



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: pdc@pdc.wa.gov \* Website: www.pdc.wa.gov

BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT )  
ACTION AGAINST )

Ken Berger )

Respondent. )

PDC CASE NO.: 07-011

Notice of Administrative Charges

IT IS ALLEGED as follows:

**I. JURISDICTION**

1. Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Act, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC. These charges incorporate the Report of Investigation and all of its exhibits by reference.

**II. ALLEGATIONS**

2. Staff alleges, based on the facts specified in Section III, that Ken Berger violated RCW 42.17.120 by making a \$1,500 contribution to the 2001 Bob Holman campaign for Monroe City Council in such a manner as to conceal the identity of the source of the contribution.

**III. FACTS**

3. Ken Berger is a member of the Monroe City Council. He has been elected to the Council five times, serving since 1989. He is the owner of a printing business, Calico Press, and is in private practice as an attorney.
4. Mike Donow was elected to the Monroe City Council in 1993 and served from 1994 through 1997. He ran for re-election in 1999, but was unsuccessful. In 2001, Donow



worked for the Monroe School District as a bus driver. He currently owns a computer repair and consulting business in Monroe.

5. Bob Holman was serving on the Monroe City Council in 1996 when he was appointed to the position of Mayor. He was elected Mayor in 1997, and served from 1997 through 2001. In 2001, rather than seeking re-election as Mayor, Holman ran unsuccessfully for City Council against incumbent Jim Hunnicut. Holman spent \$8,551, including \$3,300 in the final 15 days, while Hunnicut spent \$3,283. Holman listed Donow as a \$1,500 contributor to his 2001 campaign. Berger was not listed as a contributor. Holman owned a sporting goods store and pawn shop in Monroe. Bob Holman died on July 31, 2004.

#### **\$1,500 Contribution Reported by Bob Holman Campaign**

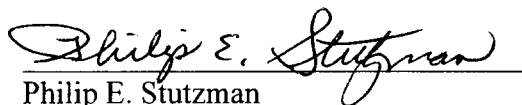
6. While investigating a separate matter, PDC staff asked Mike Donow whether he had donated to the 2001 Holman campaign. After reviewing his bank records, Donow admitted that he provided a \$1,500 check to the 2001 Holman campaign, but said it was not really his money.
7. On October 26, 2001, Holman's campaign filed a C-3 report showing receipt of a \$1,500 contribution from Mike Donow on October 21, 2001. The money was used by Holman to pay for campaign mailings distributed near the end of his campaign.
8. Donow admitted to a concealment scheme that he said involved Holman, Ken Berger, and himself. Donow produced a copy of his October 2001 bank statement that showed a \$1,500 deposit credited to his account on October 22, 2001 and a \$1,500 check debited against his account on October 23, 2001.
9. Donow also produced copies of both checks used in the transaction. The first check was a personal check from Ken Berger to Mike Donow in the amount of \$1,500, and appears to have been dated October 20, 2001. The second check was a personal check from Mike Donow to the Bob Holman campaign and was dated October 21, 2001. Berger admits giving Donow a check for \$1,500 from his personal account in October 2001.

10. Donow stated he regularly attended Wednesday evening social gatherings at Jenó's Restaurant in downtown Monroe that were frequented by past and present city council members. He said that on the Wednesday evening before he contributed to Holman's campaign (October 17, 2001) he was in attendance at Jenó's Restaurant. Donow said the group included both Holman and Berger, and said Holman and Berger discussed the need to push through a final mailing in support of Holman's campaign.
11. Donow said that at one point during the evening, Holman gave him explicit instructions to go to Berger's law office at a specified time, pick up a check that Berger would write to him, and then write his own check for the same amount to Holman's campaign. Donow stated that he did as he was told by Holman. Donow said there was never any discussion with Holman or Berger about the \$1,500 check being a gift to him or a loan. He said he understood that his part was to pick up a check from Berger, and use the funds to write a check to Holman's campaign.
12. Donow said he visited Berger's law office one or two days after the Wednesday evening gathering. He stated that Berger was on the telephone when he arrived, but waved him into his office. He said Berger wrote the check without prompting or explanation, saying words to the effect of "*Let's hope Bob wins*" as Donow left the office. Donow then deposited the check from Berger in his bank's ATM, wrote a check to Holman's campaign and delivered it to Holman's place of business.
13. Donow admitted knowing at the time that it was wrong to participate in a scheme to conceal the true source of a campaign contribution, but said he willingly participated because he wanted Holman to defeat Hunnicut and, in part, because he wanted to please Holman by following his instructions.

**IV. RELEVANT LAW**

RCW 42.17.120 prohibits any contribution to be made, and any expenditure to be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.

RESPECTFULLY SUBMITTED this 29<sup>th</sup> day of September, 2006.

  
Philip E. Stutzman  
Director of Compliance