



State of Washington  
PUBLIC DISCLOSURE COMMISSION

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9:30 a.m.

February 28, 2013

MINUTES-REGULAR MEETING

Evergreen Plaza Bldg. Room 206  
711 Capitol Way South  
Olympia, Washington

COMMISSION MEMBERS PRESENT

Amit Ranade, Chair  
Barry Sehlin, Vice Chair  
Grant Degginger, Member  
Kathy Turner, Member

STAFF PRESENT

Andrea McNamara Doyle, Executive Director  
Nancy Krier, General Counsel  
Lori Anderson, Communications & Training Officer  
Michael Smith, Chief Information Technology Officer  
Jennifer Hansen, Filer Assistance Specialist  
Linda Dalton, Sr. Assistant Attorney General  
(Joined regular meeting at 11:55 a.m.)  
Jana Greer, Confidential Secretary

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Amit Ranade at 9:30 a.m. in the Evergreen Plaza Building, Room 206 Olympia, Washington.

Opening Comments

Commissioner Ranade called the meeting to order.

Citizens Comments and Concerns

No comments or concerns were expressed.

Commissioner Comments/Concerns

No comments or concerns were expressed.

Minutes

Jana Greer, Confidential Secretary, noted a correction to be made of the January 24 regular meeting minutes to add Linda Dalton, Sr. AAG to the list of members present and reflect the time she joined the meeting.

**Motion 13-05**

Moved by Commissioner Sehlin, seconded by Commissioner Degginger that:

**The Commission adopt the minutes of the January 24, 2013, as corrected.**

The motion passed.

Interpretations

Evolving technology and campaigns  
(continued)

- 95-05 Fundraising through 900 telephone numbers

The Commission continued its discussion of evolving technology and campaigns in its consideration of possible amendments to Interpretations 95-05 (Fundraising through 900

- 00-02 Guidelines for internet contributions
- Developments in text message contributions; role of aggregators

telephone numbers), and 00-02 (Guidelines for internet contributions).

At the Commission's request, staff invited guest speakers to participate in the discussion. Speakers included Jared Navjar, attorney from Houston, Texas (via Skype), and from T-Mobile USA, Inc. (T-Mobile), Jim Blundell, Sr. State Legislative Affairs Manager, and Seann Hallisky, Principal Corporate Counsel.

Mr. Hallisky discussed the role of the carrier and the aggregator in the context of campaign contributions through text messaging. He discussed T-Mobile's participation in the 2012 presidential election, pertaining to the use of text message contributions.

Mr. Navjar discussed the Texas Ethics Commission (TEC) advisory opinion. He described how he incorporated the Federal Election Commission's (FEC) framework and opinion on campaign contributions through text messaging into his proposal to the TEC.

He discussed two different options posed to the TEC and explained why TEC selected the one it did because Texas does not allow for any anonymous contributions to be accepted.

Mr. Hallisky reviewed the potential concerns of carriers and explained the process a carrier uses to send a confirmation of contribution.

Mr. Blundell added that T-Mobile is available to the Commission to answer any technical or logistical questions about the system. He described T-Mobile will likely defer to the CTIA-The Wireless Association's position previously expressed about the Commission's potential approach to text message contributions.

He stated that reporting obligations and compliance with the state does not appropriately fall on the carriers. He described that the carriers do not have access to the information needed to fulfill those obligations.

Commissioner Ranade asked for the guest speakers opinions on how to deal with multiple text contributions from the same person.

Mr. Navjar stated that in Texas, a transaction is not complete without required information.

Commissioners asked for more information about the text message contribution process to be

provided at a future meeting.

Mr. Hallisky summarized the overall limitations allowed for text message contributions and suggested the Commission contact Alan Sege, Vice President of m-Qube, for input.

- 04-02 Local government guidelines in election campaigns

Andrea McNamara Doyle, Director, noted that the topic of “Calendaring” by local government officials and their employees is one that has come up before at the PDC, and has therefore prompted staff to research for additional guidance.

Nancy Krier, General Counsel, recapped the background of the local government guidelines in election campaigns.

Ms. Krier introduced the additional issue of “Calendaring” for the Commissioners to consider, referring to the issues posed when an official at the local government level is also running for office and has campaign events scheduled. Questions arise related to when and how a candidate may use a public agency calendar and/or utilize a scheduler’s time for calendaring campaign-related activity.

Ms. Krier highlighted three cases and facts that led to determination that there are limitations on the use of public agency calendars and schedulers to place campaign events on an agency calendar.

The Executive Ethics Board (EEB) has had similar questions arise when performing ethics trainings for state employees. Melanie de Leon, Executive Director of the EEB was present at the meeting and answered questions from the Commission.

Ms. Krier noted that the Commission on Judicial Conduct has not weighed in but she will continue to keep them informed as the topic progresses.

Staff received some stakeholder input and Ms. Krier suggested the Commission, before proposing any amendments, ask staff to continue the outreach to determine if there are any remaining questions.

Ms. Krier presented amendments for the Commission’s consideration. She noted that the suggested amendments are based on prior cases and staff thoughts and that a new category called Agency Calendars could be added, continuing with the same approach of what would and would not be permitted as well as other general considerations.

Ms. de Leon discussed the EEB approach; she

summarized ethics law regarding use of a state resource and, gave an example of how the EEB has approached this topic in the past.

Ms. Krier reviewed and discussed a draft of possible amendments to Interpretation 04-02 related to agency calendars. She described that some stakeholders input has been provided but suggested that the Commission have staff perform additional outreach to stakeholders.

Commissioner Turner asked that this topic be discussed with the Association of Washington Cities and offered to assist if needed.

### Rule Making

Continued discussion:

- WAC 390-17-100 – Payroll deductions – electronic signatures/authorizations

Ms. Krier provided an overview of the Commission's prior discussions regarding a proposal to update WAC 390-17-100 to accommodate digital signatures and/or electronic authorizations in lieu of signatures for payroll deductions.

Ms. Krier stated that stakeholder outreach is completed and notice filed with the Code Reviser describing the rule is on the agenda for discussion for potential amendment.

As a follow-up to a previous question, Ms. Krier discussed examples and information from the agencies she contacted regarding whether state and higher education employers have electronic signature procedures in place at this time.

One example she described was the Washington State Department of Enterprise Services, which manages the state payroll system for general government employees. The DES payroll system does not currently have a mechanism in place that would accommodate electronically authorized payroll deductions.

She presented three possible options for the Commission to consider for rulemaking. Option three is a proposal submitted by Dmitri Iglitzin and James Oswald, attorneys who work with labor organizations.

Mr. Iglitzin thanked the Commission for the speed at which it addressed this issue, and reviewed his reasoning for recommending option two, with some modifications.

He also suggested a correction to improve

readability in sub-section (1).

The Commission asked Ms. Krier to incorporate the suggested edits into option two and prepare a draft proposal for their review at the next Commission meeting.

#### Reporting Modifications

- Renewals with no change
  - *WA St Republican Party*
  - *WA St Democratic Party*

Jennifer Hansen presented the requests for a reporting modification renewal with no change.

The State parties are requesting a renewal of reporting modifications to allow them to report as a lump sum, rather than itemize all overhead and other allowable expenses that are currently paid out of their Federal committees' funds and reimbursed with a lump sum transfer from State party funds.

Staff recommended approval of the requests for a reporting modification.

#### **Motion 13-06**

Moved by Commissioner Sehlin, seconded by Commissioner Turner that:

**The Commission grant a partial reporting modification to the Washington State Republican Party and the Washington State Democratic Party as requested.**

**The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicants and that a limited modification would not frustrate the purposes of the act.**

The motion passed unanimously.

- *Steven G. Rosen, Municipal Court Judge, City of Seattle*
- *Edward J. McKenna, Municipal Court Judge, City of Seattle*
- *Rodney P. Reid, Port Commissioner, Port of Waterman*
- *Nancy Whitten, Council Member, City of Sammamish*
- *David Wilson, School Director, Shoreline School Board*

Ms. Hansen provided a brief summary of the individual requests for reporting modification renewals with no change.

Staff recommended approval of the requests for reporting modifications as presented.

#### **Motion 13-07**

Moved by Commissioner Sehlin, seconded by Commissioner Degginger that:

**The Commission grant the partial reporting modifications as requested, finding that literal application would cause a manifestly unreasonable hardship on the applicants and that a limited modification would not frustrate the purposes of the act.**

- Renewals with change  
*Lewis Edelheit*, Trustee, Life Sciences Discovery Fund

### Motion 13-08

### Advisory Matters

### Executive Session/Working Lunch

### Rule Making (continued)

- Discussion and possible approval

The motion passed unanimously.

Ms. Hansen presented Lewis Edelheit's request for renewal of his reporting modification with change.

Ms. Hansen stated that Mr. Edelheit requested Hubspan Corporation be removed from his reporting modification request. Hubspan Corporation has been sold and he no longer has any interest to report.

Staff recommended approval of the request for a reporting modification renewal as presented.

Moved by Commissioner Sehlin, seconded by Commissioner Turner that:

**The Commission grant the partial reporting modification as requested, finding that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.**

The motion passed unanimously.

Ms. Doyle reported that the arrival of the updated report of the professional staff members from the Office of the Governor is anticipated next week.

She also reported, in response to the Commission's request to provide a recommendation on handling future periodic updates to this list, staff has modified the agency website to add list of the professional staff members who have reporting requirements.

She stated that these lists are, and will continue to be, posted on our website providing a notice to the public and to the state officials and professional staff members who have reporting obligations.

Ms. Doyle stated, that future periodic updates to the lists are anticipated to be received in batches and will be posted on the website accordingly.

Linda Dalton, Senior AAG joined the meeting at 11:55 a.m.

The Commission went into executive session at 11:55 a.m. to discuss pending and potential litigation with legal counsel.

The Commission returned to public session at 1:12 p.m.

Lori Anderson presented draft language for proposals to amend WAC 390-24-160 Definition – Professional staff member, WAC 390-12-170 Public

of draft language to amend:

- WAC 390-24-160 Definition – Professional staff member
- WAC 390-12-170 Public Disclosure Commission – Organization and structure – Officers – Terms
- WAC 390-19-030 Electronic filing – Reporting threshold

Disclosure Commission – Organization and structure – Officers – Terms, and WAC 390-19-030 Electronic Filing – Reporting Threshold.

She discussed draft amendments to the three rules, summarized in her February 21 memo to the Commission, all of which are essentially housekeeping in nature, conforming the rules to current practices.

Staff recommended the Commission approve the draft language for the proposed amendments, and if approved, the proposed amendments would be filed with the Code Reviser's and a public hearing would be scheduled at a future meeting.

### Motion 13-09

Moved by Commissioner Sehlin, seconded by Commissioner Turner that:

**The Commission approve the proposed amendments to WAC 390-24-160, WAC 390-12-170, and WAC 390-19-030 as presented.**

The motion passed unanimously.

### Legislative Update

Ms. Doyle reported on pending legislative matters of interest to the Commission.

She summarized the bills that staff are following and discussed their status in the legislative process.

She noted that Commissioner Degginger's and Commissioner Turner's gubernatorial appointments have been referred to the Senate by Governor Inslee's office.

SGB 9090 Gubernatorial appointment of Grant Degginger

SGB 9191 Gubernatorial appointment of Kathy Turner

Ms. Doyle is working with the Senate Government Operations Committee to schedule the confirmation hearings.

### Agency Request Legislation

*HB 1378/SB 5258, and HB 1377/SB 5257* received favorable consideration in the policy committees and are awaiting action on the floor. It is anticipated that these bills will come up for a vote in the next few weeks.

Ms. Doyle noted that HB 1377 received an amendment to preserve the ability of candidates in political committees to submit their special reports via telephone.

This amendment also removed the proposal to change the reporting period from 48 hours to 24 hours for recipients of contributions.

#### Other Bills of Interest

Ms. Doyle updated the Commission on the status of other bills of interest highlighting:

- *SB 5507* Increasing the transparency of donors to candidates and ballot measures.

Ms. Doyle noted that she attended a hearing for SB 5507, where she provided comments noting that this bill is consistent with the PDC's mission to provide information about its data and what is available to the public.

- *HB 1195* Repealing provisions relating to filling unexpired terms.
- *SB 5083* Concerning display of political yard signs in homeowners' associations.
- *SB 5748* *Extending contribution limits to candidates for public hospital district boards of commissioners.*
- *HB 1093* Relating to state agencies' lobbying activities.
- *SB 5019* Concerning the use of public facilities by office holders during campaigns.
- *HB 1005* PDC Concerning responsibilities & funding.

Ms. Doyle summarized HB 1005. She reviewed issues/concerns identified by staff regarding the proposed merger of the Executive Ethics Board with the PDC.

Commissioners noted that, in addition to concerns about the adequacy of funding to take on ethics responsibilities, the implementation date for the proposed merger seemed problematic, as it would not allow adequate time to prepare.

Commissioner Ranade noted that he hoped if an expanded Commission was created that it could be used efficiently rather than just having more members making the same decisions.

Commissioner Sehlin noted his view that the restriction on Commissioners political contributions should remain in law.

Commissioner Ranade suggested that if the bill

does not pass this session the Commission would like the opportunity to provide input during the interim into any future merger proposals.

Ms. Doyle will continue to update the Commission with progress and/or changes.

### Staff Reports

Executive Director

Ms. Doyle informed the Commission of the completed recruitment for a Compliance Coordinator. She noted that the candidate selected has accepted the position and will begin at the PDC in March. Ms. Doyle will plan to introduce the new staff member at the next Commission meeting.

She stated that the bi-annual registration of lobbyist and lobbyist employers is completed. The most recent version of the lobbyist pictorial directory has been published and available on the PDC website.

She reported on the progress and status of processing complaints. Staff continues to assess the backlog at a good pace.

Ms. Doyle updated the Commission on the current vacancy of a Commissioner. She has been in contact with the Governor's office and will continue to update the Commission with information as it available.

Chief Information Technology Officer

Michael Smith, Chief Information Technology Officer shared his concerns on HB 1005.

The IT staff continues to work on the electronic filing system that lobbyist currently use.

He noted the new addition of website usage statistics in his written report to the Commission. He will continue to provide this report in the future.

General Counsel

Nancy Krier reported on her attendance at a CLE (Campaign Finance and the 2012 Election) held at Willamette University School of Law.

She also noted that the U.S. Supreme Court recently accepted review of a case concerning limits for campaign contributions.

### Adjournment

Chair Ranade adjourned the meeting at 2:18 p.m.

Approved March 28, 2013