communicate the
21 organization’s vision to constituents. Respondent Creighton asks that the charges against
22 him be dismissed.

23 Dated February 18, 2015.

24 **Newman Du Wors LLP**

25
26 By:



27 Keith Scully, WSBA No. 28677
28 Attorneys for John Creighton



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE)	PDC CASE NO: 14-006
WITH RCW 42.17A)	
)	
Tom Albro, Stephanie Bowman, John)	
Creighton, and Courtney Gregoire)	
(Port of Seattle Officials))	REPORT OF INVESTIGATION
)	
Respondent.)	
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I.

BACKGROUND

- 1.1 The Port of Seattle is a municipal corporation and special purpose district authorized under Title 53 RCW to provide freight and passenger transfer and terminal facilities. The port owns and operates Seattle-Tacoma International Airport ("Sea-Tac Airport"). In 2013, Sea-Tac Airport handled more than 34.7 million passengers.
- 1.2 The port is governed by five commissioners elected at large by King County voters to four-year terms. In the spring and summer of 2013, the president of the port commission was Tom Albro. Also serving at that time were Stephanie Bowman, Bill Bryant, John Creighton, and Courtney Gregoire. All except Mr. Bryant were candidates for election or re-election in the November 5, 2013 general election, and all were successful in their campaigns. (Ms. Gregoire and Ms. Bowman were appointed to the Port of Seattle Commission on March 5, 2013 and May 3, 2013, respectively, and were elected to the commission for the first time in that year's general election.)
- 1.3 On October 14, 2013, Andrew Pilloud filed complaints against Tom Albro, Stephanie Bowman, John Creighton, and Courtney Gregoire. **(Exhibit 1.)**

II.

ALLEGATIONS IN COMPLAINT

2.1 Mr. Pilloud's complaint alleged that Tom Albro, Stephanie Bowman, John Creighton, and Courtney Gregoire violated RCW 42.17A.555 by using the facilities of the Port of Seattle to assist their 2013 campaigns for Port Commissioner. The facilities at issue were four audio recordings played over the public address system at SeaTac Airport beginning in the spring or summer of 2013. As described in the complaints, the recordings featured the voices of the four commissioners, and identified them by name. Mr. Pilloud further alleged that the four commissioners violated RCW 42.17A.240 by not reporting the assistance from the Port of Seattle as a campaign contribution, and violated RCW 42.17A.405 by exceeding contribution limits.

III.

SUMMARY OF FINDINGS

- 3.1 Port of Seattle Commissioners Tom Albro, Stephanie Bowman, John Creighton, and Courtney Gregoire participated in recording welcome messages that were played in the port's Sea-Tac Airport facility between April and October of 2013. During those times, the four identified commissioners were candidates for election or re-election in the November 5, 2013 general election. A fifth commissioner who participated in the welcome messages, Bill Bryant, was not a candidate.
- 3.2 The Port of Seattle has aired recorded commissioner messages in Sea-Tac Airport since at least 2004. The messages aired in 2013 were similar in substance to messages aired in prior years, in that they focused on the port's business, environment and trade initiatives and other port accomplishments. However, the messages aired in 2013 departed from the port's normal and regular conduct in airing recorded commissioner messages because the messages in 2013 were longer, aired more frequently, and featured all five members of the port commission rather than only the commission president. These changes were brought about at the request of Port of Seattle Commission President Tom Albro, for what he stated was a legitimate agency purpose connected with promoting the Century Agenda, the port's strategic initiative launched in 2012.
- 3.3 During the investigation, Commissioners Albro, Bowman, and Creighton argued that the 2013 recorded commissioner messages failed to meet several required criteria for a "public service announcement" in PDC rules and applicable Commission guidance, and so were not prohibited under RCW 42.17A.575. Commissioner Gregoire stated that she was not aware of the

prohibition against appearing in a public service announcement during the election year until it was brought to her attention in connection with the complaint, and stated that she has no knowledge of or experience with whether the recordings would meet the legal definition of a public service announcement. Rather, Commissioners Albro, Creighton and Bowman stated that in keeping with the Port of Seattle's long-established practice, the 2013 commissioners messages were used to welcome visitors to the Sea-Tac Airport facility and inform them about port operations. Commissioner Gregoire stated that she considered the recording of the airport announcements part of her official and regular duties as a Port Commissioner, and said it did not even enter her mind that the recordings were something that would benefit her campaign for re-election.

FINDINGS

3.4 Content of Recorded Commissioner Messages: On April 19, 2013, two recorded messages featuring the voices of Port of Seattle Commission President Tom Albro, Commissioner Bill Bryant, and Commissioner Courtney Gregoire began playing along the six sky bridges from the Sea-Tac Airport garage into the airport terminal. **(Exhibit 2.)** The message scripts promoted the port's impact on employment, the economy, and the environment, as follows:

Albro / Bryant ("with emphasis on environment")

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

Bill: And I'm Commissioner Bill Bryant. Welcome to Sea-Tac, one of the greenest airports in the country.

Tom: Our dedication to making the Port of Seattle the greenest and most energy efficient port in North America is an essential part of our Century Agenda.

Bill: We are committed to balancing economic growth with environmental responsibility.

Tom: Because nothing matters if we don't preserve our environment for future generations.

Albro / Gregoire ("with emphasis on small business opportunities")

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

Courtney: And I'm Commissioner Courtney Gregoire. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region.

Tom: The Port promotes small business growth and the development of a strong workforce as part of our Century Agenda.

Courtney: This is important to accomplishing our vision of adding 100,000 new jobs here over the next 25 years.

Tom: More jobs, economic growth, led by the Port of Seattle.

3.5 On May 16, 2013, two additional recorded messages featuring the voices of Port of Seattle Commission President Tom Albro, Commissioner Stephanie Bowman, and Commissioner John Creighton began playing along the Sea-Tac Airport sky bridges. (**Exhibit 2.**) The message scripts promoted the port's impact on employment and the economy, as follows:

Albro / Bowman (“with emphasis on small business opportunities”)

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

Stephanie: And I'm Commissioner Stephanie Bowman. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region.

Tom: The Port also promotes small business growth and the development of a strong workforce as part of our Century Agenda.

Stephanie: This is important to accomplishing our vision of adding 100,000 new jobs here over the next 25 years.

Tom: More jobs, economic growth, led by the Port of Seattle.

Albro / Creighton (“with emphasis on jobs and airline flights/destinations”)

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

John: And I'm Commissioner John Creighton. Welcome to Sea-Tac Airport, the Northwest's busiest and a leading international gateway.

Tom: We want to tell you about our efforts to create another 100,000 jobs here in the Northwest. It's our Century Agenda.

John: One way we can do this is by growing our number of flights and destinations. That's important for local businesses and tourism.

Tom: And...doing so means more jobs...that's what the Port of Seattle is all about.

3.6 On October 18, 2013, PDC staff contacted Craig Watson, General Counsel to the Port of Seattle, and informed him that the recorded messages identified in Mr. Pilloud's complaint could be public service announcements prohibited under RCW 42.17A.575, given that they included the voices of four municipal officers who were also candidates in the 2013 general election. Staff recommended that the Port of Seattle cease airing the recordings in the airport, and refrain from distributing them in any other manner. On October 21, 2013, Mr. Watson replied (**Exhibit 3**) that the recorded messages had been discontinued per PDC staff's instructions. (He explained that he was late in responding to PDC staff's message because he had been out of the office.)

3.7 **Normal and Regular Conduct of Port Commission:** On October 25, 2013, PDC staff requested information from the port concerning the timing and frequency of airing of the commissioners' recorded messages, as well as the port's history of airing such messages in the airport.

- 3.8 On October 30, 2013, Isabel Safora, the port's Deputy General Counsel, responded (**Exhibit 4**) that the messages at issue in Mr. Pilloud's complaint ran 24 hours, seven days a week along the airport's six sky bridges, and were heard in no other location. She stated that the commissioner messages (20-35 seconds in duration) were aired in rotation with directional messages recorded by port staff or by Northwest musicians as part of the Port's music initiative (she stated that the music messages were approximately 40 seconds long).
- 3.9 Ms. Safora stated that recorded commissioner messages had been aired in Sea-Tac Airport since at least 2004. She stated that the messages at issue in Mr. Pilloud's complaint began airing on April 19, 2013 and played at the rate of five messages per hour. She stated that beginning on May 16, 2013, when recordings with Commission President Albro and Commissioners Stephanie Bowman and John Creighton were added to the playlist, the messages ran at 12 messages per hour, with each commissioner pair running four times each hour. Ms. Safora stated that on July 19, 2013, the playback of commissioner messages increased to 32 messages per hour, with each commissioner pair running eight times each hour.
- 3.10 Ms. Safora stated that prior to April of 2013, Sea-Tac airport's recorded commissioner messages featured only the president of the port commission, and did not include other commissioners. Ms. Safora provided scripts of 17 commissioner greetings used in 2004, 2008, 2009, and 2012. (**Exhibit 5.**) The messages were similar in substance to the recordings at issue in Mr. Pilloud's complaint, in that they focused on the port's business, environment and trade initiatives and other port accomplishments. However, with the exception of one commissioner message used in 2004, the recorded messages were on average half as long as the commissioner messages used in 2013.
- 3.11 PDC staff asked Ms. Safora to explain why the recorded commissioner messages used beginning in April of 2013 departed from the messages used in prior years. In particular, staff asked why the port began including all commissioners rather than only the commission president in the recorded messages, and why the frequency of playback increased from five to twelve to thirty-two messages per hour during the spring and summer of 2013. On October 31, 2013, Ms. Safora responded that these changes were requested by Port Commission President Tom Albro. (**Exhibit 6.**)
- 3.12 **Response of Tom Albro to Complaint:** On December 31, 2013, Tom Albro provided a response to Mr. Pilloud's complaint. (**Exhibit 7.**) Staff asked Mr. Albro to explain why he authorized uses of commissioner greetings that deviated from the port's normal and regular conduct. In response, Mr. Albro stated that he asked his fellow commissioners to take part in the recorded messages because he believed it was important for the commission to convey

a common commitment to the strategic goals presented in the port's Century Agenda, adopted in December 2012. **(Exhibit 8.)** He stated that the Century Agenda has four major thrusts (cargo, tourism, workforce development and small business growth, and environmental stewardship), and that the recorded messages identified by Mr. Pilloud spoke to these four themes.

3.13 Mr. Albro stated that after the commissioner messages had been running for several months, he noticed that he rarely heard them while walking from the garage to the airport. Instead, he noticed prolonged periods of silence and some periods of other announcements. He said that as a result, he asked port staff to review the frequency of the commissioner messages to make best use of the opportunity to convey the Commissioners' commitment to the Port's strategic goals.

3.14 **Responses of John Creighton, Stephanie Bowman, and Courtney Gregoire to Complaint; Response of Tom Albro regarding RCW 42.17A.555:** On December 27, 2013, January 3, 2014, and January 6, 2014, separate responses to Mr. Pilloud's complaint were received from John Creighton, Stephanie Bowman, and Courtney Gregoire.

3.15 In his response **(Exhibit 9)**, Mr. Creighton disputed that the 2013 recorded commissioner messages constituted public service announcements, a use of public facilities to assist a candidate's campaign, or a campaign expenditure in support of any candidate for office. He stated that as the elected leaders of the Port of Seattle, port commissioners have acted properly over the years in recording the airport welcome announcements. He compared the messages to a local mayor having a plaque in city hall welcoming visitors, or a county executive or other elected official having a welcome message on the Web site of the official's agency. He stated that the messages could not be described as a campaign expenditure in support of a candidate, because the public address system in the Sea-Tac Airport is never used for any commercial purpose by outside parties, or for any purpose unrelated to welcoming travelers to the airport.

3.16 In her response **(Exhibit 10)**, Stephanie Bowman echoed Mr. Creighton's comparison to the welcome message from an elected official that appears on an agency's Web site, or a physical sign displayed in the agency. Further, she stated that at the time she agreed to take part in the recorded commissioner greetings, she was a new appointee to the port commission, and participated only with the understanding that the greetings were the part of the agency's normal and regular conduct. Finally, she stated that the recorded messages did not constitute public service announcements as defined in the PDC's laws and rules.

- 3.17 In her response (**Exhibit 11**), Courtney Gregoire stated that she considered the recording of the airport announcements part of her duties as a port commissioner. She stated that she did not take part in the recordings for the purpose of assisting her election campaign. Further, she stated that she was unaware of the prohibition in RCW 42.17A.575 against public service announcements by municipal officers during an election year until the prohibition was brought to her attention in connection with Mr. Pilloud's complaint. She stated that she has no knowledge of or experience with whether the 2013 commissioner recordings met the legal definition of a public service announcement.
- 3.18 Following his initial response to the complaint, PDC staff asked Tom Albro to respond to the allegation that the 2013 recorded commissioner messages met the definition of "Public Service Announcement" in WAC 390-05-525, as further clarified by the Public Disclosure Commission in PDC Interpretation 10-01, *Public Service Announcements By State-Elected Officials and Municipal Officers*. On March 4, 2014, Mr. Albro responded (**Exhibit 12**) that that the messages did not meet the definition of a PSA in the rule or Interpretation.
- 3.19 Referring to the requirement in WAC 390-05-525 that a PSA meet *all* of the criteria listed in the rule, Mr. Albro stated that the 2013 recorded commissioner messages failed to meet several of the listed criteria. He stated that the messages were not designed to benefit or promote the community's health safety or welfare or nonprofit community events (WAC 390-05-525[1][a]), but instead were designed to 1) inform the facility user that they were using a Port of Seattle facility and welcome them, 2) to inform the user that the mission of the Port of Seattle is economic development and job growth, and 3) to convey to the user the four major strategic thrusts of how the Port of Seattle planned to address that mission. He stated that the recorded messages were not of primary interest to the general public (WAC 390-05-525[1][d]), but in the interest of the specific users of the Sea-Tac airport and targeted to reach only them. Finally, he stated that the messages were not subject to Port of Seattle "policies regarding public services announcements" (WAC 390-05-525[1][f]) and were not "sponsored" by the Port of Seattle, in that the Port of Seattle does not routinely use its public address system to provide "outreach public service messages" (WAC 390-05-525[1][c]). Instead, he stated it was the Port of Seattle's long established practice to use its public address system to communicate information about the port to facility users.

IV.

SCOPE

4.1 Staff reviewed the following documents:

1. Complaints filed by Andrew Pilloud on October 14, 2013 against Tom Albro, Stephanie Bowman, John Creighton, and Courtney Gregoire;
2. Scripts of the 2013 Port of Seattle Port Commissioner recorded greetings;
3. An email received from Port of Seattle General Counsel Craig Watson on October 21, 2013;
4. An email received from Port of Seattle Deputy General Counsel Isabel Safora on October 30, 2013;
5. Scripts of 17 Port of Seattle Port Commissioner greetings used in 2004, 2008, 2009, and 2012;
6. An email received from Isabel Safora on October 31, 2013;
7. A response to Mr. Pilloud's complaint, received from Tom Albro on December 31, 2013;
8. Information concerning the strategic objectives of the Port of Seattle's Century Agenda, obtained from the port's Web site, www.portseattle.org.
9. A response to Mr. Pilloud's complaint, received from John Creighton on December 27, 2013;
10. A response to Mr. Pilloud's complaint, received from Stephanie Bowman on January 3, 2014;
11. A response to Mr. Pilloud's complaint, received from Courtney Gregoire on January 6, 2014; and
12. A supplemental response to Mr. Pilloud's complaint, received from Tom Albro on March 4, 2014.

V.

LAW

RCW 42.17A.555 states, in part:

"No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office[.]

...[T]he foregoing provisions of this section shall not apply to the following activities:

...(3) Activities which are part of the normal and regular conduct of the office or agency.”

WAC 390-05-273 defines the “normal and regular conduct” of a public office or agency as *“conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner.”*

RCW 42.17A.575 prohibits state-elected officials and municipal officers from speaking or appearing in a public service announcement from January 1 to the date of the general election in a year in which the official is a candidate.

WAC 390-05-525 states the following:

(1) "Public service announcement" means a communication meets all the following criteria. The communication is:

- (a) Designed to benefit or promote the community's health, safety or welfare or nonprofit community events;
- (b) Not selling a product or service;
- (c) Sponsored by an organization with a history of routinely providing the community such outreach public service messages in the service area of the organization;
- (d) Of primary interest to the general public and is not targeted to reach only voters or voters in a specific jurisdiction;
- (e) Not coordinated with or controlled or paid for by a candidate's authorized committee or political committee;
- (f) Subject to the policies for public service announcements of the entity broadcasting, transmitting, mailing, erecting, distributing or otherwise publishing the communication including policies regarding length, timing and manner of distribution; and
- (g) One for which the arrangements to include a reference or depiction of the candidate or candidates in the communication were made at least six months before the candidate became a candidate.

(2) Examples of public service announcements include but are not limited to communications regarding nonprofit community events, outreach or awareness activities such as: Breast cancer screening, heart disease, domestic violence, organ donation, emergency or other disaster relief for organizations such as the Red Cross, programs designed to encourage reading by school children, childhood safety, fund drives for charitable programs such as United Way, and similar matters.

PDC Interpretation 10-01, *Public Service Announcements By State-Elected Officials and Municipal Officers* interprets the term “municipal officer” in RCW 42.17A.575 to include “all elected and appointed officers of a municipality” as

discussed in RCW 42.23.020. (The term "municipality" is defined in RCW 42.23.020 as "all counties, towns, districts, and other municipal corporations and quasi municipal corporations organized under the laws of the State of Washington.") Interpretation 10-01 further interprets and provides guidance on current laws and rules, including the pre-existing definition of "public service announcement" in WAC 390-05-525, in light of RCW 42.17A.575.

Respectfully submitted this 9th day of September, 2014.



Tony Perkins
PDC Assistant Director

EXHIBIT LIST

- Exhibit 1** Complaints filed by Andrew Pilloud on October 14, 2013 against Tom Albro, Stephanie Bowman, John Creighton, and Courtney Gregoire.
- Exhibit 2** Scripts of the 2013 Port of Seattle Port Commissioner recorded greetings.
- Exhibit 3** An email received from Port of Seattle General Counsel Craig Watson on October 21, 2013.
- Exhibit 4** An email received from Port of Seattle Deputy General Counsel Isabel Safora on October 30, 2013.
- Exhibit 5** Scripts of Port of Seattle Port Commissioner greetings used in 2004, 2008, 2009, and 2012.
- Exhibit 6** An email received from Isabel Safora on October 31, 2013.
- Exhibit 7** A response to Mr. Pilloud's complaint, received from Tom Albro on December 31, 2013.
- Exhibit 8** "What Does it Take to Make Big Things Happen?", content taken from the Web site of the Port of Seattle, www.portseattle.org.

- Exhibit 9** A response to Mr. Pilloud's complaint, received from John Creighton on December 27, 2013.
- Exhibit 10** A response to Mr. Pilloud's complaint, received from Stephanie Bowman on January 3, 2014.
- Exhibit 11** A response to Mr. Pilloud's complaint, received from Courtney Gregoire on January 6, 2014.
- Exhibit 12** A supplemental response to Mr. Pilloud's complaint, received from Tom Albro on March 4, 2014.

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October 13, 2013

Phil Stutzman, Director of Compliance
State of Washington Public Disclosure Commission
711 Capitol Way Room 206
P.O. Box 40908
Olympia, Washington 98504-0908

RECEIVED
OCT 13 2013
Public Disclosure Commission

Re: THOMAS WILLIAM ALBRO – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
LIMITS PROVIDED BY LAW

Dear Mr. Stutzman:

I am submitting to you a complaint regarding the violation of RCW 42.17A.555, which prohibits the use of public office or agency facilities in political campaigns. This complaint is regarding an ongoing violation that is probably affecting the outcome of the November 5, 2013 General Election. I believe this case requires an immediate and thorough investigation, as it may render the election void.

The Respondent is Commissioner Thomas William Albro, who is both the incumbent and a candidate for Port of Seattle Commissioner Position 4. He resides at 310 30th Avenue South, Seattle, Washington 98144. His telephone number is listed as (206) 930-4004 in his PDC filings.

In violating RCW 42.17A.555, I believe you will also find that Mr. Albro has accepted contributions from the Port of Seattle in excess of the limits for candidates imposed in RCW 42.17A.405. This is not a matter to be taken lightly, and is likely to require the taxpayers to spend millions of dollars on a special election. I urge you to subject Mr. Albro to the maximum civil penalty of three times the violation, between three million and seven and a half million dollars, as required under RCW 42.17A.750.

I have personally witnessed this violation multiple times between June 2013 and present. In addition, documents returned by the Port of Seattle, obtained by public disclosure requests, show the violations started no later than April 09, 2013 and have likely been happening for several months prior to that date. These records were received from and can be verified by Asia Linton, Public Disclosure Specialist at the Port of Seattle. Her office phone number is (206) 787-3392 and email is linton.a@portseattle.org. Finally, most of these violations occurred in a public area of the Sea-Tac Airport. Any traveler passing through the airport from April to Present can be considered a witness. I can provide the contact information for travelers on request.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that this complaint is complete, true and correct to the best of my knowledge and belief.

Thank you in advance for your assistance in this investigation. Please keep me apprised of progress and your determination on this matter.

Re: THOMAS WILLIAM ALBRO – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
LIMITS PROVIDED BY LAW

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RECEIVED

OCT 14 2013

Statement of Facts

On April 9, 2013 from 9:30 AM to 10:30 AM at the Port Commission Office, Mr. Albro was involved in the production of Airport Public Address Recordings (Exhibit 1). Again, on May 14, 2013 from 10:30 AM to 12:00 PM at the Sea-Tac airport Tokyo Conference Room, Mr. Albro was involved in the production of Audio Message Recordings (Exhibit 1). In both cases, Mr. Albro used Port of Seattle facilities and staff to produce a Public Service Announcement promoting his work on the century agenda at the Port of Seattle.

The resulting recordings (Exhibit 2A, 2B, 2C, and 2D) all begin the same way: "Hello, I'm Port of Seattle Commissioner Tom Albro". This makes it immediately clear to the listener that they are hearing from Mr. Albro and that he is the incumbent Port Commissioner. The recordings then go on to talk about the great job Mr. Albro and one of his fellow commissioners have been doing improving the economy or environment at the port.

In my experience with the port, I have found that the economy and the environment are the most important issues to voters in the Port of Seattle's district. In addition, I believe the tone of the recording suggests that it is a campaign advertisement. Even if there is doubt about the nature of these recordings as campaign advertisements, state law is clear on the matter in RCW 42.17A.575:

"No state-elected official or municipal officer may speak or appear in a public service announcement that is broadcast, show, or distributed in any form whatsoever during the period beginning January 1st and continuing through the general election if that official or officer is a candidate."

The law clearly prohibits the use of a public service announcement like the one produced for Mr. Albro. I can think of no reason for the production of a public service announcement that can not be used, unless it was produced as a campaign advertisement.

As is noted in Mr. Albro's agenda (Exhibit 1), this is a "Airport Public Address Recording". Immediately after their production, these recordings were put into use. They are being played thirty-two times per hour at the Sea-Tac airport (Exhibit 3). Not only were the port facilities used to produce the advertisement, they are being used to distribute the campaign materials. This is a use of public facilities and violation of RCW 42.17A.555.

The Port of Seattle has leased all rights for advertising and promotions at the Sea-Tac Airport to Clear Channel Outdoor, Inc. dba Clear Channel Airports (Exhibit 4). All advertising is controlled by Clear Channel, and use can be purchased from them. As the Port of Seattle has leased all advertisement rights to Clear Channel, either this space was stolen by the Port of Seattle, or an unreported campaign contribution and expenditure must have occurred to pay Clear Channel for the use of this space.

I contacted Blaine Shepherd, General Manager at Clear Channel Airports, who can be reached at (206) 494-4166. He informed me that they currently do not offer audio advertisements at the airport, and that the closest product they sell is video advertisements in baggage claim (Exhibit 5). This advertising only

Re: THOMAS WILLIAM ALBRO – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
LIMITS PROVIDED BY LAW

PAGE 3 OF 7

covers a part of the baggage claim area, and would completely miss the frequent local business travelers who do not check bags. I believe this group includes a large number of voters and potential campaign contributors, significantly increasing the value of the advertising received by Mr. Albro. In addition, the best advertising available from Clear Channel is video only, with no audio component. It is much easier to ignore than the airport public address system, which routinely includes messages of importance. I can only conclude that the advertisement played over the public address system is of significantly more value than anything commercially available and would likely require a blanket contract with the airport at a cost of \$416,666.67 per month or \$2,500,000 over the six month period the advertisement has been playing (Exhibit 6).

If another candidate was to purchase the closest available advertising in the baggage claim area, it would require the purchase of 24 advertising units per month at \$7,500 each. This comes to a total of \$180,000 per month, or \$1,080,000 over the same 6 month period (Exhibit 7). Even in this case, there is a gross violation of campaign finance regulations. According to the Public Disclosure Commissions own records, the most ever spent on a Port of Seattle commissioner campaign was \$365,680.86 in 2011 (Exhibit 8). Even with this low valuation, it comes to three times the largest amount ever spent on a port commissioner race.

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Summary of Exhibits

OCT 13 2013

Exhibit 1: Extract from Port of Seattle calendars.

Public Disclosure Commission

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September 9, 2013. It includes specific days from the port commissioners calendars. Of interest in this case are page 1 and page 4, which show the meetings at which Mr. Albro made recordings in port facilities.

Exhibit 2A: Recording of Mr. Albro and Ms. Gregoire

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September 19, 2013. It is an audio recording of Mr. Albro and Ms. Gregoire. The transcript follows:

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro.

Courtney: And I'm Commissioner Courtney Gregoire. Welcome to Sea-Tac Airport.

Tom: As a part of our Century Agenda, a 25 year vision for the region, we are determined to make Washington a preferred destination for international travelers, and to strengthen access to global markets for Northwest businesses.

Courtney: From apples and salmon to airplanes and software, our region benefits from international trade.

Tom: And all over the world people recognize the Pacific Northwest as a beautiful place to visit and do business. We're glad you're here!

Re: THOMAS WILLIAM ALBRO – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
LIMITS PROVIDED BY LAW

PAGE 4 OF 7

Exhibit 2B: Recording of Mr. Albro and Mr. Bryant

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September 19, 2013. It is an audio recording of Mr. Albro and Mr. Bryant. The transcript follows:

Tom: Hi, I'm Port of Seattle Commissioner Tom Albro.

Bill: And this is Commissioner Bill Bryant. Welcome to Sea-Tac, one of the greenest airports in the country.

Tom: Our dedication to making the Port of Seattle the greenest and most energy efficient port in North America is an essential part of our century agenda.

Bill: We're committed to balancing economic growth with environmental responsibility.

Tom: Because nothing matters if we don't preserve our environment for future generations.

Bill: And did I say this is Commissioner Bill Bryant?

Tom: Who?

Both: (Laughter)

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Public Disclosure Commission

Exhibit 2C: Recording of Mr. Albro and Ms. Bowman

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September 19, 2013. It is an audio recording of Mr. Albro and Ms. Bowman. The transcript follows:

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro.

Stephanie: And I'm Commissioner Stephanie Bowman. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region.

Tom: The Port also promotes small business growth and the development of a strong workforce as part of our Century Agenda.

Stephanie: This is important to accomplishing our vision of adding 100,000 new jobs here over the next 25 years.

Tom: More jobs, more economic growth, led by the Port of Seattle.

Exhibit 2D: Recording of Mr. Albro and Mr. Creighton

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September

Re: THOMAS WILLIAM ALBRO – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
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19, 2013. It is an audio recording of Mr. Albro and Mr. Creighton. The transcript follows:

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro.

John: And I'm Commissioner John Creighton. Welcome to Sea-Tac Airport, a leading international gateway and the Northwest's busiest.

Tom: We want to tell you about our efforts to create another 100,000 jobs here in the Northwest. It's our Century Agenda.

John: One way we can do this is by growing our number of flights and destinations. That's important for local businesses and tourism.

Tom: And... doing so means more jobs...that's what the Port of Seattle is all about.

Exhibit 3: Skybridge playlist

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September 19, 2013. It is a schedule showing that the recordings in exhibits 2A, 2B, 2C, and 2D are to be played at the airport entrance sky-bridges 32 times per hour. Other recordings to be played include a security announcement (4 times per hour), light-rail announcement (4 times per hour), and Quincy Jones advertisement (2 times per hour).

Exhibit 4: Lease Agreement with Clear Channel

This exhibit was received in response to Port of Seattle Public Records Request 13-218 on October 9, 2013. It is titled "Lease And Concession Agreement For Advertising And Promotions" and is the lease agreement giving Clear Channel exclusive rights to advertisements at the airport.

Exhibit 5: Clear Channel Advertising Request

This exhibit is an email I received from Blane Shepard at Clear Channel on September 13, 2013. The attachment is Exhibit 7. The relevant text is as follows:

We do not have the capability to run :30 audio video. We do have static (.jpg) or motion (.swf) capabilities – however that we sell in increments of :10. I will attach an example of what they look like.

Exhibit 6: Port of Seattle revenue from Clear Channel

This exhibit was received in response to Port of Seattle Public Records Request 13-218 on October 9, 2013. It contains the revenue share that the port has received from Clear Channel every month in 2013. It shows that Clear Channel has fallen significantly short of the minimum revenue every month, and as a result has paid the port the contractual minimum of \$416,666.67 per month.

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Public Disclosure Commission

Re: THOMAS WILLIAM ALBRO – VIOLATION OF RCW 42.17A.555 AND UNREPORTED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM LIMITS PROVIDED BY LAW
PAGE 6 OF 7

Exhibit 7: Clear Channel Pricing Sheet

This exhibit is an email I received from Blane Shepard at Clear Channel on September 13, 2013. It shows that advertisements in baggage claim run \$7,500 for a for month long unit. Each unit is ten seconds every four minutes. The advertisements do not cover 5 of the baggage claim carousels.

Exhibit 8: WILLIAM L BRYANT PDC report

This exhibit is a printout I made from the Public Disclosure Commission's website on October 13, 2013. It shows that William L Bryant raised \$366,004.09 and spent 365,680.86 in is 2011 port commission race.

Conclusion

Given the presented facts and exhibits, I feel it is appropriate for the Public Disclosure Commission to review the actions of Thomas William Albro in order to determine whether he:

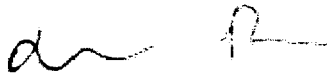
1. Misused public resources in the production and distribution of a campaign advertisement, in violation of RCW 42.17A.555.
2. Received unreported contributions and made unreported expenditures in violation of RCW 42.17A.405 and other laws.

If the commission finds that Mr. Albro did indeed violate one or more of these campaign finance regulations, I urge you to impose the maximum penalty authorized under RCW 42.17A.750: Ten-thousand dollars for each recording session, plus three times the value of the illegal campaign advertising. In addition, I urge you to immediately forward your findings to the state attorney general so the election may be held void and a special election held, as this violation probably affected the outcome of the current election.

Certification

I certify (or declare) under penalty of perjury under the laws of the State of Washington that this complaint is complete, true and correct to the best of my knowledge and belief.

Sincerely,



Andrew Pilloud

Exhibits: 11 <http://andrew.pilloud.us/sites/andrew.pilloud.us/files/PortOfSeattle2013-10-13Exhibits.zip>

cc: Richard Pope, Port of Seattle Commissioner Candidate

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Public Disclosure Commission

Re: THOMAS WILLIAM ALBRO – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
LIMITS PROVIDED BY LAW

PAGE 7 OF 7

Emily Heffter, Seattle Times

Jeff Burnside, KOMO 4 News

Jeff Dubois, KIRO 7 Eyewitness News

Glen Morgan, Freedom Foundation

Elly Snow, Washington Coalition for Open Government

Bob Ferguson, Washington State Attorney General

<http://andrew.pilloud.us/blog/2013/10/13/port-seattle-millions-public-dollars-funneled-incumbents-campaigns>

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Public Disclosure Commission

Andrew Pilloud
P.O. Box 4794
Seattle, Washington 98194-0794
(206) 641-7654
andrew@pilloud.us

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OCT 18 2013

Public Disclosure Commission

October 13, 2013

Phil Stutzman, Director of Compliance
State of Washington Public Disclosure Commission
711 Capitol Way Room 206
P.O. Box 40908
Olympia, Washington 98504-0908

Re: STEPHANIE LYNNE BOWMAN – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
LIMITS PROVIDED BY LAW

Dear Mr. Stutzman:

I am submitting to you a complaint regarding the violation of RCW 42.17A.555, which prohibits the use of public office or agency facilities in political campaigns. This complaint is regarding an ongoing violation that is probably affecting the outcome of the November 5, 2013 General Election. I believe this case requires an immediate and thorough investigation, as it may render the election void.

The Respondent is Commissioner Stephanie Lynne Bowman, who is both the incumbent and a candidate for Port of Seattle Commissioner Position 3. She resides at 3115 17th Avenue South, Seattle, Washington 98144. Her telephone number is listed as (206) 898-3043 in her PDC filings.

In violating RCW 42.17A.555, I believe you will also find that Ms. Bowman has accepted contributions from the Port of Seattle in excess of the limits for candidates imposed in RCW 42.17A.405. This is not a matter to be taken lightly, and is likely to require the taxpayers to spend millions of dollars on a special election. I urge you to subject Ms. Bowman to the maximum civil penalty of three times the violation, between eight hundred thousand and seven and a half million dollars, under RCW 42.17A.750.

I have personally witnessed this violation multiple times between June 2013 and present. In addition, documents returned by the Port of Seattle, obtained by public disclosure requests, show the violations started no later than May 14, 2013 and have likely been happening for several months prior to that date. These records were received from and can be verified by Asia Linton, Public Disclosure Specialist at the Port of Seattle. Her office phone number is (206) 787-3392 and email is linton.a@portseattle.org. Finally, most of these violations occurred in a public area of the Sea-Tac Airport. Any traveler passing through the airport from May to Present can be considered a witness. I can provide the contact information for travelers on request.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that this complaint is complete, true and correct to the best of my knowledge and belief.

Thank you in advance for your assistance in this investigation. Please keep me apprised of progress and your determination on this matter.

Re: STEPHANIE LYNNE BOWMAN – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
LIMITS PROVIDED BY LAW

PAGE 2 OF 5

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Statement of Facts

OCT 14 2013

On May 14, 2013 from 11:30 AM to 11:45 AM at the Sea-Tac airport Tokyo Conference Room, Ms. Bowman was involved in the production of Audio Message Recordings (Exhibit 1). Ms. Bowman used Port of Seattle facilities and staff to produce a Public Service Announcement promoting her work on the century agenda at the Port of Seattle.

Public Disclosure Commission

In the resulting recording (Exhibit 2C) her first words are: "And I'm Commissioner Stephanie Bowman. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region." This makes it immediately clear to the listener that they are hearing from Ms. Bowman and that she is the incumbent Port Commissioner. The recording then goes on to talk about the great job Ms. Bowman and one of her fellow commissioners have been doing improving the economy at the port.

In my experience with the port, I have found that the economy and the environment are the most important issues to voters in the Port of Seattle's district. In addition, I believe the tone of the recording suggests that it is a campaign advertisement. Even if there is doubt about the nature of these recordings as campaign advertisements, state law is clear on the matter in RCW 42.17A.575:

"No state-elected official or municipal officer may speak or appear in a public service announcement that is broadcast, show, or distributed in any form whatsoever during the period beginning January 1st and continuing through the general election if that official or officer is a candidate."

The law clearly prohibits the use of a public service announcement like the one produced for Ms. Bowman. I can think of no reason for the production of a public service announcement that can not be used, unless it was produced as a campaign advertisement.

Immediately after their production, these recordings were put into use. They are being played eight times per hour at the Sea-Tac airport (Exhibit 3). Not only were the port facilities used to produce the advertisement, they are being used to distribute the campaign materials. This is a use of public facilities and violation of RCW 42.17A.555.

The Port of Seattle has leased all rights for advertising and promotions at the Sea-Tac Airport to Clear Channel Outdoor, Inc. dba Clear Channel Airports (Exhibit 4). All advertising is controlled by Clear Channel, and use can be purchased from them. As the Port of Seattle has leased all advertisement rights to Clear Channel, either this space was stolen by the Port of Seattle, or an unreported campaign contribution and expenditure must have occurred to pay Clear Channel for the use of this space.

I contacted Blaine Shepherd, General Manager at Clear Channel Airports, who can be reached at (206) 494-4166. He informed me that they currently do not offer audio advertisements at the airport, and that the closest product they sell is video advertisements in baggage claim (Exhibit 5). This advertising only covers a part of the baggage claim area, and would completely miss the frequent local business travelers who do not check bags. I believe this group includes a large number of voters and potential campaign contributors, significantly increasing the value of the advertising received by Ms. Bowman. In addition,

Re: STEPHANIE LYNNE BOWMAN – VIOLATION OF RCW 42.17A.555 AND UNREPORTED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM LIMITS PROVIDED BY LAW

PAGE 3 OF 5

the best advertising available from Clear Channel is video only, with no audio component. It is much easier to ignore than the airport public address system, which routinely includes messages of importance. I can only conclude that the advertisement played over the public address system is of significantly more value than anything commercially available and would likely require a blanket contract with the airport at a cost of \$416,666.67 per month or \$2,500,000 over the six month period the advertisement has been playing (Exhibit 6).

If another candidate was to purchase the closest available advertising in the baggage claim area, it would require the purchase of 6 advertising units per month at \$7,500 each. This comes to a total of \$45,000 per month, or \$270,000 over the same 6 month period (Exhibit 7). Even in this case, there is a gross violation of campaign finance regulations. According to the Public Disclosure Commission's own records, the most ever spent on a Port of Seattle commissioner campaign was \$365,680.86 in 2011 (Exhibit 8). Even with this low valuation, it comes to almost three quarters of the largest amount ever spent on a port commissioner race.

Summary of Exhibits

Exhibit 1: Extract from Port of Seattle calendars.

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September 9, 2013. It includes specific days from the port commissioners calendars. Of interest in this case is page 6, which show the meeting at which Ms. Bowman made recordings in port facilities.

Exhibit 2C: Recording of Mr. Albro and Ms. Bowman

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September 19, 2013. It is an audio recording of Mr. Albro and Ms. Bowman. The transcript follows:

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro.

Stephanie: And I'm Commissioner Stephanie Bowman. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region.

Tom: The Port also promotes small business growth and the development of a strong workforce as part of our Century Agenda.

Stephanie: This is important to accomplishing our vision of adding 100,000 new jobs here over the next 25 years.

Tom: More jobs, more economic growth, led by the Port of Seattle.

Exhibit 3: Skybridge playlist

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September

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Public Disclosure Commission

Re: STEPHANIE LYNNE BOWMAN – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
LIMITS PROVIDED BY LAW

PAGE 4 OF 5

19, 2013. It is a schedule showing that the recordings in exhibits 2A are to be played at the airport entrance sky-bridges 8 times per hour. Other recordings to be played include other commissioner advertisements (24 times per hour), a security announcement (4 times per hour), light-rail announcement (4 times per hour), and Quincy Jones advertisement (2 times per hour).

Exhibit 4: Lease Agreement with Clear Channel

This exhibit was received in response to Port of Seattle Public Records Request 13-218 on October 9, 2013. It is titled "Lease And Concession Agreement For Advertising And Promotions" and is the lease agreement giving Clear Channel exclusive rights to advertisements at the airport.

Exhibit 5: Clear Channel Advertising Request

This exhibit is an email I received from Blane Shepard at Clear Channel on September 13, 2013. The attachment is Exhibit 7. The relevant text is as follows:

We do not have the capability to run :30 audio video. We do have static (.jpg) or motion (.swf) capabilities – however that we sell in increments of :10. I will attach an example of what they look like.

Exhibit 6: Port of Seattle revenue from Clear Channel

This exhibit was received in response to Port of Seattle Public Records Request 13-218 on October 9, 2013. It contains the revenue share that the port has received from Clear Channel every month in 2013. It shows that Clear Channel has fallen significantly short of the minimum revenue every month, and as a result has paid the port the contractual minimum of \$416,666.67 per month.

Exhibit 7: Clear Channel Pricing Sheet

This exhibit is an email I received from Blane Shepard at Clear Channel on September 13, 2013. It shows that advertisements in baggage claim run \$7,500 for a for month long unit. Each unit is ten seconds every four minutes. The advertisements do not cover 5 of the baggage claim carousels.

Exhibit 8: WILLIAM L BRYANT PDC report

This exhibit is a printout I made from the Public Disclosure Commission's website on October 13, 2013. It shows that William L Bryant raised \$366,004.09 and spent 365,680.86 in is 2011 port commission race.

Conclusion

Given the presented facts and exhibits, I feel it is appropriate for the Public Disclosure Commission to review the actions of Stephanie Lynne Bowman in order to determine whether she:

1. Misused public resources in the production and distribution of a campaign advertisement, in

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OCT 14 2013
Exhibit 1, Page 11 of 22
Public Disclosure Commission

Re: STEPHANIE LYNNE BOWMAN – VIOLATION OF RCW 42.17A.555 AND UNREPORTED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM LIMITS PROVIDED BY LAW

PAGE 5 OF 5

violation of RCW 42.17A.555.

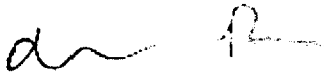
2. Received unreported contributions and made unreported expenditures in violation of RCW 42.17A.405 and other laws.

If the commission finds that Ms. Bowman did indeed violate one or more of these campaign finance regulations, I urge you to impose the maximum penalty authorized under RCW 42.17A.750: Ten-thousand dollars for each recording session, plus three times the value of the illegal campaign advertising. In addition, I urge you to immediately forward your findings to the state attorney general so the election may be held void and a special election held, as this violation probably affected the outcome of the current election.

Certification

I certify (or declare) under penalty of perjury under the laws of the State of Washington that this complaint is complete, true and correct to the best of my knowledge and belief.

Sincerely,



Andrew Pilloud

Exhibits: 8 <http://andrew.pilloud.us/sites/andrew.pilloud.us/files/PortOfSeattle2013-10-13Exhibits.zip>

cc: Michael Wolfe, Port of Seattle Commissioner Candidate
Emily Heffter, Seattle Times
Jeff Burnside, KOMO 4 News
Jeff Dubois, KIRO 7 Eyewitness News
Glen Morgan, Freedom Foundation
Elly Snow, Washington Coalition for Open Government
Bob Ferguson, Washington State Attorney General
<http://andrew.pilloud.us/blog/2013/10/13/port-seattle-millions-public-dollars-funneled-incumbents-campaigns>

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OCT 10 2013

Public Disclosure Commission

Andrew Pilloud
P.O. Box 4794
Seattle, Washington 98194-0794
(206) 641-7654
andrew@pilloud.us

October 13, 2013

Phil Stutzman, Director of Compliance
State of Washington Public Disclosure Commission
711 Capitol Way Room 206
P.O. Box 40908
Olympia, Washington 98504-0908

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OCT 14 2013
Public Disclosure Commission

Re: JOHN WATSON CREIGHTON III – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
LIMITS PROVIDED BY LAW

Dear Mr. Stutzman:

I am submitting to you a complaint regarding the violation of RCW 42.17A.555, which prohibits the use of public office or agency facilities in political campaigns. This complaint is regarding an ongoing violation that is probably affecting the outcome of the November 5, 2013 General Election. I believe this case requires an immediate and thorough investigation, as it may render the election void.

The Respondent is Commissioner John Watson Creighton III, who is both the incumbent and a candidate for Port of Seattle Commissioner Position 1. He resides at 118 107th Avenue Northeast Apartment B208, Bellevue, Washington 98004. His telephone number is listed as (206) 320-1238 in his PDC filings.

In violating RCW 42.17A.555, I believe you will also find that Mr. Creighton has accepted contributions from the Port of Seattle in excess of the limits for candidates imposed in RCW 42.17A.405. This is not a matter to be taken lightly, and is likely to require the taxpayers to spend millions of dollars on a special election. I urge you to subject Mr. Creighton to the maximum civil penalty of three times the violation, between eight hundred thousand and seven and a half million dollars, under RCW 42.17A.750.

I have personally witnessed this violation multiple times between June 2013 and present. In addition, documents returned by the Port of Seattle, obtained by public disclosure requests, show the violations started no later than May 14, 2013 and have likely been happening for several months prior to that date. These records were received from and can be verified by Asia Linton, Public Disclosure Specialist at the Port of Seattle. Her office phone number is (206) 787-3392 and email is linton.a@portseattle.org. Finally, most of these violations occurred in a public area of the Sea-Tac Airport. Any traveler passing through the airport from May to Present can be considered a witness. I can provide the contact information for travelers on request.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that this complaint is complete, true and correct to the best of my knowledge and belief.

Thank you in advance for your assistance in this investigation. Please keep me apprised of progress and your determination on this matter.

OCT 14 2013

Public Disclosure Commission

Re: JOHN WATSON CREIGHTON III – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
LIMITS PROVIDED BY LAW

PAGE 2 OF 5

Statement of Facts

On May 14, 2013 from 11:45 AM to 12:00 PM at the Sea-Tac airport Tokyo Conference Room, Mr. Creighton was involved in the production of a Audio Message Recording (Exhibit 1). Mr. Creighton used Port of Seattle facilities and staff to produce a Public Service Announcement promoting his work on the century agenda at the Port of Seattle.

In the resulting recording (Exhibit 2D) his first words are: "And I'm Commissioner John Creighton. Welcome to Sea-Tac Aiport, a leading international gateway and the Northwest's busiest." This makes it immediately clear to the listener that they are hearing from Mr. Creighton and that he is the incumbent Port Commissioner. The recording then goes on to talk about the great job Mr. Creighton and one of his fellow commissioners have been doing improving the economy at the port.

In my experience with the port, I have found that the economy and the environment are the most important issues to voters in the Port of Seattle's district. In addition, I believe the tone of the recording suggests that it is a campaign advertisement. Even if there is doubt about the nature of these recordings as campaign advertisements, state law is clear on the matter in RCW 42.17A.575:

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The law clearly prohibits the use of a public service announcement like the one produced for Mr. Creighton. I can think of no reason for the production of a public service announcement that can not be used, unless it was produced as a campaign advertisement.

Immediately after their production, these recordings were put into use. They are being played eight times per hour at the Sea-Tac airport (Exhibit 3). Not only were the port facilities used to produce the advertisement, they are being used to distribute the campaign materials. This is a use of public facilities and violation of RCW 42.17A.555.

The Port of Seattle has leased all rights for advertising and promotions at the Sea-Tac Airport to Clear Channel Outdoor, Inc. dba Clear Channel Airports (Exhibit 4). All advertising is controlled by Clear Channel, and use can be purchased from them. As the Port of Seattle has leased all advertisement rights to Clear Channel, either this space was stolen by the Port of Seattle, or an unreported campaign contribution and expenditure must have occurred to pay Clear Channel for the use of this space.

I contacted Blaine Shepherd, General Manager at Clear Channel Airports, who can be reached at (206) 494-4166. He informed me that they currently do not offer audio advertisements at the airport, and that the closest product they sell is video advertisements in baggage claim (Exhibit 5). This advertising only covers a part of the baggage claim area, and would completely miss the frequent local business travelers who do not check bags. I believe this group includes a large number of voters and potential campaign contributors, significantly increasing the value of the advertising received by Mr. Creighton. In addition,

Re: JOHN WATSON CREIGHTON III – VIOLATION OF RCW 42.17A.555 AND UNREPORTED
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM
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PAGE 3 OF 5

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If another candidate was to purchase the closest available advertising in the baggage claim area, it would require the purchase of 6 advertising units per month at \$7,500 each. This comes to a total of \$45,000 per month, or \$270,000 over the same 6 month period (Exhibit 7). Even in this case, there is a gross violation of campaign finance regulations. According to the Public Disclosure Commissions own records, the most ever spent on a Port of Seattle commissioner campaign was \$365,680.86 in 2011 (Exhibit 8). Even with this low valuation, it comes to almost three quarters of the largest amount ever spent on a port commissioner race.

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OCT 14 2013

Public Disclosure Commission

Summary of Exhibits

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This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September 9, 2013. It includes specific days from the port commissioners calendars. Of interest in this case is page 5, which show the meeting at which Mr. Creighton made recordings in port facilities.

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Tom: Hello, I'm Port of Seattle Commissioner Tom Albro.

John: And I'm Commissioner John Creighton. Welcome to Sea-Tac Aiport, a leading international gateway and the Northwest's busiest.

Tom: We want to tell you about our efforts to create another 100,000 jobs here in the Northwest. It's our Century Agenda.

John: One way we can do this is by growing our number of flights and destinations. That's important for local businesses and tourism.

Tom: And... doing so means more jobs...that's what the Port of Seattle is all about.

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This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September

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OCT 14 2013

Public Disclosure Commission

Re: JOHN WATSON CREIGHTON III – VIOLATION OF RCW 42.17A.555 AND UNRECORDED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM LIMITS PROVIDED BY LAW

PAGE 4 OF 5

19, 2013. It is a schedule showing that the recordings in exhibits 2A are to be played at the airport entrance sky-bridges 8 times per hour. Other recordings to be played include other commissioner advertisements (24 times per hour), a security announcement (4 times per hour), light-rail announcement (4 times per hour), and Quincy Jones advertisement (2 times per hour).

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We do not have the capability to run :30 audio video. We do have static (.jpg) or motion (.swf) capabilities – however that we sell in increments of :10. I will attach an example of what they look like.

Exhibit 6: Port of Seattle revenue from Clear Channel

This exhibit was received in response to Port of Seattle Public Records Request 13-218 on October 9, 2013. It contains the revenue share that the port has received from Clear Channel every month in 2013. It shows that Clear Channel has fallen significantly short of the minimum revenue every month, and as a result has paid the port the contractual minimum of \$416,666.67 per month.

Exhibit 7: Clear Channel Pricing Sheet

This exhibit is an email I received from Blane Shepard at Clear Channel on September 13, 2013. It shows that advertisements in baggage claim run \$7,500 for a for month long unit. Each unit is ten seconds every four minutes. The advertisements do not cover 5 of the baggage claim carousels.

Exhibit 8: WILLIAM L BRYANT PDC report

This exhibit is a printout I made from the Public Disclosure Commission's website on October 13, 2013. It shows that William L Bryant raised \$366,004.09 and spent 365,680.86 in is 2011 port commission race.

Conclusion

Given the presented facts and exhibits, I feel it is appropriate for the Public Disclosure Commission to review the actions of John Watson Creighton III in order to determine whether he:

1. Misused public resources in the production and distribution of a campaign advertisement, in

Re: JOHN WATSON CREIGHTON III – VIOLATION OF RCW 42.17A.555 AND UNREPORTED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE MAXIMUM LIMITS PROVIDED BY LAW

PAGE 5 OF 5

violation of RCW 42.17A.555.

2. Received unreported contributions and made unreported expenditures in violation of RCW 42.17A.405 and other laws.

If the commission finds that Mr. Creighton did indeed violate one or more of these campaign finance regulations, I urge you to impose the maximum penalty authorized under RCW 42.17A.750: Ten-thousand dollars for each recording session, plus three times the value of the illegal campaign advertising. In addition, I urge you to immediately forward your findings to the state attorney general so the election may be held void and a special election held, as this violation probably affected the outcome of the current election.

Certification

I certify (or declare) under penalty of perjury under the laws of the State of Washington that this complaint is complete, true and correct to the best of my knowledge and belief.

Sincerely,



Andrew Pilloud

Exhibits: 8 <http://andrew.pilloud.us/sites/andrew.pilloud.us/files/PortOfSeattle2013-10-13Exhibits.zip>

cc: Pete Lewis, Port of Seattle Commissioner Candidate
Emily Heffter, Seattle Times
Jeff Burnside, KOMO 4 News
Jeff Dubois, KIRO 7 Eyewitness News
Glen Morgan, Freedom Foundation
Elly Snow, Washington Coalition for Open Government
Bob Ferguson, Washington State Attorney General
<http://andrew.pilloud.us/blog/2013/10/13/port-seattle-millions-public-dollars-funneled-incumbents-campaigns>

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OCT 14 2013

Public Disclosure Commission

Andrew Pilloud
P.O. Box 4794
Seattle, Washington 98194-0794
(206) 641-7654
andrew@pilloud.us

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OCT 14 2013
Public Disclosure Commission

October 13, 2013

Phil Stutzman, Director of Compliance
State of Washington Public Disclosure Commission
711 Capitol Way Room 206
P.O. Box 40908
Olympia, Washington 98504-0908

Re: COURTNEY O'GRADY GREGOIRE – VIOLATION OF RCW 42.17A.555 AND
UNREPORTED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE
MAXIMUM LIMITS PROVIDED BY LAW

Dear Mr. Stutzman:

I am submitting to you a complaint regarding the violation of RCW 42.17A.555, which prohibits the use of public office or agency facilities in political campaigns. This complaint is regarding an ongoing violation that is probably affecting the outcome of the November 5, 2013 General Election. I believe this case requires an immediate and thorough investigation, as it may render the election void.

The Respondent is Commissioner Courtney O'Grady Gregoire, who is both the incumbent and a candidate for Port of Seattle Commissioner Position 2. She resides at 1555 Grand Ave, Seattle, Washington 98122. No other contact information is known.

In violating RCW 42.17A.555, I believe you will also find that Ms. Gregoire has accepted contributions from the Port of Seattle in excess of the limits for candidates imposed in RCW 42.17A.405. This is not a matter to be taken lightly, and is likely to require the taxpayers to spend millions of dollars on a special election. I urge you to subject Ms. Gregoire to the maximum civil penalty of three times the violation, between eight hundred thousand and seven and a half million dollars, under RCW 42.17A.750.

I have personally witnessed this violation multiple times between June 2013 and present. In addition, documents returned by the Port of Seattle, obtained by public disclosure requests, show the violations started no later than April 09, 2013 and have likely been happening for several months prior to that date. These records were received from and can be verified by Asia Linton, Public Disclosure Specialist at the Port of Seattle. Her office phone number is (206) 787-3392 and email is linton.a@portseattle.org. Finally, most of these violations occurred in a public area of the Sea-Tac Airport. Any traveler passing through the airport from April to Present can be considered a witness. I can provide the contact information for travelers on request.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that this complaint is complete, true and correct to the best of my knowledge and belief.

Thank you in advance for your assistance in this investigation. Please keep me apprised of progress and your determination on this matter.

Re: COURTNEY O'GRADY GREGOIRE – VIOLATION OF RCW 42.17A.555 AND
UNREPORTED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE
MAXIMUM LIMITS PROVIDED BY LAW
PAGE 2 OF 5

Statement of Facts

On April 9, 2013 from 9:30 AM to 10:00 AM at the Port Commission Office, Ms. Gregoire was involved in the production of an Airport Public Address Recording (Exhibit 1). Ms. Gregoire used Port of Seattle facilities and staff to produce a Public Service Announcement promoting her work on the century agenda at the Port of Seattle.

In the resulting recording (Exhibit 2A) her first words are: "And I'm Commissioner Courtney Gregoire. Welcome to Sea-Tac Airport." This makes it immediately clear to the listener that they are hearing from Ms. Gregoire and that she is the incumbent Port Commissioner. The recording then goes on to talk about the great job Ms. Gregoire and one of her fellow commissioners have been doing improving the economy at the port.

In my experience with the port, I have found that the economy and the environment are the most important issues to voters in the Port of Seattle's district. In addition, I believe the tone of the recording suggests that it is a campaign advertisement. Even if there is doubt about the nature of these recordings as campaign advertisements, state law is clear on the matter in RCW 42.17A.575:

"No state-elected official or municipal officer may speak or appear in a public service announcement that is broadcast, show, or distributed in any form whatsoever during the period beginning January 1st and continuing through the general election if that official or officer is a candidate."

The law clearly prohibits the use of a public service announcement like the one produced for Ms. Gregoire. I can think of no reason for the production of a public service announcement that can not be used, unless it was produced as a campaign advertisement.

As is noted in Ms. Gregoire's agenda (Exhibit 1), this is a "Airport Public Address Recording". Immediately after their production, these recordings were put into use. They are being played eight times per hour at the Sea-Tac airport (Exhibit 3). Not only were the port facilities used to produce the advertisement, they are being used to distribute the campaign materials. This is a use of public facilities and violation of RCW 42.17A.555.

The Port of Seattle has leased all rights for advertising and promotions at the Sea-Tac Airport to Clear Channel Outdoor, Inc. dba Clear Channel Airports (Exhibit 4). All advertising is controlled by Clear Channel, and use can be purchased from them. As the Port of Seattle has leased all advertisement rights to Clear Channel, either this space was stolen by the Port of Seattle, or an unreported campaign contribution and expenditure must have occurred to pay Clear Channel for the use of this space.

I contacted Blaine Shepherd, General Manager at Clear Channel Airports, who can be reached at (206) 494-4166. He informed me that they currently do not offer audio advertisements at the airport, and that the closest product they sell is video advertisements in baggage claim (Exhibit 5). This advertising only covers a part of the baggage claim area, and would completely miss the frequent local business travelers who do not check bags. I believe this group includes a large number of potential campaign

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Public Disclosure Commission

Exhibit 1, Page 19 of 22

Re: COURTNEY O'GRADY GREGOIRE – VIOLATION OF RCW 42.17A.555 AND
UNREPORTED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE
MAXIMUM LIMITS PROVIDED BY LAW

PAGE 3 OF 5

contributors, significantly increasing the value of the advertising received by Ms. Gregoire. In addition, the best advertising available from Clear Channel is video only, with no audio component. It is much easier to ignore than the airport public address system, which routinely includes messages of importance. I can only conclude that the advertisement played over the public address system is of significantly more value than anything commercially available and would likely require a blanket contract with the airport at a cost of \$416,666.67 per month or \$2,500,000 over the six month period the advertisement has been playing (Exhibit 6).

If another candidate was to purchase the closest available advertising in the baggage claim area, it would require the purchase of 6 advertising units per month at \$7,500 each. This comes to a total of \$45,000 per month, or \$270,000 over the same 6 month period (Exhibit 7). Even in this case, there is a gross violation of campaign finance regulations. According to the Public Disclosure Commissions own records, the most ever spent on a Port of Seattle commissioner campaign was \$365,680.86 in 2011 (Exhibit 8). Even with this low valuation, it comes to almost three quarters of the largest amount ever spent on a port commissioner race.

Summary of Exhibits

Exhibit 1: Extract from Port of Seattle calendars.

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September 9, 2013. It includes specific days from the port commissioners calendars. Of interest in this case is page 3, which show the meeting at which Ms. Gregoire made recordings in port facilities.

Exhibit 2A: Recording of Mr. Albro and Ms. Gregoire

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September 19, 2013. It is an audio recording of Mr. Albro and Ms. Gregoire. The transcript follows:

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro.

Courtney: And I'm Commissioner Courtney Gregoire. Welcome to Sea-Tac Airport.

Tom: As a part of our Century Agenda, a 25 year vision for the region, we are determined to make Washington a preferred destination for international travelers, and to strengthen access to global markets for Northwest businesses.

Courtney: From apples and salmon to airplanes and software, our region benefits from international trade.

Tom: And all over the world people recognize the Pacific Northwest as a beautiful place to visit and do business. We're glad you're here!

Exhibit 3: Skybridge playlist

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Re: COURTNEY O'GRADY GREGOIRE – VIOLATION OF RCW 42.17A.555 AND
UNREPORTED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE
MAXIMUM LIMITS PROVIDED BY LAW
PAGE 4 OF 5

This exhibit was received in response to Port of Seattle Public Records Request 13-196 on September 19, 2013. It is a schedule showing that the recordings in exhibits 2A are to be played at the airport entrance sky-bridges 8 times per hour. Other recordings to be played include other commissioner advertisements (24 times per hour), a security announcement (4 times per hour), light-rail announcement (4 times per hour), and Quincy Jones advertisement (2 times per hour).

Exhibit 4: Lease Agreement with Clear Channel

This exhibit was received in response to Port of Seattle Public Records Request 13-218 on October 9, 2013. It is titled "Lease And Concession Agreement For Advertising And Promotions" and is the lease agreement giving Clear Channel exclusive rights to advertisements at the airport.

Exhibit 5: Clear Channel Advertising Request

This exhibit is an email I received from Blane Shepard at Clear Channel on September 13, 2013. The attachment is Exhibit 7. The relevant text is as follows:

We do not have the capability to run :30 audio video. We do have static (.jpg) or motion (.swf) capabilities – however that we sell in increments of :10. I will attach an example of what they look like.

Exhibit 6: Port of Seattle revenue from Clear Channel

This exhibit was received in response to Port of Seattle Public Records Request 13-218 on October 9, 2013. It contains the revenue share that the port has received from Clear Channel every month in 2013. It shows that Clear Channel has fallen significantly short of the minimum revenue every month, and as a result has paid the port the contractual minimum of \$416,666.67 per month.

Exhibit 7: Clear Channel Pricing Sheet

This exhibit is an email I received from Blane Shepard at Clear Channel on September 13, 2013. It shows that advertisements in baggage claim run \$7,500 for a for month long unit. Each unit is ten seconds every four minutes. The advertisements do not cover 5 of the baggage claim carousels.

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This exhibit is a printout I made from the Public Disclosure Commission's website on October 13, 2013. It shows that William L Bryant raised \$366,004.09 and spent 365,680.86 in is 2011 port commission race.

Conclusion

Given the presented facts and exhibits, I feel it is appropriate for the Public Disclosure Commission to review the actions of Courtney O'Grady Gregoire in order to determine whether she:

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Re: COURTNEY O'GRADY GREGOIRE – VIOLATION OF RCW 42.17A.555 AND
UNREPORTED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING THE
MAXIMUM LIMITS PROVIDED BY LAW

PAGE 5 OF 5

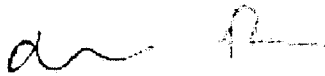
1. Misused public resources in the production and distribution of a campaign advertisement, in violation of RCW 42.17A.555.
2. Received unreported contributions and made unreported expenditures in violation of RCW 42.17A.405 and other laws.

If the commission finds that Ms. Gregoire did indeed violate one or more of these campaign finance regulations, I urge you to impose the maximum penalty authorized under RCW 42.17A.750: Ten-thousand dollars for each recording session, plus three times the value of the illegal campaign advertising. In addition, I urge you to immediately forward your findings to the state attorney general so the election may be held void and a special election held, as this violation probably affected the outcome of the current election.

Certification

I certify (or declare) under penalty of perjury under the laws of the State of Washington that this complaint is complete, true and correct to the best of my knowledge and belief.

Sincerely,



Andrew Pilloud

Exhibits: 8 <http://andrew.pilloud.us/sites/andrew.pilloud.us/files/PortOfSeattle2013-10-13Exhibits.zip>

cc: John Naubert, Port of Seattle Commissioner Candidate
Emily Heffter, Seattle Times
Jeff Burnside, KOMO 4 News
Jeff Dubois, KIRO 7 Eyewitness News
Glen Morgan, Freedom Foundation
Elly Snow, Washington Coalition for Open Government
Bob Ferguson, Washington State Attorney General
<http://andrew.pilloud.us/blog/2013/10/13/port-seattle-millions-public-dollars-funneled-incumbents-campaigns>

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OCT 14 2013
Public Disclosure Commission

For Tom and John with emphasis on jobs and airline flights/destinations:

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

John: And I'm Commissioner John Creighton. Welcome to Sea-Tac Airport, the Northwest's busiest and a leading international gateway.

Tom: We want to tell you about our efforts to create another 100,000 jobs here in the Northwest. It's our Century Agenda.

John: One way we can do this is by growing our number of flights and destinations. That's important for local businesses and tourism.

Tom: And...doing so means more jobs...that's what the Port of Seattle is all about.

For Tom and Bill with emphasis on environment:

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

Bill: And I'm Commissioner Bill Bryant. Welcome to Sea-Tac, one of the greenest airports in the country.

Tom: Our dedication to making the Port of Seattle the greenest and most energy efficient port in North America is an essential part of our Century Agenda.

Bill: We are committed to balancing economic growth with environmental responsibility.

Tom: Because nothing matters if we don't preserve our environment for future generations.

For Tom and Courtney with emphasis on small business opportunities:

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

Courtney: And I'm Commissioner Courtney Gregoire. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region.

Tom: The Port promotes small business growth and the development of a strong workforce as part of our Century Agenda.

Courtney: This is important to accomplishing our vision of adding 100,000 new jobs here over the next 25 years.

Tom: More jobs, economic growth, led by the Port of Seattle.

For Tom with the emphasis on maximizing access to global markets for NW businesses:

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro. Welcome to Sea-Tac Airport.

As a part of our Century Agenda, a 25 year vision for the region, we are determined to make Washington a preferred destination for international travelers, and to strengthen access to global markets for Northwest businesses.

From apples and salmon to airplanes and software, our region benefits from global markets. And all over the world people recognize the Pacific Northwest as a beautiful place to visit and do business.

For Tom and Stephanie with emphasis on small business opportunities:

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

Stephanie: And I'm Commissioner Stephanie Bowman. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region.

Tom: The Port also promotes small business growth and the development of a strong workforce as part of our Century Agenda.

Stephanie: This is important to accomplishing our vision of adding 100,000 new jobs here over the next 25 years.

Tom: More jobs, economic growth, led by the Port of Seattle.

***For Tom and John with emphasis on jobs and
airline flights/destinations:***

Tom: Hello, I'm Port of Seattle Commissioner Tom Albro

John: And I'm Commissioner John Creighton. Welcome to Sea-Tac Airport, the Northwest's busiest and a leading international gateway.

Tom: We want to tell you about our efforts to create another 100,000 jobs here in the Northwest. It's our Century Agenda.

John: One way we can do this is by growing our number of flights and destinations. That's important for local businesses and tourism.

Tom: And...doing so means more jobs...that's what the Port of Seattle is all about.

Tony Perkins

From: Watson, Craig [Watson.C@portseattle.org]
Sent: Monday, October 21, 2013 8:53 AM
To: Tony Perkins
Cc: Albro, Thomas; Bowman, Stephanie; Bryant, Bill; Creighton, John; Gregoire, Courtney; Yoshitani, Tay; Beckett, Kurt
Subject: RE: PDC law re: Public Service Announcements by Municipal Officers

Dear Mr. Perkins: Apologies for my tardy response as I have been out of the office and thank you for this helpful information. The recorded commissioner greetings at STIA have been a familiar part of the airport experience for many years and are designed to personalize an airport users experience at the airport. Per your direction the commission messages have been discontinued. Regards, CRW

Craig R. Watson, General Counsel
Pier 69 | 2711 Alaskan Way
P. O. Box 1209 | Seattle, WA 98111
Dir: 206-787-3218 | Cell: 206-910-9543
Fax: 206-787-3205
watson.c@portseattle.org



This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message.

If you have received the message in error, please advise the sender by reply e-mail and delete the message. Thank you very much.

From: Tony Perkins [<mailto:tony.perkins@pdc.wa.gov>]
Sent: Friday, October 18, 2013 5:21 PM
To: Watson, Craig
Subject: PDC law re: Public Service Announcements by Municipal Officers

Dear Mr. Watson,

I'm sending this email as a follow-up to voice messages left this afternoon with Julie Thomas, assistant to Port of Seattle CEO Tay Yoshitani, and with Clare Gallagher, the port's government relations manager. Public Disclosure Commission (PDC) staff has urgent guidance for port officials that we hoped we could deliver today.

On October 15, 2013, PDC staff notified Port of Seattle commissioners Tom Albro, John Creighton, Courtney Gregoire, and Stephanie Bowman of complaints filed against them by Andrew Pilloud. (Copies of the complaints are attached to this email.) The complaints concerned four audio recordings allegedly played over the public address system at SeaTac airport since at least this summer, and possibly continuing. As described in the complaints, the recordings feature the voices of the four commissioners, and identify them by name. The complaint alleges violations of RCW 42.17A.555 and RCW 42.17A.405 by the commissioners in connection with the recordings. PDC staff is currently reviewing the complaints to determine whether a formal investigation or other action is warranted.

If accurate as described, we believe that the four recordings are subject to RCW 42.17A.575, a statute that prohibits state-elected officials and municipal officers from speaking or appearing in a public service announcement from January 1 to the date of the general election in a year in which the official is a candidate. Accordingly, we recommend that the Port of Seattle cease airing the recordings in the airport, if they have continued to air, and refrain from distributing them in any other manner. If the port takes such corrective action, we would appreciate being informed of the steps you have taken.


For more information on the prohibition in RCW 42.17A.575, please see *PDC Interpretation 10-01, Public Service Announcements By State-Elected Officials and Municipal Officers Section 703, Chapter 204, Laws of 2010.*


Thank you for your attention to this. Please let me know if you have any questions.

Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042

 (360) 753-1112

 tony.perkins@pdc.wa.gov

Tony Perkins

From: Safora, Isabel [Safora.I@portseattle.org]
Sent: Wednesday, October 30, 2013 2:29 PM
To: Tony Perkins
Cc: Watson, Craig; Beckett, Kurt
Subject: Pilloud Complaint - Port of Seattle Officials
Attachments: Commissioner Miller_Message_7.6.2004.pdf; Commissioner Creighton_Message_10.23.2008.pdf; Commissioner Bryant_Message_1.26.2009.pdf; Commissioner Tarleton_Message_2.10.2012.pdf; Comms Albro Bryant Gregoire_Message_4.8.2013.pdf; Comms Albro Bowman Creighton 5 14 13.pdf

Mr. Perkins,

This responds to your email of October 25th to Craig Watson. Below, in red, are the Port's responses to your questions.

1. Approximately how many years has STIA utilized recorded commissioner greetings? The furthest back we located is a script from 2004. Tracking on the messages only goes back to 2007. Attached is the 2004 script for the announcement by former Port Commissioner Paige Miller.
2. Are recorded commissioner greetings in constant use at the airport, or are they heard less frequently? How frequently? The Commissioner messages run 24/7 along the 6 sky bridges from the airport garage to the terminal only. The messages are heard in rotation with directional messages recorded by Port staff or by Northwest musicians as part of the Port's music initiative. Commissioner messages run between 20-35 seconds in duration, music messages are approximately 40 seconds long. In 2013, the Commissioner messages did not run from January until April during the transition from former Commissioner President Gael Tarleton to current Commission President Tom Albro. The gap in messaging allowed for the completion of scripts and recordings with the new Commission President. When Commissioner messages are not playing, the Port plays the staff and musician messages noted above. Beginning April 19, 2013, messages with Commission President Albro and Commissioner Bill Bryant and with Commission President Albro and Commissioner Courtney Gregoire began playing. These messages ran at the rate of 5 messages/hr. (Commissioners Albro/Bryant at 3 messages/hr.; Commissioners Albro/Gregoire at 2 messages/hr.), all 24/7 in rotation as noted above. Beginning May 16, 2013, messages with Commission President Albro and Commissioner John Creighton and messages with Commission President Albro and Commissioner Stephanie Bowman were added to the playlist. At that time the Commissioner messages ran at 12 messages/hr., with each Commissioner pair running at 4 each/hr. On July 19, 2013, Commissioner messages increased in frequency to 32 messages/hr. with each Commissioner pair running 8 each/hr.
3. Are particular commissioners rotated through the recorded messages according to any schedule? All Commissioner messages were played with the same frequency. If so, does this schedule pay any attention to whether a given commissioner is a candidate for election at the time their recorded message is scheduled to be used? Please explain. The schedule is the same for all Commissioner messages.
4. Did the content of the messages at issue in Mr. Pilloud's complaints differ substantially from the recorded commissioner messages used in the past? The content of the Commissioner messages is substantially similar to the scripts used in the past. Previously, the messages were only recorded by the Commission President. In 2013, all Commissioners are featured. The messages focus on the Port's business, environment and trade initiatives and other Port accomplishments. With your answer, please provide a script or detailed description of representative past messages. Attached are scripts of Commissioner messages from 2004, 2008, 2009, 2012 and 2013.

Please let me know if you require additional information. Thank you.

Isabel R. Safora
Deputy General Counsel
Port of Seattle
P. O. Box 1209
Seattle, WA 98111
safora.i@portseattle.org
206-787-3216

CONFIDENTIALITY NOTICE. This message may contain information that is protected by the attorney-client and/or work product privilege. If this message was sent to you in error, any use, disclosure or distribution of its contents is prohibited. If you receive this message in error, please contact me at the telephone number or e-mail address listed above and delete this message without printing, copying, or forwarding it. Thank you.

From: Tony Perkins <tony.perkins@pdc.wa.gov>
Date: October 25, 2013 at 4:09:09 AM GMT+8
To: "Watson, Craig" <Watson.C@portseattle.org>
Subject: RE: PDC law re: Public Service Announcements by Municipal Officers

Dear Mr. Watson,

PDC staff is continuing our review of the complaints filed by Andrew Pilloud against Port of Seattle officials, and a question has come up that I hope you can assist us in answering. In your email below, you state that recorded commissioner greetings at SeaTac International Airport have been "a familiar part of the airport experience for many years." To help understand the precise meaning of this statement, please provide the following information at your earliest convenience:




1. Approximately how many years has STIA utilized recorded commissioner greetings?
2. Are recorded commissioner greetings in constant use at the airport, or are they heard less frequently? How frequently?
3. Are particular commissioners rotated through the recorded messages according to any schedule? If so, does this schedule pay any attention to whether a given commissioner is a candidate for election at the time their recorded message is scheduled to be used? Please explain.
4. Did the content of the messages at issue in Mr. Pilloud's complaints differ substantially from the recorded commissioner messages used in the past? With your answer, please provide a script or detailed description of representative past messages.

Thanks for your attention to this. I look forward to hearing from you.

Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042
 (360) 753-1112
 tony.perkins@pdc.wa.gov

From: Watson, Craig [<mailto:Watson.C@portseattle.org>]
Sent: Monday, October 21, 2013 8:53 AM
To: Tony Perkins
Cc: Albro, Thomas; Bowman, Stephanie; Bryant, Bill; Creighton, John; Gregoire, Courtney; Yoshitani, Tay; Beckett, Kurt
Subject: RE: PDC law re: Public Service Announcements by Municipal Officers

Dear Mr. Perkins: Apologies for my tardy response as I have been out of the office and thank you for this helpful information. The recorded commissioner greetings at STIA have been a familiar part of the airport experience for many years and are designed to personalize an airport users experience at the airport. Per your direction the commission messages have been discontinued. Regards, CRW

Craig R. Watson, General Counsel
Pier 69 | 2711 Alaskan Way
P. O. Box 1209 | Seattle, WA 98111
Dir: 206-787-3218 | Cell: 206-910-9543
Fax: 206-787-3205
watson.c@portseattle.org



This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message.

If you have received the message in error, please advise the sender by reply e-mail and delete the message. Thank you very much.

From: Tony Perkins [<mailto:tony.perkins@pdc.wa.gov>]
Sent: Friday, October 18, 2013 5:21 PM
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Subject: PDC law re: Public Service Announcements by Municipal Officers

Dear Mr. Watson,

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On October 15, 2013, PDC staff notified Port of Seattle commissioners Tom Albro, John Creighton, Courtney Gregoire, and Stephanie Bowman of complaints filed against them by Andrew Pilloud. (Copies of the complaints are attached to this email.) The complaints concerned four audio recordings allegedly played over the public address system at SeaTac airport since at least this summer, and possibly continuing. As described in the complaints, the recordings feature the voices of the four commissioners, and identify them by name. The complaint alleges violations of [RCW 42.17A.555](#) and [RCW 42.17A.405](#) by the commissioners in

connection with the recordings. PDC staff is currently reviewing the complaints to determine whether a formal investigation or other action is warranted.

If accurate as described, we believe that the four recordings are subject to RCW 42.17A.575, a statute that prohibits state-elected officials and municipal officers from speaking or appearing in a public service announcement from January 1 to the date of the general election in a year in which the official is a candidate. Accordingly, we recommend that the Port of Seattle cease airing the recordings in the airport, if they have continued to air, and refrain from distributing them in any other manner. If the port takes such corrective action, we would appreciate being informed of the steps you have taken.


For more information on the prohibition in RCW 42.17A.575, please see *PDC Interpretation 10-01, Public Service Announcements By State-Elected Officials and Municipal Officers Section 703, Chapter 204, Laws of 2010.*


Thank you for your attention to this. Please let me know if you have any questions.

Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042

 (360) 753-1112

 tony.perkins@pdc.wa.gov

**Hello. I'm Port of Seattle Commission
President Paige Miller.**

**Welcome to Seattle Tacoma International
Airport.**

**We have a lot of exciting changes in
store for you. Now open is the Gina
Marie Lindsey Arrivals Hall and
Concourse A at the south end of the
terminal, providing new gates, moving
sidewalks, shops, restaurants and
fabulous artwork.**

**If you need help while you're here, just
ask any airport employee. We're all here
to help you along your way.**

New Skybridge Announcements (11/08)

Message #1

"Hi, I'm Port of Seattle Commissioner John Creighton. Welcome to Sea-Tac Airport, recognized as a national leader in noise reduction efforts. This year, our Fly Quiet Program congratulates both SkyWest Airlines and Cargolux for being named the quietest in their categories."

Message #2 (before and after versions)

"Hi, I'm Port of Seattle Commissioner John Creighton. Welcome to Sea-Tac Airport, where we will open a third runway on November 20th that will make our airport more efficient in low visibility weather, helping to reduce both flight delays and aircraft emissions."

"Hi, I'm Port of Seattle Commissioner John Creighton. Welcome to Sea-Tac Airport, where we recently opened a third runway that gives the airport the ability to remain efficient in low visibility weather, helping to reduce both flight delays and aircraft emissions."

Message #3:

"Hi, I'm Port of Seattle Commissioner John Creighton. Welcome to Sea-Tac Airport, where conservation efforts have reduced our energy consumption by 25 percent in recent years."

New Skybridge Announcements (01/09)

Message #1 (Noise Reduction)

"Hi, I'm Port of Seattle Commissioner Bill Bryant. Welcome to Sea-Tac Airport, recognized as a national leader in noise reduction efforts. This year, our Fly Quiet Program congratulates both SkyWest Airlines and Cargolux for being named the quietest in their categories."

Message #2 (Third Runway)

"Hi, I'm Port of Seattle Commissioner Bill Bryant. Welcome to Sea-Tac Airport, where we recently opened a third runway that gives the airport the ability to remain efficient in low visibility weather, helping to reduce both flight delays and aircraft emissions."

Message #3: (Energy Conservation)

"Hi, I'm Port of Seattle Commissioner Bill Bryant. Welcome to Sea-Tac Airport, where conservation efforts have reduced our energy consumption by 25 percent in recent years."

Safety:

Message #4

Hi, I'm Port of Seattle Commissioner Bill Bryant. Welcome to Sea-Tac Airport. In the interest of your safety, we would like to remind you that escalators and lots of luggage don't mix. Please consider using the elevators located nearby.

Message #5

Hi, I'm Port of Seattle Commissioner Bill Bryant. Welcome to Sea-Tac Airport. Please be careful when using escalators. Hold onto the handrail and assist children and others who may need help.

Message #6

Hi, I'm Port of Seattle Commissioner Bill Bryant. Welcome to Sea-Tac Airport. We want your journey to be a safe one. So please be careful stepping on and off the escalators.

Older Environmental messages:

Message #7

Hi. I'm Port of Seattle Commissioner Bill Bryant. Welcome to Sea-Tac Airport, one of the greenest airports in the nation. We're committed to cleaner air and water, energy conservation and recycling.

Message #8

Hi. I'm Port of Seattle Commissioner Bill Bryant. Welcome to Sea-Tac Airport, one of the nation's most environmentally friendly airports. Our taxis and shuttles use clean-burning fuel to protect the air & conserve gasoline.

Message #9

Hi. I'm Port of Seattle Commissioner Bill Bryant. Welcome to Sea-Tac Airport, where we combine the Northwest passion for coffee with an award-winning environmental program. Our concessions recycle 12 tons of coffee grounds every month!

Way Finding:

Message #10

Hi, and welcome to Sea-Tac Airport. I'm Port of Seattle Commissioner Bill Bryant.

If you need directions while you're here, be sure to ask any airport employee - especially one of our many Pathfinders and Volunteers. We're all here to help you along your way.

Audio Messages for Sea-Tac 2012

- Hi, I'm Port of Seattle Commissioner, Gael Tarleton. I'm proud that Sea-Tac Airport is partnering with Alaska Airlines, Boeing and others to promote aviation biofuel development in the Northwest. This alternative fuel source is made from renewable resources such as algae and wood byproducts.
- Hello, I'm Port of Seattle Commissioner, Gael Tarleton. Our seaport and airport operations have many programs to help reduce greenhouse gas emissions in this region. The "Greener Skies" Initiative at Sea-Tac Airport will make aircraft landings more efficient, reduce emissions, and noise.
- Hi, I'm Port of Seattle Commissioner, Gael Tarleton. And welcome to Sea-Tac Airport. We at the Port of Seattle are committed to a greener environment. In fact, the airport recycles over 1,300 tons of material a year.
- Hello, I'm Port of Seattle Commissioner, Gael Tarleton. Did you know that Sea-Tac Airport collects, treats or segregates all storm water leaving airport property. This is to make sure it is completely clean when discharged back to the Puget Sound.
- Hello, I'm Port of Seattle Commissioner, Gael Tarleton. Welcome to Sea-Tac Airport, the 17th largest airport in North America. We served more than 32 million passengers in 2011, and we're still growing.
- Hi, I'm Port of Seattle Commissioner, Gael Tarleton. Seattle-Tacoma International Airport's 26 passenger airlines include 75 non-stop domestic and 21 non-stop international destinations. Your journey begins here.
- Hello, I'm Port of Seattle Commissioner, Gael Tarleton. While visiting Sea-Tac Airport, why not stop into one of our award-winning shops and restaurants! And check out the music player on our free airport wifi for great music by Seattle artists.

Tony Perkins

From: Safora, Isabel [Safora.I@portseattle.org]
Sent: Thursday, October 31, 2013 2:02 PM
To: Tony Perkins
Cc: Phil Stutzman; Jacob Berkey; Beckett, Kurt; Albro, Thomas
Subject: Pilloud Complaint - Port of Seattle Officials

Mr. Perkins,
Commission President Tom Albro advised that he requested both changes noted in your inquiry.
Thank you.

Isabel R. Safora
Deputy General Counsel
Port of Seattle
P. O. Box 1209
Seattle, WA 98111
safora.i@portseattle.org
206-787-3216

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From: Tony Perkins [mailto:tony.perkins@pdc.wa.gov]
Sent: Wednesday, October 30, 2013 2:42 PM
To: Safora, Isabel
Cc: Phil Stutzman; Jacob Berkey
Subject: RE: Pilloud Complaint - Port of Seattle Officials

Thank you for your response, Isabel. Can you provide any information to explain why the port began including all commissioners in its recorded greetings in 2013, rather than the commission president only? Can you explain the increase in the frequency of the recorded messages beginning on July 19, 2013?

Thank you in advance for the additional information.

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042
 (360) 753-1112
 tony.perkins@pdc.wa.gov

From: Safora, Isabel [mailto:Safora.I@portseattle.org]
Sent: Wednesday, October 30, 2013 2:29 PM
To: Tony Perkins
Cc: Watson, Craig; Beckett, Kurt
Subject: Pilloud Complaint - Port of Seattle Officials

Mr. Perkins,

This responds to your email of October 25th to Craig Watson. Below, in red, are the Port's responses to your questions.

1. Approximately how many years has STIA utilized recorded commissioner greetings? The furthest back we located is a script from 2004. Tracking on the messages only goes back to 2007. Attached is the 2004 script for the announcement by former Port Commissioner Paige Miller.
2. Are recorded commissioner greetings in constant use at the airport, or are they heard less frequently? How frequently? The Commissioner messages run 24/7 along the 6 sky bridges from the airport garage to the terminal only. The messages are heard in rotation with directional messages recorded by Port staff or by Northwest musicians as part of the Port's music initiative. Commissioner messages run between 20-35 seconds in duration, music messages are approximately 40 seconds long. In 2013, the Commissioner messages did not run from January until April during the transition from former Commissioner President Gael Tarleton to current Commission President Tom Albro. The gap in messaging allowed for the completion of scripts and recordings with the new Commission President. When Commissioner messages are not playing, the Port plays the staff and musician messages noted above. Beginning April 19, 2013, messages with Commission President Albro and Commissioner Bill Bryant and with Commission President Albro and Commissioner Courtney Gregoire began playing. These messages ran at the rate of 5 messages/hr. (Commissioners Albro/Bryant at 3 messages/hr.; Commissioners Albro/Gregoire at 2 messages/hr.), all 24/7 in rotation as noted above. Beginning May 16, 2013, messages with Commission President Albro and Commissioner John Creighton and messages with Commission President Albro and Commissioner Stephanie Bowman were added to the playlist. At that time the Commissioner messages ran at 12 messages/hr., with each Commissioner pair running at 4 each/hr. On July 19, 2013, Commissioner messages increased in frequency to 32 messages/hr. with each Commissioner pair running 8 each/hr.
3. Are particular commissioners rotated through the recorded messages according to any schedule? All Commissioner messages were played with the same frequency. If so, does this schedule pay any attention to whether a given commissioner is a candidate for election at the time their recorded message is scheduled to be used? Please explain. The schedule is the same for all Commissioner messages.
4. Did the content of the messages at issue in Mr. Pilloud's complaints differ substantially from the recorded commissioner messages used in the past? The content of the Commissioner messages is substantially similar to the scripts used in the past. Previously, the messages were only recorded by the Commission President. In 2013, all Commissioners are featured. The messages focus on the Port's business, environment and trade initiatives and other Port accomplishments. With your answer, please provide a script or detailed description of representative past messages. Attached are scripts of Commissioner messages from 2004, 2008, 2009, 2012 and 2013.

Please let me know if you require additional information. Thank you.

Isabel R. Safora
Deputy General Counsel
Port of Seattle
P. O. Box 1209
Seattle, WA 98111
safora.i@portseattle.org
206-787-3216

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From: Tony Perkins <tony.perkins@pdc.wa.gov>
Date: October 25, 2013 at 4:09:09 AM GMT+8
To: "Watson, Craig" <Watson.C@portseattle.org>
Subject: RE: PDC law re: Public Service Announcements by Municipal Officers

Dear Mr. Watson,

PDC staff is continuing our review of the complaints filed by Andrew Pilloud against Port of Seattle officials, and a question has come up that I hope you can assist us in answering. In your email below, you state that recorded commissioner greetings at SeaTac International Airport have been "a familiar part of the airport experience for many years." To help understand the precise meaning of this statement, please provide the following information at your earliest convenience:


1. Approximately how many years has STIA utilized recorded commissioner greetings?
2. Are recorded commissioner greetings in constant use at the airport, or are they heard less frequently? How frequently?
3. Are particular commissioners rotated through the recorded messages according to any schedule? If so, does this schedule pay any attention to whether a given commissioner is a candidate for election at the time their recorded message is scheduled to be used? Please explain.
4. Did the content of the messages at issue in Mr. Pilloud's complaints differ substantially from the recorded commissioner messages used in the past? With your answer, please provide a script or detailed description of representative past messages.


Thanks for your attention to this. I look forward to hearing from you.

Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042

 (360) 753-1112

 tony.perkins@pdc.wa.gov

From: Watson, Craig [<mailto:Watson.C@portseattle.org>]

Sent: Monday, October 21, 2013 8:53 AM

To: Tony Perkins

Cc: Albro, Thomas; Bowman, Stephanie; Bryant, Bill; Creighton, John; Gregoire, Courtney; Yoshitani, Tay; Beckett, Kurt

Subject: RE: PDC law re: Public Service Announcements by Municipal Officers

Dear Mr. Perkins: Apologies for my tardy response as I have been out of the office and thank you for this helpful information. The recorded commissioner greetings at STIA have been a familiar part of the airport experience for many years and are designed to personalize an airport users experience at the airport. Per your direction the commission messages have been discontinued. Regards, CRW

Craig R. Watson, General Counsel
Pier 69 | 2711 Alaskan Way
P. O. Box 1209 | Seattle, WA 98111
Dir: 206-787-3218 | Cell: 206-910-9543
Fax: 206-787-3205
watson.c@portseattle.org



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If you have received the message in error, please advise the sender by reply e-mail and delete the message. Thank you very much.

From: Tony Perkins [<mailto:tony.perkins@pdc.wa.gov>]
Sent: Friday, October 18, 2013 5:21 PM
To: Watson, Craig
Subject: PDC law re: Public Service Announcements by Municipal Officers

Dear Mr. Watson,

I'm sending this email as a follow-up to voice messages left this afternoon with Julie Thomas, assistant to Port of Seattle CEO Tay Yoshitani, and with Clare Gallagher, the port's government relations manager. Public Disclosure Commission (PDC) staff has urgent guidance for port officials that we hoped we could deliver today.

On October 15, 2013, PDC staff notified Port of Seattle commissioners Tom Albro, John Creighton, Courtney Gregoire, and Stephanie Bowman of complaints filed against them by Andrew Pilloud. (Copies of the complaints are attached to this email.) The complaints concerned four audio recordings allegedly played over the public address system at SeaTac airport since at least this summer, and possibly continuing. As described in the complaints, the recordings feature the voices of the four commissioners, and identify them by name. The complaint alleges violations of RCW 42.17A.555 and RCW 42.17A.405 by the commissioners in connection with the recordings. PDC staff is currently reviewing the complaints to determine whether a formal investigation or other action is warranted.

If accurate as described, we believe that the four recordings are subject to RCW 42.17A.575, a statute that prohibits state-elected officials and municipal officers from speaking or appearing in a public service announcement from January 1 to the date of

the general election in a year in which the official is a candidate. Accordingly, we recommend that the Port of Seattle cease airing the recordings in the airport, if they have continued to air, and refrain from distributing them in any other manner. If the port takes such corrective action, we would appreciate being informed of the steps you have taken.


For more information on the prohibition in RCW 42.17A.575, please see [PDC Interpretation 10-01, Public Service Announcements By State-Elected Officials and Municipal Officers Section 703, Chapter 204, Laws of 2010.](#)


Thank you for your attention to this. Please let me know if you have any questions.

Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042

 (360) 753-1112

 tony.perkins@pdc.wa.gov

Tony Perkins

From: Tom Albro [tom.albro@nakesa.com]
Sent: Tuesday, December 31, 2013 1:37 PM
To: Tony Perkins
Subject: PDC Case 14-006

Tony,

Thank you for extending the timeframe for my response to the PDC complaint you are investigating.

You have mentioned that you are looking into the complaint to see if it might violate the RCW 42.17A.575 prohibition on Public Service Announcements by a public official during the calendar year of his/her election.

I am confident that the Commissioner announcements at Seattle-Tacoma International Airport garage access ramps, the facility we govern, are not public service announcements. Instead, they are normal duties of a commissioner (particularly the President) as specifically allowed in RCW 42.17A.555 as an exception (see Section 3) for "activities which are part of the normal and regular conduct of the office or agency".

While I was unable to find a definition of "public service announcement" in the Revised Code of Washington itself, the common meaning clearly does not include the Port Commission ramp announcements. Definitions of the term by Black's Law Dictionary (online) and Wikipedia follow:

Definition per Black's Law Dictionary:

What is PUBLIC SERVICE ANNOUNCEMENT?

A message that is broadcast to the general public by mass media free of any costs. There is no charge to anyone for these public service announcements.

Definition per Wikipedia:

A public service announcement (PSA) or public service ad, are messages in the public interest disseminated by the media without charge, with the objective of raising awareness, changing public attitudes and behavior towards a social issue.

The Port Commissioner ramp announcements are not conveyed over "mass media" or "the media". Nor are they broadcast to the "general public", but to specific users of the airport facility - the same facility for which the Commission is responsible.

Others at the Port have provided you with specific information about the announcements, their content and their frequency. They have also provided you historical background showing that these have been an ongoing part of Commissioner responsibilities for many years.

You have asked me to speak to two questions specifically:

Why did I invite my colleagues to join in the announcements when historically the President has reserved this privilege to himself or herself alone?

Why did I ask our staff to review the frequency of the announcements and adjust them if appropriate?

These are fair questions and, while I believe irrelevant to the legal question you are investigating as part of the complaint, the answers do provide a perspective that is useful.

I invited my colleagues to join me in these announcements because I believed it was important for the Port Commission to convey a common commitment to the Port's strategic goals and that we, as a Commission, were working together in their pursuit.

The Century Agenda was adopted by the Port Commission in December 2012. I co-Chaired the final phase of this Commission led effort with my colleague, John Creighton. This effort was undertaken in a very public fashion. Throughout 2011, the Commission as a whole engaged subject matter experts in 9 separate round table discussions, which were both noticed public meetings and televised (also available on the Port's website). After adopting a set of draft strategic objectives and during most of 2012, all Port Commissioners presented the draft plan throughout the County. Commissioners addressed over 70 separate city counsels, community organizations, and business groups. We created a short video describing the Century Agenda specifically for this use and to broaden the audience so we could get as much feedback as possible.

Shortly after adopting the Century Agenda, the Port Commission experienced two vacancies and subsequently appointed replacement Commissioners. While these new Commissioners were not part of the Century Agenda efforts, both ascribed to the strategic goals. As President I believed it valuable for the public to know that while these new members that had not been included in the deliberations, they were nonetheless committed to the Century Agenda.

Fortunately, the Century Agenda has four major thrusts – cargo, tourism, workforce development and small business growth, and environmental stewardship. I elected to take advantage of this and engage all of my colleagues in the announcements. In each, I am joined by one of my colleagues and we jointly speak to one of the elements of the Century Agenda.

After the announcements were up and running for several months, I noticed that I rarely heard them while walking from the garage to the airport. Instead, I noticed prolonged periods of silence and some periods of other announcements. As a result, I asked the staff to review the frequency to make best use of the opportunity.

I hope this provides you what you need to conclude your work. If I can be of any further assistance, please don't hesitate to contact me directly.

Sincerely,

Tom Albro
206.930.4004

From: Tony Perkins <tony.perkins@pdc.wa.gov>
Date: Wednesday, December 18, 2013 2:53 PM
To: Tom Albro <tom.albro@nakesa.com>
Subject: RE: Your voice message, re: PDC Case 14-006

Dear Mr. Albro,


Thanks for your email. Yes, an extension until December 31, 2013 will be acceptable. Earlier today, I sent an email to your Port of Seattle address offering the same.

Let me know if you have any other questions. Thanks for your attention to this.

Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042

(360) 753-1112

tony.perkins@pdc.wa.gov

From: Tom Albro [<mailto:tom.albro@nakesa.com>]
Sent: Wednesday, December 18, 2013 2:48 PM
To: Tony Perkins
Subject: FW: Your voice message, re: PDC Case 14-006

Tony,

I understand from one of my colleagues that you agreed to extend his deadline until 12/31 since you will be out of the office over the holidays.

May I have the same extension?

Tom Albro
006.000-REG1

From: "Albro, Thomas" <Albro.T@portseattle.org>
Date: Monday, December 16, 2013 3:31 PM
To: Tom Albro <tom.albro@nakesa.com>
Subject: Fwd: Your voice message, re: PDC Case 14-006

Sent from my iPad

Begin forwarded message:

From: "Albro, Thomas" <Albro.T@portseattle.org>
Date: December 16, 2013 at 3:31:24 PM PST
To: Tony Perkins <tony.perkins@pdc.wa.gov>
Subject: Re: Your voice message, re: PDC Case 14-006

Tony,

Thank you for providing me a little more time.

I will provide you my response by December 20th.

Best,

Tom

Sent from my iPad

On Dec 16, 2013, at 10:58 AM, "Tony Perkins" <tony.perkins@pdc.wa.gov> wrote:

Dear Mr. Albro,

Thank you for your voice message of this morning regarding PDC Case 14-006. I'm taking this opportunity to email in reply, with the hope that I might focus your response to the complaint. In corresponding with Isabel Safora, deputy general counsel to the Port of Seattle, PDC staff learned that the port began including all commissioners in its recorded greetings in 2013, rather than the commission president only. Ms. Safora also stated that the frequency of playback of the recorded commissioner greetings increased from 5 messages per hour to 12 messages per hour beginning on April 19, 2013, and from 12 messages per hour to 32 messages per hour on July 19, 2013. Ms. Safora stated that all of the changes described above were made at your request. In responding to the complaint, please confirm whether this is the case, and if so, explain the reason for the changes.


Finally, it will be acceptable to respond to the complaint by this Friday, December 20, 2013. Just let me know if you anticipate any additional delays.


Thank you for your attention to this. Please let me know if you have any questions.


Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042

 (360) 753-1112

 tony.perkins@pdc.wa.gov

What does it take to **MAKE BIG THINGS HAPPEN?**

Dear Colleague,

What does it take? How do we make big things happen—those that make the difference and that none of us can do alone?

We have been asking ourselves that very question as we put together the Port of Seattle's 25-year vision, our Century Agenda. For the truth is, we cannot generate 100,000 new port-related jobs alone. In fact, most of the elements necessary for achieving this vision are well beyond our control as port commissioners. We can make our facilities ready, but the demand to use them will come from our region's economic growth.

So what does that take?

We believe the way forward has been demonstrated many times. How did we get the Dreamliner assembly and the deep-bore tunnel? Looking farther back, how did we establish a publicly owned port, clean up Lake Washington and host a World's Fair?

We did it together by agreeing to focus our energies, by agreeing on common goals, by contributing our resources to the cause. We worked as colleagues first and executives, educators or elected officials second. Our models are the Aerospace Alliance, Forward Thrust and Century 21. We know what we need to do.

So let's do it again. Let's agree on a handful of regional initiatives that will truly move the needle—that will be held up as examples by our successors 25 and 50 years from now.

We are proposing four regional initiatives for your consideration that would be good for our region, and are necessary to create more than 100,000 jobs. There are other challenges that also demand regional leadership to improve quality of life for Washington citizens. We believe that these proposed initiatives complement those collective efforts.

We stand ready to get to work, contribute resources and join the teams that pursue these new initiatives. We are asking you to do the same.

Sincerely,



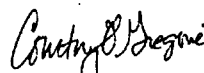
Tom Albro



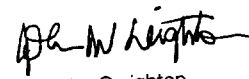
Bill Bryant



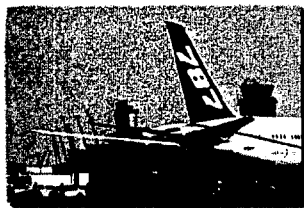
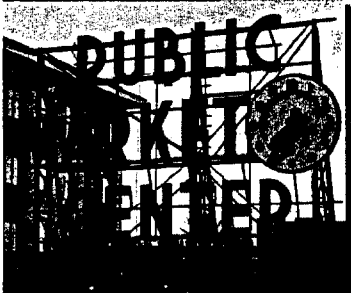
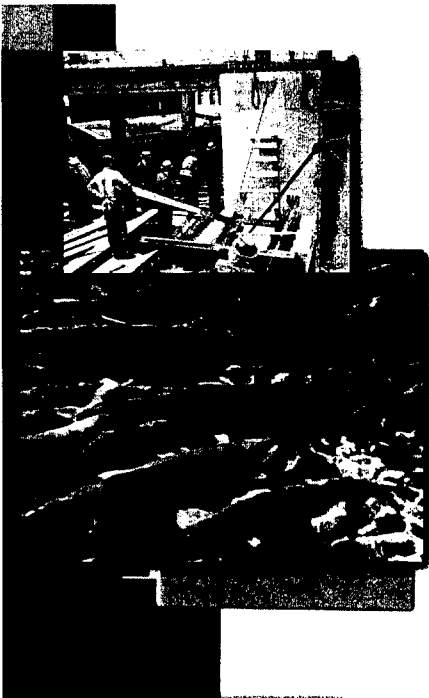
Stephanie Bowman



Courtney Gregoire



John Creighton



FOUR REGIONAL INITIATIVES

1 Strengthen access to global markets and supply chains for Northwest businesses

From apples and salmon to airplanes and software, our region benefits from global markets. The growth of emerging markets allows us to do even more to maximize our unique position.

Aligning efforts like the Center for Advanced Manufacturing in Puget Sound, Washington State's Innovation Partnership Zones (IPZ) and our Foreign Trade Zones would strengthen the region's role as a premier logistics hub, and grow exports from Northwest businesses. Advocating for improved policies on taxation and land use will assist this effort.

2 Make Washington a preferred destination for international tourists from countries with which we have direct flights

Strengthening the Washington Tourism Alliance can expand the role of tourism in the state's economy, and increase the number of international visitors to the Puget Sound. Attracting both new and repeat visitors and encouraging longer visits to our region leads to economic growth.

A coalition with tourism stakeholders, ranging from hospitality providers to wineries and more, can make Washington a "must visit" place. We can create synergy between tourism and business travelers, furthering foreign investment and trade that will grow Northwest industries, and adding to our efforts to establish our state as a primary nexus of U.S./Asia relations.

3 Establish an educational consortium to serve the needs of the maritime industry for workforce development, applied research and business growth

Our trade-dependent region has three times more jobs in maritime industries than the national average. Let's use this strength to make the Northwest a national magnet for maritime education, technological innovation and tomorrow's entrepreneurs. Boat building and repair for the Northern Pacific fishing fleet alone can pump \$40 billion into our economy in the coming years.

We can meet private sector needs for designers, marine engineers, welders and boat crews through education and training models developed by the Washington STEM initiative, Centers for Excellence, our community colleges and workforce development organizations. As we do so, we can create an educational magnet that would incubate new technologies and bring business to Washington.

4 Foster a coordinated effort among Puget Sound ports in support of Washington state's pursuit of a healthier Puget Sound

Our region's beauty is heightened by the balance of land use, habitat protection and restoration, and water quality in Puget Sound. Let's join forces to restore the sound's vitality, through a coordinated effort among Puget Sound ports, and other regional organizations, to protect and improve our shared environment.

We can increase the health of Puget Sound and enhance additional acres of fresh water and estuarine habitat in the Green/Duwamish watershed and Elliott Bay, while ensuring the vitality of our manufacturing and industrial districts.

MISSION, VISION & COMMITMENT

Our Mission: The Port of Seattle is a public agency that creates jobs by advancing trade and commerce, promoting industrial growth, and stimulating economic development.

Our Vision: Over the next 25 years, we will add 100,000 jobs through economic growth led by the Port of Seattle, for a total of 300,000 port-related jobs in the region, while reducing our environmental footprint.

Our Commitment: The Port of Seattle creates economic opportunity for all, stewards our environment responsibly, partners with surrounding communities, promotes social responsibility, conducts ourselves transparently, and holds ourselves accountable. We will leave succeeding generations a stronger port.

OUR CENTURY AGENDA STRATEGIES & OBJECTIVES

Position the Puget Sound region as a premier international logistics hub

- Grow seaport annual container volume to more than 3.5 million TEUs
- Structure our relationship with Washington ports to optimize infrastructure investments and financial returns
- Triple air cargo volume to 750,000 metric tons
- Triple the value of our outbound cargo to over \$50 billion
- Double the economic value of the fishing and maritime cluster industries

Advance this region as a leading tourism destination and business gateway

- Make Sea-Tac Airport the West Coast "Gateway of Choice" for international travel
- Double the number of international flights and destinations
- Meet the region's air transportation needs at Sea-Tac Airport for the next 25 years and encourage the cost-effective expansion of domestic and international passenger and cargo service
- Double the economic value of cruise traffic to Washington state

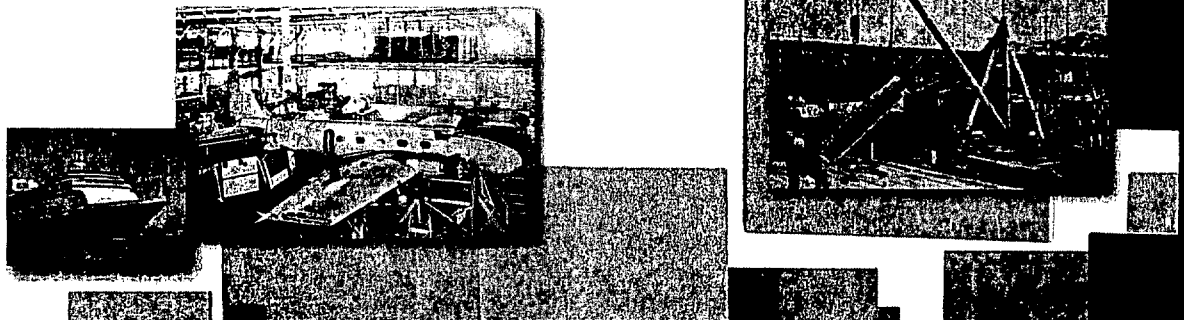
Use our influence as an institution to promote small business growth and workforce development

- Increase the proportion of funds spent by the port with qualified small business firms on construction, goods and services to 40 percent of the eligible dollars spent
- Increase workforce training, job and business opportunities for local communities in maritime, trade, travel and logistics

Be the greenest and most energy efficient port in North America

- Meet all increased energy needs through conservation and renewable sources
- Meet or exceed agency requirements for storm water leaving facilities owned or operated by the port
- Reduce air pollutants and carbon emissions
- Anchor the Puget Sound urban-industrial land use to prevent sprawl in less developed areas
- Restore, create and enhance 40 additional acres of habitat in the Green/Duwamish watershed and Elliott Bay

The port will use its real estate, capital assets and financial capabilities to accomplish the Century Agenda. These are tools to thoughtfully steward, rather than areas well suited for specific 25-year goals.



Together we can make big things happen.

Will you help lead this effort?

To help meet this challenge, businesses, workforce organizations, labor unions, educational institutions, government and community leaders must come together and identify innovative and meaningful ways to bring these initiatives to life.

Share your thoughts and ideas with us! Contact us at 206.787.4371 or CenturyAgenda@portseattle.org

For more information about the Port of Seattle's Century Agenda, please visit our website at www.portseattle.org/about/commission

Port of Seattle

Commissioners

Tom Albro
Stephanie Bowman
Bill Bryant
John Creighton
Courtney Gregoire

Chief Executive Officer
Tay Yoshitani



Where a sustainable world is headed.™

Port of Seattle, P.O. Box 1209
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206.787.3000
www.portseattle.org

The Port of Seattle operates under the State of Washington's Public Disclosure Act. To obtain public records, please email specific requests to public-disclosure@portseattle.org, phone 206.787.3094 or fax 206.787.3205

Images courtesy of Washington State Archives, Museum of History and Industry, Seattle Municipal Archives, Washington State University, Port of Seattle Archives and Don Wilson for Port of Seattle.

1000 6-13

**JOHN W. CREIGHTON
6619 – 132ND AVENUE NE, PMB 182
KIRKLAND, WA 98033**

December 27, 2013

State of Washington Public Disclosure Commission
711 Capitol Way, Room 206
PO Box 40908
Olympia, WA 98504-0908
Attn: Tony Perkins

Re: Response to Complaint filed by Mr. Andrew Pilloud, PDC Case No. 14-006

Dear Mr. Perkins:

I am responding to the complaint filed by Mr. Andrew Pilloud with the Public Disclosure Commission on October 13, 2013 alleging that certain incumbent Seattle port commissioners, including myself, violated RCW 42.17A.555 by virtue of the welcome messages playing on the parking garage sky-bridges at Seattle-Tacoma International Airport, a Port of Seattle facility, recorded by myself and my colleagues.

Mr. Pilloud's complaint is filled with factual errors. During and before my tenure on the Port Commission, the Sea-Tac Airport sky-bridge sound system has been used almost exclusively to welcome travelers to a Port of Seattle facility. The sky-bridge sound system has never been used for advertising, nor has it ever been made available for the submission of recordings by third party individuals or organizations, for payment or otherwise, unrelated to the purpose of welcoming travelers to the airport.

Port commissioners, as the elected leaders of the Port of Seattle, have acted properly over the years in recording the airport welcome announcements. This activity is no different than a local mayor having a plaque in city hall welcoming visitors, or a county executive or other elected official having a welcome message on the website of the relevant local municipality.

In addition, the playing of welcome messages recorded by commissioners at the airport does not violate the provisions of RCW 42.17A.575. The welcome messages do not constitute a "public service announcement" as defined in WA 390-05-525. The messages are not "[d]esigned to benefit or promote the community's health, safety or welfare", they are designed to welcome travelers to the airport. The recordings are not geared towards being "of primary interest to the general public", but rather are targeted at travelers entering the airport facility and played solely on the airport sky-bridges.

Letter to Washington Public Disclosure Commission

December 27, 2013

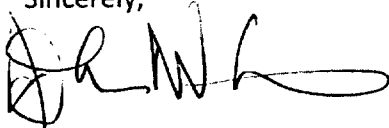
~ Page 2 ~

Nevertheless, in an abundance of caution, the Port of Seattle discontinued the welcome messages upon learning of this complaint.

Mr. Pilloud was an unsuccessful candidate for Seattle Port Commission during 2013. His complaint is meritless, and appears timed and intended solely to harass and besmirch his opponent and other incumbent port commissioners immediately prior to ballots being mailed out. I urge the Public Disclosure Commission to dismiss this complaint in its entirety.

Please do not hesitate to contact me at jwcreighton3@yahoo.com or (206) 818-4473 if you have any questions or need any further information.

Sincerely,

A handwritten signature in black ink, appearing to read 'John W. Creighton', with a stylized flourish at the end.

John W. Creighton

December 31, 2013

State of Washington Public Disclosure Commission
711 Capitol Way, Room 206
PO Box 40908
Olympia, WA 98504-0908
Attention: Tony Perkins

Re: Response to PDC Case No.14-006

Dear Mr. Perkins,

I am writing in response to the complaint filed by Mr. Andrew Pilloud with the Public Disclosure Commission on October 13, 2013 alleging that Port of Seattle Commissioners, including myself, violated RCW 42.17A.555 by participating in recorded "welcome" messages played at the skybridge entrance to the Sea-Tac International Airport.

I was appointed on May 3, 2013 to an open seat on the Port of Seattle Commission. Within a week of my appointment, I was asked to participate with Commissioner Tom Albro in recording a taped message welcoming guests to the Sea-Tac airport. My understanding is that these messages by Port Commissioners have played continuously for several years, and serve only to welcome guests to the airport. They are audible only to guests crossing over the skybridge from the parking garage to the airport's main terminal (approximately 25 yards). As a new Commissioner, I agreed to participate, as I was assured this was a common practice and was similar in nature to a Mayor or County Executive having a welcome message located on a sign or an official website.

Although I am not an attorney, my understanding of RCW 42.17A.575 is that it prohibits public service announcements, which are messages "designed to benefit or promote the community's health, safety or welfare" (WA 390-05-525). By contrast, the recorded messages heard over the skybridge at Sea-Tac airport are simply welcome messages directed at travelers.

Although I dispute Mr. Pilloud's accusation, I asked the Port of Seattle staff to immediately discontinue the recorded messages until this matter can be resolved by your staff. I am disappointed that Mr. Pilloud, who was an unsuccessful candidate for the Port of Seattle Commission in 2013, chose to file this complaint only days before the ballots were mailed to citizens. As a new Commissioner, I certainly would not have agreed to participate in recording a welcome message at the airport if I thought it in any way might violate Washington State election laws. Nevertheless, I am dismayed that this sole complaint appears to be motivated by politics rather than an interest in upholding the strong campaign public disclosure laws for which our state is known. I urge the Public Disclosure Commission to dismiss this complaint in its entirety and provide closure to this issue.

Please don't hesitate to contact me directly if I may be of any additional assistance. I can be reached at (206) 898-3043 or by email at Stephanie.Bowman10@gmail.com. Thank you for your time and service.

Sincerely,



Stephanie Bowman

Tony Perkins

From: Courtney Gregoire [courtney.gregoire@outlook.com]
Sent: Monday, January 06, 2014 10:30 AM
To: Tony Perkins
Subject: RE: Letter mailed December 18, 2013 (Complaint by Andrew Pilloud in PDC Case 14-006)

January 6, 2014

Tony Perkins
Public Disclosure Commission
PO Box 40908
Olympia, WA 98408

Re: Complaint filed by Andrew Pilloud
PDC Case No. 14-006

Dear Mr. Perkins:

Thank you for your letter of December 18th. I do not have record of your letter dated December 4th so thank you for the additional time to respond. I would have responded earlier but was unfortunately unable to access my email for several days during holiday travel.

Although your December 4th letter does not specifically request a response, please know that I considered the recording of the airport announcement part of my official and regular duties as a Port Commissioner and that it did not even enter my mind that this was something that would benefit my campaign for re-election.

Please know also that I was not aware of the prohibition against appearing in a public service announcement during the election year until it was brought to my attention in connection with this complaint, nor do I have knowledge of or experience with whether this would meet the legal definition of a public service announcement.

Please let me know if you have any questions or if I can provide additional information to assist you with your investigation.

Sincerely,

Courtney O. Gregoire

From: tony.perkins@pdc.wa.gov
To: courtney.gregoire@outlook.com
Subject: Letter mailed December 18, 2013 (Complaint by Andrew Pilloud in PDC Case 14-006)
Date: Wed, 18 Dec 2013 23:02:59 +0000


Dear Ms. Gregoire,


Thanks for speaking with me a moment ago. Please see the attached letter, and contact me with any questions.


Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042

 (360) 753-1112

 tony.perkins@pdc.wa.gov

Tony Perkins

From: Tom Albro [tom.albro@nakesa.com]
Sent: Tuesday, March 04, 2014 10:58 AM
To: Tony Perkins
Subject: Re: PDC Case 14-006

Tony,

Thanks for your call back yesterday and checking with me to see if I wanted to further clarify my position using the WAC's definition of PSA's. Yes, I am pleased to do so.

The following is an excerpt from the PDC Interpretation 10-01, Public Service Announcements By State-Elected Officials and Municipal Officers, you reference in your email below:

The Commission adopted the following rules prior to the passage of the 2010 PSA Law:

WAC 390-05-525 Public service announcement.

(1) "Public service announcement" means a communication meets all the following criteria. The communication is:

- (a) Designed to benefit or promote the community's health, safety or welfare or nonprofit community events;
- (b) Not selling a product or service;
- (c) Sponsored by an organization with a history of routinely providing the community such outreach public service messages in the service area of the organization;
- (d) Of primary interest to the general public and is not targeted to reach only voters or voters in a specific jurisdiction;
- (e) Not coordinated with or controlled or paid for by a candidate's authorized committee or political committee;
- (f) Subject to the policies for public service announcements of the entity broadcasting, transmitting, mailing, erecting, distributing or otherwise publishing the communication including policies regarding length, timing and manner of distribution; and
- (g) One for which the arrangements to include a reference or depiction of the candidate or candidates in the communication were made at least six months before the candidate became a candidate.

(2) Examples of public service announcements include but are not limited to communications regarding nonprofit community events, outreach or awareness activities such as: Breast cancer screening, heart disease, domestic violence, organ donation, emergency or other disaster relief for organizations such as the Red Cross, programs designed to encourage reading by school children, childhood safety, fund drives for charitable programs such as United Way, and similar matters.

For the walkway messages to be considered PSA's per WAC 390-05-525, all of the above criteria must be met. In fact, several of the criteria are not met. These include:

- (a) Designed to benefit or promote the community's health, safety or welfare or nonprofit community events;

The walkway messages were not designed to benefit or promote the community's health safety or welfare or nonprofit community events, but instead were designed to 1) inform the facility user that they were using a Port of Seattle facility and welcome them 2) to inform the user that the mission of the Port of Seattle is economic development and job growth, 3) to convey to the user the four major strategic thrusts of how the Port of Seattle planned to address that mission.

(c) Sponsored by an organization with a history of routinely providing the community such outreach public service messages in the service area of the organization;

The walkway messages were not "sponsored" by the Port of Seattle nor does the Port of Seattle routinely provide "outreach public service messages". Instead, the Port of Seattle utilizes its opportunity to communicate with facility users to convey matters of importance to the Port of Seattle. A good example of this are the music initiative messages that also ran during 2013. These promoted the Port of Seattle's SeaTac music initiative, which is a purposed effort of the Port of Seattle as an economic development agency to support the Pacific Northwest's music industry.

(d) Of primary interest to the general public and is not targeted to reach only voters or voters in a specific jurisdiction;

The walkway messages are not of primary interest to the general public, but in the interest of the specific users of the Port of Seattle's SeaTac airport and targeted to reach only them.

f) Subject to the policies for public service announcements of the entity broadcasting, transmitting, mailing, erecting, distributing or otherwise publishing the communication including policies regarding length, timing and manner of distribution;

The walkway messages are not subject to Port of Seattle policies regarding public services announcements, but instead are in keeping with long established Port of Seattle practices to communicate to Port of Seattle facility users information that is important to the Port.

On a separate note, in our previous communications we discussed the walkway message frequency. I have described the events that led to the increase in message frequency to what turned out to be 32 times per hour (according to the exchange below). I just wanted to point out that since each message was about 15 seconds long (if I recall correctly), this equates to these messages totaling about 8 minutes of every hour. I mention this here, because I didn't see any other quantification included in the exchange besides the frequency itself.

Thank you again for your diligence in your duties and this matter. Please don't hesitate to contact me or call me if I can provide any additional information.

Sincerely,

Tom Albro
206.950.4000

From: Tony Perkins <tony.perkins@pdc.wa.gov>

Date: Monday, February 24, 2014 8:50 AM




To: Tom Albro <tom.albro@nakesa.com>

Subject: RE: PDC Case 14-006

Thanks for your email, Tom. I was out this past Friday, and will be occupied with other investigative matters this week, so there is no particular hurry. Just let me know when I might hear from you.

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042
 (360) 753-1112
 tony.perkins@pdc.wa.gov

From: Tom Albro [<mailto:tom.albro@nakesa.com>]
Sent: Friday, February 21, 2014 7:53 AM
To: Tony Perkins
Subject: Re: PDC Case 14-006

Tony,

Can I let you know on Monday? That will give me time to review the materials.

Tom

Sent from my iPhone

On Feb 20, 2014, at 3:05 PM, Tony Perkins <tony.perkins@pdc.wa.gov> wrote:

Dear Mr. Albro,

I'm in the process of writing up my findings regarding the complaint in PDC Case 14-006. Before my report is finalized, I may need to conduct a brief interview with you by telephone. If so, I will let you know.

The main purpose of this email to check whether you planned to supplement your response to the complaint, taking into account the definition of "Public Service Announcement" in WAC 390-05-525, as further clarified by the Public Disclosure Commission in PDC Interpretation 10-01, *Public Service Announcements By State-Elected Officials and Municipal Officers*. I understand that you dispute that the recorded commissioner greetings at SeaTac International Airport are public service announcements; however, because your initial response to the complaint drew from Black's Law Dictionary and Wikipedia, I wanted to make sure that you had the opportunity to speak to the relevant definition in your formal response to the complaint.




Please reply to this email to let me know whether I can expect anything further from you by way of a written response, and if so, when you expect to provide that response.

Thanks for your attention to this, and for your cooperation with the PDC's investigative process. I look forward to hearing from you.

Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042
 (360) 753-1112
 tony.perkins@pdc.wa.gov

From: Tony Perkins
Sent: Tuesday, December 31, 2013 2:39 PM
To: Tom Albro
Subject: RE: PDC Case 14-006

Dear Mr. Albro,


Thank you for your response. I will review it and contact you if we need additional information to complete our investigation.


For your information, in enforcing RCW 42.17A.575, the 2010 PSA law, PDC staff operates under the definition of "public service announcement" in WAC 390-05-525. In PDC Interpretation 10-01, Public Service Announcements By State-Elected Officials and Municipal Officers, the Public Disclosure Commission provided additional interpretation of this definition for the purposes of the 2010 PSA law. If after reviewing the administrative rule and relevant Commission guidance you wish to supplement your response, please let me know.

Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042

 (360) 753-1112

 tony.perkins@pdc.wa.gov

From: Tom Albro [<mailto:tom.albro@nakesa.com>]

Sent: Tuesday, December 31, 2013 1:37 PM

To: Tony Perkins

Subject: PDC Case 14-006

Tony,

Thank you for extending the timeframe for my response to the PDC complaint you are investigating.

You have mentioned that you are looking into the complaint to see if it might violate the RCW 42.17A.575 prohibition on Public Service Announcements by a public official during the calendar year of his/her election.

I am confident that the Commissioner announcements at Seattle-Tacoma International Airport garage access ramps, the facility we govern, are not public service announcements. Instead, they are normal duties of a commissioner (particularly the President) as specifically allowed in RCW 42.17A.555 as an exception (see Section 3) for "activities which are part of the normal and regular conduct of the office or agency".

While I was unable to find a definition of "public service announcement" in the Revised Code of Washington itself, the common meaning clearly does not include the Port Commission ramp announcements. Definitions of the term by Black's Law Dictionary (online) and Wikipedia follow:

Definition per Black's Law Dictionary:

What is PUBLIC SERVICE ANNOUNCEMENT?

A message that is broadcast to the general public by mass media free of any costs. There is no charge to anyone for these public service announcements.

Definition per Wikipedia:

A public service announcement (PSA) or public service ad, are messages in the public interest disseminated by the media without charge, with the objective of raising awareness, changing public attitudes and behavior towards a social issue.

The Port Commissioner ramp announcements are not conveyed over “mass media” or “the media”. Nor are they broadcast to the “general public”, but to specific users of the airport facility - the same facility for which the Commission is responsible.

Others at the Port have provided you with specific information about the announcements, their content and their frequency. They have also provided you historical background showing that these have been an ongoing part of Commissioner responsibilities for many years.

You have asked me to speak to two questions specifically:

Why did I invite my colleagues to join in the announcements when historically the President has reserved this privilege to himself or herself alone?

Why did I ask our staff to review the frequency of the announcements and adjust them if appropriate?

These are fair questions and, while I believe irrelevant to the legal question you are investigating as part of the complaint, the answers do provide a perspective that is useful.

I invited my colleagues to join me in these announcements because I believed it was important for the Port Commission to convey a common commitment to the Port’s strategic goals and that we, as a Commission, were working together in their pursuit.

The Century Agenda was adopted by the Port Commission in December 2012. I co-Chaired the final phase of this Commission led effort with my colleague, John Creighton. This effort was undertaken in a very public fashion. Throughout 2011, the Commission as a whole engaged subject matter experts in 9 separate round table discussions, which were both noticed public meetings and televised (also available on the Port’s website). After adopting a set of draft strategic objectives and during most of 2012, all Port Commissioners presented the draft plan throughout the County. Commissioners addressed over 70 separate city counsels, community organizations, and business groups. We created a short video describing the Century Agenda specifically for this use and to broaden the audience so we could get as much feedback as possible.

Shortly after adopting the Century Agenda, the Port Commission experienced two vacancies and subsequently appointed replacement Commissioners. While these new Commissioners were not part of the Century Agenda efforts, both

ascribed to the strategic goals. As President I believed it valuable for the public to know that while these new members that had not been included in the deliberations, they were nonetheless committed to the Century Agenda.

Fortunately, the Century Agenda has four major thrusts – cargo, tourism, workforce development and small business growth, and environmental stewardship. I elected to take advantage of this and engage all of my colleagues in the announcements. In each, I am joined by one of my colleagues and we jointly speak to one of the elements of the Century Agenda.

After the announcements were up and running for several months, I noticed that I rarely heard them while walking from the garage to the airport. Instead, I noticed prolonged periods of silence and some periods of other announcements. As a result, I asked the staff to review the frequency to make best use of the opportunity.

I hope this provides you what you need to conclude your work. If I can be of any further assistance, please don't hesitate to contact me directly.

Sincerely,

Tom Albro
736 753-1112

From: Tony Perkins <tony.perkins@pdc.wa.gov>
Date: Wednesday, December 18, 2013 2:53 PM
To: Tom Albro <tom.albro@nakesa.com>
Subject: RE: Your voice message, re: PDC Case 14-006

Dear Mr. Albro,




Thanks for your email. Yes, an extension until December 31, 2013 will be acceptable. Earlier today, I sent an email to your Port of Seattle address offering the same.

Let me know if you have any other questions. Thanks for your attention to this.

Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042
 (360) 753-1112
 tony.perkins@pdc.wa.gov

From: Tom Albro [<mailto:tom.albro@nakesa.com>]
Sent: Wednesday, December 18, 2013 2:48 PM
To: Tony Perkins
Subject: FW: Your voice message, re: PDC Case 14-006

Tony,

I understand from one of my colleagues that you agreed to extend his deadline until 12/31 since you will be out of the office over the holidays.

May I have the same extension?

Tom Albro
206.930.4004

From: "Albro, Thomas" <Albro.T@portseattle.org>
Date: Monday, December 16, 2013 3:31 PM
To: Tom Albro <tom.albro@nakesa.com>
Subject: Fwd: Your voice message, re: PDC Case 14-006

Sent from my iPad

Begin forwarded message:

From: "Albro, Thomas" <Albro.T@portseattle.org>
Date: December 16, 2013 at 3:31:24 PM PST
To: Tony Perkins <tony.perkins@pdc.wa.gov>
Subject: Re: Your voice message, re: PDC Case 14-006

Tony,

Thank you for providing me a little more time.

I will provide you my response by December 20th.

Best,

Tom

Sent from my iPad

On Dec 16, 2013, at 10:58 AM, "Tony Perkins" <tony.perkins@pdc.wa.gov> wrote:

Dear Mr. Albro,

Thank you for your voice message of this morning regarding PDC Case 14-006. I'm taking this opportunity to email in reply, with the hope that I might focus your response to the complaint. In corresponding with Isabel Safora, deputy general counsel to the Port of Seattle, PDC staff learned that the port began including all commissioners in its recorded greetings in 2013, rather than the commission president only. Ms. Safora also stated that the frequency of playback of the recorded commissioner greetings increased from 5 messages per hour to 12 messages per hour beginning on April 19, 2013, and from 12 messages per hour to 32 messages per hour on July 19, 2013. Ms. Safora stated that all of the changes described above were made at your request. In responding to the complaint, please confirm whether this is the case, and if so, explain the reason for the changes.


Finally, it will be acceptable to respond to the complaint by this Friday, December 20, 2013. Just let me know if you anticipate any additional delays.


Thank you for your attention to this. Please let me know if you have any questions.


Sincerely,

Tony Perkins

Lead Political Finance Specialist
Washington State Public Disclosure Commission

 (360) 586-1042

 (360) 753-1112

 tony.perkins@pdc.wa.gov

**BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON**

In the Matter of Enforcement Action
Against:

Stephanie Bowman

Respondent.

Case No. 15-034

STIPULATION AS TO FACTS

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Andrea McNamara Doyle, and Respondent Stephanie Bowman, submit this Stipulation as to Facts in this matter.

I. JURISDICTION

The Public Disclosure Commission has jurisdiction over this proceeding pursuant to RCW 42.17A, the state campaign finance disclosure law; RCW 34.05, the Administrative Procedure Act; and the Commission's rules located at WAC 390.

II. FACTS

Background

1. The Port of Seattle is a municipal corporation and special purpose district authorized under Title 53 RCW, the purpose of which is to create jobs by advancing trade and commerce, promoting industrial growth, and stimulating economic development. The port owns and operates Seattle-Tacoma International Airport ("Sea-Tac Airport"), marine terminals, Bell Harbor Conference Center, the World Trade Center, Fisherman's Terminal, recreational boating marinas and hundreds of acres of industrial land in King County.
2. Stephanie Bowman is a Port of Seattle Commissioner. Ms. Bowman was appointed to the port commission, Position 3, on April 23, 2013, and was officially sworn in as a

Commissioner on May 3, 2013. She filed a C-1 Candidate Registration on May 15, 2013, registering her 2013 campaign to seek election to her position.

3. Ms. Bowman was elected to the Port of Seattle Commission in the November 5, 2013 general election.

2013 Recorded Commissioner Greetings

4. On May 14, 2013, Commissioner Bowman arrived at Sea-Tac International Airport to attend a regularly scheduled Commission meeting. At 11:30 a.m., Commissioner Bowman was informed she would be taping a greeting for Sea-Tac International Airport along with Commissioner Albro, who was then serving as Commission President. Commissioner Bowman was provided a prepared script to read. When Commissioner Bowman asked about the purpose of the recording, she was told the greeting was intended to discuss the impact of the port on the region's employment and economy, pursuant to the port's mission of economic development, and that similar greetings had been recorded and playing at the airport for more than nine years (since 2004). She was told that in 2013, the recorded messages would include all five Commissioners.
5. Commissioner Bowman did not inquire with port officials concerning the port's history of including commissioners other than the Commission President in the recorded greetings, the length of greetings used in prior years, or the frequency of playback. She was not consulted nor informed about when the messages would air, in what frequency, or for what duration.
6. On May 16, 2013, a recorded message featuring the voices of Port of Seattle Commission President Tom Albro and Commissioner Bowman began playing along the Sea-Tac airport sky bridges. The message script promoted the port's impact on employment and the economy, as follows:

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Albro / Bowman (“with emphasis on small business opportunities”)

Tom: Hello, I’m Port of Seattle Commissioner Tom Albro

Stephanie: And I’m Commissioner Stephanie Bowman. The Port of Seattle supports over 200,000 jobs, directly and indirectly, in our region.

Tom: The Port also promotes small business growth and the development of a strong workforce as part of our Century Agenda.

Stephanie: This is important to accomplishing our vision of adding 100,000 new jobs here over the next 25 years.

Tom: More jobs, economic growth, led by the Port of Seattle.

7. The recorded messages from all five Commissioners ran 24 hours a day, seven days a week, from May to October of 2013. The messages played along the airport’s six sky bridges, and were heard in no other location. The messages were 20-30 seconds in duration, and were aired in rotation with directional messages recorded by port staff or by Northwest musicians.
8. As of May 16, 2013, when recordings with Mr. Albro and Ms. Bowman began airing in Sea-Tac airport, according to information provided by Port staff, the port played 12 messages per hour, with each commissioner pair running four times each hour. On July 19, 2013, the playback of commissioner messages increased to 32 messages per hour, with each commissioner pair running eight times each hour. Port Commission President Tom Albro requested the increase in frequency of playing the recorded messages. Commissioner Bowman was unaware that this increase in the frequency of playback had occurred until the PDC staff provided this information as part of its investigation.
9. On October 18, 2013, PDC staff contacted Craig Watson, General Counsel to the Port of Seattle, to inform him that the PDC had received a complaint from Andrew Pilloud, a candidate who had run against Commissioner Bowman in the 2013 primary election, regarding the recorded commissioner messages. Mr. Pilloud alleged the recorded messages assisted a candidate’s campaign in violation of RCW 42.17A.555, and also constituted a violation of RCW 42.17A.575 regarding Public Service Announcements. On October 21, 2013, Mr. Watson contacted PDC staff and stated that the recorded messages had been pulled

from the airport's sky bridges, at the direction of the Commissioners and consistent with the PDC's request, and would remain so until the matter was resolved with the PDC.

10. In a letter dated December 31, 2013, Ms. Bowman provided a response to PDC staff regarding this matter. Her response stated, in part, "*As a new Commissioner, I certainly would not have agreed to participate in recording a welcome message at the airport if I thought it in any way might violate Washington State election laws.*" Because the complaint by Mr. Pilloud alleged a violation related to her campaign, Ms. Bowman requested numerous times that the PDC staff contact her regarding this matter on her personal phone and email, and not contact her at via Port of Seattle phone or email.

Normal and Regular Conduct of the Port of Seattle

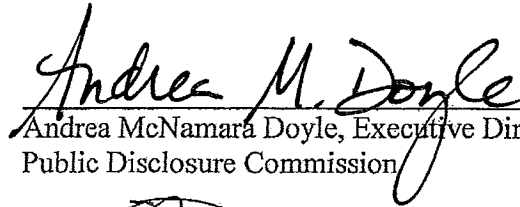
11. The Port of Seattle has aired recorded commissioner messages in Sea-Tac airport since at least 2004. The messages aired in 2013 were similar in substance to messages aired in prior years, in that they focused on the port's business, environment and trade initiatives. In 2013, all five Commissioners, who all serve at-large in King County, recorded messages in support of the port's economic development mission in support of the Port's recently released 25-year plan (the "Century Agenda"). The recorded messages played in prior years were on average half as long as the commissioner messages used in 2013, and included only the voice of the commission president. The messages aired in 2013 were longer, aired more frequently, and featured all five members of the port commission rather than only the commission president. These changes were brought about at the request of Port of Seattle Commission President Tom Albro.

12. Ms. Bowman has readily and fully cooperated with Commission staff during this investigation. She has stated that it was not her intent to inappropriately use public facilities to assist her campaign, and that she was never involved nor informed about any decisions related to frequency of messages played or any changes to message rotation.

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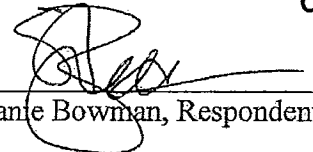
13. Ms. Bowman has no prior enforcement history before the Public Disclosure Commission related to the use of public facilities to assist a candidate's campaign.



Andrea McNamara Doyle, Executive Director
Public Disclosure Commission

10/22/14

Date Signed



Stephanie Bowman, Respondent

10/22/14

Date Signed

Comparable Past Violations and Penalties for PDC Case Nos. 14-006 (Tom Albro); 15-032 (John Creighton); 15-033 (Courtney Gregoire); and 15-034 (Stephanie Bowman)
(RCW 42.17.130 prior to January 1, 2012 and RCW 42.17A.555 beginning January 1, 2012)

Case #	Hearing	Respondent	Nature of Violation	Penalty	Inflation Adj (Rounded to nearest \$50)
2015-039	2014	Brian Skeahan	The Respondent stipulated to a violation of RCW 42.17A.555 for authorizing the use of Cowlitz PUD facilities for the purpose of assisting Mark McCrady's 2012 reelection campaign for Cowlitz PUD Commissioner, as discussed below.	\$500 with \$250 suspended for four years.	\$500/\$250 suspended
2013-022	2014	Mark McCrady	The Respondent stipulated to a violation of RCW 42.17A.555 for using and authorizing the use of Cowlitz PUD facilities (staff time, camera, vehicles, and other facilities) for a photo shoot that occurred in May of 2012 for the purpose of assisting his 2012 reelection campaign, and authorizing the use of Cowlitz PUD facilities to prepare a briefing document which he then used during an interview with the local newspaper editorial board the same day regarding his campaign. Although the briefing document was used by the Respondent, the photos were not used.	\$500 with \$250 suspended for four years.	\$500/\$250 suspended
2014-025	2014	Sharon Condrey	The Respondent stipulated to a violation of RCW 42.17.130 for using the email facilities of Spokane School District 81 to coordinate a contribution to a school levy committee. She stated that she believed she was acting at the direction of her supervisor, Lewis & Clark High School Principal Shawn Jordan. However, no evidence was found to charge Mr. Jordan with a violation related to the contribution.	First-time violation; no penalty.	NA
2011-006	2012	Shawn Bunney	Respondent stipulated to a single violation of RCW 42.17.130 for his use of Pierce County Council funds to design, produce and disseminate his July 2, 2010 County Council mailer to 22,000 registered voters in Pierce County Council District 1 at a time when he was running for State Representative.	\$1,700 with \$850 suspended	\$1,750/\$900 Suspended
2006-249	2006	Jim Wilson	Published September and October 2005 <i>Fireline News</i> that assisted candidate campaigns. September 2005 <i>Fireline News</i> - Featured SharonLee Nicholson, an incumbent commissioner who appeared on the general election ballot. Featured biographical information, community involvement, education, and personal accomplishments. Listed her goals as a Commissioner and successes of the Board. October 2005 <i>Fireline News</i> - Addressed issues raised during the campaign in a manner that defended actions of current board while Commissioners Nicholson and Scott Rice were candidates for re-election. Cost to district \$5,386.	\$1,000 with \$500 suspended for two years.	\$1,200/\$600 Suspended

Historical adjustments in Commission's civil penalty authority:
 2011 - \$10,000 max (single or multiple violations)
 2006 - \$1,700/violation, up to max of \$4,200
 1985 - \$1,000/violation, up to max of \$2,500
 1976 - \$250/violation, up to max of \$500