

Executive Summary and Staff Analysis

Cindy Larsen, PDC Case 6928

(Two Public Complaints and 45-Day Citizen Action Complaint)

This summary highlights staff's findings, conclusions, and recommendations regarding the allegations contained in PDC Case 6928, Cindy Larsen. Staff's investigation followed a public complaint against Ms. Larsen filed with the Public Disclosure Commission on July 25, 2016 by Beth Lucas, a second complaint filed with the PDC on August 4, 2016 by Melissa Day, and a 45-Day Citizen Action Notice complaint filed with the Washington State Attorney General and Snohomish County Prosecutor on August 21, 2016 by Robert Schiffner.

Background

PDC staff notified Ms. Larsen of the complaint from Beth Lucas on July 25, 2016, and sought a preliminary response. Staff notified Ms. Larsen of the complaint from Melissa Day on August 9, 2016, and informed her that staff's review of the matter was now a formal investigation. On August 23, 2016, staff contacted Ms. Larsen's counsel Greg Wong of Pacifica Law Group, and informed him that the PDC had received a copy of the Citizen Action Notice filed by Robert Schiffner under RCW 42.17A.765(4). Staff informed Mr. Wong that we would attempt to complete our investigation of the complaints within the notice periods provided under the law.

Allegations

In their complaints, Ms. Lucas and Ms. Day alleged that the political committee A Safer Snohomish County sponsored a mailing to promote Snohomish County Proposition 1 in the August 4, 2016 primary election, and that this mailing assisted the campaign of Cindy Larsen for Snohomish County Superior Court Judge by identifying Ms. Larsen by name and through two photographs. The complainants alleged that Ms. Larsen failed to disclose A Safer Snohomish County's expenditures as in-kind contributions to her campaign, an alleged violation of RCW 42.17A.240. Mr. Schiffner's Citizen Action Notice attached a copy of Melissa Day's public complaint filed with the PDC. The Notice stated, *"This e-mail serves as notification to the Attorney General's Office and Snohomish County Prosecuting Attorney's Office that there is reason to believe a provision of RCW 42.17A has been violated by Cindy Larsen in her campaign for Snohomish County Superior Court Judge."*

Investigative Findings and Conclusion

Based on the factors identified in the investigation, staff found and concluded as follows:

In July of 2016, the political committee A Safer Snohomish County sponsored \$53,924.74 in expenditures for a mailing that promoted Snohomish County Proposition 1. The mailing included two photographs of Cindy Larsen, one of which was the largest photo in the advertisement, and a quote attributed to Ms. Larsen, identifying her by name. The mailing was presented to Snohomish County residents on July 13, 2016. Staff believes that the A Safer Snohomish County mailing constituted an electioneering communication under RCW 42.17A.005(19) because it was 1) a United States postal

service mailing that 2) clearly identified Cindy Larsen, a candidate for Snohomish County Superior Court Judge, including by specifically naming Ms. Larsen, 3) was mailed in Snohomish County within sixty days before Ms. Larsen's August 4, 2016 primary election, and 4) had a value of \$1,000 or more.

Because Ms. Larsen participated in the photo shoot for Proposition 1 and in pre-production review of the mailing's content, it appears that the mailing was an expenditure conducted in cooperation, consultation, concert, or collaboration with a candidate. Accordingly, staff believes the mailing constituted a "contribution" to Ms. Larsen, as that term is defined by RCW 42.17A.005(13)(a)(ii) and WAC 390-05-210(3). Additionally, as an electioneering communication conducted in cooperation, consultation, or concert with a candidate, staff believes the mailing constituted a contribution under RCW 42.17A.310.

Brooke Davis, Ms. Larsen's professional campaign manager and a registered officer of her campaign committee through July 31, 2016, was also a paid political consultant to A Safer Snohomish County. In that role, she was the person with primary responsibility for managing production of the mailing that identified Ms. Larsen by name and photograph. Due to Ms. Davis' role in managing production of the mailing, staff believes that related expenditures by A Safer Snohomish County were made in consultation with or with the assistance of a person who had been an officer of Cindy Larsen's authorized committee during the twelve months preceding the expenditure, and thus constituted a contribution under WAC 390-05-210(3)(c). Finally, to the extent that the Larsen campaign's outstanding debts to Brooke Davis during July of 2016 constituted "compensation," staff believes that the Proposition 1 mailing represented a contribution under WAC 390-05-210(3)(d), as an expenditure made in consultation with a person who, during the twelve months preceding the expenditure, had been receiving campaign-related compensation from a candidate or the candidate's authorized committee.

Staff has concluded that Cindy Larsen failed to disclose expenditures by A Safer Snohomish County for the committee's mailing as in-kind contributions in her PDC filings, an apparent violation of RCW 42.17A.240. Additionally, staff believes the committee's expenditures for an electioneering communication contribution to Ms. Larsen exceeded the \$2,000 primary election contribution limit for judicial races. Staff believes that by accepting an over limit contribution, Ms. Larsen committed an apparent violation of RCW 42.17A.410.

Recommendation

Cindy Larsen, her campaign manager Brooke Davis, and officers and agents of A Safer Snohomish County offered consistent testimony that expenditures by A Safer Snohomish County were not conducted for the purpose of assisting or promoting Ms. Larsen's 2016 candidacy for Superior Court Judge. Ms. Larsen testified further that the committee's expenditures did not have the effect of assisting her campaign. Nevertheless, PDC staff recommends that the Commission find, as a matter of law, that the committee's expenditures constituted electioneering communications and in-kind

contributions that Ms. Larsen failed to disclose as required under RCW 42.17A.240, and that additionally exceeded Ms. Larsen's contribution limits under RCW 42.17A.410. Staff recommends that the Commission find apparent violations of those sections of law, and recommend to the Washington Attorney General that that office take appropriate action concerning the apparent violations.

Staff notes that in his August 21, 2016 Citizen Action Notice, Robert Schiffner did not notify the Washington State Attorney General and Snohomish County Prosecutor of an intent to sue any person other than Cindy Larsen. If the commission accepts staff's recommendation and finds apparent violations of RCW 42.17A.240 and RCW 42.17A.410 by Ms. Larsen, this finding may point to possible violations by A Safer Snohomish County for making contributions which exceeded the limits of RCW 42.17A.410. In that case, the Commission may wish to direct staff to open a separate case for the political committee, and schedule an adjudicative proceeding or report to the Commission for a future meeting.