

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

In the Matter of Enforcement Action  
Against:

National Association of Realtors Fund

Respondents.

Case No. 14-009

STIPULATION AS TO FACTS,  
VIOLATIONS AND PENALTY

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Andrea McNamara Doyle, and Respondent National Association of Realtors Fund (NAR Fund), through its counsel Mark Lamb, submit this Stipulation as to Facts, Violations and Penalty in this matter. The parties agree that the Commission has the authority to accept, reject or modify the terms of this Stipulation. The parties further agree that in the event that the Commission suggests modification to any term of this agreement, each party reserves the right to reject that modification. In the event either party rejects a modification, this matter will proceed to hearing before the Commission.

**JURISDICTION**

The Public Disclosure Commission has jurisdiction over this proceeding pursuant to RCW 42.17A, the state campaign finance and disclosure laws; RCW 34.05, the Administrative Procedure Act; and WAC 390.

**FACTS**

1. The National Association of Realtors Fund (NAR Fund) is organized as a tax-exempt organization under Section 527 of the Internal Revenue Code. It receives all of its funding from the National Association of Realtors (NAR) and does not solicit or accept contributions from others.
2. NAR Fund was required to deliver a report of Independent Expenditures (PDC form C-6) within twenty-four hours of, or on the first working day after, the date it first published, mailed, or otherwise presented Independent Expenditure political advertising to the public

within 21 days of an election, valued at \$1,000 or more. NAR was required to electronically file a report of Electioneering Communications (PDC form C-6) within twenty-four hours of, or on the first working day after, the date it first broadcast, transmitted, mailed, erected, distributed, or otherwise published an Electioneering Communication within 60 days of an election.

### **NAR Fund Failed to Timely Report \$76,400 for Electioneering Communications and Independent Expenditure Political Advertisements**

3. NAR Fund spent \$76,400 for communications first presented to the public on October 11, 2013, including direct mail Electioneering Communications, and Independent Expenditure advocacy phone calls and online advertising supporting Kevin Wallace, a Bellevue City Council candidate, and Tim Leavitt, a candidate for Vancouver Mayor. NAR Fund was required to electronically file a C-6 report by October 14, 2013 for the direct mail Electioneering Communications, and was required to deliver a C-6 report by the same day for the Independent Expenditure telephone calls and online advertising. NAR Fund faxed a C-6 report 16 days later on October 30, 2013, six days before the general election.
4. The October 11, 2013 C-6 report disclosed NAR Fund's Independent Expenditure telephone calls and online advertising 16 days late. The report also disclosed NAR Fund's direct mail Electioneering Communications, though not electronically as required.
5. NAR Fund electronically re-filed this C-6 report with the PDC on November 5, 2013, the date of the general election. This electronic report disclosed NAR Fund's direct mail Electioneering Communications 22 days late.

### **NAR Fund Failed to Timely Electronically Report \$48,700 for Electioneering Communications**

6. NAR Fund spent \$48,700 for Electioneering Communications first presented to the public on October 17, 2013, for direct mail advertising and related polling and consulting expenses supporting the following candidates for the offices listed:

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- Nancy Backus, for Mayor, City of Auburn;
- Dino Davis, for City Councilmember, City of Bremerton;
- Don Barnes, for Port Commissioner, Port of Kennewick;
- Steve Hastings, for City Councilmember, City of Puyallup;
- John Hopkins, for City Councilmember, City of Puyallup; and
- Chris McNutt, for City Councilmember, City of Puyallup.

7. NAR Fund was required to electronically file a C-6 report by October 18, 2013. NAR Fund faxed a C-6 report disclosing \$48,700 for Electioneering Communication expenditures 12 days later on October 30, 2013. However, NAR Fund did not electronically file its C-6 report, as required, until November 5, 2013, 18 days late and on the date of the general election.

### **STATUTORY AND RULE AUTHORITY**

**RCW 42.17A.005(19)(a)** defines "Electioneering communication" to mean any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that: (i) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name; (ii) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and (iii) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of one thousand dollars or more.

**RCW 42.17.005(26)** states, (26) "Independent expenditure" means an expenditure that has each of the following elements:

- (a) It is made in support of or in opposition to a candidate for office by a person who is not
  - (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of \*eight hundred dollars or more. A series of expenditures, each of which is under eight hundred dollars, constitutes one independent expenditure if their cumulative value is eight hundred dollars or more. \* \$800 has been revised to \$950.

**RCW 42.17.260** states in part, (1) The sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

**RCW 42.17A.305** requires that the sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, or otherwise published, and include: (a) Name and address of the sponsor; (b) Source of funds for the communication, (c) Name and address of the person to whom an electioneering communication related expenditure was made; (d) A detailed description of each expenditure of more than one hundred dollars; (e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published; (f) The amount of the expenditure; and (g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate.

## VIOLATIONS

8. Based on the Stipulation of Facts set forth above, Respondent National Association of Realtors Fund violated RCW 42.17A as follows:

A. RCW 42.17A.260 and RCW 42.17A.305 by failing to timely file C-6 reports of Electioneering Communications and Independent Expenditure Political Advertising disclosing \$125,100 in direct mail, advocacy phone calls, online advertising, and related expenses supporting eight local candidates in the November 5, 2013 general election.

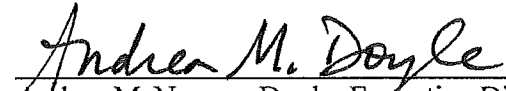
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## PENALTY


9. Based upon the Stipulation of Facts and Violations set forth above, Respondent National Association of Realtors Fund agrees to pay a total civil penalty of \$10,000 with \$7,500 suspended on the following conditions:

- a. National Association of Realtors Fund is not found to have committed any violations of RCW 42.17A within four years of the date of the final order in this matter.
- b. National Association of Realtors Fund pays the non-suspended portion of the penalty (\$2,500) within 30 days of the date of the final order.

10. Respondent National Association of Realtors Fund affirms its intention to comply in good faith with the provisions of RCW 42.17A in the future.

  
Andrea McNamara Doyle, Executive Director  
Public Disclosure Commission

12/3/14  
Date Signed

  
Mark Lamb, Counsel for  
National Association of Realtors Fund

12-3-14  
Date Signed