

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

In the Matter of Enforcement Action  
Against:

Kitsap County Prosecuting Attorney  
Guild

Respondent.

Case No. 15-042

STIPULATION AS TO FACTS,  
VIOLATION AND PENALTY

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Andrea McNamara Doyle, and Respondent Kitsap County Prosecuting Attorney Guild, through its President, Philip Bacus, 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. On April 21, 2014, Russell Hauge filed a Candidate Registration (C-1 report) registering his campaign for re-election to the office of Kitsap County Prosecuting Attorney in 2014. Mr. Hauge faced three challengers, and was defeated by Tina Robinson in the November 5, 2014 general election.

2. On June 18, 2014, the Hauge Campaign filed a Monetary Contributions report (C-3 report) disclosing the receipt of a \$950 contribution from the Guild, the maximum allowable contribution for the 2014 primary election.
3. On June 21, 2014, the Guild approved expenditures for independent expenditure political advertising (IEs) that supported Mr. Hauge's re-election campaign. On July 25, 2014, the Guild timely filed a report of Independent Expenditures (C-6 report) disclosing that on July 24, 2014, it spent \$6,300 to purchase a series of newspaper and on-line advertisements from the Kitsap Sun in support of Mr. Hauge's re-election campaign. The total cost was later revised to \$5,753 by the newspaper. The C-6 report disclosed that the IE was first presented to the public on July 24, 2014.
4. No evidence was found that the Guild consulted with the Hauge campaign or sought permission to copy content from Mr. Hauge's publically available campaign website.
5. The Guild's IE political advertising included content copied from the Hauge campaign website, including: (1) The heading "*Re-Elect Russ Hauge...Kitsap County Prosecutor - Democrat*" using the same font, colors, and graphic design; (2) A photograph of Mr. Hauge; and (3) A quote from Congressman Derek Kilmer in support of Mr. Hauge. The Guild's political advertising also included some of the same law enforcement endorsements used by the Hauge campaign on its website. The Guild contends that the law enforcement officials making the endorsements worked closely with the Prosecutor's Office and were publicly known.
6. Approximately 20 percent of the Guild's political advertising content was copied from the Hauge campaign website. RCW 42.17A.005(13)(a)(iii) and WAC 390-05-210(2) define a contribution to include, "*The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising prepared by a candidate, a political committee, or the authorized agent of a candidate or political committee is a contribution to the candidate or political committee.*" If these laws/regulations are interpreted to encompass the portions of the Guilds advertisements

discussed above, the Guild made an in-kind contribution to the Hauge campaign of approximately \$1,151, or 20% of the Guild's \$5,753 expenditures in support of Mr. Hauge.

7. If the Guild's advertisements discussed above are interpreted to be an in-kind contribution, when aggregated together with the Guild's prior \$950 primary election contribution to Mr. Hauge, the Guild's \$1,151 in-kind contribution exceeded the primary election limit by \$1,151.

### STATUTORY AND RULE AUTHORITY

RCW 42.17A.005(13)(a) defines "Contribution" to include "(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents; [and] (iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising or electioneering communication prepared by a candidate, a political committee, or its authorized agent[.]"

WAC 390-05-210(2) *Duplicating political advertising*, states, "The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising prepared by a candidate, a political committee, or the authorized agent of a candidate or political committee is a contribution to the candidate or political committee."

RCW 42.17A.405(2) limits the amount of contributions that a person, other than a bona fide political party or a caucus political committee, may make to a candidate for county office, to \$950 per election. WAC 390-05-400 revises the dollar amounts for the contribution limits to reflect changes in economic conditions.

### VIOLATION

8. Respondent Kitsap County Prosecuting Attorney Guild, for the reasons set forth in its letter dated December 31, 2014, (Exhibit 4 to PDC Report of Investigation) maintains that RCW 42.17A.005(13)(a) and WAC 390-05-210(2) should not be interpreted so as to result in the advertisements placed in this case being a violation. However, for purposes of this stipulation Respondent is willing to accept a finding of violation of RCW 42.17A.405 should the Commission interpret the applicable laws and regulations such that its advertisements would be considered an in-kind contribution.

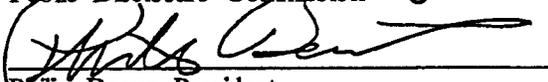
PENALTY

9. Based upon the Stipulation of Facts and Violation set forth above, Respondent Kitsap County Prosecuting Attorney Guild (Guild) agrees with PDC staff that if the Commission finds that the Guild violated RCW 42.17A.405, no penalty should be assessed, and invites the Commission to opine, prospectively, on the interpretation of RCW 42.17A.005(13)(a) and WAC 390-05-210(2), and its application to RCW 42.17A.405(2), when a person copies material from a candidate's or committee's publicly available website without consulting with the candidate's or committee's campaign or seeking permission to copy the content for use in independent expenditure political advertising supporting that candidate or ballot proposition, or electioneering communications identifying that candidate.

Respondent Kitsap County Prosecuting Attorney Guild 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

5/27/15  
Date Signed

  
Philip Bacus, President  
Kitsap County Prosecuting Attorney Guild

5/27/15  
Date Signed