



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](mailto:pdcc@pdcc.wa.gov) • Website: [www.pdcc.wa.gov](http://www.pdcc.wa.gov)

BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

In RE COMPLIANCE WITH  
RCW 42.17

Scott Higgins and 2011 Scott Higgins  
Campaign

Respondent.

PDC Case No. 12-155

Report of Investigation

**I. Background & Allegations**

- 1.1 Scott Higgins served as a Camas City Councilmember from 2001 through May of 2011. In June of 2011, he was appointed to serve as Mayor of the City of Camas.
- 1.2 On May 17, 2011, Mr. Higgins filed a Candidate Registration (C-1 report) with the Public Disclosure Commission (PDC), declaring his candidacy for Mayor of the City of Camas in 2011. Mayor Higgins listed himself as his campaign treasurer on the C-1 report and initially selected the Mini Reporting option. **See Exhibit #1.**
- 1.3 In his three previous election campaigns for Camas City Council in 2001, 2005 and 2009, Mr. Higgins selected the Mini Reporting option for his campaign financing.
- 1.4 On September 14, 2011, PDC staff received a request from Mr. Higgins to change from the Mini Reporting option to the Full Reporting option. His request included the following: (1) Cover letter; (2) Amended C-1 report; (3) Monetary Contributions report (C-3 report); (4) Summary Contribution and Expenditure report (C-4 report); and (5) Confirmation that his opponent had been notified of his intention to change reporting options.
- 1.5 On September 15, 2011, PDC Executive Director Doug Ellis approved Mr. Higgins' request to change from the Mini Reporting option to the Full Reporting option.
- 1.6 Mr. Higgins was opposed by Kenton Kakuk, an employee of the City of Camas. Mr. Higgins won in the general election by receiving 81 percent of the vote.
- 1.7 On November 28, 2011, Mr. Kakuk filed a complaint with the PDC alleging that Mr. Higgins violated: (1) RCW 42.17.080 and .090 by failing to file the C-4 reports required

under the Full Reporting option; (2) RCW 42.17.130 by using City of Camas facilities to oppose Mr. Kakuk's campaign by having a negative summary of a personnel matter involving Mr. Kakuk placed in Mr. Kakuk's personnel file and then making the file available to news media when a public records request was received from news media; (3) RCW 42.17.530 by making false information about Mr. Kakuk available to news media who requested the information; and (4) RCW 42.17.540 because news media published articles that contained information about Mr. Kakuk deemed by Mr. Kakuk to be false. See **Exhibit #2**.

## II. Findings

### **Alleged Violations of RCW 42.17.130; RCW 42.17.530; and RCW 42.17.540**

- 2.1 On May 2, 2012, PDC staff sent a complaint return letter to Mr. Kakuk. The letter informed Mr. Kakuk that staff had reviewed his allegations and concluded there was no basis to believe a material violation of RCW 42.17.130, 42.17.530 or 42.17.540 had occurred. The letter informed Mr. Kakuk that staff would not be conducting a formal investigation into his allegations, and went on to state the following:
- On July 14, 2011, Jennifer Gorsuch, Human Resources Director for the City of Camas, wrote a letter of recollection after Mr. Kakuk was terminated by the City of Camas for insubordination. That letter was included in an investigative file concerning a disciplinary matter involving Mr. Kakuk that had occurred one year earlier. Ms. Gorsuch told PDC staff she wrote the letter because she had been asked by a number of managers working for the City of Camas about the 2010 incident that resulted in the disciplinary matter.
  - On September 12, 2011, the City of Camas received a public records request from The Camas-Washougal Post, a local newspaper, concerning Mr. Kakuk. The City of Camas timely responded to that request. After the information was provided to the newspaper, articles related to disciplinary matter began appearing in the Camas-Washougal Press starting October 4, 2011, and in The Columbian starting October 6, 2011.
  - No evidence was submitted by Mr. Kakuk, or found by PDC staff, supporting his allegation that officials of the City of Camas used public facilities to assist the campaign of Scott Higgins by opposing Mr. Kakuk's campaign. The recollection letter appears to have been prepared by Ms. Gorsuch as part of her normal and regular duties as the City's Human Resources Director. The letter was released in response to a public records request the city had received from the media.
  - RCW 42.17.530 and 42.17.540 regulate political advertising. Per WAC 390-05-290, news articles appearing in a regularly published newspaper, where payment for the printed space is not normally required, are not subject to political advertising requirements. RCW 42.17.540 prohibits news media from changing the content of a political advertisement in a manner that results in the advertising failing to comply

with RCW 42.17.510 through 42.17.530. No evidence was submitted by Mr. Kakuk that there were any political advertisements in the newspapers he identified that related to his dismissal from the city. Rather, a newspaper wrote an article reporting on a matter involving Mr. Kakuk, based on information received pursuant to a public records request made to the City of Camas.

2.2 Under the Full Reporting option, candidates that only appeared on the November 8, 2011, general election ballot, were required to file C-3 and C-4 reports as follows:

- Weekly C-3 reports were required to be filed every Monday beginning four months prior to the election, disclosing contributions that were received and deposited for the previous five business days;
- Monthly C-4 reports were required to be filed by the 10<sup>th</sup> of every month or reporting period, if the candidate received \$200 in contributions or made \$200 in expenditures since the last C-4 report was filed;
- A 21-day pre-general election C-4 report was required to be filed on October 18, 2011, covering the period September 1 through October 17, 2011;
- A 7-day pre-general election C-4 report was required to be filed on November 1, 2011, covering the period October 18 through October 31, 2011;
- A post-election C-4 report was required to be filed no later than December 10, 2011, covering all of calendar month November 2011.

2.3 During the 2011 election cycle, the Scott Higgins Campaign received monetary and in-kind contributions totaling \$7,256, and made campaign expenditures totaling \$7,256. The campaign filed a total of three Monetary Contribution reports (C-3 report) after changing to the Full Reporting option totaling \$7,800, disclosing the following:

- On September 19, 2011, a C-3 report totaling \$1,600 was timely filed, disclosing that three \$500 contributions had been received, along with \$100 from Mr. Higgins. The funds were deposited on September 15, 2011;
- On September 21, 2011, a C-3 report was timely filed by the campaign, disclosing that nine contributions totaling \$4,200 had been received and deposited on September 18, 2011; and
- On October 20, 2011, a C-3 report was timely filed by the campaign, disclosing that two contributions totaling \$1,300 had been received and deposited on October 17, 2011.

2.4 The Scott Higgins campaign (referred to as the campaign) only filed one C-4 report prior to the November 8, 2011 general election. **See Exhibit #3.** That C-4 report was filed by the campaign on September 15, 2011, and covered the period May 11 through September

12, 2011. It disclosed that a \$156 in-kind contribution had been received from Mr. Higgins for the filing fee to run for Mayor of Camas.

- 2.5 The campaign failed to file the following C-4 reports: (1) the 21-day pre-general election C-4 report that was required to be filed on October 18, 2011; (2) the 7-day pre-general election C-4 report that was required to be filed on November 1, 2011; and (3) the post-general election C-4 report that was required to be filed no later than December 10, 2011.
- 2.6 The campaign filed a C-4 report on January 31, 2012, stating that \$7,256 in contributions had been raised (as previously reported in a timely manner on C-3 reports), and that \$7,256 in expenditures had been made. **See Exhibit #4.** The campaign failed to attach a Schedule A to the C-4, itemizing or disclosing the required detail for \$7,100 of the expenditures that required the disclosure of detailed information.
- 2.7 The campaign filed the missing Schedule A to C-4 report on February 21, 2012, disclosing the required details for \$7,100 in previously un-reported campaign expenditures. **See Exhibit #5.** Six of the seven expenditures totaled \$6,641 and were first disclosed to the public between 113 to 126 days late, more than three and one half months after the 2011 general election had been held.
- 2.8 Along with the incomplete C-4 report, Mr. Higgins attached a letter he sent to the Camas Farmer’s Market informing them that he had \$460 in surplus campaign funds leftover from his election. The letter went on to state that he was donating those funds to the Camas Farmers Market provided they meet the requirement in RCW 42.17.095 to receive surplus funds.
- 2.9 The Schedule A to C-4 report disclosed that the campaign made several small expenditures of \$50 or less totaling \$156, in addition to the following seven itemized expenditures:

Date Made	Vendor Name	Purpose	Amount	Date Due	Due Reported	Days Late
9/18/2011	IMI Group	Yard signs & H Frames	\$ 1,683	10/18/2012	2/21/2012	126
9/22/2011	IMI Group	Car/Window signs	\$ 340	10/18/2012	2/21/2012	126
10/12/2011	IMI Group	Yard signs & H Frames	\$ 1,983	10/18/2012	2/21/2012	126
10/12/2011	IMI Group	H Frames	\$ 135	10/18/2012	2/21/2012	126
10/24/2011	Azunga Marketing, LLC	Website Development	\$ 2,150	10/31/2012	2/21/2012	113
10/24/2011	Azunga Marketing, LLC	Website Hosting	\$ 350	10/31/2012	2/21/2012	113
1/31/2012	Camas Farmers Market	Disposal of Surplus Funds	\$ 460	2/10/2012	2/21/2012	11
<b>Totals</b>			<b>\$ 7,101</b>			<b>11-126</b>

- 2.10 The four campaign expenditures made to IMI Group were for yard and magnetic campaign signs totaling \$4,140. Two of the campaign expenditures were made on September 18 and September 22, 2011, and two additional campaign expenditures were made on October 12, 2011. All four of the expenditures were required to be disclosed on the 21-day pre-general election C-4 report, and were reported 126 days late.
- 2.11 The two campaign expenditures made to Azunga Marketing were for development and hosting of the campaign website, for a total of \$2,500. The two campaign expenditures were made on October 24, 2011, and were required to be reported on the 7-day pre-general election report. The two expenditures were reported 111 days late.
- 2.12 The \$156 in small expenditures of less than \$50 that were reported by the campaign, were made throughout the 2011 election cycle, and the \$460 in surplus campaign funds donated to the Camas Farmers Market on January 31, 2012, was reported 11 days late.
- 2.13 On February 23, 2012, Mr. Higgins submitted a response letter to the allegations in Mr. Kakuk's complaint. **See Exhibit #6.** In the letter, Mr. Higgins acknowledged that his campaign had *"missed several filing deadlines in the past election cycle. Please accept my apologies and final reports of all campaign activity that occurred."*
- 2.14 Mr. Higgins stated he was appointed Mayor of Camas in June of 2011, and that his life had been a "whirlwind" trying to learn his new job as Mayor and run his campaign for election at the same time. He stated that he did not have any campaign staff to assist him, and was unaware of the reporting deadlines until they had passed. He stated, *"In the end, it was my responsibility and I again regret the miss. Full compliance is my goal!"*

### III. Scope

- 3.1 Staff spoke with and reviewed the complaint filed by Kenton Kakuk received on November 28, 2011.
- 3.2 Staff reviewed the campaign finance reports filed by the 2011 Scott Higgins Campaign for Mayor of Camas.
- 3.3 On February 23, 2012, PDC staff spoke with Mr. Higgins and reviewed his written response.

### IV. Law

- 4.1 **RCW 42.17.080 and 090** require candidates to file timely, accurate reports of contributions and expenditures, including in-kind contributions. Under the full reporting option, until five months before the general election, C-4 reports are required monthly when contributions or expenditures exceed \$200 since the last report. C-4 reports are also required 21 and 7 days before each election, and in the month following the election,

regardless of the level of activity. Contribution deposits made during this same time period must be disclosed on the Monday following the date of deposit.

Respectfully submitted this 21<sup>st</sup> day of September, 2012.

  
Kurt Young  
PDC Compliance Officer

**List of Exhibits**

- Exhibit 1** Candidate Registration (C-1 Report) filed by Scott Higgins on May 17, 2011.
- Exhibit 2** Complaint filed by Kenton Kakuk against Mr. Higgins on November 28, 2011.
- Exhibit 3** C-4 report and attached Schedule B filed by the Scott Higgins campaign on September 15, 2011.
- Exhibit 4** C-4 report with no attachments and a cover letter filed by the Scott Higgins campaign on January 31, 2012.
- Exhibit 5** Missing Schedule A to C-4 report filed by the Scott Higgins campaign on February 21, 2012.
- Exhibit 6** Response letter to complaint, received from Scott Higgins on February 23, 2012.