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

7 IN RE COMPLIANCE WITH RCW 42.17A:

PDC CASE NO. 13-015

8 WASHINGTON UNITED FOR MARRIAGE
9 AND SENA SALON,

ORDER OF DISMISSAL

10 Respondents.
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12 This matter came before the Washington State Public Disclosure Commission on
13 October 25, 2012 at the PDC Office, 711 Capitol Way, Room 206, Olympia, Washington.
14 Those present included Amit Ranade, Commission Chair; Barry Sehlin, Vice Chair, and Grant
15 Degginger, Member.

16 In attendance were: PDC Director of Compliance Phil Stutzman and PDC Political
17 Finance Specialist Kristin Murphy; PDC Executive Director Andrea McNamara Doyle; Nancy
18 Krier, General Counsel for the Commission; and PDC staff member Jana Greer as
19 recorder/reporter of the proceeding. No representatives of the Respondents participated. The
20 proceeding was open to the public and was recorded.

21 This case concerns allegations in a 45-day citizen action letter complaint submitted by
22 Rebecca Faust on September 13, 2012 concerning a fundraiser held at Sensa Salon benefitting
23 Washington United for Marriage. The complaint concerning these Respondents was submitted
24 to the Washington State Attorney General's Office and the King County Prosecutor's Office,
25 and referred to the PDC for investigation and possible action.
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1 The Commission was provided with a Report of Investigation dated October 16, 2012
2 (and exhibits); and, an Executive Summary and PDC Staff Analysis. Ms. Murphy summarized
3 the Report of Investigation. Mr. Stutzman described the PDC Staff recommendation that the
4 Commission should dismiss the allegations and that the Commission should recommend that
5 the Attorney General and King County Prosecuting Attorney take no further action with
6 respect to the allegations.¹

7 The Commission voted 3-0 to dismiss the allegations and to recommend that the
8 Attorney General and King County Prosecuting Attorney take no further action with respect to
9 the allegations.

10 The Commission hereby enters the following Findings of Fact, Conclusions of Law,
11 and Order.

12 I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

13 Jurisdiction

14 1. The Commission has jurisdiction to hear this matter as provided in RCW
15 42.17A.

16 Findings of Fact

17 1. Washington United for Marriage is a political committee supporting
18 Washington Referendum No. 74, a statewide ballot measure concerning marriage for same-sex
19 couples, modified domestic-partnership law, and religious freedom that is on the 2012 general
20 election ballot.

21 2. Sensa Salon is a hair salon located in Seattle, Washington.

22 3. The complaint alleged two violations of RCW 42.17A by Washington United
23 for Marriage and Sensa Salon.

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25 ¹ Mr. Stutzman also described the PDC staff recommendation that the PDC staff should send letters to
26 the Respondents concerning the fundraiser at issue in this case and informing them of the requirements in RCW
42.17A regarding such activities.

1 4. **First Allegation – Bundling.** The complainant alleged that Washington United
2 for Marriage and Sensa Salon violated RCW 42.17A.470 by arranging for a fundraising event
3 at Sensa Salon to benefit Washington United for Marriage, and Sensa Salon acted as an
4 intermediary for contributions.

5 (a) The investigation revealed that on Sunday, September 9, 2012, Sensa Salon held
6 an event in which participants could receive hair cutting or other salon services in exchange for
7 making a contribution to Washington United for Marriage.

8 (b) The event, which was organized by employees of the salon with the permission
9 of the salon’s owner, was promoted on the Sensa Salon’s Facebook page and by the committee
10 via Twitter.

11 (c) Two Sensa Salon employees staffed the fundraiser and volunteered their time
12 on a day the salon was normally closed. The employees were not compensated for their work
13 and did not accept any tips for their services.

14 (d) No one from Washington United for Marriage was present at the event.
15 However, the committee provided pre-printed contribution envelopes and a larger return
16 envelope so that contributions received could be returned to Washington United for Marriage.

17 (e) Two individuals attended the hair-cut fundraiser and made contributions
18 totaling less than \$500. The two individuals who attended the fundraiser completed the donor
19 information requested on the committee’s pre-printed contribution envelopes. The two Sensa
20 Salon employees placed the two contributions in the pre-printed contribution envelopes and
21 mailed the contributions to Washington United for Marriage.

22 (f) No funds were run through Sensa Salon’s cash register.

23 (g) No evidence was found that either Sensa Salon or its employees were aware of
24 the prohibition in RCW 42.17A.470 that provides restrictions on intermediaries transmitting
25 contributions (“bundling”).
26

1 (h) Washington United for Marriage stated it did not have any donation records
2 specific to the Sensa Salon fundraiser and if it received donations from this event, they were
3 entered as “uncoded” donations meaning they were not connected to any specific event or
4 solicitation.

5 **5. Second Allegation - Failure to Maintain Open for Public Inspection**
6 **Documentation of Employees’ Authorizations for Withholding Wages for Contributions.**

7 The complainant alleged that Sensa Salon may have violated RCW 42.17A.495 by failing to
8 maintain required records related to an employer’s withholding of employee wages for use as
9 political contributions.

10 (a) The investigation revealed that the two Sensa Salon employees who provided
11 volunteer hair cutting services for the fundraiser were not paid wages for the event.

12 (b) No wages were withheld or transferred by Sensa Salon to Washington United
13 for Marriage.

14 **Conclusions of Law**

15 1. RCW 42.17A.470 provides that a person, other than an individual, may not be
16 an intermediary or an agent for a contribution. It further provides that an individual may not
17 make a contribution on behalf of another person or entity, or while acting as the intermediary
18 or agent of another person or entity, without disclosing to the recipient of the contribution both
19 his or her full name, street address, occupation, name of employer, if any, or place of business
20 if self-employed, and the same information for each contributor for whom the individual serves
21 as intermediary or agent.

22 2. RCW 42.17A.495 states, in part, (1) No employer may increase the salary of an
23 employee, or compensate an employee or other person or entity, with the intention that the
24 increase in salary, or the compensation, or a part of it, be contributed or spent to support or
25 oppose a candidate, political party, or political committee. It further provides that: (3) No
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1 employer or other person or entity responsible for the disbursement of funds in payment of
2 wages or salaries may withhold or divert a portion of an employee's wages or salaries for
3 contributions to political committees or for use as political contributions except upon the
4 written request of the employee; and (4) Each person or entity who withholds contributions
5 under subsection (3) shall maintain open for public inspection for a period of no less than three
6 years, during normal business hours, documents and books of accounts that shall include a
7 copy of each employee's request, the amounts and dates funds were actually withheld, and the
8 amounts and dates funds were transferred to a political committee.

9 3. WAC 390-37-070 provides that the agency may dismiss a complaint when the
10 complaint does not show a reason to believe a material violation of RCW 42.17A has occurred.

11 4. Sensa Salon's employees unknowingly acted as intermediaries for two
12 contributions totaling less than \$500 in the fundraiser authorized by Sensa Salon, failing to
13 comply with RCW 42.17A.470. However, under the facts of this case, Sensa Salon and its
14 employees did not materially violate that statute. Therefore, the first allegation concerning the
15 salon should be dismissed.

16 5. Washington United for Marriage did not violate RCW 42.17A.470 because the
17 statute applies to persons acting as intermediaries, not to the ultimate recipient of contributions.
18 Therefore, the first allegation concerning Washington United for Marriage should be
19 dismissed.

20 6. No wages of Sensa Salon's employees were withheld or transferred to
21 Washington United for Marriage. Therefore, the second allegation against Sensa Salon
22 concerning RCW 42.17A.495 should be dismissed.

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II. ORDER OF DISMISSAL

By unanimous vote, the Commission dismisses the allegations against the Respondents in the citizen action letter.

The Respondents will be provided letters advising them of the requirements of RCW 42.17A with respect to such activities.

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

So ORDERED this 14 day of November 2012.

WASHINGTON STATE PUBLIC
DISCLOSURE COMMISSION

FOR THE COMMISSION:



Andrea McNamara Doyle
Executive Director

Attachment: Appeals and Enforcement of Final Orders

Copy of this Order of Dismissal to:

Washington United for Marriage
c/o Zach Silk, Campaign Manager
PO Box 21022
Seattle, WA 98111

Sensa Salon
1123 1st Avenue
Seattle, WA 98101

I, Jana Greer, certify that I mailed a copy of this order to the Respondents by mailing it to their respective addresses above, postage prepaid, on the date stated herein.


Signature

11/14/12
Date

INFORMATION ABOUT APPEALS AND ENFORCEMENT OF FINAL ORDERS

APPEALS

RECONSIDERATION OF FINAL ORDER – BY THE COMMISSION

Any party may ask the Commission to **reconsider** a final order. Parties seeking reconsideration must:

- Make the request in writing;
- Include the specific grounds or reasons for the request; and
- Deliver the request to the PDC office so it is received within **TWENTY-ONE (21) BUSINESS DAYS** of the date that the Commission serves this order upon the party. *WAC 390-37-150*. (Note that the date of service by the Commission on a party is considered the date of mailing by U.S. mail if the order is mailed, or the date received if the order is personally served. RCW 34.05.010(19). The Commission orders are generally mailed via U.S. mail.)

Within twenty (20) business days after the petition for reconsideration is filed, the Commission may either act on the petition or notify the parties in writing of the date by which it will act. If neither of these events happens within twenty business days, the Commission is deemed to have denied the petition for reconsideration. *WAC 390-37-150*.

A Respondent is not required to ask the Commission to reconsider a final order before seeking judicial review by a superior court. *RCW 34.05.470(5)*.

FURTHER APPEAL RIGHTS – SUPERIOR COURT

A final order issued by the Public Disclosure Commission is subject to **judicial review** under the Administrative Procedure Act (APA), chapter 34.05 RCW. *RCW 42.17A.755*. The procedures are provided in the APA at RCW 34.05.510 - .574.

ENFORCEMENT OF FINAL ORDERS

If **enforcement** of a final order is required, the Commission may seek to enforce a final order in superior court under RCW 42.17A.755 - .760, and recover legal costs and attorney's fees if a penalty remains unpaid and no petition for judicial review has been filed. This action will be taken without further order by the Commission.