

November 1, 2016

Chair Anne Levinson
Vice-Chair John Bridges
Commissioner Katrina Asay
Commissioner Jack Johnson

The vision statement for the Public Disclosure Commission is, “We are dedicated to building public confidence in the political process and government.” The recent actions of the Executive Director you have chosen to lead the PDC have seriously undermined public confidence in the political process and government mere days before the November election.

We are writing to you to respectfully request that you add an agenda item to the Special Commission Meeting scheduled for this Wednesday, November 2, 2016 at 9:00am.

The agenda item is to consider allowing a professional career staff member of the PDC to assume the duties of the Executive Director through December 15, 2016. We are requesting this step because, yesterday morning, we filed an Executive Ethics Complaint against PDC Executive Director Evelyn Fielding Lopez concerning her use of State resources to benefit the campaign of Tim Probst (a copy of which is attached). The complaint was filed as a citizen action pursuant to **RCW 42.52.460** which permits us to initiate legal action in the unlikely event that the Executive Ethics Board does not open an investigation into the misconduct of Ms. Fielding Lopez during that time. We are not asking you to immediately terminate Ms. Fielding Lopez, but rather to restore public confidence that the PDC is completely above partisan politics by allowing an independent investigation of her actions to be conducted prior to her resuming her duties in this election. This action is consistent with the authority of the Commission pursuant to **RCW 42.17A.110(2)**.

Ms. Fielding Lopez has indicated publicly that her actions were a mistake and that she would not repeat them if given the opportunity to do so. But Ms. Fielding Lopez has not withdrawn her letter, nor has she acknowledged that its contents are false. Because of her refusal to take appropriate action to regain confidence in her impartiality, we regretfully are forced to ask that you direct her to step aside as Executive Director until the conclusion of the Ethics Board investigation. One of the many dedicated and professional PDC staff members could assume her duties during this time. This does not deprive Ms. Fielding Lopez of her right to due process, but it does permit voters and candidates in both parties to have confidence that the highest officer of the agency devoted to transparency and ethics is above reproach and not a partisan in the very cases she is deciding. We do not take this decision lightly, but her recent actions (detailed below) are unprecedented in the 43 year history of the PDC.

On October 5, 2016, Evelyn Fielding Lopez Executive Director of the State Public Disclosure Commission (“PDC”) wrote a letter on PDC letterhead to state Senate candidate Tim Probst. This letter (a copy of which is attached) evaluates political speech in the campaign against state Senate candidate Tim Probst, and deems this speech to be “not correct”. This assertion is factually inaccurate and, more

importantly, the letter itself is in violation of state ethics law regarding the use of public resources for a campaign.

Mr. Probst violated state law by failing to file a F1 statement when he had been a candidate for the Senate *for three years*. His actions fly in the face of the very mission of the PDC which is, "... to provide timely and meaningful public access to accurate information about the financing of political campaigns, lobbyist expenditures, and the *financial affairs of public officials and candidates*, and to ensure compliance with and equitable enforcement of Washington's disclosure and campaign finance laws." Mr. Probst also violated state law by accepting campaign contributions above the legal limit. The Public Disclosure Commission found his actions to be in violation of the law and forced him to return over limit contributions. (See attached exhibits). The Columbian newspaper "fact checked" the statements in the advertisement in question as well. The Columbian found the claims about Probst's failure to file an F1 statement and hiding of income "completely accurate." When political journalists are more objective and dispassionate than the Executive Director of the PDC, public confidence in the political process and government is undermined. (See <http://blogs.columbian.com/all-politics-is-local/living-high-on-the-hog-flyers-in-senate-race-get-personal/>)

Most troubling, Ms. Fielding Lopez openly acknowledges in the letter itself that she is writing at the behest of Tim Probst. She admits to using the facilities of the PDC to craft a letter requested and designed to assist the campaign of a Democrat running for the legislature. The scope of the duties of the Executive Director of the PDC are spelled out in **WAC 390-12-200**, and no good faith reading of this regulation would include authoring inaccurate letters at the behest of candidates for the legislature. Reviewing the truth or falsity of political advertising, especially advertising that accurately characterizes prior agency action, is an unprecedented abuse of office for partisan purposes. Tim Probst has used this taxpayer funded letter in his campaign mailers to benefit his campaign, indeed the only purpose of sending such a letter on the part of Ms. Fielding Lopez would be with the understanding that Mr. Probst would use it to benefit his campaign. When the fact that Mr. Probst was in fact using her letter to benefit his campaign, Ms. Fielding Lopez did not ask him to cease and desist from doing so nor did she rescind her letter.

Washington state law is clear: **RCW 42.52.180** prohibits the use of public resources for political campaigns:

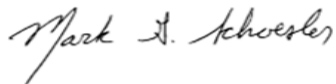
(1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition.

Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency. [Emphasis added].

We appreciate the service of each of you and believe you to be committed to the fair application of campaign finance laws and regulations. We believe that the declaration of policy found in **RCW 42.17A.001** compels you to act at this time because, "...public confidence in government at all levels is essential and must be promoted by all possible means and...*that confidence in government at all levels can best be sustained by assuring the people of the impartiality and honesty of the officials in all public transactions and decisions.*" To that end, "The provisions of this chapter shall be liberally construed to...assure continuing public confidence of fairness of elections and governmental processes, and so as to assure that the public interest will be fully protected." [Emphasis added].

We appreciate your consideration and look forward to addressing you on Wednesday morning.

Sincerely,



Mark Schoesler

Dan Kristiansen

Senate Majority Leader

House Minority Leader