

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

In the Matter of Enforcement Action  
Against:

Facebook, Inc. (3) and Facebook, Inc.  
(5)

Respondent.

Cases 47572 and 55351

STIPULATION AND FINAL ORDER

**I. STIPULATION**

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Peter Lavalley, and Respondent Facebook, Inc., through its Counsel, K. Winn Allen, submit this Stipulation and Final Order (Stipulation) in this matter. The parties agree that this Stipulation is subject to the approval of the Commission. 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 its unilateral discretion. In the event either party rejects a modification, that party may withdraw from this Stipulation, and this matter may proceed to be scheduled for a hearing before the Commission.

**STIPULATED FACTS**

1. Facebook, Inc. (Facebook) is an international online social media and social networking service company based in Menlo Park, California. Facebook sells advertising, including political advertising.
2. Facebook has taken steps towards greater political advertisement transparency.
  - a. Facebook has created an Ad Library that provides the public with a searchable database of Facebook advertisements. <https://www.facebook.com/ads/library/>. With respect to advertisements relating to social issues, elections, or politics, the Ad Library currently contains data on active and inactive advertisements identified by Facebook and run on the platform since May 2018. These advertisements, as well as corresponding data, will remain in the Ad Library for 7 years.

- b. Facebook also provides an Ad Library Report, which allows users to explore, filter, and download data for ads about social issues, elections, or politics and provides data regarding overall spending totals, spending by specific advertisers, and spend data by geographic location. <https://www.facebook.com/ads/library/report/>.
    - c. Further, Facebook requires that advertisers undergo an extensive authorization process, through which they confirm their identity before they are permitted to advertise on Facebook. Advertisers in the United States are now required to provide Facebook with more information about the organizations responsible for political advertisements, which can help Facebook provide more details about the advertisements. *See* <https://about.fb.com/news/2019/08/updates-to-ads-about-social-issues-elections-or-politics-in-the-us/>. Advertisers are also required to place “Paid for by” disclaimers to continue running advertisements about social issues, elections, or politics in the United States, to communicate who is responsible for the advertisement.
3. On December 28, 2018, Facebook promulgated a policy prohibiting advertisers from running political advertisements targeted to Washington state for state and local elections. *See* <https://www.facebook.com/business/news/new-rules-for-ads-that-relate-to-politics-in-washington-state>. Since December 28, 2018, several advertisers have run political advertisements targeted to Washington residents in violation of Facebook’s policies.

#### **Facebook Ad Library and Other Publicly Available Information**

4. Of the information that must be disclosed pursuant to PDC regulations, the information that Facebook makes publicly available (including via its Ad Library, Ad Library Report, its platform, etc.) include the following:
  - a. Candidate name or ballot measure, and whether they are supported or opposed, along with the nature and extent of the services rendered (as apparent in the advertisement creative and text);
  - b. The identity of the sponsor that paid for the advertisement (as demonstrated in the “Paid for by” line in the Ad Library), along with contact information for

organizational sponsors (to become available in the Ad Library, *see* <https://newsroom.fb.com/news/2019/08/updates-to-ads-about-social-issues-elections-or-politics-in-the-us/>) and contact information for those individual sponsors that chose to provide that information on their Facebook page;

- c. Cost information (i.e., range for the amount spent on the advertisement as seen in the Ad Library and the spend per advertiser broken down by last day, last 7 days, last 30 days, last 90 days, and all dates as seen in the Ad Library Report);
- d. Dates chosen by the advertiser for the advertisement to run;
- e. The number of impressions the advertisement received (expressed as a range of impressions in the Ad Library);
- f. Reach information (i.e., the age and gender breakdowns and the state-specific locations where the advertisement was shown, as seen in the Ad Library); and
- g. Payment method information (i.e., the fact that there are only four permissible methods to pay for advertisements on Facebook in the United States), *see* [https://www.facebook.com/business/help/212763688755026?id=160022731342707](https://www.facebook.com/business/help/212763688755026?id=160022731342707;); <https://www.facebook.com/business/help/535658783283536?id=160022731342707>.

5. Of the information that must be disclosed pursuant to PDC regulations, Facebook does not currently make publicly available the following information:

- a. The street address of the individual sponsor that paid for the advertisement (although Facebook provides the web URL of the Facebook Page responsible for the advertisement, and some individuals also voluntarily make this information publicly available, as noted above);
- b. Exact cost per advertisement, payment dates, and specific payment method used to pay for an individual advertisement (although various cost and payment information is already provided, as noted above);
- c. The audience targeted; and

- d. Exact number of impressions for audience reached (although a range of impressions is already provided in the Ad Library).

**Additional Facts Concerning Case 47572, a Complaint Filed by Eli Sanders**

6. A complaint filed with the PDC by Eli Sanders on February 21, 2019, alleged that on February 12, 2019, Mr. Sanders sent an email to Facebook, in which he shared images of 25 Facebook political ads he had found targeting local Seattle elections since January 1, 2019. These ads related to four 2019 Seattle City Council campaigns, and one ballot measure campaign, as follows:
  1. Ari Hoffman and Ari Hoffman for Seattle City Council
  2. Ethan Hunter and Ethan Hunter 4 Seattle City Council
  3. Kate Martin and Put Kate on the Council
  4. Logan Bowers and Logan for Seattle
  5. Seattle Council PTSA
7. In the email sent by Mr. Sanders, he requested “all the information that Facebook is legally required to disclose about such advertising under Washington State law (RCW 42.17A.345), the Washington State Administrative Code (WAC 390-18-050), and the Seattle Municipal Code (Section 2.04.280).”
8. On May 10, 2019, Facebook sent the Commission a letter asserting its legal rights and defenses.
9. Following an in-person meeting with PDC staff, Facebook subsequently disclosed on July 29, 2019 information that had been requested by Mr. Sanders to the PDC. Upon receipt, the PDC forwarded the information from Facebook to Mr. Sanders.
10. The records ultimately provided by Facebook to the PDC contained most, but not all, of the items required by WAC 390-18-050. For example, the production included the cost of each individual version of an advertisement, but did not include when payment was made.
11. Nonetheless, the records ultimately provided by Facebook to the PDC included some of the major work components or tasks, as specified in WAC 390-18-050(6)(g), “the audiences

targeted and reached, to the extent such information is collected by the commercial advertiser as part of its regular course of business, and the total number of impressions generated by the advertisement or communication.” For audiences targeted, the demographic information provided by Facebook included location and age. For audiences reached, the demographic information provided by Facebook included age, gender, location by state (Washington).

#### **Additional Facts Concerning Case 55351, a Complaint by Tallman Trask**

12. A complaint filed with the PDC by Tallman Trask on July 24, 2019, alleged that Facebook was either preventing individuals from inspecting its commercial advertiser records in the “prompt” fashion required by law, or simply not keeping the required records.
13. Tallman Trask alleged that spending on Facebook advertising, and costs associated with the Facebook advertising on 2019 Seattle City Council campaigns, was approaching \$100,000 as of the date the complaint was filed. Tallman Trask alleged that Facebook advertising had been purchased for races in each of the seven council districts.
14. Tallman Trask alleged that as of the date the complaint was filed the following advertisers placed advertisements on Facebook concerning 2019 Seattle City Council races:
  1. Moms for Seattle: \$48,000
  2. Unite Here Local 8 Political Action Committee: \$9,299.38
  3. Service Employees International Union 775 Quality Care Committee: \$3,000 (minimum)
  4. Civic Alliance for a Sound Economy Sponsored by the Seattle Chamber: \$120
  5. Ann Davison Sattler/Neighbors for Ann: \$3,309.53
  6. Ari Hoffman/Hoffman for Seattle: \$1,429.71
  7. Isabelle Kerner/Kerner for Council: \$683.73
  8. Eugene Burrus/Friends of Gene Burrus: \$500
  9. Kate Martin/Put Kate on the Council: \$275.10
  10. Christopher Rufo/Rufo for City Council: \$150
  11. Logan Bowers/Logan for Seattle: \$54.15
  12. Daniela Lipscomb-Eng/Daniela for Seattle: \$39.99

15. In correspondence sent July 23, 2019 to Facebook, Tallman Trask asked for copies of disclosures required by the RCW 42.17A.345 and WAC 390-18-050 for all political advertisements run for, or by, eight Seattle City Council candidate campaigns during the 2019 election cycle, and by five political committees supporting or opposing those campaigns.
16. Facebook directed Tallman Trask to the Facebook Ad Library which contained some, but not all, of the requested information.
17. On August 12, 2019, Facebook sent the Commission a letter asserting its legal rights and defenses.
18. Facebook subsequently disclosed to the PDC, on September 3 and 10, 2019, information that had been requested by Tallman Trask. Upon receipt, the PDC forwarded the information from Facebook to Tallman Trask.
19. The records ultimately provided by Facebook to the PDC contained most, but not all, of the items required by WAC 390-18-050. For example, the production included the cost of each individual version of an advertisement, but did not include when the payment was made.
20. The records ultimately provided by Facebook to the PDC included some of the major work components or tasks, as specified in WAC 390-18-050(6)(g), “the audiences targeted and reached, to the extent such information is collected by the commercial advertiser as part of its regular course of business, and the total number of impressions generated by the advertisement or communication.” For audiences targeted, the demographic information provided by Facebook included location and age. For audiences reached, the demographic information provided by Facebook included age, gender, location by state (Washington).

#### **AGGRAVATING AND MITIGATING FACTORS**

In reviewing the appropriateness of the civil penalty, Commission Staff reviewed the criteria in WAC 390-37-182. The Commission Staff asserts that the aggravating factors include that: (1) Facebook’s compliance history includes a 2018 Stipulated judgment with the State of Washington totaling \$238,500, *see State of Wash. v. Facebook, Inc.*, No. 18-2-14129-0 SEA

(Superior Ct. Wash.); (2) when the complainants requested information concerning political advertising in early 2019, Facebook did not provide all of the information requested within 24 hours and ultimately provided most of the information to the PDC, upon a separate request from the PDC --- rather than directly to the individuals who requested the information; and (3) the sophistication and financing of Facebook. The Commission Staff asserts that the mitigating factors include that: (1) Facebook has developed an Ad Library and an Ad Library Report providing real-time information about political advertising in Washington State, and (2) Facebook has worked with PDC staff in a collaborative manner to resolve this matter.

### STATUTES AND RULE

The PDC applies the following statutes and rules:

**RCW 42.17A.005(11)** states “Commercial Advertiser” means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

**RCW 42.17A.345** states: (1) Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the election campaign shall maintain documents and books of account that shall be open for public inspection during normal business hours during the campaign and for a period of no less than three years after the date of the applicable election. The documents and books of account shall specify:

- (a) The names and addresses of persons from whom it accepted political advertising or electioneering communications;
  - (b) The exact nature and extent of the services rendered; and
  - (c) The total cost and the manner of payment for the services.
- (2) At the request of the commission, each commercial advertiser required to comply with subsection (1) of this section shall deliver to the commission copies of the information that must be maintained and be open for public inspection pursuant to subsection (1) of this section.

**RCW 42.17A.240** sets forth the required content of the contribution and expenditure reports required under RCW 42.17A.235. It details what information must be disclosed by candidates and political committees on campaign finance reports, which includes the requirement to report the receipt of in-kind contributions.

**WAC 390-18-050** states: (1) "Commercial advertiser" as that term is used in the act and these rules means any person, as defined in the act, including individuals and entities, that sells the service of communicating messages or producing material for broadcast or distribution to the general public or segments of the general public whether through brochures, fliers, newspapers, magazines, television, radio, billboard, direct mail advertising, printing, paid internet or digital communications, or any other means of mass communications used for the purpose of appealing, directly or indirectly for votes or for financial or other support in any election campaign.

(2) Any person that hosts political advertising or electioneering communications on a digital communication platform or other media is not required to maintain records on such advertising or communications if it has been purchased directly through another commercial advertiser, however the commercial advertiser that directly sells the advertising or communications to the original purchaser must maintain the information as required in this section.

(3) Pursuant to RCW 42.17A.345, each commercial advertiser who has accepted or provided political advertising, or electioneering communications, as defined in RCW 42.17A.005, must maintain current books of account and related materials as required by this section. Such information must be available for public inspection by any person, without reference to, or permission from, the PDC, and provided:

(a) In person during normal business hours; and

(b) If requested electronically, in machine readable format and structured in a way that enables the data to be fully discoverable and useable by the end user:

(i) By digital transmission, such as email, promptly upon request; or

(ii) By online publication in one of the following formats:

(A) On the advertiser's primary web site;

(B) On a web site controlled by the advertiser, created for purposes of publishing the information required by this section, if a link is prominently displayed on the advertiser's primary web site directing users to the web site on which the information is provided; or

(C) On the PDC's open access platform, if one is provided by the PDC for such purpose.

(4) Information regarding political advertising or electioneering communications must be made available within twenty-four hours of the time when the advertisement or communication initially has been publicly distributed or broadcast, and within twenty-four hours of any update or change to such information. Such records must be maintained for a period of no less than three years after the date of the applicable election.

(5) The information and books of account that must be maintained open for public inspection pursuant to RCW 42.17A.345 are:

(a) The name of the candidate or ballot measure supported or opposed or the name of the candidate otherwise identified, and whether the advertising or communication supports or opposes the candidate or ballot measure;

(b) The name and address of the sponsoring person or persons actually paying for the advertising or electioneering communication, including the federal employee identification number, or other verifiable identification, if any, of an entity, so that the public can know who paid for the advertising or communication, without having to locate and identify any affiliated entities;

(c) The total cost of the advertising or electioneering communication, or initial cost estimate if the total cost is not available upon initial distribution or broadcast, how much of that amount has been paid, as updated, who made the payment, when it was paid, and what method of payment was used; and

(d) Date(s) the commercial advertiser rendered service.

(6) In addition to subsection (5) of this section and pursuant to RCW 42.17A.345, the materials and books of account open for public inspection must include the political advertisement or electioneering communication itself, and a description of the major work components or tasks, as specified in (a) through (g) of this subsection, that were required to provide the advertising or communications services.

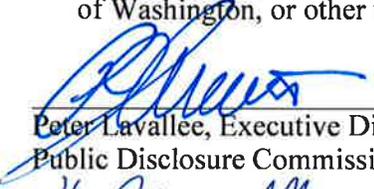
- (a) For printers, reproducers and other persons who provide commercial duplicating services: Quantity of items, item description, design, layout, typesetting, photography, printing, silk screening, binding.
  - (b) For mailing services: Quantity of items mailed, binding, stuffing, labeling, list or directory services, postage or delivery.
  - (c) For broadcast media: Air time and number of spot advertisements. If the broadcaster provides additional services such as copy writing, talent, production, and tape reproduction, some type of record or notation evidencing the additional service must be available.
  - (d) For billboard or sign companies: Number and location of signs, design, printing and art work, erection/removal costs.
  - (e) For specialty or novelty commercial advertisers: Quantity of items provided, silk screening, design, printing and art work.
  - (f) For newspapers and other print media: Amount of advertising space and dates of publication. If the advertiser provides additional services such as design or layout, some type of record evidencing such additional services must be available.
  - (g) For digital communication platforms: A description of the demographic information (e.g., age, gender, race, location, etc.) of the audiences targeted and reached, to the extent such information is collected by the commercial advertiser as part of its regular course of business, and the total number of impressions generated by the advertisement or communication.
- (7) At the request of the PDC, each commercial advertiser required to comply with this section shall provide to the PDC copies of the information described above.

#### **AGREEMENT OF THE PARTIES**

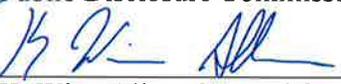
Based on the above, Commission Staff and Facebook agree to the following:

1. The Public Disclosure Commission (Commission) has jurisdiction over this proceeding pursuant to Chapter 42.17A RCW, the state campaign finance and disclosure laws; Chapter 34.05 RCW, the Administrative Procedure Act; and Title 390 WAC.
2. The evidence available to the Commission is such that the Commission may conclude Facebook violated RCW 42.17A.345 by failing to maintain documents and books of account open for public inspection regarding the information set forth in WAC 390-18-050 with regard to political advertisements purchased and placed on Facebook concerning four 2019 Seattle City Council campaigns, and one ballot measure campaign (Case 47572); and eight 2019 Seattle City Council campaigns and four political committee campaigns related to the 2019 Seattle City Council campaigns (Case 55351). Facebook neither admits nor denies these allegations, however, in the interest of seeking an informal and expeditious resolution of this matter, the parties agree to entry of the Stipulation and Final Order.

3. Facebook agrees to pay a total civil penalty of \$75,000 within forty-five days of the date the Commission enters the final order.
  
4. The Commission and Facebook further agree that PDC Cases 47572 and 55351 will be fully resolved by the entry of the final order in this matter. In the event the Commission accepts this stipulation, Facebook waives its right to a hearing and to judicial review of this matter. Beyond waiving its right to a hearing and judicial review of this matter, Facebook reserves all other rights, arguments, and defenses and nothing herein shall be deemed a waiver of any rights, arguments, or defenses by Facebook. If the Commission accepts this stipulation, it does not purport to settle any other claims between Facebook and the Commission, the State of Washington, or other third party, which may be filed in the future.

  
\_\_\_\_\_  
Peter Lavalée, Executive Director  
Public Disclosure Commission

1/17/2020  
Date Signed

  
\_\_\_\_\_  
K. Winn Allen, Counsel for  
Facebook, Inc.

01/17/20  
Date Signed

**II. FINAL ORDER**

This matter was heard by the Washington State Public Disclosure Commission (Commission) on January 23, 2020. Having reviewed the proposed Stipulation, the Commission, pursuant to WAC 390-37-090, now therefore:

HEREBY ORDERED that the Stipulation is

\_\_\_\_\_ ACCEPTED in its entirety;

\_\_\_\_\_ REJECTED in its entirety;

\_\_\_\_\_ MODIFIED. This stipulation will become the order of the Commission if the Respondent approves\* the following modification(s):

\_\_\_\_\_  
\_\_\_\_\_

DATED this \_\_\_ day of January, 2020.

WASHINGTON STATE PUBLIC DISCLOSURE COMMISSION

FOR THE COMMISSION:

\_\_\_\_\_  
Dave Ammons  
Chair, Public Disclosure Commission

Facebook, accepts/does not accept (circle one) the proposed modification(s).

\_\_\_\_\_  
K. Winn Allen, Counsel for  
Facebook, Inc.

\_\_\_\_\_  
Date Signed