



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

403 Evergreen Plaza, Mail Stop Fj-42 • Olympia, Washington 98504-3342 • (206) 753-1111

DECLARATORY RULING NO. 6

RECALL PETITION IS BALLOT PROPOSITION WHEN INITIALLY FILED (RCW 42.17.020(2)): The reporting requirements of chapter 42.17 RCW begin as soon as supporters of a recall election file a petition with the election officer under RCW 29.82.010 (August 22, 1989).

Stephen Kenyon, Attorney at Law
Erickson & Barkshire
10801 Main Street, Suite 204
Bellevue, WA 98004

Dear Mr. Kenyon:

You petitioned, on behalf of John and Valerie Gower, for a declaratory ruling regarding the application of the state Public Disclosure Law, chapter 42.17 RCW, to their current effort to recall certain elected officials of the Normandy Park City Council. In particular, you have asked when a recall petition becomes a "ballot proposition" thereby initiating the periodic campaign reports required under the Public Disclosure Act. We have agreed to issue this binding declaratory ruling. Your request concerns the interpretation of RCW 42.17.020(2), which provides

"Ballot proposition" means any . . . recall . . . proposed to be submitted to the voters of . . . any municipal corporation . . . from and after the time when the proposition has been initially filed with the appropriate election officers of that constituency prior to its circulation for signatures.

BACKGROUND

Your clients have initiated a recall action in King County which, if successful, would be submitted to the voters of the

City of Normandy Park. You have expressed doubt regarding the application of the reporting requirements of the Public Disclosure Act until such time as the courts have completed their review of the recall charges. You have pointed out that due to amendments of the statutes in 1984, "recall is now very much a judicial process." Every recall petition must now be submitted to the superior court for a determination as to whether the proposed recall charges are legally sufficient. RCW 29.82.020. You have also noted that recent decisions of the supreme court have made it more difficult to obtain judicial approval of recall charges. Estey v. Dempsey, 104 Wn.2d 597 707 P.2d 1338 (1985); Teaford v. Howard, 104 Wn.2d 580 707 P.2d 1327 (1985); Chandler v. Otto, 103 Wn.2d 268, 693 P.2d 71 (1984).

The election laws were amended in 1984. Laws of 1984, chapter 170. Under the amended statute, those seeking a recall must initially draft charges against an elected public official which allege acts of misfeasance, malfeasance or violation of the oath of office. RCW 29.82.010. The recall charges are then filed with the appropriate election's officer. RCW 29.82.015. The election's officer then directs the charges to that person charged with preparing the ballot synopsis. RCW 29.82.021. Upon preparation of the ballot synopsis, the recall charges and synopsis are directed to the superior court which must then review the charges and synopsis for their legal sufficiency. A direct appeal to the supreme court is available for those wishing to appeal the sufficiency decision. RCW 29.82.023.

Your clients initially prepared the charges and the King County Superior Court has declared those charges not legally sufficient. At the time of your request, the matter was on appeal to the Supreme Court.

Finally, we note that you have represented that your clients have not solicited funds to support this effort, rather they have used their own funds to pay the costs associated with preparing the recall charges and legal fees and costs associated with the judicial review of those charges.

ANALYSIS

The question before us is determining when a recall action becomes a "ballot proposition" under the statute quoted above. When the Legislature amended the recall statutes in 1984, it did not amend the statutory definition in the Public Disclosure Act. You argue that the 1984 amendment should be read together with

the Public Disclosure Act definition. You argue that the disclosure of expenditures which consist entirely of legal fees is premature because no political campaign would begin until the initial judicial process was complete and the recall charges would be placed on the ballot.

We cannot agree. The law is clear. A recall action becomes a "ballot proposition" under RCW 42.17.020(2) "from and after the time when the proposition has been initially filed with the appropriate election officer." Following the initial filing there may be a lengthy process of judicial review and it may be true that during that initial review process, one would not expect to see any political campaigning in the traditional sense; that is, rather than expending money upon advertising, signs, consultants, etc. during this initial process, the supporters of a recall would be most likely to expend monies only for legal fees. Arguably, disclosing expenditures for legal fees is of little public interest. However, the reports would also show the source of the monies used to pay those fees.

The basic purpose of the Public Disclosure Act is to permit interested citizens to ascertain the source and amount of financial support provided to support or oppose candidates or ballot issues. We have previously noted that the disclosure of the early money in a campaign may be the most significant and important because it provides insight into those persons and interests who most strongly support a particular position. Declaratory Ruling No. 3, copy enclosed. For whatever reason, the Legislature chose not to amend the Public Disclosure Act and it is the existing language of RCW 42.17.020(2) which this Commission is charged with enforcing.

Whatever arguments can be generated regarding the reasonableness of reporting legal fees, we do not see any room for interpretation. We therefore conclude that when your clients filed the recall charges with the King County Records and Election Division, the matter became a ballot proposition and the reporting requirements of the act applied thereafter.

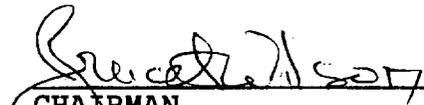
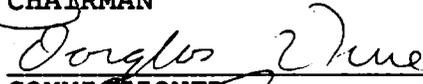
You have represented that your clients have only expended their personal funds and have not solicited money from other sources. However, we do not feel that we have sufficient information to determine whether your clients have now or will become a "political committee" under RCW 42.17.010(24). We do note, however, that if there is no obligation to file monthly reports as a political committee under RCW 42.17.090, the statute

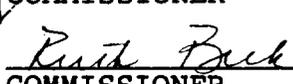
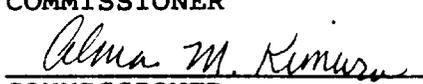
Declaratory Ruling: 3

does require reports of independent campaign expenditures under RCW 42.17.100.

Because we have agreed that no enforcement action would be taken in this matter until after this Declaratory Ruling had been issued, no reports have been filed to date. Given our decision, we will not initiate enforcement action until 30 days after your receipt of this decision so as to allow your clients sufficient time to seek judicial review of this decision if they so desire.

This written, binding Declaratory Ruling was adopted at the regular commission meeting in Olympia on August 22, 1989.


CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

Attest:


Executive Director
TITLE

 <p>PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 Toll Free 1-877-601-2828</p>	<h1>Political Committee Registration</h1>	<h1>C1PC</h1> <p>(1/2008)</p>	100386463 10-21-2010
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Committee Name (Show entire official name.) RECALL DALE WASHAM	Acronym: RDW
	Telephone: 253-905-2451

Mailing Address 412 2ND ST NW	Fax:
City: PUYALLUP County: PIERCE Zip + 4: 98371	E-mail: ROBIN@RECALLDALEWASHAM.ORG

NEW OR AMENDED REGISTRATION? <input checked="" type="checkbox"/> NEW. Complete entire form. <input type="checkbox"/> AMENDS previous report. Complete entire form.	COMMITTEE STATUS <input type="checkbox"/> Continuing (On-going; not established in anticipation of any particular campaign election.) <input checked="" type="checkbox"/> <u>2010</u> election year only. Date of general or special election: <u>02/09/2010</u> (Year)
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1. What is the purpose or description of the committee?
 Bona Fide Political Party Committee - official state or county central committee or legislative district committee. If you are not supporting the entire party ticket, attach a list of the names of the candidates you support.

<input checked="" type="checkbox"/> Ballot Committee - Initiative, Bond, Levy, Recall, etc. Name or description of ballot measure: RECALL	Ballot Number: <u>?</u> FOR <input checked="" type="checkbox"/> AGAINST <input type="checkbox"/>
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Other Political Committee - PAC, caucus committee, political club, etc. If committee is related or affiliated with a business, association, union or similar entity, specify name:

For single election-year only committees (not continuing committees): Is the committee supporting or opposing
 (a) one or more candidates? Yes No If yes, attach a list of each candidate's name, office sought and political party affiliation.
 (b) the entire ticket of a political party? Yes No If yes, identify the party:

2. Related or affiliated committees. List name, address and relationship. Continued on attached sheet.

3. How much do you plan to spend during this entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. (If your committee status is continuing, estimate spending on a calendar year basis.)
If no box is checked you are obligated to use Full Reporting. See instruction manuals for information about reports required and changing reporting options.

<input checked="" type="checkbox"/> MINI REPORTING Mini Reporting is selected. No more than \$5,000 will be raised or spent <u>and</u> no more than \$500 in the aggregate will be accepted from any one contributor.	<input type="checkbox"/> FULL REPORTING Full Reporting is selected. The frequent, detailed campaign reports mandated by law will be filed as required.
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4. Campaign Manager's or Media Contact's Name and Address ROBIN J FARRIS 412 2ND ST NW, PUYALLUP WA 98371	Telephone Number: 253-905-2451
---	--

5. Treasurer's Name and Address. Does treasurer perform <u>only</u> ministerial functions? Yes ___ No <u>X</u> . See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet. <input type="checkbox"/> Continued on attached sheet. ROBIN J FARRIS 412 2ND ST NW, PUYALLUP WA 98371	Daytime Telephone Number: 253-905-2451
--	--

6. Persons who perform only ministerial functions on behalf of this committee and on behalf of candidates or other political committees. List name, title, and address of these persons. See WAC 390-05-243 and next page for details. Continued on attached sheet.

7. Committee Officers and other persons who authorize expenditures or make decisions for committee. List name, title, and address. See next page for definition of "officer." Continued on attached sheet.

8. Campaign Bank or Depository ?	Branch ?	City ?
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9. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address.
Street Address, Room Number, City where campaign books will be available for inspection
412 2ND ST NW, PUYALLUP
 In order to make an appointment, contact the campaign at (telephone, fax, e-mail) **253-905-2451 ROBIN@RECALLDALEWASHAM.ORG**

10. Eligibility to Give to State Office Candidates: During the 180 days prior to making a contribution to a state office candidate, your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State. <input checked="" type="checkbox"/> A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to state office candidates (legislative and statewide executive candidates).	11. Signature and Certification. I certify that this statement is true, complete and correct to the best of my knowledge. <table style="width:100%;"> <tr> <td style="text-align: center;">Committee Treasurer's Signature ROBIN J FARRIS</td> <td style="text-align: right;">Date 10-21-2010</td> </tr> </table>	Committee Treasurer's Signature ROBIN J FARRIS	Date 10-21-2010
Committee Treasurer's Signature ROBIN J FARRIS	Date 10-21-2010		

PDC Interpretation

APPROVAL DATE:	June 25, 1991	NUMBER:	91-02
STATUS:	New	SUPERSEDES:	None
REFERENCES:	RCW 42.17.090	APPROVED BY:	The Commission

SEE ALSO:

Legal Fees Related to Placing, or Not Placing, a Proposition on the Ballot

Statement #1

Expenditures made by a person or political committee to place a measure on a ballot, to influence the wording of a ballot title or to require that a government agency place a measure on the ballot are campaign expenditures reportable under RCW 42.17.

Statement #2

Expenditures made by a government agency to defend its official actions related to whether or not a measure should be placed on a ballot or to the wording of a ballot title are not reportable as campaign expenditures.

Discussion: The proponents of a proposed ballot measure are clearly acting to support or advance that measure when they take an action to require that it be placed before the voters. It is also in their interest to have the measure stated in terms most favorable to them. The proponents, therefore, have discretion in the action they take regarding the issue. They are also not closely bound by law in the range of actions they may take.

The government agency, on the other hand, is closely regulated by law in its actions regarding measures that are presented to it. It first of all is expected to remain neutral in its approach to ballot proposals. The way in which a measure is processed is specified and the government is given little leeway in its actions. If a government agency takes an official action (e.g. to write a ballot title or to refuse to place a measure on a ballot) it must be assumed that the agency is acting in good faith. If the government action is challenged, the agency then has little or no discretion in whether to defend its action. Thus, while the agency's act may serve the ultimate end of opposing a ballot proposal, since the agency lacks discretion in the situation, it has not made a campaign expenditure as envisioned by RCW 42.17.

[PDC Home Page](#) [Email Us](#) [Back](#)

PDC Exhibit # 3
Page 1 of 1

RECEIVED

JAN 10 2011

Public Disclosure Commission

DATE FILED PDC

JAN -6 2011

Public Disclosure Commission
711 Capitol Way, Rm 206
PO Box 40908
Olympia, WA 98504-0908

Committee to Recall Dale Washam
1002 North Meridian
Suit 100, Box 119
Puyallup, WA 98371

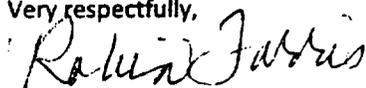
January 5, 2011

Subj: Change from Mini Reporting to Full Reporting

The Recall Dale Washam campaign is requesting to change from mini-reporting to full reporting. I chose mini-reporting because it is very difficult to recall elected officials in Washington State. On December 22, 2010 we were successful in the Superior Court hearing, which means we will be able to gather signatures once the appeal process is over.

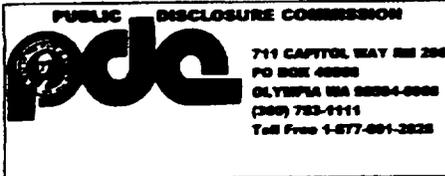
I have retained Colleen Morse, PDC Compliance Agent to help me. I hope that you will consider and approve my change from mini-reporting to full-reporting for this important cause.

Very respectfully,



ROBIN FARRIS

Recall Dale Washam Committee Chair



Political Committee Registration

C1pc
(11/10)

DATE FILED PDC
JAN - 6 2011

Committee Name (Show entire official name.)
Recall Dale Washam

Acronym: **recadw 371**

Telephone: **(253) 905-2451**

Mailing Address
1002 North Meridian, Suite 100 Box 119

Fax: **(866) 908-6940**

City Puyallup County Pierce 98371-4409

E-mail: **robin@recalldalewasham.org**

NEW OR AMENDED REGISTRATION?
 NEW. Complete entire form.
 AMENDS previous report. Complete entire form.

COMMITTEE STATUS
 Continuing (On-going; not established in anticipation of any particular campaign election.)
 2011 election year only. Date of general or special election: Aug or Nov (Year)

1. What is the purpose or description of the committee?
 Bona Fide Political Party Committee - official state or county central committee or legislative district committee. If you are not supporting the entire party ticket, attach a list of the names of the candidates you support.

Ballot Committee - Initiative, Bond, Levy, Recall, etc. Name or description of ballot measure: **Recall Pierce County Assessor Treasurer, Mr. Dale Washam**

Ballot Number	FOR	AGAINST
UNK	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Other Political Committee - PAC, caucus committee, political club, etc. If committee is related or affiliated with a business, association, union or similar entity, specify name:

For single election-year only committees (not continuing committees): Is the committee supporting or opposing
 (a) one or more candidates? Yes No If yes, attach a list of each candidate's name, office sought and political party affiliation.
 (b) the entire ticket of a political party? Yes No If yes, identify the party:

2. Related or affiliated committees. List name, address and relationship.
None Continued on attached sheet.

3. How much do you plan to spend during this entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. (If your committee status is continuing, estimate spending on a calendar year basis.)
 If no box is checked you are obligated to use Full Reporting. See instruction manuals for information about reports required and changing reporting options.

MINI REPORTING
 Mini Reporting is selected. No more than \$5,000 will be raised or spent and no more than \$500 in the aggregate will be accepted from any one contributor.

FULL REPORTING
 Full Reporting is selected. The frequent, detailed campaign reports mandated by law will be filed as required.

4. Campaign Manager's or Media Contact's Name and Address
Robin Farris 412 2nd St NW, Puyallup, WA 98371

Telephone Number:
(253) 905-2451

5. Treasurer's Name and Address. Does treasurer perform only ministerial functions? Yes x No . See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet. Continued on attached sheet.

Leanna Schletzbaum, 7611 47th Ave E., Tacoma, WA, 98443

Daytime Telephone Number:
(253) 905-2172

6. Persons who perform only ministerial functions on behalf of this committee and on behalf of candidates or other political committees. List name, title, and address of these persons. See WAC 390-05-243 and next page for details. Continued on attached sheet.

Colleen Morse, PDC Compliance Agent, 909 H St., Centralia, WA 98531

7. Committee Officers and other persons who authorize expenditures or make decisions for committee. List name, title, and address. See next page for definition of "officer." Continued on attached sheet.

Robin Farris, Chair, 412 2nd St NW, Puyallup, WA 98371

8. Campaign Bank or Depository Columbia Bank	Branch Canyon Road	City Puyallup
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9. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address.

Street Address, Room Number, City where campaign books will be available for inspection
7611 47th Ave E, Tacoma, WA 98443

In order to make an appointment, contact the campaign at (telephone, fax, e-mail): **(253) 905-2172**

10. Eligibility to Give to State Office Candidates: During the 180 days prior to making a contribution to a state office candidate, your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.
 A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to state office candidates (legislative and statewide executive candidates).

11. Signature and Certification. I certify that this statement is true, complete and correct to the best of my knowledge.

Committee Treasurer's Signature **Leanna Schletzbaum** Date **01/05/11**

**SUMMARY, FULL REPORT
 RECEIPTS AND
 EXPENDITURES**

C4
(3/97)

PDC OFFICE USE
 100397466
 AMENDS
 100397447
 01-12-2011

Candidate or Committee Name (Do not abbreviate. Include full name)
 Committee to Recall Dale Washam

Mailing Address
 412 2nd St. NW

City
 Puyallup, WA

Zip + 4 98371	Office Sought (Candidates)	Election Date 2011
Report Period Covered 12/01/10	To (end of period) 12/31/10	Final Report? Yes No X

***For PACs, Parties & Caucus Committees:** During this report period, did the committee make an **independent expenditure** (i.e., an expense not considered a contribution supporting or opposing a state or local candidate?)

RECEIPTS

	*See next page	Yes	No
1. Previous total cash and in kind contributions (From line 8, last C-4) (if beginning a new campaign or calendar year, see instruction booklet)			\$ 135.00
2. Cash received (From line 2, Schedule A)	\$ 2,815.09		
3. In kind contributions received (From line 1, Schedule B).....	32,992.18		
4. Total cash and in kind contributions received this period (Line 2 plus 3).....			35,807.27
5. Loan principal repayments made (From line 2, Schedule L).....	0.00		
6. Corrections (From line 1 or 3, Schedule C)..... Show + or (-)	0.00		
7. Net adjustments this period (Combine line 5 & 6)..... Show + or (-)			0.00
8. Total cash and in kind contributions during campaign (Combine lines 1, 4 & 7)			35,942.27
9. Total pledge payments due (From line 2, Schedule B).....	0.00		

EXPENDITURES

10. Previous total cash and in kind expenditures (From line 17, last C-4) (If beginning a new campaign or calendar year, see instruction booklet)			15.63
11. Total cash expenditures (From line 4, Schedule A)	991.74		
12. In kind expenditures (goods & services) (From line 1, Schedule B)	32,992.18		
13. Total cash and in kind expenditures made this period (Line 11 plus line 12).....			33,983.92
14. Loan principal repayments made (From line 2, Schedule L).....	0.00		
15. Corrections (From line 2 or 3, Schedule C)..... Show + or (-)	0.00		
16. Net adjustments this period (Combine lines 14 & 15)..... Show + or (-)			0.00
17. Total cash and in kind expenditures during campaign (Combine lines 10, 13 and 16).....			33,999.55

CANDIDATES ONLY

	Won	Lost	Unopposed	Name not on ballot
Primary election	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General election	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CASH SUMMARY

18. Cash on hand (Line 8 minus line 17)	1,942.72
(Line 18 should equal your bank account balance(s) plus your petty cash balance.)	
19. Liabilities: (Sum of loans and debts owed)	0.00
20. Balance (Surplus or deficit) (Line 18 minus line 19)	1,942.72

Treasurer's Daytime Telephone No.:
 (253) 891-0557

CERTIFICATION: I certify that the information herein and on accompanying schedules and attachments is true and correct to the best of my knowledge.

Candidate's Signature	Date	Treasurer's Signature	Date
		Leanna Schletzbaum	

CASH RECEIPTS AND EXPENDITURE

SCHEDULE to C4 A (11/93)

2

Candidate or Committee Name (Do not abbreviate. Use full name.) Report Date
12/01/10 12/31/10

1. CASH RECEIPTS (Contributions) which have been reported on C3. List each deposit made since last C4 report was submitted.

Date of deposit	Amount	Date of deposit	Amount	Date of deposit	Amount	Total deposits
12/07/2010	45.00	12/03/2010	0.09			
12/30/2010	1,910.00					
12/01/2010	860.00					

2. TOTAL CASH RECEIPTS Enter also on line 2 of C4 \$ 2,815.09

CODES FOR CLASSIFYING EXPENDITURES: If one of the following codes is used to describe an expenditure, no other description is generally needed. The exceptions are:

- 1) If expenditures are in-kind or earmarked contributions to a candidate or committee or independent expenditures that benefit a candidate or committee, identify the candidate or committee in the Description block;
- 2) When reporting payments to vendors for travel expenses, identify the traveler and travel purpose in the Description block; and
- 3) If expenditures are made directly or indirectly to compensate a person or entity for soliciting signatures on a statewide initiative or referendum petition, use code "V" and provide the following information on an attached sheet: name and address of each person/entity compensated, amount paid each during the reporting period, and cumulative total paid all persons to date to gather signatures.

CODE
DEFINITIONS
ON NEXT PAGE

- | | |
|---|------------------------------------|
| C - Contributions (monetary, in-kind & transfers) | P - Postage, Mailing Permits |
| I - Independent Expenditures | S - Surveys and Polls |
| L - Literature, Brochures, Printing | F - Fundraising Event Expenses |
| B - Broadcast Advertising (Radio, TV) | T - Travel, Accommodations, Meals |
| N - Newspaper and Periodical Advertising | M - Management/Consulting Services |
| O - Other Advertising (yard signs, buttons, etc.) | W - Wages, Salaries, Benefits |
| V - Voter Signature Gathering | G - General Operation and Overhead |

3. EXPENDITURES

- a) Expenditures of \$50 or less, including those from petty cash, need not be itemized. Add up these expenditures and show the total in the amount column on the first line below.
- b) Itemize each expenditure of more than \$50 by date paid, name and address of vendor, code/description, and amount.
- c) For each payment to a candidate, campaign worker, PR firm, advertising agency or credit card company, attach a list of detailed expenses or copies of receipts/invoices supporting the payment.

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Amount
N/A	Expenses of \$50 or less	N/A	N/A	107.93
12/01/10	ROBIN FARRIS 412 2nd St. NW Puyallup, WA 98371		Website development	114.74
12/01/10	ROBIN FARRIS 412 2nd St. NW Puyallup, WA 98371		Initial legal fees reimb	500.00
12/01/10	ROBIN FARRIS 412 2nd St. NW Puyallup, WA 98371		PO Box rent	202.50
12/30/10	PAY PAL 2211 N. 1st St. San Jose, CA 95131		CC processing fees	66.57

4. TOTAL CASH EXPENDITURES Total from attached pages \$ 0.00
Enter also on line 11 of C4 \$ 991.74

