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

IN RE THE MATTER OF ENFORCEMENT
ACTION AGAINST

JOHN AND LAURIE KNUITSEN,

Respondents.

PDC CASE NO. 24298

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
FINAL ORDER

I. INTRODUCTION

This matter was heard by the Washington State Public Disclosure Commission (Commission) on January 25, 2018 at the Public Disclosure Commission Office, 711 Capitol Way, Room 206, Olympia, Washington 98504. The hearing was held pursuant to RCW 34.05, RCW 42.17A, and WAC 390-37.

Commissioners present included Anne Levinson, Commission Chair (presiding); Jack Johnson, Commission Vice-Chair; and Commissioners David Ammons and William Downing. Also present were Assistant Attorney General Scott Douglas representing the Commission; Phillip Stutzman, Senior Compliance Officer on behalf of PDC Staff; and Assistant Attorney General Chad Standifer representing PDC Staff. PDC Executive Director Peter Lavalley was present under subpoena from Respondent’s counsel, but was not called to testify. Respondents John and Laurie Knutsen were present and represented by attorney Patricia Bosmans, also present. The proceeding was open to the public and recorded.

1 The hearing concerned allegations that Respondents violated RCW 42.17A.305 by
2 failing to file a C-6 Report of Electioneering Communications within 24 hours of mailing a flyer
3 that opposed John Hopkins, a candidate for Mayor of Puyallup, and RCW 42.17A.320 by failing
4 to include their name and address, as sponsors, on the electioneering communication that was
5 also political advertising.

6 The Commission had before it the following materials. Prior to the hearing, PDC Staff
7 offered Exhibits S-1 through S-13, which were admitted into evidence at the hearing without
8 objection.

- 9 S-1. Complaint filed with PDC by William Nolan, dated August 7, 2017, and copy of
10 anonymous flyer received by Mr. Nolan;
- 11 S-2. Email from PDC Staff to L&L Printing, dated August 9, 2017;
- 12 S-3. Initial email response from L&L Printing to PDC Staff, dated August 11, 2017;
- 13 S-4. Email from PDC Staff to L&L Printing, dated August 11, 2017;
- 14 S-5. Email from PDC Staff to John Knutsen, dated August 17, 2017, with request to
15 file C-6 Report of Electioneering Communications;
- 16 S-6. Response letter from the Knutsens to PDC Staff, received August 23, 2017;
- 17 S-7. Email from PDC Staff to the Knutsens, dated August 28, 2017, with renewed
18 request to file C-6 Report of Electioneering Communications;
- 19 S-8. Email from the Knutsens to PDC Staff, dated August 28, 2017, including initial
20 C-6 Report;
- 21 S-9. Email from PDC Staff to L&L Printing, dated August 31, with request for
22 invoice;
- 23 S-10. Email from L&L Printing to PDC Staff, dated September 6, 2017, with requested
24 invoice;
- 25 S-11. Amended C-6 Report filed by the Knutsens on October 11, 2017;
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1 S-12. Summary of interview with John Knutsen prepared by PDC Staff, dated
2 November 30, 2017;

3 S-13. Report of Investigation, PDC Case 24298, dated December 14, 2017.

4 At the hearing, PDC Staff offered for admission the audio file of the November 30, 2017
5 interview of Mr. Knutsen. The audio file was admitted into evidence without objection as Exhibit
6 S-14. Staff also presented a “Chart Showing Comparable Factors” which was before the
7 Commission, but neither party moved for its admission into evidence.

8 Prior to the hearing, Respondents offered Exhibits R-1 through R-3, which were
9 admitted into evidence without objection.

10 R-1. Table of cases resolved by the Commission between November 1, 2010 and
11 July 14, 2017, including penalties assessed and amounts suspended;

12 R-2. “Penalties for Noncompliance” information as published on the PDC web page;

13 R-3. Complaint ticket #1301 published on PDC web site, and table of 434 active
14 PDC cases as of January 16, 2018.

15 At the hearing, Respondents offered for admission Exhibits R-4 through R-7 which
16 were admitted into evidence without objection.

17 R-4. Table of 533 PDC cases resolved in 2016 and 2017;

18 R-5. Complaint ticket #2218 published on PDC web site;

19 R-6. Complaint ticket #2277 published on PDC web site;

20 R-7. Complaint ticket #9503 published on PDC web site.

21 **II. PROCEDURAL HISTORY**

22 On August 7, 2017 the Public Disclosure Commission received a complaint alleging that
23 RCW 42.17A may have been violated in relation to a political flyer mailed in opposition to
24 Puyallup City Council candidate John Hopkins.
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1 in the primary election, and cost \$1,000 or more. The flyer also met the definition of political
2 advertising because it appealed, directly or indirectly, for opposition to Mr. Hopkins when he
3 was a candidate for Puyallup City Council.

4 3.4 John and Laurie Knutsen were required to file a C-6 Report of Electioneering
5 Communications within 24 hours of first presenting the flyer to the public, or no later than July 7,
6 2017. They filed the report 52 days late on August 28, 2017, four weeks after the primary
7 election.

8 3.5 John and Laurie Knutsen failed to include sponsor identification on their
9 electioneering communications flyer that was political advertising.

10 **IV. CONCLUSIONS OF LAW**

11 4.1 RCW 42.17A.005(19)(a) defines an “Electioneering communication” to include
12 a “United States postal service mailing” that:

13 (i) Clearly identifies a candidate for a state, local, or judicial office either by
14 specifically naming the candidate, or identifying the candidate without using the
15 candidate's name; (ii) Is broadcast, transmitted, mailed, erected, distributed, or
16 otherwise published within sixty days before any election for that office in the
17 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.”

18 The flyer sent by John and Laurie Knutsen met the definition of an “electioneering
19 communication” in that it clearly identified candidate John Hopkins by name, was mailed within
20 sixty days before the election in question, and cost over one thousand dollars.

21 4.2 RCW 42.17A.005(36) defines, “Political advertising” to include:

22 [A]ny advertising displays, newspaper ads, billboards, signs, brochures, articles,
23 tabloids, flyers, letters, radio or television presentations, or other means of mass
communication, used for the purpose of appealing, directly or indirectly, for votes
or for financial or other support or opposition in any election campaign.

24 The flyer sent by John and Laurie Knutsen met the definition of “political advertising” in that it
25 was a flyer, and was used for the purpose of opposing John Hopkins during the Puyallup City
26 Council election.

1 4.3 RCW 42.17A.305(2) states, in pertinent part, that the sponsor of an electioneering
2 communication is required to report certain details to the Commission regarding the
3 communication “within twenty-four hours of, or on the first working day after, the date the
4 electioneering communication is broadcast, transmitted, mailed, erected, distributed, or
5 otherwise published.” Respondents John and Laurie Knutsen violated RCW 42.17A.305 by
6 failing to timely file a C-6 Report of Electioneering Communications within 24 hours of mailing
7 a flyer on July 6, 2017 that opposed John Hopkins, a 2017 candidate for Puyallup City Council.

8 4.4 RCW 42.17A.320 states, in pertinent part that, “[a]ll written political advertising,
9 whether relating to candidates or ballot propositions, shall include the sponsor's name and
10 address.” Respondents John and Lauri Knutsen violated RCW 42.17A.320 by failing to include
11 their name and address, as sponsors, on their flyer.

12 4.5 In determining the appropriate penalty, the Commission noted, under
13 WAC 390-37-182(3), that the following were aggravating factors:

14 A. The violations deprived the public of timely information during a time-sensitive
15 period;

16 B. The flyer was intentionally sent out anonymously;

17 C. The unreported activity was significant in amount in that the flyer cost \$2,100 to
18 produce, a large amount relative to the amount spent in the pertinent election;

19 D. While the Knutsens had not filed a C-6 previously, Mr. Knutsen had run for Puyallup
20 City Council and had served as an elected official; therefore he was not unsophisticated with
21 respect to campaign finance requirements;

22 E. There were delays with respect to filing the C-6 report after it was brought to the
23 Knutsens’ attention by staff, and the C-6 report had to be amended in October 2017 because the
24 Knutsens failed to report that the \$2,100 expenditure was made in opposition to John Hopkins,
25 and failed to disclose information concerning the source of the funding for the communication.
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1 **Appeals and Enforcement of Commission Final Order**

2 NOTICE: RECONSIDERATION

3 PURSUANT TO THE PROVISIONS OF RCW 34.05.470 AND WAC 390-37-150 YOU MAY
4 FILE A PETITION FOR RECONSIDERATION WITH THE PDC WITHIN TEN (10) DAYS
5 FROM THE DATE THIS FINAL ORDER IS SERVED UPON YOU. ANY REQUEST FOR
6 RECONSIDERATION MUST STATE THE SPECIFIC GROUNDS FOR THE RELIEF
7 REQUESTED. PETITIONS MUST BE DELIVERED OR MAILED TO THE WASHINGTON
8 STATE PUBLIC DISCLOSURE COMMISSION, 711 CAPITOL WAY, ROOM 206, BOX
9 40908, OLYMPIA WA 98504-0908.

10 NOTICE: PETITION FOR JUDICIAL REVIEW

11 YOU HAVE THE RIGHT TO APPEAL THIS FINAL ORDER TO SUPERIOR COURT,
12 PURSUANT TO THE PETITION FOR JUDICIAL REVIEW PROVISIONS OF RCW
13 34.05.542. ANY PETITION FOR JUDICIAL REVIEW OF THIS FINAL ORDER MUST BE
14 FILED WITH THE COURT AND ALSO SERVED UPON BOTH THE COMMISSION AND
15 THE OFFICE OF THE ATTORNEY GENERAL WITHIN THIRTY (30) DAYS AFTER THE
16 DATE THIS FINAL ORDER IS SERVED UPON YOU.