

Citizens to Elect Jon Tunheim
P. O. Box 13443
Olympia, WA 98508

Ms. Tabatha Blacksmith
PDC Compliance Coordinator
Via email

RE: Supplemental response in PDC Case Number 41292

Dear Ms. Blacksmith,

This letter is submitted as a supplemental response to additional allegations raised by the complainant in the above referenced case. The following is my response to the allegations in the materials provided to me.

Allegation I: Employee introduced as campaign manager

It is alleged that Mr. Jeff Lippert was introduced as my campaign manager at a voter forum which occurred on Saturday, September 29, at the Thurston County Media studios, and that he was not disclosed as such in any PDC report. Mr. Lippert was not my campaign manager and never acted in that capacity. He was at all times, a general volunteer. He was present only as an observer of the forum and for no other reason. Any indication that he was introduced as my campaign manager is inaccurate. We would not have introduced him as such since he had no such role in the campaign.

Allegation II: Jubilee Community Voter Forum

It is complained that the appearance of Jeff Lippert as a representative of the campaign at a community candidates forum held on Tuesday, October 2, 2018, was a violation of law (although not specifically stated, the implication is that the violation is of RCW 42.17A.555 prohibiting “use of employees of the office or agency during working hours”).

Mr. Lippert is the current Chief Criminal Deputy in the Prosecuting Attorney’s Office and also was a volunteer on my campaign. As stated in my previous response, all employees of the prosecutors office, including Mr. Lippert, were advised that they were not expected in any way to participate in or donate to my campaign. They were told that they would not be solicited to participate or donate and their employment status would in no way be affected by their participation or lack of participation in the campaign. They were told that if they wished to volunteer in the campaign, they would need to affirmatively contact the campaign outside of the office with an offer to volunteer. Mr. Lippert did so early in the campaign, and was an ongoing volunteer throughout the campaign.

When the Jubilee event was held on October 2, 2018, I was scheduled to be out of town to be a presenter at a training for other prosecutors in Spokane. In the original invitation, the Jubilee event coordinators specifically allowed any campaign to send a representative if the candidate was unavailable. In discussing the event with a number of volunteers, Mr. Lippert volunteered to be the representative because of his familiarity with the operations of the office, which was a central issue raised by my opponent in the campaign, along with a number of criminal justice reform programs which were also central issues in the campaign. It was decided that Mr. Lippert would be best able to respond to these issues if raised at the forum because my opponent had already made several previous inaccurate allegations about the operations of the office.

As noted in my previous response, all deputy prosecutors, including Mr. Lippert, are exempt from the Fair Labor Standards Act, meaning that they are salaried employees and are able to take personal time during the day. As with many salaried public employees, deputy prosecutors often work more than 40 hours per week and often work on weekends. It is not unusual for a deputy prosecutor to be out of the office during a regular work day on personal business. The prosecutors office policy on partial day leave is to give notice to their supervisor of their absence if they are to be out more than two hours. On this occasion, because the event was late in the afternoon, Mr Lippert submitted a partial day leave request to leave early for the day so that it was clear he was on personal time. Therefore, he was no longer on “working hours” when he appeared at the event.

Allegation III: Employee as Deputy Treasurer

Marcia Tunheim was the campaign Treasurer throughout the campaign. During a period of time in October, she was scheduled to be out of state on a business related trip and a Deputy Treasurer was identified as a back up should any deposits need to be made or reports need to be filed in her absence. Heidi Prihoda volunteered and was identified to the PDC as a Deputy Treasurer. Ms. Prihoda is the Administrative Services Manager at the Prosecuting Attorney’s Office and also was a campaign volunteer. It was understood that if Ms. Prihoda conducted any treasurer activities for the campaign, that would be on her own time and with no use of government equipment or resources. However, as it turned out, Ms. Tunheim was able to timely file all deposits and documents around her travel and therefore Ms. Prihoda’s assistance was never needed as Deputy Treasurer.

Allegation IV: Endorsement postings on Facebook

The complainant also complains about posts on my campaign Facebook page. The two referenced posts announced endorsements from the Olympia Police Guild and the Tumwater Police guild, both labor organizations representing the officers of the respective departments. Both of these organizations did endorse my candidacy. In posting these endorsements on Facebook, I searched the internet using google for photos in the public domain depicting members of the respective guilds. Several photos that appeared to be publicity photos for the departments were located and

used in the posts. Because these photos were in the public domain, and the endorsement was clearly articulated in the post to be from the police guilds and not the departments, I did not consider use of these photos to have PDC implications. However, when the complaint was raised by the complainant on our Facebook page, I promptly removed both posts, including the photos, in order to avoid any improper appearance or confusion to the public about the endorsements.

Another allegation in this same complaint involves a posting of a photo depicting myself and the Thurston County Sheriff at one of our local parades. The Sheriff was in uniform for that parade. The post simply says, "Ran into Thurston County Sheriff John Snaza this morning." There was no indication of endorsement or that he was supporting my candidacy in the post.

Allegation V: Endorsements by government employees, including Deputy Prosecuting Attorneys.

Complainant alleges that the identification of government employees titles, including deputy prosecutors, in their endorsements is a violation of public disclosure law but cites no source of law for this allegation. It is conceded that the endorsement list on my campaign website listed numerous public officials and employees along with their respective titles, including deputy prosecutors. Use of the employees title in an endorsement should not be considered use of any "facility of a public office."

Clarification of governing policy

The complainant alleges that I mischaracterized county policy in my original response and cites to the county HR policy as the governing policy for employees of the Thurston County Prosecutor's Office. As an independently elected office, the Prosecuting Attorney's Office is authorized to adopt independent policies, unless a policy is specifically included in a labor contract or otherwise required by law. In several areas, including requirements of leave, the Prosecuting Attorney's Office has adopted independent policies in Chapter 5 of our office policy manual which was included in complainant's original materials. It is these policies which govern leave by deputy prosecutors, not HR policy.

PDC reporting requirements for employees

The ORCA software was used when reporting all contributions. This software notifies the user when a contributor's employer information is required. My treasurer complied with reporting requirements for all contributors, including employees. If a contributor was not listed as an employee, it is because the contribution amount did not trigger that requirement.

Additional Comments

Most of these allegations are centered around the involvement of exempt employees in my campaign. I acknowledge that several employees were ongoing volunteers in the campaign. Complainant asserts that employees should not be subject to undue pressure or influence to force them to participate in a campaign. I completely agree. In this case, however, no employee was unduly solicited, pressured or required to participate if they did not wish to participate. Any employee who participated in my campaign did so only because they reached out to the campaign with a specific offer to volunteer. It is important to note that there are over 70 employees in the prosecuting attorneys office and only about 20 employees, all of whom are exempt, participated in the campaign as a volunteer and/or donor and the remainder chose not to participate in the campaign.

What is also noteworthy is that my opponent publicly attacked the competence and professionalism of the deputy prosecutors working in the office. Many deputy prosecutors were frustrated by the attacks and felt strongly that the office would be adversely impacted should he be elected. Whether true or not, that was their perception based on his public comments and, as a result, many deputy prosecutors were highly motivated to assist my campaign.

Having been a deputy prosecutor for many years myself, including during campaigns, and having worked for three different elected prosecutors before being elected myself, I am very conscientious about not pressuring employees to participate in my campaign. I feel very fortunate to have had the broad support of several deputy prosecutors individually, along with their collective endorsement through their union.

Lastly, the timing of this complaint raises a concern that this complaint was made as a political tactic to attack my campaign. My kickoff event occurred in May. The complaint about the event was not filed with the PDC until September (The complainant was among my opponent's top donors giving \$1,000 for the general election). The complaint was identified to The Olympian (I believe by the complainant) during their editorial board endorsement process, and a story was run on October 30th, long after ballots were mailed to voters and a week before election day. My opponent then shared the Olympian article on his Facebook page with a post implying that the complaint was founded in order to further his campaign. While this may not be directly relevant to the merits of the allegations, it is apparent that the complaint was motivated by an intent to influence voters.

Respectfully submitted,

Jon Tunheim, Candidate
Citizens to Elect Jon Tunheim



**Victor for Thurston
County Prosecutor**
@victorforthurston

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Victor for Thurston County Prosecutor

October 31 at 8:49 AM · 🌐



No one forced Jon Tunheim to hold his political Campaign Kickoff during work hours, take donations from his deputies during work hours, or allow the taxpayers to pay for those employees' politicking during work hours.

No one forced Tunheim to attack a citizen for exercising his First Amendment right to petition the government, either.

That's all you, Mr. Tunheim. All you.

<https://www.theolympian.com/.../election/article220809255.html>



THEOLYMPIAN.COM

Campaign finance complaint centers on Tunheim's campaign kickoff

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