

1  
2  
3  
4  
5  
6  
7  
8 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**  
**OF THE STATE OF WASHINGTON**

9 In re the Matter of Enforcement Action  
10 Against:

PDC CASE NO. 75003

FINAL ORDER

11 COMMITTEE TO RECALL SNOHOMISH  
12 COUNTY SHERIFF ADAM FORTNEY,

13 Respondent.  
14  
15

16 **I. INTRODUCTION**

17 This matter was heard remotely by the Washington State Public Disclosure Commission  
18 (PDC, Commission) on December 3, 2020, by audio and online streaming. The hearing was  
19 held pursuant to Chapter 34.05 RCW, Chapter 42.17A RCW, and Chapter 390-37 WAC.

20 Commissioners present both telephonically and online were David Ammons,  
21 Commission Chair (presiding); Fred Jarrett, Commission Vice-Chair; and Commissioners  
22 William Downing, Russell Lehman, and Nancy Isserlis. Also present both telephonically and  
23 online were Assistant Attorney General John S. Meader representing the Commission; Assistant  
24 Attorney General Chad Standifer representing PDC staff; and Erick Agina, Compliance Officer,  
25 for PDC Staff. Respondent Committee to Recall Snohomish County Sheriff Adam Fortney  
26 (Committee), was represented by Colin McMahon, Committee Chair, and Eric Halvorson,

1 Committee Treasurer, who also appeared telephonically and online. The Complainant received  
2 notice of the proceedings and chose not to appear or submit a written response. The proceeding  
3 was open to the public as limited by Governor's Order 20-28 *et seq.* and recorded.

4 The hearing concerned allegations that the Committee violated RCW 42.17A.235 by  
5 failing to timely and accurately report in-kind contributions in legal services hours provided by  
6 four attorneys, and exceeded the contribution limits established under RCW 42.17A.405(3) and  
7 (14) for a recall campaign.

8 The Commissioners had before them the following materials:

- 9 ○ Complaint filed by Glen Morgan dated August 7, 2020;
- 10 ○ Undated response from Eric Halvorson, Committee Treasurer;
- 11 ○ Second Response from Eric Halvorson, Committee Treasurer, and reply  
12 from Erick Agina, PDC Compliance Officer, from September, 2020;
- 13 ○ Petition for Declaratory Order from the Committee to Recall Snohomish  
14 County Sheriff Adam Fortney, dated October 26, 2020;
- 15 ○ Email to the Commissioners from Executive Director Peter Lavallee  
16 concerning the hearing on the proposed stipulation, dated December 1,  
17 2020;
- 18 ○ Copy of the decision in *Farris v. Seabrook*, 677 F.3d 858 (9<sup>th</sup> Cir. 2012);
- 19 ○ PDC Declaratory Order No. 17, dated August 10, 2015, In the Matter of  
20 the Petition to Recall Mark Lindquist.
- 21 ○ Proposed Stipulation as to Facts, Violations, and Penalty submitted by the  
22 parties, signed for the PDC on December 1, 2020, by Peter Lavallee,  
23 Executive Director, and on November 30, 2020, by Colin McMahon,  
24 Chairman, on behalf of the Committee to Recall Snohomish County  
25 Sheriff Adam Fortney.
- 26

## II. STIPULATION

The parties jointly submitted a signed Stipulation as to Facts, Violations, and Penalty (Stipulation). Mr. Standifer presented the Stipulation, reviewed the aggravating and mitigating factors, summarized the proposed penalties, discussed the comparable cases, and asked the Commission to accept the Stipulation. In response to questions from the Commission, Mr. McMahon provided testimony that the Respondent had been responsive in addressing the complaint, had acted in good faith, and asked the Commission to accept the Stipulation. The Commission voted 5-0 to accept the Stipulation with modifications to be reflected in the order.

## III. FINDINGS OF FACT

1. The Committee to Recall Snohomish County Sheriff Adam Fortney supports the recall of the Snohomish County Sheriff Adam Fortney. The Committee registered with the Public Disclosure Commission on May 22, 2020, and selected the Full Reporting option. At the time the complaint was filed, and during the period covered by the allegation(s), the Committee officers on the Committee Registration were Colin McMahon, Chair, and Eric Halvorson, Treasurer.

2. On May 15, 2020, the Committee's Chair, Colin McMahon, in conjunction with attorneys Samantha Sommerman, Brittany Tri, and Terry Preshaw, filed a Statement of Charges with the Snohomish County Auditor for Recall of Adam Fortney, in Snohomish County Superior Court.

3. On June 1, 2020, the Committee's Chair, Colin McMahon, in conjunction with attorneys Samantha Sommerman, Brittany Tri, and Terry Preshaw, filed a Petitioner's Motion to Strike and Reply in Support of Recall Petition in the Superior Court.



1 4. On June 4, 2020, the Committee's Chair, Colin McMahon, in conjunction with  
2 attorneys Samantha Sommerman, Brittany Tri, and Terry Preshaw, filed a Proposed Ballot  
3 Synopsis in Re Petition for Recall of Adam Fortney, Snohomish County Sheriff in Superior  
4 Court.

5 5. On June 5, 2020, the Committee's Chair, Colin McMahon, in conjunction with  
6 attorneys Samantha Sommerman, Brittany Tri, and Terry Preshaw, filed a Petitioner's Motion  
7 to Strike in the Superior Court.

8  
9 6. On June 26, 2020, the Committee's Chair, Colin McMahon, in conjunction with  
10 attorneys Samantha Sommerman, Brittany Tri, and Terry Preshaw, filed a Motion for  
11 Accelerated Review in the Supreme Court of the State of Washington.

12 7. On August 7, 2020, a complaint was filed by Glen Morgan against the Committee for  
13 violations of Chapter 42.17A RCW and Title 390 WAC related to in-kind legal services and  
14 financial reporting.

15  
16 8. On August 14, 2020, the Committee's Chair, Colin McMahon, in conjunction with  
17 attorneys Samantha Sommerman, Brittany Tri and Terry Preshaw, filed a Brief of Respondent  
18 on appeal in the Supreme Court.

19 9. On October 13, 2020, the Committee filed a Receipts and Expenditure Summary (C-4)  
20 Report disclosing the following in-kind contributions received for legal services, provided by:  
21 Tiffanie Ma (\$2,000); Cassie TrueBlood (\$925); Jeremy Wood (\$2,000); Tobin Klusty  
22 (\$3,000); and Sarah Johnson (\$1,000).

23 10. On October 26, 2020, the Committee submitted a petition for a declaratory order to  
24 grant relief from the requirements of RCW 42.17A.405(3), pertaining to contribution limits  
25 imposed on recall campaigns, and to dismiss current PDC investigations related to the violation  
26 of RCW 42.17A.405(3). The petition was based on PDC Declaratory Order No. 17 (2015), in

1 which the Commission suspended enforcement of RCW 42.17A.405 as applied to a recall  
2 committee based on the precedent set in *Farris v. Seabrook*, 677 F.3d 858 (9<sup>th</sup> Cir. 2012).

3  
4 11. On November 30, 2020, the Committee filed four Receipts and Expenditure Summary  
5 (C-4) Reports for May, June, July, and August 2020, disclosing the in-kind contributions for  
6 legal services provided by Colin McMahon totaling \$6,400; Samantha Sommerman totaling  
7 \$4,700; Brittany Tri totaling \$3,180; and Terry Preshaw totaling \$1,980.

8 12. The Committee has not coordinated any contributions or expenditures with, or allowed  
9 decision-making control by, a candidate or potential candidate for Snohomish County Sheriff  
10 or any member of the Snohomish County Council or its staff.

11 13. The Committee has not had contact or communications with any person known to be a  
12 declared or undeclared candidate for Snohomish County Sheriff, concerning the appointment  
13 or election of any person to the office of Snohomish County Sheriff, or concerning any other  
14 subject.

15 14. The Committee has not had contacts or communications with employees of the  
16 Sheriff's Office or with members of the Snohomish County Council concerning the  
17 appointment or election of any person to the office of Snohomish County Sheriff.

18  
19 15. The Committee has not (a) coordinated any campaign expenditures with any candidate  
20 for Snohomish County Sheriff or his or her campaign committee, (b) solicited or accepted  
21 contributions from such a candidate or his or her campaign committee, or (c) solicited any  
22 donations in support of or opposition to such a candidate or his or her candidate committee.

23 16. The Committee has not included any Snohomish County Council members or staff in  
24 Committee decision making, including decisions concerning Committee expenditures, and the  
25 solicitation or receipt of contributions.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

#### IV. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this proceeding pursuant to Chapter 42.17A RCW, the state campaign finance and disclosure law; Chapter 34.05 RCW, the Administrative Procedure Act; and Title 390 WAC.

2. Based on the facts set forth above and the agreed stipulation of the parties, Respondent Committee violated:

- a. RCW 42.17A.235 by failing to timely and accurately report in-kind contributions in legal services hours provided by attorneys Colin McMahon, Samantha Sommerman, Brittany Tri, and Terry Preshaw, as required by law.

3. Based on the facts set forth above and the agreed stipulation of the parties, Respondent Committee received in-kind contributions from attorneys Tiffanie Ma, Jeremy Wood, Tobin Klusty, Colin McMahon, Samantha Sommerman, Brittany Tri, and Terry Preshaw, that exceeded the contribution limits established under RCW 42.17A.405(3) and (14) for a recall campaign.

4. In recognition of the holding in *Farris v. Seabrook*, 677 F.3d 858 (9<sup>th</sup> Cir. 2012), enforcement of campaign finance contribution limits against the Committee should be deferred.

#### V. ORDER

Based upon its Findings of Fact and the stipulated Findings and Conclusions, the Commission accepts the agreed Stipulation of the parties as modified below and orders that:

1. Respondent Committee for the Recall of Snohomish County Sheriff Adam Fortney is assessed a total civil penalty of \$300 for violation of RCW 42.17A.235.



1           a.       The civil penalty shall be due and payable in full within thirty  
2           days of the date of this order. Failure to make timely payment may  
3           result in the PDC referring the matter for collection without further  
4           action of the Commission.

5       2.       Enforcement of the in-kind contributions that exceeded contribution limits as  
6           established under RCW 42.17A.405(3) and (14) for a recall campaign are  
7           DEFERRED with the following conditions.

8           a.       Should the Respondent become aware of the identity of any  
9           candidate for Snohomish County Sheriff, or if any person, when  
10          contacted, indicates an intent to run for the office in the future, the  
11          Respondent, its officers, directors, and principal decision-makers will  
12          not: 1) coordinate any campaign expenditures with such a candidate or  
13          their campaign committee, 2) solicit or accept contributions from such a  
14          candidate or their campaign committee, and 3) solicit any donations or  
15          support, whether in support of or in opposition to such a candidate or his  
16          or her candidate committee.

17          b.       The Respondent will not include any Snohomish County Council  
18          members or staff in Committee decision making, including decisions  
19          concerning Committee expenditures, and the solicitation or receipt of  
20          contributions.

21       3.       The Respondent agrees that its compliance with the conditions of the deferred  
22           enforcement set forth in paragraph 2 may be used by the Public Disclosure  
23           Commission to assess any current or future complaint that alleges any violation  
24           of RCW 42.17A.405(3) or (14) by Respondent in relation to their support for  
25           the recall of Snohomish County Sheriff Adam Fortney. If the conditions set  
26           forth above in paragraph 2 are found not to have been met, the Respondent may

1 be subject to potential enforcement for any violation(s) of RCW 42.17A.405(3)  
2 and (14) including those subject to this order.


3  
4 4. The Committee, its officers, and its principal decision-makers shall continue to  
5 comply with all campaign finance laws and requirements of Chapter 42.17A  
6 RCW and Title 390 WAC, other than the limitations of RCW 42.17A.405(3)  
7 and (14) and its implementing regulations. This includes requirements  
8 applicable to the coordination of expenditures with a candidate or political  
9 committee, and requirements applicable to the disclosure of contributions and  
10 expenditures.

11 5. The conditions for deferral of enforcement shall remain in effect until the  
12 dissolution of the Committee.

13  
14 So ORDERED this 9<sup>th</sup> day of December, 2020.

15 WASHINGTON STATE PUBLIC  
16 DISCLOSURE COMMISSION

17 FOR THE COMMISSION:

18 

19 David Ammons,  
20 Chair, Public Disclosure Commission

21 *Copy of this Order emailed to:*

22 Colin McMahon, Chair, Committee to Recall Snohomish County Sheriff Adam Fortney  
(recallfortney@gmail.com);

23 Eric Halvorson, Treasurer, Committee to Recall Snohomish County Sheriff Adam Fortney  
24 (halvorson.eric@gmail.com)

25 Erick Agina, PDC Compliance Officer (Erick.Agina@pdc.wa.gov);

26 Chad Standifer, Assistant Attorney General, Counsel for PDC Staff ([ChadS@atg.wa.gov](mailto:ChadS@atg.wa.gov)).



1  
2 I, Jana Greer, Administrative Officer, certify that I mailed a copy of this order to the Respondent/  
3 Applicant at his/her respective address postage pre-paid on the date stated herein.

4   
5 Signed \_\_\_\_\_

12/09/20  
Date

6  
7  
8 **NOTICE: RECONSIDERATION**

9 Pursuant to the provisions of RCW 34.05.470 and WAC 390-37-150, you may file a Petition for  
10 Reconsideration with the PDC within ten (10) days from the date this Final Order is served upon  
11 you. Any Request for reconsideration must state the specific grounds for the relief requested.  
12 Petitions must be electronically mailed to the Washington State Public Disclosure Commission,  
711 Capitol Way, Room 206, Box 40908, Olympia WA 98504-0908, [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov).

13 **NOTICE: PETITION FOR JUDICIAL REVIEW**

14 You have the right to appeal this Final Order to Superior Court, pursuant to the Petition for  
15 Judicial Review provisions of RCW 34.05.542. Any Petition for Judicial Review of this Final  
16 Order must be filed with the court and also served upon both the Commission and the Office of  
17 the Attorney general within thirty (30) days after the date this Final Order is served upon you.  
18  
19  
20  
21  
22  
23  
24  
25  
26