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December 16, 2012

Phil Stutzman, Director of Compliance
State of Washington Public Disclosure Commission
711 Capitol Way #206
Post Office Box 40908
Olympia, Washington 98504-0908
Phil.Stutzman@pdc.wa.gov

VIA EMAIL

Re: MARK FAITH – VIOLATION OF RCW 42.17A.555 AND UNREPORTED CAMPAIGN CONTRIBUTIONS AND EXPENDITURES EXCEEDING MAXIMUM LIMITS PROVIDED BY LAW

Dear Mr. Stutzman:

Submitted herewith you will find a complaint concerning the violation of RCW 42.17A.555. As you are aware, RCW 42.17A.555 prohibits the use of public office or agency facilities in campaigns.

Furthermore you will find a complaint concerning Mr. Faith's receipt of unreported campaign contributions and expenditures exceeding maximum limits provided by law from contractor Kyle Pfundheller of Trinity Homes, LLC.

The subject of the complaint is Mark Faith, a candidate who campaigned for Franklin County Commissioner, District No. 1. Mr. Faith campaigned as a candidate in both the August 7, 2012 Primary and November 6, 2012 General elections. Mr. Faith was unsuccessful in his bid for office.

Prior to and concurrent to his campaign to seek the Franklin County Commissioner District No. 1 office, Mr. Faith was employed full time as a full time Building Inspector for Franklin County. Mr. Faith remains employed full time as a full time Building Inspector for Franklin County

Mr. Faith owns a home and permanently resides in West Richland at 5801 Kilawea Drive West Richland, Washington 99353-7924.

All Franklin County documents provided herein were obtained by way of a public records requests. All PDC documents were obtained from the State of Washington Public Disclosure Commission.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the facts set forth in this attached complaint are true and correct.

Thank you in advance for your assistance. Please keep me apprised of your progress and final determination in this matter.

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STATEMENT OF MATERIAL FACTS – VIOLATION OF RCW 42.17A.555

On Wednesday, October 5, 2011 3:21 PM, from his Franklin County email account (mfaith@co.franklin.wa.us), utilizing Franklin County resources and while on paid Franklin County time, Mr. Faith sought election and campaign materials from the Franklin County Elections/Auditors office. Said email was forwarded to Mr. Faith's email account (mark_faith@msn.com) on January 15, 2012. **EXHIBIT 1.**

On March 7, 2012, Mr. Faith, from his Franklin County Computer, on Franklin County paid time, using Franklin County internet capacity, reviewed a significant number of campaign related web hosting sites. The internet web hosing site Cyrring Hot Productions, LLC (www.chpwd.com internet protocol 68.178.186.69), was hit 85 times during that day. **EXHIBIT 2** is Franklin County's March 7, 2012 Watch Guard® Log for Mr. Faith. Mr. Faith's internet log for the period January 9, 2012 to October 17, 2012 is approximately 35,998 pages.

On March 19, 2012, Mr. Faith registered his campaign website (www.faithforcommissioner.com), internet protocol 50.63.214.1), through Cyrring Hot Productions, LLC. **EXHIBIT 3.**

Mr. Faith routinely accessed his campaign website (www.faithforcommissioner.com, internet protocol 50.63.214.1) from his Franklin County Computer as detailed in the 35,998 pages of Mr. Faith's internet activity.

On Tuesday, March 20, 2012 8:57 AM, Mr. Faith utilized his Franklin County email address (mfaith@co.franklin.wa.us), utilizing Franklin County resources and while on paid Franklin County time, to send a test email to his new campaign email address (mark@faithforcommissioner.com). **EXHIBIT 4.**

On Tuesday, March 20, 2012 9:02 AM, Mr. Faith utilized his Franklin County email address (mfaith@co.franklin.wa.us), utilizing Franklin County resources and while on paid Franklin County time, to send a test email to his new campaign email address (mark@faithforcommissioner.com). **EXHIBIT 5.**

On March 20, 2012, Mr. Faith submitted an application for voter registration with the Franklin County address of 3620 Road 92 Pasco, Washington 99301. **EXHIBIT 6.**

On April 26, 2012, Mr. Faith filed a PDC form F-1 Personal Financial Affairs Statement. Contrary to law and the specific instructions on the form, Mr. Faith reported his Franklin County email address (mfaith@co.franklin.wa.us) for the purposed of primary contact. **EXHIBIT 7.**

On May 8, 2012, Mr. Faith spent a significant amount of his paid work day at Franklin County using a Franklin County computer and internet capacity researching web targeting, web trafficking and web contributions sites, as well as his own campaign website and campaign email login.

On May 14, 2012, Mr. Faith submitted a "Declaration of Candidacy" to run for Franklin County Commissioner, District 1. **EXHIBIT 6.**

On July 11, 2012, Mr. Faith received a campaign endorsement from Lexar Homes at his Franklin County email account (mfaith@co.franklin.wa.us), utilizing Franklin County resources and while on paid Franklin County time. A significant amount of Mr. Faith's email traffic is to principals of Lexar Homes. **EXHIBIT 8.**

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The campaign endorsement received utilizing Franklin County resources enumerated above was added to Mr. Faith's website as "Campaign Support Letters, Letter #4". **EXHIBIT 9.**

Mr. Faith's campaign website included a variety of Franklin County owned/developed maps and materials (Addresses & Road Names, Franklin County TRAC Area Property, Proposed Powerline Road & Ownership, Proposed Classification of Powerline Road, Road 100/Dent Extension ROW Vicinity) obtained by Mr. Faith without benefit of a public records request, utilizing his work time and Franklin County resources. **EXHIBIT 9.**

On July 24, 2012, at his Franklin County email address (mfaith@co.franklin.wa.us), utilizing Franklin County resources and while on paid Franklin County time, Mr. Faith received an inquiry from the press about his campaign. **EXHIBIT 10.**

On the evening of July 12, 2012, Mr. Faith held one of many campaign rallies at the rent free campaign facility located at 3620 Road 92 Pasco, Washington 99301. Complainant attended said rally where Mr. John Trumbo interviewed Mr. Faith for the July 24, 2012 article attached hereto as **EXHIBIT 11.**

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On March 20, 2012, Mr. Faith submitted to the Franklin County Auditor an application for voter registration with the Franklin County address of 3620 Road 92 Pasco, Washington 99301. **EXHIBIT 6.**

The property and home at 3620 Road 92 Pasco, Washington 99301 is owned by Tri-Cities contractor Kyle Pfundheller of Trinity Homes, LLC. **EXHIBIT 12.**

The property and home at 3620 Road 92 Pasco, Washington 99301 is the business address for Trinity Homes, LLC (<http://www.trinityhms.com/>). **EXHIBIT 13.**

Mr. Faith, his wife Sandi Faith and their three (3) children maintain and own a permanent residence at 5801 Kilwea Drive West Richland, Washington 99353-7924. According to the State of Washington Public Disclosure Commission, on July 27, 2012, Sandi Faith made a \$500.00 contribution to Mr. Faith's campaign utilizing this address. **EXHIBIT 14.**

On Thursday, July 12, 2012, Complainant attended on of the many campaign functions Mr. Faith held at the 3620 Road 92 Pasco, Washington 99301 campaign office along with several other individuals and a reporter from the Tri-City Herald. The property and home was used exclusively for a campaign headquarters, and included only campaign materials, plastic "picnic" style tables, folding picnic style chairs, and hundreds of "Faith For Commissioner" campaign yard signs. The house was devoid of any furniture or necessities for living, including pots, pans, dishes or dining table.

On July 29, 2012, Mr. Faith told KEPR TV that "He's just letting me stay there, until I get a chance to move my family over there". **EXHIBIT 15.**

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According to the August 3, 2012 Tri-City Herald, Mr. Faith indicated that “moving his entire family and selling his West Richland home would be unwise at this point in the elections process”. **EXHIBIT 6.**

Other for purposes of campaign related activities, Mr. Faith has not been observed in this location after hours, during sleeping hours, by a variety of Franklin County residents on a variety of occasions, including the Complainant.

On October 14, 2012, the Tri-City Herald reported that Mr. Faith provided a written response regarding the use of the campaign headquarters located at 3620 Road 92. The Herald reported that Mr. Faith advised them that “he has shown no favoritism as a plans examiner and building inspector to the owner of the home where he now lives and who is a personal friend -- Kyle Pfundheller, whose business is Trinity Homes.” The Herald also reported that Mr. Faith said “Pfundheller refused to accept rent payment while he was living in the house and running for office”. **EXHIBIT 16.**

The house and property Mr. Faith utilized rent free for his campaign headquarters is valued at \$321,600. **EXHIBIT 12.**

A median home in Franklin county is appraised at \$140,200 according to the Franklin County Assessor. **EXHIBIT 17.**

The upscale neighborhood in which the \$321,600 facility is located would conservatively command rents between \$1,750 and \$2,500 per month. Since Mr. Faith is such good friends with Mr. Pfundheller, we can generously assume that a below market rent of \$1,500 per month would apply. Given that Mr. Faith utilized the facility for at least 9 months on the record (March 20, 2012 to November 6, 2012), the extended expense for rent is calculated to be \$13,500. This is far in excess of the \$800 maximum contribution permitted under law.

None of the unpaid rent for the campaign facility used solely for the purposes of running for Franklin County Commissioner District No. 1 located at 3620 Road 92 is reported on any of Mr. Faith's PDC C-3 Cash Receipts Monetary Contributions disclosure forms.

LAW

RCW 42.17A.555 Use of public office or agency facilities in campaigns — Prohibition — Exceptions, provides:

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.

RCW 42.17A.405 Limits specified — Exemptions provides:

- (1) The contribution limits in this section apply to:
 - (a) Candidates for legislative office;
 - (b) Candidates for state office other than legislative office;

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- (c) Candidates for county office;
- (d) Candidates for special purpose district office if that district is authorized to provide freight and passenger transfer and terminal facilities and that district has over two hundred thousand registered voters;
- (e) Candidates for city council office;
- (f) Candidates for mayoral office;
- (g) Candidates for school board office;
- (h) Persons holding an office in (a) through (g) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;
- (i) Caucus political committees;
- (j) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a legislative office, county office, city council office, mayoral office, or school board office that in the aggregate exceed eight hundred dollars or to a candidate for a public office in a special purpose district or a state office other than a legislative office that in the aggregate exceed one thousand six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

RCW 42.17A.001 Declaration of policy provides:

It is hereby declared by the sovereign people to be the public policy of the state of Washington:

- (1) That political campaign and lobbying contributions and expenditures be fully disclosed to the public and that secrecy is to be avoided.
- (2) That the people have the right to expect from their elected representatives at all levels of government the utmost of integrity, honesty, and fairness in their dealings.
- (3) That the people shall be assured that the private financial dealings of their public officials, and of candidates for those offices, present no conflict of interest between the public trust and private interest.
- (4) That our representative form of government is founded on a belief that those entrusted with the offices of government have nothing to fear from full public disclosure of their financial and business holdings, provided those officials deal honestly and fairly with the people.
- (5) That public confidence in government at all levels is essential and must be promoted by all possible means.
- (6) That public confidence in government at all levels can best be sustained by assuring the people of the impartiality and honesty of the officials in all public transactions and decisions.
- (7) That the concept of attempting to increase financial participation of individual contributors in political campaigns is encouraged by the passage of the Revenue Act of 1971 by the Congress of the United States, and in consequence thereof, it is desirable to have implementing legislation at the state level.
- (8) That the concepts of disclosure and limitation of election campaign financing are established by the passage of the Federal Election Campaign Act of 1971 by the Congress of the United States, and

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in consequence thereof it is desirable to have implementing legislation at the state level.

(9) That small contributions by individual contributors are to be encouraged, and that not requiring the reporting of small contributions may tend to encourage such contributions.

(10) That the public's right to know of the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private.

(11) That, mindful of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society.

The provisions of this chapter shall be liberally construed to promote complete disclosure of all information respecting the financing of political campaigns and lobbying, and the financial affairs of elected officials and candidates, and full access to public records so as to assure continuing public confidence of fairness of elections and governmental processes, and so as to assure that the public interest will be fully protected. In promoting such complete disclosure, however, this chapter shall be enforced so as to insure that the information disclosed will not be misused for arbitrary and capricious purposes and to insure that all persons reporting under this chapter will be protected from harassment and unfounded allegations based on information they have freely disclosed.

CONCLUSION

Based on the facts and documents provided herein, Mr. Faith violated several provisions of RCW 42.17A et. seq.

First, Mr. Faith used or authorized a significant use of time, office space and facilities of Franklin County, directly or indirectly, for the purpose of assisting and managing his campaign for election to office. This effort was effectuated by exchanging campaign emails; researching campaign websites; reviewing his campaign website; reviewing campaign website emails; receiving campaign endorsements; obtaining Franklin County maps and materials for his campaign website; and other activities in violation of RCW 42.17A.555.

Moreover, Mr. Faith's campaign received contributions/expenditures for rent exceeding \$13,500 from a single individual, Kyle O. Pfundheller, of Trinity Homes, LLC, well above the \$800 aggregate limit imposed by RCW 42.17A.405.

Finally, Mr. Faith's campaign failed to report the above enumerated rent contributions/expenditures from Kyle O. Pfundheller, of Trinity Homes, LLC in violation of RCW 42.17A.001.

Best Regards,



Roger E. Lenk

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Exhibits (17)