

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

In the Matter of Enforcement Action
Against:

North Cascade Jobs Enterprise
Washington PAC

Respondent.

Case No. 42387

**STIPULATION AS TO
FACTS, VIOLATIONS AND
PENALTY**

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Peter Lavalley, and Respondent, North Cascade Jobs Enterprise Washington PAC through Dan Brady, legal counsel 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 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 North Cascade Jobs Enterprise Washington PAC (Committee) is a continuing political committee registered with the Public Disclosure Commission (PDC) and has been filing reports with the PDC since April 28, 2016.
2. For the 2018 election, the Committee was sponsored by, and affiliated with, the Enterprise WA JOBS PAC. Enterprise WA JOBS PAC has been registered with the PDC as a continuing political committee since 2008.
3. On March 2, 2018, the Committee filed an amended Committee Registration (C-1pc report) with the PDC as a continuing committee, selecting the Full Reporting Option and listing

Jeffrey Harvey as President, Jon DeVaney as Chairman/Committee Officer, Gary Strannigan as Treasurer and Janette Roberts as Financial Controller.

4. On October 7, 2018, the Committee filed an amended Committee Registration (C-1pc report) with the PDC as a continuing committee, selecting the Full Reporting Option and listing Jeffrey D. Harvey as President, Jon DeVaney as Chairman/Committee Officer, and Gary Strannigan as Treasurer. There was no Financial Controller listed.

Failure to timely file C-6 reports

5. On February 1, 2019, the Committee filed twelve C-6 reports disclosing \$190,191 in expenditures made for electioneering communication advertisements made during the period October 9 through November 2, 2018, including \$182,323 made in opposition to Pinky Vargas, and \$7,868 made in support of Doug Ericksen.
6. As detailed in the chart below, the information reported in the C-6 report was disclosed between 88 and 114 days late, and more than 87 days after the general election. The C-6 reports disclosed the following activities:
 - \$104,259 for twelve direct mail electioneering communication advertisements that were presented to the public between October 9 through November 2, 2018.
 - \$52,325 in cable television electioneering communications advertisements that ran during the period October 10 through November 6, 2018.
 - \$33,607 for Facebook and other social/digital media electioneering communications advertisements that ran during the period October 10 through November 6, 2018.
7. Eleven of the twelve C-6 reports filed by the Committee on February 1, 2019 disclosed electioneering communications made in opposition to Pinky Vargas, and one C-6 report disclosed electioneering communications made in support of Doug Erickson as noted above.

Failure to timely and accurately file C-4 reports

21-Day Pre-General Election C-4 report

8. On October 16, 2018, the Committee timely filed its 21-day Pre-General Election C-4 report disclosing \$190,000 in contributions received and three expenditures totaling \$35,531, with

no outstanding debts or obligations.

9. On February 6, 2019, the Committee amended its 21-day Pre-General Election C-4 report disclosing the same \$190,000 in contributions received, \$88,286 in expenditures made (which included the previously disclosed expenditures of \$35,531), and \$39,265 in debt/liabilities.
10. The amended 21-day Pre-General Election C-4 report included \$52,755 in previously unreported expenditures and \$39,265 in previously unreported debts and were all made in opposition to Pinky Vargas and disclosed after the November 6, 2018 general election. and the reported expenditures and debts included the following:
 - \$29,500 in debts owed to Media Buying LLC, for Cable TV electioneering communications advertisements opposing Pinky Vargas that ran during the period October 10 through November 6, 2018.
 - \$22,523 in expenditures made for three direct mail electioneering communications advertisements that included between 11,010 to 14,153 direct mail pieces.
 - \$14,700 for Mobile electioneering communications advertisements that ran during the period October 10 through November 6, 2018.
 - \$11,647 for Facebook electioneering communications advertisements that ran between running October 10 through November 6, 2018.
 - \$9,766 in debts owed for a direct mail electioneering communications advertisement for 14,153 mail pieces.
11. The amended expenditure and debt information disclosed on the amended 21-day Pre-General Election C-4 report was reported 113 days late and 92 days after the November 6, 2018 general election.

7-Day Pre-General Election C-4 report

12. On October 30, 2018, the Committee timely filed its 7-day Pre-General C-4 report disclosing zero contributions received during the period, no expenditures made, no debts or obligations outstanding, and a \$155,989 cash on hand balance.

13. On February 6, 2019, the Committee amended its 7-day Pre-General Election C-4 report disclosing no contributions received during the period, \$40,896 in previously unreported expenditures, and \$52,271 in previously unreported debts and liabilities.
14. The \$40,896 in previously unreported expenditures, and \$52,271 in previously unreported debts and liabilities, were all made in opposition to Pinky Vargas, disclosed after the November 6, 2018 general election, and included the following:
 - \$40,896 for expenditures made for four direct mail electioneering communications advertisements that included between 11,010 to 14,153 mail pieces.
 - \$29,500 in debts owed to Media Buying LLC, for Cable TV electioneering communications advertisements opposing Pinky Vargas that ran during the period October 10 through November 6, 2018 (disclosed on the 21-Day Pre-General Election C-4 report).
 - \$22,771 in outstanding debts owed for three direct mail electioneering communications advertisements.
15. The amended expenditure and debt information disclosed on the amended 7-day Pre-General Election C-4 report was reported 99 days late and 92 days after the 2018 general election.

Factors in Mitigation

16. The Committee has not been the subject of a prior PDC enforcement action.
17. The Committee entered the 2018 election cycle with every intention of complying with public disclosure requirements, and no intentional violations of RCW 42.17A or WAC 390 have been found.
18. During its response to the complaint of missing C-6 reports, the Committee determined there were additional C-6 reports not filed and its C-4 reports were inaccurate and/or did not provide the detail required. The Committee filed all the outstanding C-6 reports and sought to amend all the C-4 reports necessary to ensure all disclosures were accurate.
19. The Committee has recently hired Tom Perry, to take over the PDC reporting requirements. Mr. Perry is a professional, experienced treasurer with many years of reporting for numerous candidates and political committees in Washington State.

20. In the 2018 42nd District state senate race, the Committee was responsible for \$190,101 of the \$230,152 in independent expenditures supporting Doug Ericksen or opposing Pinky Vargas. Committees supporting Pinky Vargas or opposing Doug Ericksen were responsible for \$742,129 in independent expenditures.
21. The Committee acknowledges that late and/or inaccurate PDC filings frustrate the purpose of public disclosure and accepts sole responsibility for the violations found.

Factors in Aggravation

22. The complaint in this matter was filed on October 17, 2018. The Committee failed to acknowledge the complaint, provide a response, or file any missing C-6 reports for the period October 17 through December 30, 2018, until early 2019.
23. The Committee was directed by and affiliated with Enterprise WA/Enterprise WA JOBS PAC, which is an experienced organization and political committee that has been filing PDC reports dating back to 2008.
24. For the 2018 election, Enterprise WA JOBS PAC made contributions to five affiliated and sponsored political committees totaling more than \$1.75 million, including \$190,000 in contributions made to this Committee. Enterprise WA and Enterprise WA JOBS PAC had resources available to comply with the reporting requirements in accordance with RCW 42.17A and WAC 390.
25. The Committee failed to implement the necessary internal controls during the 2018 election cycle to comply with the statutes, rules and reporting requirements.
26. The November 6, 2018 general election State Senate race in the 42nd Legislative was one of the closest Legislative elections in Washington State history, with Doug Ericksen defeating Pinky Vargas by 45 votes (out of 72,779 votes cast) after a machine and hand recount of all the ballots.
27. The public was deprived of significant Committee expenditure information for the entire 2018 election cycle, concerning the disclosure of \$190,190 in Committee expenditures made for electioneering communications advertisements in opposition to Pinky Vargas.

28. While the amended C-4 reports filed February 6, 2019 provided additional required information, the reports did not include media outlets used, and did not appear to include sub vendors, when used, as required by WAC 390-16-037 and WAC 390-16-205.

STATUTORY AND RULE AUTHORITY

RCW 42.17A.305 requires the sponsor of an electioneering communication to 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; and (e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published.

RCW 42.17A.235 and **RCW 42.17A.240** requires continuing political committees to file timely, accurate reports of contributions and expenditures under the full reporting option. C-4 reports are required monthly when contributions or expenditures exceed \$200 since the last report was filed and C-4 reports are also required 21 and 7 days before each election, and in the month following the election. Subsection (6) states that the report shall accurately disclose contribution and expenditure information, including the name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, the amount, date, and the detailed description or purpose of each expenditure, and the total sum of all expenditures.

WAC 390-16-037 states that any person required to report the “purpose” of an expenditure under RCW 42.17A.240(6) shall identify any candidate(s) or ballot proposition(s) that are supported or opposed by the expenditure unless such candidate(s) or ballot proposition(s) have been previously identified in a statement of organization of the person required to be filed under RCW 42.17A.205 (2)(f) and (g). In addition, WAC 390-16-037 requires the expenditure descriptions for broadcast political advertisements to include the following details: Vendor Name; Purpose, to include the name of the media outlet, the amount paid for each media outlet; and the total expenditure amount.

WAC 390-16-205 states that (1) expenditures made on behalf of a candidate or political committee by any person, agency consultant, firm, organization, etc., employed or retained for the purpose of organizing, directing, managing or assisting the candidate's or committee's efforts shall be deemed expenditures by the candidate or committee. In accordance with WAC 390-16-037, such expenditures shall be reported by the candidate or committee as if made or incurred by the candidate or committee directly. (2) If any person, agency, consultant, firm, organization, etc., employed or retained by the candidate or political committee, subcontracts or otherwise has

an agreement with a sub vendor or other third party to provide or perform services, the expenditures paid to that sub vendor or other third party must also be disclosed. (3) Fees paid to consultants or other agents must be disclosed by candidates or political committees as an expenditure. In addition, when sub vendors are used, the candidate or political committee must disclose any portion of the expenditure retained by the consultant or other agent.

VIOLATIONS

Based on the Stipulation of Facts set forth above, the Committee stipulates to the following:

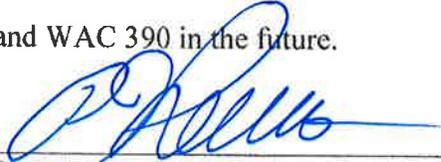
- 1 The Committee violated RCW 42.17A.235 and .240 by failing to timely and accurately file Summary Campaign Contribution and Expenditure Reports (C-4 reports) disclosing \$169,990 in expenditures made and orders placed for electioneering communications advertisements.
- 2 The Committee violated RCW 42.17A.305 by failing to timely file Independent Expenditure reports (C-6 reports) disclosing \$190,191 in Committee expenditures made for electioneering communications advertisements.

PENALTY

1. Based upon the Stipulation of Facts and Violations set forth above, the Committee agrees to pay a total civil penalty of \$65,000 with \$32,500 suspended on the following conditions:
 - a. The Committee is not found to have committed any further violations of RCW 42.17A or WAC 390 within four years of the date of the final order in this matter. The suspended penalty shall not be assessed based upon any remediable violation, minor violation, or error classified by the commission as appropriate to address by a technical correction.
 - b. The Committee files amended C-4 reports that are in full compliance with the disclosure requirements of RCW 42.17A.240, WAC 390-16-037, and WAC 390-16-205, within thirty days from the date of the final order, and is in compliance with all reporting requirements.
 - c. The non-suspended portion of the penalty (\$32,500) is paid by the Committee within ninety days of the date of the final order in this matter.

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The Committee affirms its intention to comply in good faith with the provisions of RCW 42.17A and WAC 390 in the future.



Peter Lavalley, Executive Director
Public Disclosure Commission

3/25/2019
Date Signed



Dan Brady, Attorney, on behalf of
North Cascade Jobs Enterprise Washington PAC

3/25/19
Date Signed