



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

Cowlitz PUD Officials and Employees:

Mark McCrady, Former Cowlitz PUD
Commissioner, Case No. 13-022; and

Brain Skeahan, Former Cowlitz PUD
General Manager, Case No. 15-039

Respondents.

PDC Case No. 13-022

PDC Case No. 15-039

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. PDC staff alleges that the following Cowlitz PUD official and employee violated RCW 42.17A.555 by using the facilities of Cowlitz PUD to assist the 2012 reelection campaign of former Cowlitz PUD Commissioner Mark McCrady in the November 6, 2012 general election.

A. **Mark McCrady**, Former Cowlitz PUD Commissioner:

1. Used and authorized the use of Cowlitz PUD facilities (staff time, camera, vehicles, and other facilities) for a photo shoot that occurred in May of 2012 for the purpose of assisting McCrady's 2012 reelection campaign.
2. Used or authorized the use of Cowlitz PUD facilities (staff time, computers, and other facilities) to prepare a briefing document which McCrady used during an interview with the local newspaper editorial board the same day, September 14, 2012, thereby assisting McCrady's re-election campaign.

B. **Brian Skeahan**, Former Cowlitz PUD General Manager:

1. Authorized the use of Cowlitz PUD facilities (staff time, camera, vehicles, and other facilities) for a photo shoot that occurred in May of 2012 for the purpose of assisting McCrady's 2012 re-election campaign.
2. Used or authorized the use of PUD facilities (staff time, computers, and other facilities) to prepare a briefing document which McCrady used during an interview with the local newspaper editorial board the same day, September 14, 2012, thereby assisting McCrady's re-election campaign.

III. FACTS

3. Cowlitz Public Utility District (Cowlitz PUD) is located in Longview, Washington. It provides power to utility customers in Southwest Washington. Cowlitz PUD is managed by a board of three elected Commissioners who are responsible for hiring the General Manager, developing general policy direction for the PUD, and approving the annual operating budget.
4. During 2012, the period at issue in the complaint, Cowlitz PUD's General Manager was Brian Skeahan and its three Commissioners were Merritt "Buz" Ketcham, Ned Piper, and Mark McCrady. McCrady ran for reelection in 2012, and was defeated by Kurt

Anagnostou in the November 6, 2012 general election. The current board consists of Ketcham, Piper, and Anagnostou. Skeahan is no longer the General Manager, as of January 16, 2013.

Campaign Photo Shoot to Assist Mark McCrady's 2012 Campaign

5. In the Spring of 2012, Skeahan and McCrady together approached Tim Johnston, Manager of Systems Engineering, and talked to him about arranging a photo shoot for McCrady. Skeahan asked Johnston if he could get PUD engineering and operations staff to meet at a substation for a picture with McCrady. Johnston understood the photos were intended for use in McCrady's campaign, did not feel he had an option to say no, and agreed to fulfill their request. Johnston made arrangements for the photo shoot with the assistance of Steve Brock, Operations Superintendent.
6. Around 1:00 p.m. on May 25, 2012, Johnston took approximately 14 photographs of McCrady and approximately 25 PUD employees at Cowlitz PUD's 7th Avenue substation. The photos were taken with a Cowlitz PUD camera and were stored on a PUD computer. The photos were taken during normal work hours following the employees' normal lunch break. The employees arrived at the substation in PUD vehicles. McCrady wanted some of the photos for his personal use, and he intended to use some of the photos for a campaign brochure for his 2012 reelection campaign. Based on the advice of McCrady's campaign manager, which was later confirmed by PUD General Counsel Paul Brachvogel, the photos were not used for campaign purposes.

Preparation and Use of Campaign Briefing Document to Assist Mark McCrady's 2012 Campaign

7. On the morning of September 14, 2012, Skeahan called Gary Huhta, Director of Power Supply, and stated that McCrady would be talking with the newspaper later that day and needed information right away. Skeahan outlined the information he wanted for McCrady concerning the PUD's compliance with a State initiative.

8. Huhta prepared contemporaneous handwritten notes on September 14, 2012 of his telephone call with Skeahan, indicating that the information was needed for an interview with the local newspaper, and mentioning McCrady's opponent, Kurt Anagnostou.
9. Huhta understood the information was being requested for use by McCrady in his campaign, although he was unaware at the time of the prohibition against using public facilities to assist a campaign. Huhta did not believe he had a choice about whether to compile the information which he completed within about one hour and provided to McCrady.
10. Later that day, McCrady presented a document to The Daily News editorial board, using the exact words prepared by Huhta, with only the addition of a title to the document.

IV. LAW

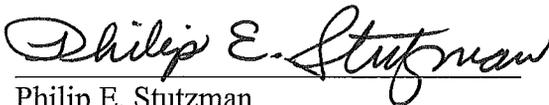
RCW 42.17A.555 states, in part: "No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office[.]

...[T]he foregoing provisions of this section shall not apply to the following activities:

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

WAC 390-05-273 defines the "normal and regular conduct" of a public office or agency as "*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.*"

RESPECTFULLY SUBMITTED this 10th day of October, 2014.



Philip E. Stutzman
Director of Compliance