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

In the Matter of Enforcement Action Against:
Recall Dale Washam

Respondent

PDC CASE NO. 11-033
FINAL ORDER

This matter came before the Washington State Public Disclosure Commission on April 28, 2011 at the PDC Office, 711 Capitol Way, Room 206, Olympia, Washington. Those present included Dave Seabrook, Commission Chair; Barry Sehlin, Vice Chair; Jim Clements, Member; and Jennifer Joly, Member. Also present were Bruce Marvin, Assistant Attorney General (on behalf of PDC staff); PDC Director of Compliance Phil Stutzman; attorney Jeffrey Paul Helsdon and Robin Farris [on behalf of Respondent Recall Dale Washam (RDW)]; PDC Interim Executive Director Doug Ellis; and Nancy Krier, General Counsel for the Commission. The proceeding was open to the public and was recorded.

The Respondent is a political committee. This matter resulted from allegations that the Respondent violated (1) WAC 390-16-125 by exceeding the limitations for mini campaign reporting by a political committee, specified in WAC 390-16-105, before applying in writing to the Commission for authorization to change reporting options, in accordance with the provisions of WAC 390-16-125; and (2) RCW 42.17.040, 42.17.080 and 42.17.090 by exceeding the limitations for mini campaign reporting by a political committee, specified in WAC 390-16-105, before: filing an amended Committee Registration (PDC Form C-1pc) and filing PDC forms C-3 and C-4 with relevant schedules and attachments.

1 PDC Staff submitted to the Commission cover memos from Mr. Stutzman dated
2 April 21, 2011 and April 25, 2011; an Amended Notice of Administrative Charges dated
3 March 29, 2011 (with exhibits); and, a spreadsheet summarizing penalties assessed in
4 comparable cases. The parties submitted to the Commission a proposed Stipulation as to
5 Facts, Violations and Penalty (Stipulation) dated April 25, 2011.

6 Mr. Marvin summarized the proposed Stipulation and the staff recommendation to
7 accept the Stipulation. Mr. Helsdon addressed the Commission and requested the
8 Commission adopt the Stipulation.

9 The Commission voted 4-0 to accept the Stipulation.

10 **I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

11 Based upon the Stipulation, which is hereby attached and incorporated by reference,
12 the Commission finds:

13 1. The Jurisdiction, Facts, Legal Authority, Violations and Penalty are
14 established as provided in the Stipulation.

15 2. The Respondent violated RCW 42.17 and Title 390 WAC, in particular
16 RCW 42.17.040, RCW 42.17.080, and RCW 42.17.090, and WAC 390-16-125, as provided
17 in the Stipulation.

18 **II. ORDER**

19 Based upon the findings and conclusions, the Commission orders that:

20 1. The Stipulation is accepted.

21 2. The Respondent is assessed a civil penalty of \$500. Of the total penalty
22 amount, \$250 will be suspended on the following conditions:

23 a. That the Respondent is found not to have committed further violations of
24 RCW 42.17 through the election campaign for which RDW was formed;

25 b. Payment of the non-suspended portion of the penalty (\$250) is made within
26 60 days of the date of this Final Order in this matter.

1 **III. APPEALS**

2 Pursuant to the Stipulation, upon entry of this Final Order, the Respondent
3 surrenders all rights to appeal, or otherwise seek review of, this order.

4 **IV. ENFORCEMENT OF FINAL ORDERS**

5 The Commission will seek to enforce this final order in superior court under RCW
6 42.17.395-.397, and recover legal costs and attorney's fees, if the penalty remains unpaid.
7 This action will be taken without further order by the Commission.

8 The Executive Director is authorized to enter this order on behalf of the
9 Commission.

10 So ORDERED this 12th day of May, 2011.

11 WASHINGTON STATE PUBLIC
12 DISCLOSURE COMMISSION

13 FOR THE COMMISSION:

14 
15 DOUG ELLIS
Interim Executive Director

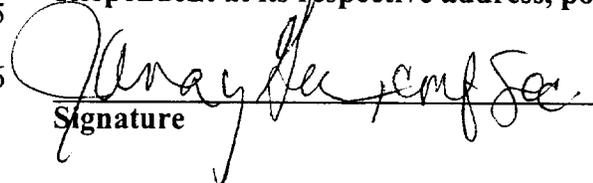
16
17 **ATTACHMENT:** Stipulation as to Facts, Violations and Penalty (dated April 25, 2011)

18 *Copies of this Final Order to:*

19 Jeffrey Paul Helsdon
20 Oldfield & Helsdon, PLLC
PO Box 64189
Tacoma, WA 98464-0189

21 Recall Dale Washam
22 412 2nd Street NW
Puyallup, WA 98371

23
24 I, Jana Greer, Conf. Sec. certify that I mailed a copy of this order to the
25 Respondent at its respective address, postage prepaid, on the date stated herein.

26 
Signature

Date 5/12/11

)

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

In the Matter of Enforcement Action
Against

Recall Dale Washam

Respondent.

Case No. 11-033

**STIPULATION AS TO FACTS,
VIOLATIONS AND PENALTY**

The parties hereto, the Public Disclosure Commission Staff, through its Interim Executive Director, Doug Ellis, and the Respondent political committee, Recall Dale Washam, through its attorney, Jeffrey Paul Helsdon, Oldfield & Helsdon, PLLC, submit this Stipulation as to Facts, Violations and Penalty in this matter.

JURISDICTION

The Public Disclosure Commission (PDC) has jurisdiction over this proceeding pursuant to Chapter 42.17 RCW, the Public Disclosure Act; Chapter 34.05 RCW, the Administrative Procedure Act; and Title 390 WAC.

FACTS

1. Dale Washam was elected Pierce County Assessor-Treasurer on November 4, 2008.
2. Robin Farris is the Chair of Respondent political committee, Recall Dale Washam (RDW). On October 21, 2010, Ms. Farris registered RDW with the PDC and elected to have RDW report its campaign finance activities under the Mini Reporting option. *See* 390-16-105(2) (Mini Reporting option). By doing so, RDW voluntarily agreed to raise and spend no more than \$5,000 in contributions and to accept no more than \$500 in monetary or in-kind contributions from any one source in exchange for opting out of certain reporting requirements otherwise applicable to political committees under RCW 42.17.080 and RCW 42.17.090.
3. On October 29, 2010, Ms. Farris, acting on behalf of RDW, filed a petition with the Pierce County Auditor seeking the recall of Pierce County Assessor-Treasurer Dale Washam from office.

4. On November 10, 2010, a Ballot Synopsis for the recall charges was filed in Pierce County Superior Court.
5. On November 16, 2010, RDW's representatives met with the law firm of Oldfield & Helsdon, PLLC, and the firm began providing *pro bono* services to assist the committee with the process of obtaining the statutorily required judicial approval of the adequacy of the charges and of the ballot synopsis prepared by the Prosecuting Attorney for Pierce County.
6. On December 16, 2010, at a statutorily required hearing held in Pierce County Superior Court, the Court found the recall charges against Mr. Washam legally sufficient and issued the ballot synopsis. The law firm of Oldfield & Helsdon, PLLC represented RDW at that hearing. Until that approval, the committee could not proceed to solicit signatures on a petition to recall the public official.
7. On December 17, 2010, based on media coverage of the recall effort, PDC staff contacted Ms. Farris to caution her that donated legal services to RDW could place RDW out of compliance with the Mini Reporting requirements. PDC Interpretation 91-02, *Legal Fees Related to Placing, or Not Placing, a Proposition on the Ballot* provides that expenses for legal services incurred "*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.*"
8. In a letter received on January 10, 2011, Ms. Farris, on behalf of RDW, requested a change from the Mini Reporting option to the Full Reporting option, because the in-kind contributions, pursuant to the PDC Interpretation, exceeded the limits for Mini Reporting.
9. On January 12, 2011, RDW submitted contribution and expenditure reports as part of its formal application for a change from the Mini Reporting option to the Full Reporting option. RDW also submitted billing statements from Oldfield & Helsdon,

PLLC, detailing the firm's *pro bono* work assisting the committee to meet its statutory judicial approval process.

10. The services of Oldfield & Helsdon, PLLC, as detailed on the firm's billing statements, were disclosed as in-kind contributions on RDW's January 12, 2011 Campaign Summary Receipts and Expenditures (PDC Form C-4) covering the period December 1 – December 31, 2010. The value of the firm's *pro bono* services through the December 16, 2010 sufficiency hearing in Pierce County Superior Court was \$21,616.25.
11. As of the date of RDW's January 12, 2011 C-4 filing, the committee's reported monetary and in-kind contributions, including the in-kind contributions from Oldfield & Helsdon, PLLC for services received through the December 16, 2010 sufficiency hearing, totaled \$24,566.25. The committee's reported expenditures for the same period totaled \$22,623.60.
12. As of the date of RDW's January 12, 2011 C-4 filing, the committee's reported contributions and expenditures, other than the in-kind contributions of *pro bono* services provided by Oldfield & Helsdon, PLLC, totaled \$2,950.09 in contributions and \$1,007.37 in expenditures. As of the date of RDW's January 12, 2011 C-4 filing, no reported contribution or contributions from any person exceeded \$500, other than the in-kind contributions from Oldfield & Helsdon, PLLC.

LEGAL AUTHORITY

13. RCW 42.17.020(15)(c) states: "Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider."

14. **RCW 42.17.040** states, in part: "(1) Every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission." ... and "(3) Any material change in information previously submitted in a statement of organization shall be reported to the commission within the ten days following the change."
15. **RCW 42.17.080 and .090** require political committees under the full reporting option to file timely, accurate reports of contributions and expenditures.
16. **WAC 390-16-105 (2)** states, in part: "A political committee, as that term is defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW 42.17.065 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures exceed five thousand dollars and no contribution or contributions from any person exceed five hundred dollars."
17. **WAC 390-16-115** states, in part: "The exemptions allowed in WAC 390-16-105 shall be granted to a candidate or political committee ... only upon compliance with the following conditions. ... (2) A political committee shall, within fourteen days after its organization or after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, file the C1-pc registration statement with the commission. (3) The statement filed under subsection (2) of this section shall declare that the political committee will not exceed the contribution or expenditure limits set out in WAC 390-16-105."
18. **WAC 390-16-125** states, in part, "(1) A candidate or political committee shall apply in writing to the commission for authorization to change reporting options before the limitations specified in WAC 390-16-105 are exceeded. A complete application shall include all of the following documents:

- (a) An amended registration statement (Form C-1 for candidates, Form C-1pc for political committees) selecting the full reporting option as provided in RCW 42.17.065 - 42.17.090;
- (b) PDC forms C-3 and C-4 with relevant schedules and attachments disclosing all contributions and expenditures to date reportable under RCW 42.17.090 for the election campaign, or in the case of continuing political committees, for the calendar year; and
- (c) (ii) If the applicant is the treasurer of a political committee supporting or opposing a ballot proposition, a statement affirming that all treasurers of all political committees registered with the commission as supporting or opposing the proposition have been notified personally in writing of the application, and the manner and date of such notification.”

...

(5) Exceeding the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 without complying with the provisions of this section shall constitute one or more violations of chapter 42.17 RCW or 390-17 WAC.”

19. **Declaratory Ruling No. 6 *Recall Petition is Ballot Proposition When Initially Filed***, provides that a recall petition becomes a ballot proposition subject to the disclosure requirements of RCW 42.17 from and after the time that it is first filed with the relevant elections authority, i.e., prior to the drafting of the ballot synopsis, and prior to a judicial hearing to determine the legal sufficiency of the recall charges.
20. **PDC Interpretation 91-02 *Legal Fees Related to Placing, or Not Placing, a Proposition on the Ballot***, provides, in part, concerning the specific service of legal representation, “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.

VIOLATIONS

1. Recall Dale Washam violated WAC 390-16-125 by exceeding the limitations for Mini Reporting by a political committee, specified in WAC 390-16-105, before applying in writing to the Commission for authorization to change reporting options, in accordance with the provisions of WAC 390-16-125.
2. Recall Dale Washam violated RCW 42.17.040, .080 and .090 by exceeding the limitations for Mini Reporting by a political committee, specified in WAC 390-16-105, before: (1) filing an amended Committee Registration (PDC Form C-1pc); and (2) filing PDC forms C-3 and C-4 with relevant schedules and attachments.
3. With the Commission's issuance of an order approving this stipulated violation and penalty, the PDC recognizes that this stipulation precludes further enforcement before the Commission for RDW's failure to take the steps required under WAC 390-16-125 prior to exceeding the limits of the Mini Reporting option as provided by WAC 390-05-105.
4. The PDC recognizes that pro bono legal services rendered by Oldfield & Helsdon, PLLC to RDW after the December 16, 2010 hearing with regard to assisting RDW with the Supreme Court appeal by Dale Washam do not constitute a contribution as defined in RCW 42.17.020(15)(c).

PENALTY

Based upon the stipulated facts and violations set forth above, and without waiving any and all rights to which it may otherwise be entitled pursuant to federal or state law, RDW agrees to pay a total civil penalty of \$500 with \$250 suspended on the following conditions:

1. Recall Dale Washam is not found to have committed further violations of RCW 42.17 through the election campaign for which RDW was formed.
2. Payment of the non-suspended portion of the penalty (\$250) is made within 60 days from the date of entry of the Commission's Final Order in this matter.

Recall Dale Washam affirms its intention to comply in good faith with the reporting requirements of RCW 42.17.080 and .090 in the future. Payment by RDW of the fine and compliance with full reporting requirements and the conditions laid out in the agreement and entry of an order by the Commission accepting the stipulation shall estop the Commission from pursuing further charges, remedies, costs and/or attorney fees against RDW for violations of the mini reporting requirements prior to the effective date of the order. By virtue of the Commission's issuance of an order approving this stipulation, Recall Dale Washam surrenders all rights to appeal, or otherwise seek judicial review of, such order. Should the Commission fail to adopt an order approving the stipulation as written at the April 28, 2011 hearing, the stipulation shall be deemed *void ab initio*.


Doug Ellis, Interim Executive Director
Public Disclosure Commission

4-25-11
Date Signed


Jeffrey Paul Helsdon, Oldfield & Helsdon, PLLC
Recall Dale Washam

4/25/11
Date Signed