

November 20, 2018

VIA CERTIFIED MAIL

Washington Public Disclosure Commission  
Att'n: Mx. Fox Blackhorn, Compliance Coordinator  
711 Capital Way  
Room 206  
Olympia, Washington 98504-0908

RECEIVED

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PUBLIC DISCLOSURE COMMISSION

Re: Case Number 42958

Dear Mx. Blackhorn:

I write on behalf of Washington Conservation Voters Action Fund (WCVAF), a Washington State political action committee, to respond to the Complaint filed against WCVAF by Bret Ulrich with the Commission on November 6, 2018. WCVAF respectfully requests that the Complaint be dismissed because the PAC's text messages did not violate RCW 42.17A.320. WCVAF complied with the requirements of this section, as interpreted by the Washington Public Disclosure Commission (PDC) in both its regulations and the text-message sponsor-ID guidance published on its website. See "Sponsor ID for text messages," October 13, 2018, available at <https://www.pdc.wa.gov/learn/news/sponsor-id-text-messages>.

The facts in this matter are not in dispute. On November 6, 2018, a WCVAF staff member, Fiona Sheehan, lawfully sent a text message to the cellphone number it believed belonged to Washington voter Yvonne Uhrich. The message stated:

*Hi Yvonne! This is Fiona with Washington Conservation Voters. The last day to vote is TODAY and we have the chance to elect Public Utility District (PUD) Commissioners, Mary Rollins and Rebecca Wolfe (<http://bit.ly/SnohoPUD>) who will advocate for keeping utility rates low and prioritizing clean energy sources. Will you join me in voting for Mary and Rebecca for PUD by getting your ballot in a dropbox or postmarked by 8pm?*

Included in the parenthetical within this text message was the URL of, and a link to, a webpage that provides the following sponsor identification information:

Paid for by Washington Conservation Voters Action Fund, PO Box 1907, Seattle, WA 98111 as an in-kind contribution to Wolfe for Good Energy PUD, PO BOX 3238, Edmonds, WA 98020 and PUD Commissioner, PO BOX 532, Everett, WA 98206.

Mr. Ulrich sent the following response to her text message:

*(1) I'm Not Yvonne; (2) I don't live in Snohomish County; (3) fuck off for sending me unsolicited campaign texts; (4) enjoy your PDC complaint for violation of RCW 42.17A.320(1).*

The staffer apologized and replied that she would take action to prevent others at the organization from contacting this number:

*Sorry about that. I'll make a note that this is a wrong number. Your number is public information on your voter file and we are reaching out to likely voters. I'm opting you out now, have a great day!*

Mr. Uhrich's response to this reply was as follows:

*Too late. I know I can't stop these texts, but I can make sure you are required to following electioneering communication laws to the T to make them less effective. I will also do everything to make sure there is a political cost to campaigns and PACs who send unsolicited campaign texts.*

No further texts were exchanged.

WCVAF acted in good faith, and in reliance on published guidance of the PDC, to comply with the requirements of RCW Section 42.17A.320. The PDC has acknowledged that including a full sponsor identification in a text message is "impractical." The PDC provided guidance on October 13, 2018 regarding sponsor ID for text messages. This guidance states that a text message is an online transmission method, and that PDC staff has "advised political committees that text messages are eligible to use the small online ad alternative outlined in WAC 390-18-030..." WAC 390-18-030(3)(b) provides:

*"Online political advertising must provide the same disclosures that apply to non-online advertising to the extent practical. As an alternative, small online advertising may provide the required disclosures by using an automatic display with the advertising that takes the reader directly to the required disclosures.... (b) Examples include...a...link that automatically appears with or in the advertising that automatically takes the reader directly to the required disclosures upon being clicked once..." (emphasis added)*

WCVAF's text message followed the PDC's requirements "to the T" by providing a link that takes the reader to the disclosures upon one click. The link provided within the text message sent by WCVAF also spells out the website address, in case the receiving phone is unable to follow the link. The page to which it links includes a full sponsor identification that satisfies the requirements of 42.17A.320, as interpreted by the PDC.<sup>1</sup>

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<sup>1</sup> To require the sponsorship information in the body of the text would be impractical. Text messages are brief communications typically read on a small phone screen. The initial text message here consisted of 426 characters. The sponsorship identification information provided at the link within the text consisted of 228 characters. Because

The text message complies with the requirements of the statute and regulations, as interpreted by the PDC. We request that the PDC dismiss the Complaint filed by Mr. Uhrich and make a determination that WCVAF complied with applicable provisions of state law. If you have any questions, or to request additional information, please contact WCVAF Political Director Lennon Bronsema at 206-374-0760.

Sincerely,



Shannon Murphy  
President  
Washington Conservation Voters Action Fund

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the text message was an in-kind contribution, the sponsor ID included the name and address of the two campaign committees that received the contribution as well as the name and address of WCVAF.