



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In the Matter of Enforcement Action
Against

Pete Holmes and
Kim Garrett

Respondents.

PDC Case No. 13-021

Notice of Administrative Charges
(Brief Enforcement Hearing)

I. JURISDICTION

1. The Public Disclosure Commission (PDC) has jurisdiction over this proceeding pursuant to Chapter 42.17A RCW, the state campaign finance and disclosure laws; Chapter 34.05 RCW, the Administrative Procedure Act; and Title 390 WAC. These charges incorporate the Report of Investigation and all related exhibits by reference.

II. ALLEGATIONS

2. PDC staff alleges that Pete Holmes, Seattle City Attorney, violated RCW 42.17A.555 by authorizing the use of City of Seattle facilities for the promotion of Initiative 502, a statewide initiative on the November 6, 2012 general election ballot; and
3. PDC staff alleges that Kim Garrett, City of Seattle employee and Special Assistant to Mr. Holmes, violated RCW 42.17A.555 by using City of Seattle facilities for the promotion of Initiative 502.

III. FACTS

4. Pete Holmes was a sponsor of I-502, and was active with New Approach Washington, the political committee formed to support passage of the initiative.
5. During the 2012 election, Mr. Holmes authorized his staff, including Kim Garrett, to use city facilities to place appointments related to the I-502 campaign on his public calendar.

6. Mr. Holmes also authorized Ms. Garrett to use city facilities to proactively coordinate the scheduling of certain I-502 campaign-related appointments for Mr. Holmes.
7. At Mr. Holmes' direction, Ms. Garrett used her paid city time, and her city telephone, computer, and email account to schedule three campaign-related appointments for Mr. Holmes, as follows:
 - a. A February 24, 2012 interview with Mr. Holmes on I-502 for the magazine *City Living Seattle*;
 - b. An August 9, 2012 photo shoot with Mr. Holmes for use on the I-502 campaign website; and
 - c. A September 15, 2012 panel discussion on marijuana legalization sponsored by *High Times Magazine*, in which Mr. Holmes took part at the request of Alison Holcomb, campaign manager for New Approach Washington.

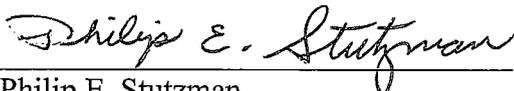
IV. LAW

RCW 42.17A.555 states: 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. However, this does not apply to the following activities:

- (1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;
- (2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;
- (3) Activities which are part of the normal and regular conduct of the office or agency.

WAC 390-03-273 states: Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW 42.17.130, means 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. No local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

RESPECTFULLY SUBMITTED this 11th day of January, 2013.



Philip E. Stutzman
Director of Compliance