BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In the Matter of Enforcement Action Against: Sherri Thies Respondent.	Case No. ~~12-145~~ 14-052 (TP) STIPULATION AS TO FACTS, VIOLATION AND PENALTY

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Andrea McNamara Doyle, and Respondent Sherri Thies, through her attorney, Michael Gawley, submit this Stipulation as to Facts, Violations and Penalty in this matter. The parties agree that the Commission has the authority to accept, reject or modify the terms of this Stipulation. The parties further agree that in the event that the Commission suggests modification to any term of this agreement, each party reserves the right to reject that modification. In the event either party rejects a modification, this matter will proceed to hearing before the Commission.

JURISDICTION

The Public Disclosure Commission has jurisdiction over this proceeding pursuant to RCW 42.17A, the Public Disclosure Act; RCW 34.05, the Administrative Procedure Act; and WAC 390.

FACTS

1. In the March 10, 2009 special election, Spokane School District 81 (Spokane Schools) held a maintenance and operations replacement levy election and a bond election. The levy and bond propositions were assigned Proposition No. 1 and Proposition No 2., respectively. Proposition 1 and Proposition 2 were approved by more than 60% of voters participating in the election.

2. In the November 8, 2011 general election, Deana Brower was a candidate for School Director for Spokane School District 81. Ms. Brower was elected to the school board in that election.

3. In the months preceding the March 10, 2009 special election, Respondent Sherri Thies held a teaching position Ferris High School. Ms. Thies also held her position during the spring preceding the November 8, 2011 general election.

4. At 3:36 pm on Tuesday, February 10, 2009, while on paid agency time, Ms. Thies used her Spokane Schools email address to send an email to Kevin Foster, Principal of Ferris High School. In her email, Ms. Thies coordinated distribution of political advertising signs promoting the 2009 levy and bond, sign waving, and telephone banking to promote the measures: "*...can we announce for the Bond/Levy the following - yard signs are available if you have a great place to put one; sign waving will be 2/25 and 3/3 7:00 - 8:00 AM AND 2/26 and 3/45:00 - 6:00 PM; we need people to commit to phone calling on 3/3 for one hour shifts at 6:15 and 7:15 PM.*" She concluded her email, *"And I'll take 17 yard signs"*.

5. At 1:40 pm on Friday, April 29, 2011, while on paid agency time, Ms. Thies used her Spokane Schools email address to reply to an email from Jenny Rose, President of the Spokane Education Association. In Ms. Rose's email and Ms. Thies' response, they discussed the Association's process of vetting and endorsing Deana Brower as a candidate for school director.

STATUTORY AND RULE AUTHORITY

6. **RCW 42.17.130** (effective January 1, 2012, codified as **RCW 42.17A.555**) states: No elective official nor any employee of his [or her] office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

> (1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition

so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

7. **WAC 390-03-273** states: Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW 42.17.130, means conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner. No local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

VIOLATION

Based on the Stipulation of Facts set forth above, Respondent Sherri Thies stipulates to a violation of RCW 42.17.130 for her two uses of the district email system as described herein.

PENALTY

Based upon the stipulated facts and violations set forth above, Respondent Sherri Thies agrees to pay a total civil penalty of $250, with $200 suspended on the following conditions:

1. Respondent is not found to have committed further violations of RCW 42.17A within four years from the date of the entry of the Commission's Final Order in this matter;

2. Payment of the non-suspended portion of the penalty ($50) is made within 30 days from the date of entry of the Commission's Final Order in this matter.

In the event that Respondent fails to meet either of these terms, the suspended portion of the penalty shall become due without any further intervention of the Commission.

Respondent Sherri Thies re-affirms her intention to comply in good faith with the provisions of RCW 42.17A in the future.

Andrea M. Doyle

Andrea McNamara Doyle, Executive Director
Public Disclosure Commission

2/19/14
Date Signed

#22118

Michael Gawley, Counsel for Respondent
Sherri Thies

1/27/14
Date Signed