

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

IN THE MATTER OF ENFORCEMENT
ACTION AGAINST:

Jennifer Walther

Respondent.

PDC CASE NO. 14-053

FINAL ORDER

This matter came before the Washington State Public Disclosure Commission (PDC) on June 26, 2014 at the PDC Office, 711 Capitol Way, Room 206, Olympia, Washington. Those present included Amit Ranade, Chair; Grant Degginger, Vice Chair; and Katrina Asay, Member. Also present were: PDC Executive Director Andrea McNamara Doyle; Assistant Attorney General Callie A. Castillo serving as Counsel for PDC staff; Jean Wilkinson serving as Commission Counsel; and Nancy Coverdell as recorder/reporter of the proceedings. Sonny J. Behrends served as counsel for the Respondent, but neither he nor the Respondent were in attendance. The proceedings were open to the public and recorded.

The Respondent held a staff position in Spokane School District No. 81 during the time relevant to the alleged violation. This matter resulted from an allegation that the Respondent violated RCW 42.17.130¹ by using or authorizing the use of Spokane School District No. 81 facilities for the purpose of assisting a candidate's 2011 campaign for school director, or for the promotion of ballot propositions in the March 10, 2009 special election, as detailed in the Stipulation.

¹ Effective January 1, 2012, RCW 42.17.130 was recodified as RCW 42.17A.555.

The Commission was provided with a Report of Investigation dated February 13, 2014 (and exhibits); a notice of administrative charges dated February 13, 2014; a staff memo dated June 19, 2014; and a list of comparable cases.

Stipulation

The parties jointly submitted a signed Stipulation as to Facts, Violations, and Penalty (Stipulation). Ms. Castillo summarized the Stipulation, summarized comparable cases, and asked the Commission to take appropriate action by accepting the Stipulation. The Commission voted 3-0 to accept the Stipulation of facts, violation, and penalty.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the Stipulation, which is hereby attached and incorporated by reference, the Commission finds and concludes:

1. The Jurisdiction, Facts, Legal Authority, and Violation are established as provided in the Stipulation.
2. The Respondent violated RCW 42.17.130 as provided in the Stipulation.
3. A civil penalty of \$500 with \$300 suspended on the conditions enumerated below is an appropriate resolution of this matter with respect to the Respondent.

II. ORDER

Based upon the findings and conclusions, the Commission orders that:

1. The Stipulation is accepted.
2. The Respondent, Jennifer Walther, is assessed a civil penalty of \$500 for the stipulated violation. Of the total penalty amount, \$300 is suspended based on Respondent's compliance with the following conditions:

- a. Respondent is not found to have committed violations of RCW 42.17A.555 based on conduct occurring after the issuance of the February 13, 2014 Notice of Administrative Charges and within four years from the date of the entry of the Commission's Final Order in this matter; and
 - b. Respondent pays the non-suspended portion of the penalty (\$200) within 30 days of the date of entry of the Commission's Final Order in this matter.
3. In the event Respondent fails to meet either of the terms in paragraph 2, the suspended portion of the penalty (\$300) shall become due without any further intervention of the Commission.

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

So ORDERED this 15th day of August, 2014.

WASHINGTON STATE PUBLIC
DISCLOSURE COMMISSION
FOR THE COMMISSION:


ANDREA MCNAMARA DOYLE
Executive Director

ATTACHMENTS

- (1) Stipulation as to Facts, Violation, and Penalty
- (2) Appeals and Enforcement of Final Orders

Copy of this Order to:

Jennifer Walther
c/o Sonny Behrends and Steven O'Ban
Ellis, Li & McKinstry PLLC
2025 First Ave. Penthouse A
Seattle, WA 98121-3125

I, Philip E. Stutzman, certify that I mailed a copy of this order to the Jennifer Walther, through her counsel as noted above, postage prepaid, on the date stated herein.

Signature

Date

Final Order
Jennifer Walther
PDC Case No. 14-053

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BEFORE THE PUBLIC DISCLOSURE COMMISSION OF THE STATE OF WASHINGTON

In the Matter of Enforcement Action
Against:

JENNIFER WALTHER

Respondent.

PDC Case No. 14-053

STIPULATION AS TO FACTS,
VIOLATION AND PENALTY

I. INTRODUCTION

The parties hereto, the Public Disclosure Commission ("Commission") Staff, through its Executive Director, Andrea McNamara Doyle, and Respondent Jennifer Walther, through her attorneys, Steven T. O'Ban and Sonny J. Behrends, submit this Stipulation as to Facts, Violation and Penalty. 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 in 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.

II. JURISDICTION

The 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.

1 III. FACTS

- 2 1. In the March 10, 2009 special election, Spokane School District No. 81 held a
3 maintenance and operations replacement levy election and bond election. The levy and
4 bond propositions were assigned Proposition 1 and Proposition 2, respectively.
- 5 2. In the November 8, 2011 general election, Deana Brower and Sally Fullmer were
6 candidates for the office of School Director in Spokane School District No. 81.
- 7 3. In the months preceding the March 10, 2009 special election, Ms. Walther held a
8 teaching position at Ferris High School in Spokane. Ms. Walther also held her position
9 during the summer preceding the November 8, 2011 general election.
- 10 4. Ms. Walther used her Spokane Public Schools email address,
11 *jenniferwa@SpokaneSchools.org*, and a District computer to send an email to
12 numerous school staff members, notifying them that students from her Leadership class
13 would visit classrooms that day to distribute political advertising in support of the 2009
14 bond and levy. This occurred at 10:38 a.m. on Wednesday, February 18, 2009, while on
15 paid agency time. In part, her email stated, *"Please post this flyer in your room to
16 advertise the upcoming event this Saturday. Thank you for your cooperation. These
17 kids are working hard to get the bond/levy passed."* Ms. Walther believes that she was
18 instructed to send this email by one of her supervisors.
- 19 5. In a telephone conversation with Commission staff on January 7, 2014, Ms. Walther
20 stated that the flyers discussed in her February 18, 2009 email advertised a weekend
21 campaign rally at an Ace Hardware parking lot.
- 22 6. In July and August 2011, Ms. Walther exchanged a series of emails with Laurie Rogers
23 through Ms. Walther's Spokane Public Schools email address,
24 *jenniferwa@SpokaneSchools.org*. In an email sent on July 19, 2011, Ms. Walther
25 made a series of crucial statements about Deana Brower, then a candidate for school
26 director.
- 27 7. On July 23, 28, 29, and 30, 2011, Ms. Walther received emails from Ms. Rogers
28 promoting Sally Fullmer and opposing Deana Brower in their 2011 campaigns for
29 school director. These emails included the following in their subject lines: *"Sally
30 Fullmer best choice for Spokane School Board," "Please help get Sally Fullmer
31 elected,"* and *"Vote for Sally."* Ms. Rogers' July 28, 2011 email to Ms. Walther
32 forwarded an invitation to meet Sally Fullmer at a campaign event. In her email to Ms.
33 Walther sent on July 29, 2011, Ms. Rogers stated, *"Deana Browers has been telling
34 people she's a Republican. And yet other people, including the teachers union...seem
35 to think she's a progressive....Please vote for someone who is what she appears to be:
36 Sally Fullmer. And please pass this...around to your conservative-minded friends and
37 colleagues who still believe Deana is a conservative. People should see Deana for who
38 she really is."*
- 39 8. Following her receipt of these emails from Ms. Rogers, on August 2, 2011, Ms.
40 Walther sent an email to Ms. Rogers through her Spokane Public Schools email
41 address, *jenniferwa@SpokaneSchools.org*. In her email, Ms. Walther stated, *"I talked
42 to a teacher from Linwood Elem. and she told me she received a letter (2 pages) from*

1 *the district/union telling teachers to vote for Deana Brower for school board. Truly a*
2 *case of someone trying to act like a Republican and completely swayed by the union.*
3 *Brower is a rubber stamped, well coached machine. It's too bad voters cannot see*
4 *through her facade." Ms. Rogers responded the same day, "Thanks for that. Some*
5 *voters are beginning to see. I'd like to see the letter. Any chance I can get a copy?"*

- 6 9. On August 2, 3, 4, 10, and 15, 2011, Ms. Walther sent emails to Ms. Rogers through
7 Ms. Walther's Spokane Schools email address, jenniferwa@SpokaneSchools.org,
8 discussing Ms. Walther's efforts to secure a copy of the union's letter for Ms. Rogers.
9 Each email sent throughout this exchange included the phrase "Vote for Sally" in its
10 subject line.

11 IV. LEGAL AUTHORITY

12 RCW 42.17.130 (effective January 1, 2012, codified as RCW 42.17A.555) states, in
13 relevant part:

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

23 V. VIOLATION

24 Based on the stipulated facts set forth above, Respondent Jennifer Walther stipulates to
25 a violation of RCW 42.17.130 for using her Spokane School District email for the purpose of
26 assisting a campaign for election of any person to any office or for the promotion of or
opposition to any ballot proposition.

VI. PENALTY

Based on the stipulated facts and violation set forth above, Respondent Jennifer
Walther agrees to pay a civil penalty of \$500, with \$300 suspended on the following
conditions:

