



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In the Matter of Enforcement Action
Against

Kevin Hulten

Respondent.

PDC Case No. 13-031

Notice of Administrative Charges

I. JURISDICTION

1. The Public Disclosure Commission (PDC) has jurisdiction over this proceeding pursuant to RCW 42.17A, the campaign disclosure and contribution law; 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. PDC staff alleges that Kevin Hulten, an Executive Analyst in the Snohomish County Executive's Office in 2011 and 2012, violated RCW 42.17A.555¹ by using his Snohomish County laptop and desktop computers, telephone, telephone number, email address and work time: (1) for the purpose of assisting Aaron Reardon's 2011 re-election campaign by compiling information and conducting opposition research of Mike Hope for Snohomish County Executive in 2011; and (2) for the purpose of assisting John "Jack" Connelly's 2012 election campaign for State Senator in

¹ Effective January 1, 2012, RCW 42.17.130 was re-codified as RCW 42.17A.555. Alleged use of facilities of a public office or agency on or after January 1, 2012 are therefore governed under RCW 42.17A.

the 27th Legislative District by compiling information and conducting research in opposition of Jeannie Darneille.

III. FACTS

3. On May 1, 2008, Aaron Reardon filed a Candidate Registration (C-1 report) declaring his candidacy for re-election to the office of Snohomish County Executive in 2011.
4. On December 6, 2010, Mike Hope, an incumbent State Representative from the 44th Legislative District, filed a C-1 report declaring his candidacy for Snohomish County Executive in 2011. Representative Hope was a Detective in the Seattle Police Department during the 2011 election cycle.
5. Executive Reardon hired Kevin Hulten in January 2011 to fill an Executive Analyst position in the Snohomish County Executive's Office. His official duties included, but were not limited to, researching and analyzing well defined issues and problems confronting the county, developing findings from that research and reporting those findings to Aaron Reardon and the Snohomish County Council. His duties also included assisting with Executive Office lobbying efforts and responding to constituent concerns.
6. From July of 2007 through January of 2011, the Executive Analyst position was held by Amy Ockerlander. Ms. Ockerlander stated in an interview with the Washington State Patrol (WSP) during an investigation of Aaron Reardon, that Gary Haakenson, former Deputy Executive for Snohomish County brought her into his office in late December of 2010, and informed her she no longer had a position in the Snohomish County Executive's Office. She stated "...that they had hired Kevin Hulten as my replacement" and she was transferred to Snohomish County Surface Water Management Division.
7. Mr. Haakenson, Mr. Hulten's direct supervisor, stated that Mr. Hulten had been hired outside of the normal hiring practices by Aaron Reardon, and he was not aware of the work being conducted by Mr. Hulten. He stated to PDC staff that he had no real control over Mr. Hulten and that whenever he questioned Mr. Hulten about where he was and what he was doing, Mr. Hulten would go directly to Mr. Reardon and complain that he was being "micromanaged."

8. On three separate occasions, Mr. Hulten made telephone calls to the PDC from a Snohomish County Executive's Office telephone number during regular business hours. PDC staff member Tony Perkins' telephone logs indicated that Mr. Hulten contacted him on: (a) March 10, 2011 to discuss the use of police uniforms by public employees in political advertisements; (b) March 31, 2011 to ask about lobbying groups started by state officials and lobbying activities involving State Legislators; and (c) April 7, 2011 to discuss activities being undertaken by a social welfare organization that Mr. Hulten alleged was operating as unregistered political committee controlled by a candidate. Mr. Perkins' telephone logs indicated that Mr. Hulten used the name Kyle Hulten, his brother, when talking with him on the three dates listed above.
9. During the period April 19 through May 2, 2011, Mr. Hulten made six telephone calls to Colby Underwood, a campaign consultant and fundraiser for the 2011 Aaron Reardon Campaign. These calls were billed to Mr. Hulten's Snohomish County work telephone number, and were all made to Mr. Underwood at his work telephone number, during the work week, and occurred between 8:00 am and 5:00 pm.
10. There were a number of documents on Mr. Hulten's Snohomish County issued laptop computer that were saved under a "Dropbox" account, which is a cloud-based storage service for documents that allows the user to store files and documents on the Internet and access them from any computer with Internet connectivity and protected by password and encryption.
11. A number of the documents under the "Dropbox" were in opposition of Mike Hope, and in support of Aaron Reardon, and none of the documents were related to any official Snohomish County Executive Office business. A review of the document properties indicates that the majority of the documents were either created, accessed, modified and/or stored by Mr. Hulten on his Snohomish County laptop computer during the work day (8:00 am to 5:00 pm timeframe). The campaign-related documents in the "Dropbox" included the following:
 - Several documents concerning Mike Hope, 100 Ideas WA², and numerous versions of draft complaint letters to be filed against Mr. Hope that were addressed to the PDC, the

² 100 Ideas was a national campaign to solicit citizen input and ideas to present to the all branches of government on a variety of topics. 100 Ideas WA was created by Mike Hope in 2011.

Attorney General's Office, the Snohomish County Prosecutor, and the Washington State Legislative Ethics Board.

- A number of documents related to or referenced public records requests concerning Mike Hope that were made to the SPD and the Mill Creek Police Department.
- A folder entitled "Opposition Research Master File" that contained seven subfolders of documents which included a 100 IdeasWA file; background checks for Mike and Sarah Hope; SPD Discipline and Internal Investigations for Mike Hope; Mike Hope Policy Statements; Mike Hope voting records; and printouts of Mike Hope PDC contribution and expenditure information from the PDC database.
- A number of copies of HeraldNet articles concerning Mike Hope; copies of Mike Hope for Snohomish County Executive Wall and Facebook pages; three .jpeg copies of documents concerning SPD records requests for Mike Hope; screenshots of Mike Hope in SPD police uniform; and documents concerning Mike Hope wearing an SPD uniform in political ads that included a 172-page .pdf concerning an investigation conducted by the Office of Professional Accountability (OPA) concerning Mr. Hope appearing in uniform while promoting WA state legislation.
- A subfolder entitled "John Chambers" which contained draft documents created and saved by Mr. Hulten that included: (a) public records requests filed with the Seattle Police Department (SPD) by John Chambers for documents related to SPD Detective Mike Hope; (b) copies of the SPD's production of documents to Mr. Chambers concerning Mike Hope; (c) a September 28, 2011, letter from Attorney Adam Matherly addressed to "To Whom it May Concern" indicating his representation of John Chambers in the Mike Hope public records request.³

12. In late September and early October of 2011, Mr. Hulten made two telephone calls using his Snohomish County work land-line telephone to call the Law Offices of Adam Matherly: a one-

³ A September 29, 2011, article in the Everett Herald discussed that a complaint had been filed with the PDC by John Chambers against Mike Hope, and the article mentioned that a local attorney, Adam Matherly, was representing Mr. Chambers in that matter.

hour and four minute telephone call made on September 27, 2011; and a one-hour and six minute telephone call made on October 4, 2011.

13. In May of 2012, Mr. Hulten and Jon Rudicil, a fellow Snohomish County Executive employee, created Thomas and French, LLC. A number of documents in the “Dropbox” reference work conducted by Thomas and French, LLC concerning the 2012 State Senate race in the 27th Legislative District involving Senator Jeannie Darneille and her opponent John “Jack” Connelly.
14. The documents in the “Dropbox” include a May 24, 2012 Thomas and French, LLC invoice that was billed to TR Strategies, and its principal Terry Thompson.⁴ TR Strategies was the primary consultant for the Connelly campaign. That invoice, and an accompanying Word document, each outline the work performed by Thomas and French, LLC during the period of May 1 through May 23, 2012, for opposition research conducted against Senator Darneille. Documents in the “Dropbox” relating to such opposition research include: online background checks; Legislative bill research; a draft document entitled “anti-Darneille hit piece” drafted by Mr. Hulten; information about Senator Darneille’s primary contributors and supporters; and a document discussing issues which Senator Darneille was potentially vulnerable to criticism. A review of the document properties for the invoice and opposition research documents indicates that the majority of the documents were created, accessed, modified and/or stored by Mr. Hulten on his Snohomish County laptop computer during the work day (8:00 am to 5:00 pm timeframe).

IV. LAW AND REGULATION

RCW 42.17A.555 prohibits elected officials, their employees, and persons appointed to or employed by a public office or agency from using or authorizing the use of public facilities, directly or indirectly, for the purpose of assisting a candidate’s campaign or for the promotion of, or opposition to, any ballot proposition. This prohibition does not apply to activities that are part of the normal and regular conduct of the office or agency.

⁴ Mr. Thompson was Mr. Reardon’s primary campaign consultant for his 2011 re-election efforts.

WAC 390-05-273 states, in part: “Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW 42.17.555 means 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 2nd day of December, 2015.


Evelyn Fielding Lopez
Executive Director