



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

In the Matter of Enforcement  
Action Against

The National Association of  
Realtors Fund

Respondent.

PDC Case No. 14-009

Notice of Administrative Charges

**I. Jurisdiction**

1. The Public Disclosure Commission (PDC) has jurisdiction over this proceeding pursuant to Chapter 42.17A RCW, the state campaign finance and disclosure laws; Chapter 34.05 RCW, the Administrative Procedure Act; and Title 390 WAC. These charges incorporate the Report of Investigation and all related exhibits by reference.

**II. Allegations**

2. Staff alleges that The National Association of Realtors Fund violated RCW 42.17A as follows:
  - A. RCW 42.17A.260 and RCW 42.17A.305 by failing to timely file a C-6 report of Electioneering Communications and Independent Expenditure Political Advertising disclosing \$76,400 for direct mail, advocacy phone calls and online advertising first presented to the public on October 11, 2013, supporting Kevin Wallace, a Bellevue City Council candidate, and Tim Leavitt, a candidate for Vancouver Mayor in the November 5, 2013 general election.
  - B. RCW 42.17A.305 by failing to timely file an Electioneering Communications report (C-6 report) disclosing \$48,700 for Electioneering Communications first presented to the public on October 17, 2013, for direct mail advertising and related polling and consulting expenses supporting the following candidates for the offices listed: Nancy Backus, for Mayor, City of Auburn; Dino Davis, for City Councilmember, City of

Bremerton; Don Barnes, for Port Commissioner, Port of Kennewick; Steve Hastings, for City Councilmember, City of Puyallup; John Hopkins, for City Councilmember, City of Puyallup; and Chris McNutt, for City Councilmember, City of Puyallup in the November 5, 2013 general election.

### III. Facts

3. The National Association of Realtors Fund (NAR Fund) is organized as a tax-exempt organization under Section 527 of the Internal Revenue Code. It receives all of its funding from the National Association of Realtors (NAR) and does not solicit or accept contributions from others.
4. As the sponsor of political advertising and electioneering communications, NAR Fund was required to deliver a report of Independent Expenditures (PDC form C-6) within twenty-four hours of, or on the first working day after, the date it first published, mailed, or otherwise presented Independent Expenditure political advertising to the public within 21 days of an election, valued at \$1,000 or more. NAR was required to electronically file a report of Electioneering Communications (PDC form C-6) within twenty-four hours of, or on the first working day after, the date it first broadcast, transmitted, mailed, erected, distributed, or otherwise published an Electioneering Communication within 60 days of an election.

#### **NAR Fund Failed to Timely Report \$76,400 for Electioneering Communications and Independent Expenditure Political Advertisements Concerning Two Candidates for City Offices**

5. NAR Fund spent \$76,400 for communications first presented to the public on October 11, 2013, including direct mail Electioneering Communications, and Independent Expenditure advocacy phone calls and online advertising supporting Kevin Wallace, a Bellevue City Council candidate, and Tim Leavitt, a candidate for Vancouver Mayor. NAR Fund was required to electronically file a C-6 report by October 14, 2013 for the direct mail Electioneering Communications, and was required to deliver a C-6 report by the same day for the Independent Expenditure telephone calls and online advertising.
6. NAR Fund faxed a C-6 report 16 days later on October 30, 2013, six days before the general election. The C-6 report covering the October 11, 2013 activity disclosed NAR Fund's Independent Expenditure telephone calls and online advertising 16 days late. The

report also disclosed NAR Fund's direct mail Electioneering Communications, though not electronically.

7. NAR Fund electronically re-filed this C-6 report with the PDC on November 5, 2013, the date of the general election. This electronic report disclosed NAR Fund's direct mail Electioneering Communications 22 days late.

**NAR Fund Failed to Timely Report \$48,700 for Electioneering Communications Concerning Six Additional Candidates for City Offices**

8. NAR Fund spent \$48,700 for Electioneering Communications first presented to the public on October 17, 2013, for direct mail advertising and related polling and consulting expenses supporting the following candidates for the offices listed:
  - Nancy Backus, for Mayor, City of Auburn;
  - Dino Davis, for City Councilmember, City of Bremerton;
  - Don Barnes, for Port Commissioner, Port of Kennewick;
  - Steve Hastings, for City Councilmember, City of Puyallup;
  - John Hopkins, for City Councilmember, City of Puyallup; and
  - Chris McNutt, for City Councilmember, City of Puyallup.
9. NAR Fund faxed a C-6 report disclosing \$48,700 for Electioneering Communication expenditures 12 days late on October 30, 2013. However, NAR Fund did not electronically file its C-6 report, as required, until November 5, 2013, 18 days late and on the date of the general election.

**IV. Law**

**RCW 42.17A.005(19)(a)** defines "Electioneering communication" to mean any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that: (i) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name; (ii) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and (iii) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of one thousand dollars or more.

**RCW 42.17.005(26)** states, (26) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of \*eight hundred dollars or more. A series of expenditures, each of which is under eight hundred dollars, constitutes one independent expenditure if their cumulative value is eight hundred dollars or more. \* \$800 has been revised to \$950.

**RCW 42.17.260** states in part, (1) The sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

**RCW 42.17A.305** requires that the sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, or otherwise published, and include: (a) Name and address of the sponsor; (b) Source of funds for the communication, (c) Name and address of the person to whom an electioneering communication related expenditure was made; (d) A detailed description of each expenditure of more than one hundred dollars; (e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published; (f) The amount of the expenditure; and (g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate.

RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of November, 2014.



Philip E. Stutzman

Director of Compliance