



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908
(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

May 7, 2020

Delivered electronically to Roy Keck at “keck@portofbenton.com”

Subject: Complaint filed by Kitty Thomas, PDC Case 61052

Dear Commissioner Keck:

Below is a copy of an electronic letter sent to Kitty Thomas concerning a complaint filed with the Public Disclosure Commission (PDC).

As noted in the letter to Ms. Thomas, the PDC has dismissed this matter in accordance with WAC 390-37-070 and will not conduct a more formal investigation into these allegations or take further enforcement action in this matter.

If you have questions, you may contact Jennifer Hansen at 1-360-586-4560 toll-free at 1-877-601-2828, or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

*Electronically signed
Jennifer Hansen*

Jennifer Hansen
Compliance Officer

Endorsed by,

*Electronically signed
Barbara Sandahl*

Barbara Sandahl
Deputy Director
For Peter Lavalley
Executive Director



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May 7, 2020

Delivered electronically to Kitty Thomas at “kitty.thomas2@aol.com”

Subject: Complaint regarding Roy Keck, PDC Case 61052

Dear Kitty Thomas:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on December 9, 2019. The complaint alleged that Roy Keck, a Port Commissioner for the Port of Benton may have violated RCW 42.17A.495 for discrimination based on failure to support or oppose a candidate for elected office and (2) RCW 42.17A.555 for misuse of public facilities.

PDC staff reviewed the allegations; the applicable statutes, and rules; and the response provided by the Respondent, to determine whether the record supports a finding of one or more violations.

Based on staff’s review, we found the following:

- Roy Keck is a current Commissioner with the Port of Benton after being elected in the November 6, 2007 general election and was re-elected in 2013 and 2019.
- As a public agency, the Port of Benton’s purpose is “to foster economic development, trade and tourism by providing quality infrastructure and multimodal transportation at a variety of sites.” The Port holds over \$83 million dollars of total assets within its district located within its thirteen site areas and manages 2,756 acres, 50 buildings, two airports, and rail and barge facilities.
- The Port is governed by three commissioners whose duties include, setting policy and overseeing the performance of the executive director. The Commission President acts as a liaison between the Commission and the executive director, communicating the decisions of the Commission to inform the director’s work. The term of Commission President is typically two years. However, Commissioner Keck has served two successive terms due to personal circumstances of the other two commissioners.
- In May 2019, thirty-year veteran, Scott Keller resigned his position as executive director of the Port prompting a search for an interim and eventual permanent replacement.
- In late May 2019, longtime port employee, Diahann Howard was chosen to serve as interim executive director. Ms. Howard was one of four final candidates for the position and accepted the permanent role as executive director on December 11, 2019.
- The eight-month time period between the resignation of former Director Keller, the temporary appointment of Ms. Howard and her acceptance of the permanent executive director position, included: numerous policy and staffing changes within the port; the 2019 candidacy of incumbent Roy Keck and his opponent, William O’Neil; and a grievance filed by a group of Port of Benton employees resulting in an independent investigation into the conduct of Commissioner Keck and other allegations related to port activities and employees.

- The complaint included a redacted version of a Summary of Investigative Findings dated November 15, 2019 and authored by Sarah Wixson of Stokes Lawrence Law Firm, who had been hired to conduct an independent investigation into the grievance filed on October 17, 2019.
- The grievance and subsequent investigation included six separate allegations. PDC staff's review was limited to allegations specifically involving Commissioner Keck and possible evidence supporting violations of RCW 42.17A.495 or RCW 42.17A.555 only.
- RCW 42.17A.495 states in part that "no employer may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee."
- RCW 42.17A.555 prohibits an elected official, any employee of his or her office and any person appointed to or employed by any public office or agency from using or authorizing the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office.
- Staff found evidence in the Summary of Investigative Findings and minutes from commission meetings, showing that Commissioner Keck supported the interim appointment of Diahann Howard to the post of executive director and later voted in favor of selecting her as the person to fill the role permanently.
- Staff found evidence in the Summary of Investigative Findings and minutes from commission meetings, showing that Commissioner Keck engaged in activities that were inconsistent with his normal actions as a sitting Port Commissioner. These actions included questioning compliance of the Richland Airport with Federal Aviation Administration (FAA) regulations, questioning the port's policy and staff's role regarding campaign signage at an event open to the public but held on agency property and staffed by port employees, and a request for a state audit of the finances of Crowe Butte Park and Richland Airport.
- In her written report, Ms. Wixson concluded that there was evidence showing that Commissioner Keck engaged in retaliatory behavior toward staff relating to his re-election campaign and that port staff believed Keck assumed that employees who had been supportive of former Director Keller were not supportive of interim Director Howard and were attempting to undermine her authority.
- During its investigation, PDC staff found no evidence that Port of Benton staff were demoted or terminated due to their support or opposition of Commissioner Keck or his re-election campaign. In addition, PDC staff found no other evidence to prove discrimination as described in RCW 42.17A.495.
- Staff found no evidence showing that Commissioner Keck used the facilities, staff or other resources of the Port of Benton to support his 2019 re-election campaign in violation of RCW 42.17A.555.

By all accounts given in the Summary of Investigative Findings and review of commission meetings from May 2019 to December 2019, it is apparent that there were numerous changes within the Port of Benton, including staffing changes, policy and procedure updates, and training at all levels of personnel. Although these changes appear to have created a difficult and stressful work environment, most of the evidence of possible violations fell outside of PDC laws or rules.

Based on our findings staff has determined that no evidence supports a finding of a violation that warrants further investigation.

Based on this information, the PDC finds that no further action is warranted and has dismissed this matter in accordance with WAC 390-37-070.

If you have questions, you may contact Jennifer Hansen at 1-360-586-4560 toll-free at 1-877-601-2828, or by e-mail at pdc@pdc.wa.gov.

Sincerely,

Electronically signed
Jennifer Hansen

Jennifer Hansen
Compliance Officer

Endorsed by,

Electronically signed
Barbara Sandahl

Barbara Sandahl
Deputy Director
For Peter Lavallee
Executive Director

cc: Commissioner Roy Keck