



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE	)	PDC CASE NO: 13-002
WITH RCW 42.17A	)	
	)	Report of Investigation
William Neal	)	
	)	
Respondent.	)	
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**I.**

**Background**

- 1.1 North Beach Water District (NBWD) is a special purpose district that operates a public water district in Pacific County around the unincorporated area of Ocean Park on the Long Beach Peninsula. NBWD is a public agency with elected Water Commissioners. It is audited by the Washington State Auditor's Office.
- 1.2 Tami Herman was employed by NBWD from January, 2011 until May 11, 2012. She worked as a billing clerk, acting Office Manager, and later as the Office Manager. Respondent, William Neal, is the General Manager for NBWD.
- 1.3 On December 16, 2011, Ms. Herman's spouse, William "Bill" Herman, Jr., filed a Candidate Registration (C-1 report) declaring his candidacy for Pacific County Commissioner for the 2012 election. The C-1 listed Ms. Herman as Mr. Herman's campaign treasurer. **(Exhibit 1)**
- 1.4 On May 11, 2012, Mr. Neal, as NBWD's General Manager, terminated Ms. Herman from her position at NBWD based on her use of the NBWD facilities to assist her husband's 2012 campaign for Pacific County Commissioner.
- 1.5 Between May 14 and June 1, 2012, Ms. Herman contacted PDC by telephone on at least three occasions to discuss her concerns that she had been terminated for using NBWD facilities to assist her husband's campaign when she believed that she had sought and received permission from Mr. Neal to make copies of campaign material using NBWD facilities. **(Exhibit 2)**

- 1.6 Shortly after her calls to PDC staff, Ms. Herman filed a complaint alleging that Mr. Neal had authorized her to use NBWD facilities to assist her husband's campaign in violation of state law.

## **II.** **Allegations**

- 2.1 On June 17, 2012, the PDC received a complaint from Ms. Herman alleging that Mr. Neal had violated RCW 42.17A.555 in 2012 by authorizing her use of the facilities of NBWD to assist the 2012 campaign for Pacific County Commissioner of her spouse, Bill Herman, Jr. Specifically, Ms. Herman alleged that Mr. Neal gave her permission to use NBWD equipment to receive and print campaign-related material. **(Exhibit 3)**
- 2.2 Ms. Herman later further alleged that Mr. Neal had visited her workstation on several occasions and had seen a picture of one of her spouse's campaign signs that she displayed as the background screen on her office computer, and did not ask her to remove it.
- 2.3 In Ms. Herman's complaint, she acknowledged using NBWD facilities to assist her husband's campaign. Because of Ms. Herman's admission, PDC staff opened a separate investigative file for Ms. Herman (PDC Case No. 13-003) to determine whether she violated RCW 42.17A.555. This matter was resolved at the May 2013 brief enforcement hearings, resulting in a violation and penalty in the amount of \$500 with \$350 suspended on the condition that she commit no further violations of RCW 42.17A for two years.

## **III.** **Findings**

- 3.1 On January 27, 2011, Ms. Herman was hired by the NBWD as a Utility Billing Clerk. She stated that when she was hired, she and Office Manager Tia Cristfulli ran the office. She stated NBWD has roughly 2,500 customer accounts to maintain. Ms. Herman stated she typically worked 30 to 100 hours of overtime each month to complete her assigned duties. She said Mr. Neal authorized the overtime.
- 3.2 On February 14, 2011, Mr. Neal was hired as the General Manager for NBWD. Prior to serving as the NBWD General Manager, he was the part-time water systems operator for Surfside Homeowners Association (SHA). He stated that his work background included experience gained from his work at Arcadia Drilling, Inc., a family-owned on-going business that has owned and operated public water systems, drilled wells for water, and installed pump and water filtration systems. He said he is not currently involved with the business because its operation is being transferred to the family's next generation.
- 3.3 On October 1, 2012, Mr. Neal submitted a three-page letter responding to Ms. Herman's complaint in which he denied the allegations, including several attachments. **(Exhibit 4)**

***Allegation re: Mr. Neal's knowledge of, acquiescence in, and permission to use NBWD equipment to receive and print campaign materials***

- 3.4 In an interview with PDC staff conducted on March 13, 2013, Ms. Herman explained the circumstances under which she believed she was given permission to use NBWD facilities for campaign purposes.
- 3.5 Ms. Herman stated that Mr. Neal frequently worked on activities unrelated to NBWD business while in the NBWD office, using NBWD facilities. She said the work involved: (1) Arcadia Drilling, Inc., a family drilling business; (2) Surfside Homeowner's Association, where he previously served as Systems Manager prior to being hired by NBWD; and (3) his church.
- 3.6 Ms. Herman stated that one night when she was working overtime, Mr. Neal was using the office copier to print some brochures that she said were related to the Surfside Homeowner's Association. She said the copies had been made, but did not properly collate, staple, or finish. Ms. Herman offered to make the necessary corrections for Mr. Neal so the brochures would not need to be reprinted.
- 3.7 She said while correcting the print job she thought about the fact that she was working late for the NBWD and still needed to finish work for her husband's campaign, including making copies. She said that as she dropped off the corrected brochures with Mr. Neal, she explained to him that after working long hours for NBWD, she still had to make copies from home for her spouse's campaign. She said it was during that conversation that she proposed emailing the campaign documents to her work email address so she could open the documents on her work computer after work hours and make copies for the campaign using the NBWD printer.
- 3.8 Ms. Herman said she told Mr. Neal she would provide the paper for the copier from either the campaign or her home. She stated that Mr. Neal told her she did not have to use her own paper, but she countered by informing him she was going to provide the paper since it was for her spouse's campaign and it seemed appropriate to do so.
- 3.9 Ms. Herman said Mr. Neal agreed with her when she offered to provide the paper for the copies from her husband's campaign.
- 3.10 On April 10, 2013, staff interviewed Mr. Neal. He stated he had no recollection of the events Ms. Herman described in her complaint concerning his alleged authorization of her campaign activities using NBWD facilities. In his initial response to the complaint, Mr. Neal denied giving Ms. Herman permission to use NBWD facilities to work on her spouse's campaign for Pacific County Commissioner. Mr. Neal denied giving Ms. Herman permission to use NBWD computers, or other resources, to e-mail, print, or conduct other activities in support of her spouse's campaign. He stated that he has never given any NBWD employee permission to use water district resources to conduct campaign-related activities.
- 3.11 Mr. Neal explained that his work on SHA-related activities with NBWD facilities was done as part of a contractual agreement between the two entities. **(Exhibit 5)** He stated

SHA is a private water system operating contiguously or adjacent to the NBWD. He said SHA wanted to retain his services at a time NBWD wanted to hire him as its General Manager. He said the two entities entered into a contractual arrangement and signed a Management Agreement, allowing him to continue serving as the water system operator for SHA while simultaneously serving as General Manager of NBWD.

- 3.12 Mr. Neal said he conducts most of the planning and management work for SHA out of his NBWD office in accordance with the Management Agreement, and that his primary duties for both entities include: (1) managing the NBWD and SHA water systems, and the employees of both entities; (2) acting as principal decision-maker for both entities; (3) writing work orders; (4) project planning and oversight; and (5) working on financial statements.
- 3.13 In his response to the complaint, Mr. Neal stated that a NBWD employee, Kristin Galovin, discovered the campaign documents that are the subject of Ms. Herman's complaint after Ms. Galovin was promoted from the front desk to the billing clerk position, and assigned to use the computer and workspace that had previously been used by Ms. Herman. Mr. Neal stated that when Ms. Galovin discovered the volume of campaign documents on Ms. Herman's computer, she informed him of what she had found.
- 3.14 Mr. Neal could not remember exactly when Ms. Galovin informed him of the campaign-related documents. He referred to the May 1, 2012 date included in his October 1, 2012 response to the complaint as the most likely date Ms. Galovin informed him of her discovery.
- 3.15 PDC staff contacted Ms. Galovin, and she confirmed that she found many documents related to the William Herman campaign on the computer she was using as a billing clerk. She said Mr. Neal came into her workstation in late April of 2012 and saw a William Herman campaign bumper sticker on the front of her computer, and asked if she placed the sticker on her computer. Ms. Galovin said she told Mr. Neal she did not place the campaign bumper sticker on the computer, and she told him there were many documents related to William Herman's campaign on the computer she was using. She said Mr. Neal asked her to show him the documents, which she did.
- 3.16 Ms. Galovin confirmed that she also volunteered on Mr. Herman's campaign, but said her involvement was limited to showing up for Saturday morning campaign meetings and taking notes for the committee. She said she was only involved with the campaign until May of 2012, and never wore a campaign button in the office. Ms. Galovin said she placed a magnetic William Herman campaign sign on her vehicle, but removed it at Mr. Neal's request.
- 3.17 Mr. Neal said he asked Ms. Galovin not to tell anyone about the documents found on Ms. Herman's computer, and not to delete any of the documents. Mr. Neal said he then contacted NBWD legal counsel, and later informed NBWD Commissioners of his findings at a special board meeting. He said that after several discussions, the board decided to terminate Ms. Herman's employment with NBWD.

- 3.18 Mr. Neal stated that he also contacted Corrine Schmid, an employee with the Washington State Auditor's Office assigned to audit NBWD. Mr. Neal said Ms. Schmid thanked him for the information, but did not contact him again about the matter. He said the district's legal counsel could not find a requirement to notify the PDC, which is why the Board decided not to inform the PDC of its findings.
- 3.19 Mr. Neal stated that he never witnessed Ms. Herman using the NBWD office printer or her computer for campaign purposes, including working on campaign-related spreadsheets or other documents, or conducting campaign treasurer activities such as working on PDC reports or soliciting or receiving campaign contributions. He stated that his awareness of Ms. Herman's activities was based on the materials found on Ms. Herman's computer by Ms. Galovin.
- 3.20 During the brief enforcement hearing on PDC Case No. 13-003 (concerning Ms. Herman's violations), Ms. Herman testified that she believed Mr. Neal was aware of, and acquiesced in, her use of NBWD facilities to support her husband's campaign. She testified that the picture of one of her spouse's campaign signs that she displayed as the background screen on her office computer was readily visible to other employees in the office, including Mr. Neal, who visited her workstation on several occasions.
- 3.21 Mr. Neal stated he was not aware that Ms. Herman was displaying a picture of one of her spouse's campaign signs as the background on her office computer monitor, due to the configuration of the NBWD office. He stated he works in a part of the building that is separated from the front office area, and he could not see her computer screen unless he walked into her workstation.
- 3.22 Mr. Neal stated he noticed Ms. Herman wearing her spouse's campaign button in the NBWD offices, and displaying her spouse's campaign sign in her private vehicle parked in the NBWD parking lot. He said he reviewed PDC Interpretation #04-02, "*Guidelines for Local Government Agencies in Election Campaigns*" which states it is an individual's personal expression to wear a campaign button or display a campaign sign in their personal vehicle. He stated that "...it looked kind of like a gray area" to him, and since the district did not have a policy addressing those issues, he did not want to make a big deal out of it. He stated it was his understanding that without a policy in place, the district should just let it go.
- 3.23 Mr. Neal stated that at the April 16, 2012 regular meeting of the NBWD Commissioners, Commissioner R.D. Williams provided a copy of PDC Interpretation #04-02 to Mr. Neal and to the other two NBWD Commissioners. Mr. Neal went on to state the following:
- "... that Commissioner Williams presented the document because he had noticed campaign signs on personal vehicles parked near the District's business office and campaign buttons being worn by some District employees..."***
- 3.24 Mr. Neal stated that during the executive session of the April 16, 2012 meeting, no discussion took place concerning Ms. Herman or possible campaign law violations. He reiterated that he did not become aware of the possible campaign law violations until May 1, 2012, when it was brought to his attention by Ms. Galovin. He stated that one NBWD

Commissioner expressed a concern to him about Ms. Herman wearing a campaign button and displaying a campaign sign in her vehicle that was parked on NBWD property. He went on to state that after another of the Commissioners reviewed Interpretation 04-02, he concurred with Mr. Neal's decision to let the matter go since the district had no formal policy in place about wearing campaign buttons in the office. He stated he did not receive complaints from any NBWD employees or customers.

- 3.25 Mr. Neal stated that it was shortly after learning of the campaign material on Ms. Herman's computer on May 1 that he contacted the NBWD legal counsel for advice on what course of action he should or could take. He stated that once he discussed the issue with legal counsel, he informed the NBWD Board of Commissioners at a special meeting. He stated that on May 11, 2012, he met with Ms. Herman in the morning and showed her the campaign documents discovered on her water district computer, and asked if the documents were hers. He said Ms. Herman confirmed the documents were hers. Mr. Neal went on to state the following:

*"...She told me she did not create the documents on the district's computer, but that she had e-mailed them to herself so that she would have access to them at the district's offices during the day. I informed her that just the fact that the documents were on her computer constituted a violation of law and district policy...I then told her she was being discharged effective immediately..."*

- 3.26 Mr. Neal said he copied the files on Ms. Herman's computer to a flash drive, and attached the documents, along with his three-page response letter, to the PDC on October 1, 2012.

#### IV. Scope

PDC staff reviewed the following documents and information:

- 4.1 Complaint filed by Ms. Herman;
- 4.2 May 14, 2012, PDC staff telephone record of Tony Perkins and the conversation he had with Ms. Herman;
- 4.3 October 1, 2012, three-page cover letter submitted by Mr. Neal in response to the complaint filed by Ms. Herman, and several attached documents that he copied from Ms. Herman's NBWD computer and labeled as "Exhibit C";
- 4.4 March 13, 2013, telephone interview conducted under oath with Ms. Herman;
- 4.5 April 10, 2013, telephone interview conducted under oath with Mr. Neal; and
- 4.6 Information contained on the North Beach Water District website, including Water District meeting minutes.

V.  
**Laws and Rules**

5.1 **RCW 42.17A.555** states, in part:

“No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency...”

5.2 **WAC 390-05-273** defines the “normal and regular conduct” of a public office or agency as *“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 9<sup>th</sup> day of July, 2013.

  
Kurt Young  
PDC Compliance Officer

**List of Exhibits**

- Exhibit 1** Candidate Registration filed by William "Bill" Herman, Jr. on December 16, 2011, declaring his candidacy for Pacific County Commissioner in 2012.
- Exhibit 2** May 14, 2012, PDC staff telephone record of Tony Perkins.
- Exhibit 3** June 17, 2012, complaint filed by Tami Herman, Office Manager of the North Beach Water District, against William Neal.
- Exhibit 4** October 1, 2012, three-page response letter along with several attached documents from William Neal concerning the complaint filed by Ms. Herman, including the following:
- A copy of PDC Interpretation #04-02: *Guidelines for Local Government Agencies in Election Campaigns*;
  - A copy of an unsigned dismissal letter on NBWD letterhead from Mr. Neal dated May 13, 2012, addressed to Ms. Herman, with courtesy copies sent to Suzanne Michael, NBWD legal counsel, and Corrine Schmid of the Washington State Auditor's Office;
  - A May 11, 2012 letter addressed to Mr. Neal from the Bank of the Pacific, confirming that Ms. Herman was no longer an authorized signer on the NBWD bank account; and
  - Several documents Mr. Neal reported as having been copied from Ms. Herman's NBWD computer concerning her spouse's campaign, labeled Exhibit C.
- Exhibit 5** Signed Management Agreement between NBWD and SHA.