



STATE OF WASHINGTON  
**PUBLIC DISCLOSURE COMMISSION**

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BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE	)	PDC CASE NO: 6928
WITH RCW 42.17A	)	
	)	
Cindy Larsen	)	
	)	
	)	REPORT OF INVESTIGATION
	)	
Respondent.	)	
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I. BACKGROUND

- 1.1 Cindy Larsen has been a deputy prosecuting attorney employed by the Snohomish County Prosecutor's office since 1997. On May 30, 2016, after longtime Snohomish County Superior Court Judge Thomas Wynne announced that he would not seek re-election, Ms. Larsen filed a C-1 Candidate Registration with the Public Disclosure Commission, registering her campaign to replace Judge Wynne in the 2016 primary and general elections. **(Exhibit 1.)** Ms. Larsen was a first-time candidate in the race.
- 1.2 A Safer Snohomish County is a political committee formed to support Snohomish County Proposition 1 in the August 4, 2016 primary election. Proposition 1 would have authorized the imposition of a county-wide sales and use tax of two tenths of one percent to be used for criminal justice purposes, including the hiring of additional sheriff's deputies and local police officers. A Safer Snohomish County filed a C-1pc Political Committee Registration with the PDC on April 15, 2016. **(Exhibit 2.)**
- 1.3 On July 25, 2016, Beth Lucas filed a complaint against Cindy Larsen with the PDC, alleging violations of RCW 42.17A. **(Exhibit 3.)** On August 4, 2016, Melissa Day filed a second complaint with the PDC, making similar allegations against Ms. Larsen. **(Exhibit 4.)** On Sunday August 21, 2016, the PDC received a copy of a Citizen Action Notice complaint that Robert Schiffner filed with the Washington Attorney General and Snohomish County Prosecuting Attorney under RCW 42.17A.765(4), alleging violations of RCW 42.17A by Ms. Larsen. **(Exhibit 5.)**

- 1.4 In the August 4, 2016 primary election, 50.13% of Snohomish County voters rejected Proposition 1, and the proposition was narrowly defeated.
- 1.5 Cindy Larsen faced three candidates in the August 4, 2016 primary election for Snohomish County Superior Court Judge. Together with her opponent Rico Tessandore, Ms. Larsen advanced to the November 8, 2016 general election. Ms. Larsen received 44.62% of votes cast in the primary, besting Mr. Tessandore by more than ten percentage points.

## II. ALLEGATIONS IN COMPLAINT

- 2.1 The complaint filed by Beth Lucas alleged that A Safer Snohomish County sponsored a county-wide mailing that promoted Proposition 1, and was received by voters the same day as ballots for the August 4, 2016 primary election. (In 2016, Snohomish County Elections mailed primary ballots to most voters on Thursday, July 14, 2016.) Ms. Lucas alleged that the mailing promoted Cindy Larsen's candidacy by identifying Ms. Larsen by name and photograph. She alleged that Ms. Larsen violated RCW 42.17A by failing to disclose A Safer Snohomish County's expenditures for the mailing as in-kind contributions in her PDC filings.

Ms. Lucas' complaint raised additional questions concerning a possible requirement for A Safer Snohomish County to include a "notification" in its mailing, based on the fact that the mailing was sponsored in consultation with a candidate. However, the complaint did not make a more specific allegation concerning such a requirement. Assuming that Ms. Lucas' allegations were correct, and the mailing was in fact sponsored in consultation with Ms. Larsen, it appeared the mailing did include the statement of sponsor identification required under RCW 42.17A.320. Finally, Ms. Lucas' complaint raised questions concerning the propriety of a judicial candidate endorsing a ballot proposition under the Canons on Judicial Conduct, however this allegation falls outside the jurisdiction of RCW 42.17A and the PDC, and was not investigated.

- 2.2 The complaint filed by Melissa Day also alleged violations by Cindy Larsen in connection with communications sponsored by A Safer Snohomish County. Ms. Day noted that both Ms. Larsen and her campaign manager Brooke Davis were involved in the production of the committee's Proposition 1 mailing, evidence that the mailing was coordinated with Ms. Larsen's campaign. Ms. Day noted further that a photo of Ms. Larsen that appeared in the A Safer Snohomish County mailing was also used in a post displayed on the committee's Facebook page. Ms. Day alleged that Ms. Larsen failed to disclose these coordinated expenditures in support of Ms. Larsen's campaign as in-kind contributions, an alleged violation of RCW 42.17A. Ms. Day stated that this failure by Ms. Larsen pointed to additional potential violations by A

Safer Snohomish County. However, she did not provide more information, or make a specific allegation against the committee.

- 2.3 The August 21, 2016 Citizen Action Notice filed by Robert Schiffner attached a copy of Melissa Day's public complaint filed with the PDC. Ms. Schiffner's notice stated, *"This e-mail serves as notification to the Attorney General's Office and Snohomish County Prosecuting Attorney's Office that there is reason to believe a provision of RCW 42.17A has been violated by Cindy Larsen in her campaign for Snohomish County Superior Court Judge."*

### III. FINDINGS

#### **Mailings and Communications Sponsored by A Safer Snohomish County**

- 3.3 PDC staff reviewed the mailing sponsored by A Safer Snohomish County to promote Proposition 1, a copy of which was enclosed with Beth Lucas' complaint. **(Exhibit 3, pp 2 – 4.)** The address on the mailing indicated that it was received at Ms. Lucas' residence in Everett. As alleged, the mailing included two photographs of Cindy Larsen, one of which was the largest photo in the advertisement. The photo was accompanied by the following quote, attributed to Ms. Larsen:

*"WE NEED MORE POLICE AND SHERIFF PROTECTION, and proven solutions, to address the public safety crisis facing our communities. PROP 1 IS A SMALL INVESTMENT for real peace of mind. I'm voting YES. – Cindy Larsen, Everett"*

- 3.4 The complaint filed by Melissa Day included a screen shot of a Facebook post from the page maintained by A Safer Snohomish County. **(Exhibit 4, p 3.)** The post included the photo of Ms. Larsen and the quote attributed to her as described above in 3.3. The post did not bear any indication that it was a paid advertisement or a promoted Facebook post, broadcast to a wider audience for a fee. Rather, the post appeared to be free content that would display for user accounts that "liked" (subscribed) to the A Safer Snohomish County Facebook page, or failing that, as activity of the account's friends and connections.
- 3.5 On July 12, 2016, A Safer Snohomish County filed a C-4 Summary, Full Report of Receipts and Expenditures for the 21-day pre-primary reporting period of June 1 – July 11, 2016. **(Exhibit 6, pp 1 – 6.)** On July 26, 2016, the committee filed a C-4 report for the 7-day pre-primary reporting period of July 12 – 25, 2016. **(Exhibit 6, pp 7 – 11.)** Together, the C-4 reports disclosed a total of \$91,721.96 in payments to Publishers Mailing Service for "Postage/Mailing Service." As of the close of the 7-day pre-primary election

reporting period, the committee had reported no payments for direct mail, however the report filed on July 26, 2016 disclosed an estimated debt of \$50,000 to Northwest Passage Consulting for "Direct Mail Production." None of the reported payments and debts were disclosed with information that tied the expenditure to the mailing that identified Cindy Larsen. None of the reported expenditures were described as contributions to Ms. Larsen's campaign, or as electioneering communications that identified her.

- 3.6 On August 1, 2016, following notification from PDC staff of the complaint filed by Beth Lucas, Phil Lloyd filed a C-6 Electioneering Communication report on behalf of A Safer Snohomish County. **(Exhibit 7.)** The C-6 form disclosed \$53,924.74 in total expenditures for the committee's mailing; the expenditures were reportedly incurred on July 13, 2016, the same day that the mailing was presented to the public. The form attributed the entire amount of the expenditures' value to Proposition 1, indicating that while Ms. Larsen was identified in the advertisement, none of the value was attributable to her. In an email sent to PDC staff the same day **(Exhibit 8)**, Mr. Lloyd stated, *"I went ahead and filed a form C6 from A Safer Snohomish County, indicating a zero value for the Larsen campaign, since the mailing did not identify her office nor did it in any way promote her candidacy."*
- 3.7 PDC staff's review indicates that the July 13, 2016 mailing sponsored by A Safer Snohomish County was 1) a United States postal service mailing that 2) clearly identified Cindy Larsen, a candidate for Snohomish County Superior Court Judge, including by specifically naming Ms. Larsen, 3) was mailed in Snohomish County within sixty days before Ms. Larsen's August 4, 2016 primary election, and 4) had a value of \$1,000 or more.
- 3.8 Cindy Larsen did not disclose receipt of any in-kind contribution from A Safer Snohomish County in connection with the committee's expenditures.

**Alleged Coordination between Larsen Campaign  
and A Safer Snohomish County**

- 3.9 As part of PDC staff's investigation of alleged unreported in-kind contributions by A Safer Snohomish County to the Cindy Larsen campaign, staff explored whether the committee's mailing was an expenditure that satisfied the criteria of a "contribution," as that term is defined in statute and rule. Staff's inquiry included a review of the roles that various officers, consultants, and agents played in the Larsen campaign and A Safer Snohomish County, including whether the committees had any officers or agents in common.
- 3.10 **Identification of Committee Officers by A Safer Snohomish County:** The C-1pc Political Committee Registration that A Safer Snohomish County filed with the PDC on April 15, 2016 identified the committee's officers, including

Snohomish County Sheriff Ty Trenary as the committee's Chair, and Phil Lloyd as its Treasurer. **(Exhibit 2.)**

- 3.11 **Expenditures by A Safer Snohomish County to Brooke Davis for Consulting Services:** Beginning with the C-4 report filed on June 9, 2016 for the period of May 1 – 31, 2016, A Safer Snohomish County disclosed regular debts and monetary expenditures to Brooke Davis and Brooke Davis Consulting, Inc. for consulting services and expense reimbursements. The committee's first debts to Ms. Davis or her firm were incurred on May 31, 2016. **(Exhibit 9.)** From that date through the date of the August 4, 2016 primary election, A Safer Snohomish County disclosed approximately \$38,250 in payments to Ms. Davis or her firm. **(Exhibit 10.)**
- 3.12 **Identification of Committee Officers by Cindy Larsen:** The C-1 Candidate Registration that Cindy Larsen filed with the PDC on May 30, 2016 identified several individuals as officers of Ms. Larsen's authorized committee. These included Brooke Davis as Campaign Manager, and Sheriff Ty Trenary as Co-Chair for Fundraising. **(Exhibit 1.)** Ms. Larsen's husband, Snohomish County Sheriff's deputy Jeff Ross, was identified on the C-1 form as Assistant Campaign Manager, and her mother, Alice Larsen, was listed as Treasurer. The registration did not identify Ms. Davis or any other person as a person performing only ministerial functions on behalf of Ms. Larsen's committee.
- 3.13 On August 1, 2016, after the complaint from Beth Lucas was filed, Cindy Larsen filed an amended C-1 Candidate Registration. **(Exhibit 11.)** The amended C-1 removed all officers that were listed on the original registration, with the exception of Treasurer Alice Larsen, and Jeff Ross, who was now listed as "Manager." On August 16, 2016, Ms. Larsen again amended her C-1 registration, listing Josie Olsen as her new Treasurer, and removing Jeff Ross as an officer. **(Exhibit 12.)**
- 3.14 In a preliminary response to the Beth Lucas complaint, received on August 1, 2016, Cindy Larsen indicated that she had improperly listed several individuals as committee officers on her original C-1 registration. She stated **(Exhibit 13)** that only she and Jeff Ross, her husband, made decisions for her campaign. In a formal response to the Lucas and Day complaints, received from Ms. Larsen's legal counsel Greg Wong on August 19, 2016, Ms. Larsen stated that through a misunderstanding, she identified "Honorary Co-Chairs, fundraiser Co-Hosts, Endorsers, or strong volunteer supporters" as committee officers on her C-1 registration. However, she said that these individuals had no authority to make expenditures or decision on her behalf. **(Exhibit 14.)**
- 3.15 Regarding the role of Brooke Davis in her campaign, in her formal response Ms. Larsen stated that Ms. Davis was not an officer of her campaign.

However, she also stated that she agreed to pay Ms. Davis for campaign management services, and that in that role, Ms. Davis assisted her with her campaign kickoff, ordering campaign signs, designing campaign materials, and calling legislative districts to schedule endorsement interviews. Ms. Larsen stated that Ms. Davis did not have authority to make expenditures or strategic decisions on Ms. Larsen's behalf. As an example, she stated that Ms. Davis worked with a sign vendor on the logistics of ordering signs, but the price and ultimate payment were authorized solely by Ms. Larsen.

3.16 In an interview under oath with Cindy Larsen on September 8, 2016, PDC staff asked Ms. Larsen to describe her expectations for Ms. Davis, and whether they included assistance with strategic campaign planning. Ms. Larsen agreed that she did expect campaign strategy assistance from Ms. Davis, but that Ms. Davis' time and attention during the primary campaign were limited: *"I just got the feeling that she wasn't that concerned about the primary, that she knew we would make it through and then we'd deal with stuff later. So there were things that I wanted to do, she said not to order T-shirts, but I just did it anyway. Because I felt like we needed to do the parades. She had suggested we not do the parades because of the money, but I did it anyway. So yeah, the plan was that she would tell me how to run a campaign. But she always ran things by me."* **(Exhibit 15.)** As a further example of her working relationship with Ms. Davis, Ms. Larsen described a potential doorbelling political advertisement that Ms. Davis commissioned or designed for the primary election. Ms. Larsen stated that she opted not to follow Ms. Davis' recommendation, and did not sponsor the doorbelling piece.

3.17 **Expenditures by Cindy Larsen to Brooke Davis for Campaign**

**Management Services:** On the C-4 report filed on July 12, 2016 for the period of June 1 – July 11, 2016, Cindy Larsen disclosed a debt of \$3,000 to Brooke Davis Consulting, Inc. described as "campaign manager services." **(Exhibit 16.)** The debt to Ms. Davis's firm was listed as incurred on July 1, 2016, however, documents provided by Ms. Larsen for this investigation indicate that Ms. Davis was performing campaign management services for Ms. Larsen as early as May 31, 2016, when she contacted Snohomish County Elections and the Washington Secretary of State to arrange changes to Ms. Larsen's voters' pamphlet statement. **(Exhibit 17.)** In an email sent to Ms. Larsen on June 1, 2016, Ms. Davis thanked Ms. Larsen for engaging her services, and proposed a \$1,500 monthly fee through October 2016 with a \$2,500 win bonus in November depending on available funds. In a reply sent the same day, Ms. Larsen agreed to the proposed payment structure. **(Exhibit 18.)**

3.18 After disclosing an initial \$3,000 debt to Ms. Davis' firm on the C-4 filed on July 12, 2016, Ms. Larsen removed that debt from an amended report for the same period filed on August 1, 2016. **(Exhibit 19.)** On two Last Minute

Contribution forms (LMC) filed on the same day, Ms. Larsen converted the \$3,000 debt to an in-kind contribution from Ms. Davis, with \$2,000 attributed to the primary election, and \$1,000 attributed to the general election.

**(Exhibit 20.)** The LMC reports described the in-kind contributions as “campaign manager services” and “campaign services.”

- 3.19 On August 10, 2016, six days after the primary election and after Ms. Lucas and Ms. Day filed their complaints against Cindy Larsen, Brooke Davis sent an email to Ms. Larsen stating, *“After a lot of thought about your offer to join the campaign as your campaign manager for the general election I am going to politely decline. I just don’t think it is a good fit given the questions already being raised about my involvement with the campaign. I want you to be successful and do not want to impede on that in any way. I hope the work I was able to inkind to your campaign was helpful and wish you the best moving forward.”* **(Exhibit 21.)**
- 3.20 On September 9, 2016, Ms. Larsen filed a C-4 report for the post-primary election period of July 26 – August 31, 2016. **(Exhibit 22.)** The report disclosed the \$3,000 in-kind contribution from Brooke Davis, and also disclosed a \$1,000 payment to Ms. Davis on August 30, 2016, described as “contribution refund.” In an interview under oath with PDC staff, Ms. Davis stated that on assuming treasury duties, Josie Olsen advised her that Ms. Davis could not make a \$3,000 in-kind contribution before the primary election, and that a partial refund was made for that reason.

**Cindy Larsen Participation in Photo Shoot  
for A Safer Snohomish County / Production of Proposition 1 Mailing**

- 3.21 In her August 19, 2016 formal response to the complaints, Ms. Larsen stated that the photo shoot that led to the Proposition 1 mailing and the related Facebook post occurred on June 10, 2016. She stated that her participation was arranged the day prior, on June 9, 2016, because the family that originally agreed to participate in the photos shoot had to drop out at the last minute. Ms. Larsen stated that her husband was scheduled to be in Walla Walla for work on the day of the photo shoot, and so she participated in the shoot with her daughter and a young friend.
- 3.22 In a contemporaneous text message sent to Snohomish County Prosecutor Mark Roe on the morning of June 10, 2016 **(Exhibit 23)**, Ms. Larsen told Mr. Roe that she had been asked by Snohomish County Sheriff Ty Trenary to participate in a photo shoot for Prop 1 as a representative of the prosecuting attorney’s office. She stated that she assumed that Mr. Roe was aware of the request, but sought his clearance to participate in the shoot. Mr. Roe responded, “We actually want your WHOLE family, I think.” Later in the exchange, Mr. Roe asks Ms. Larsen to discuss proper attire for the photo shoot with Brooke Davis.

- 3.23 In her interview under oath with PDC staff, Ms. Larsen stated that she believed that Sheriff Trenary's request to participate in the photo shoot was made in a telephone call. She stated that her husband also informed her of the request, but that she believed by that time, she had already spoken with Sheriff Trenary about the photo shoot.
- 3.24 In a written statement received on September 9, 2016, the day following her interview, Ms. Larsen clarified that she was uncertain whether Sheriff Trenary's request to participate in the photo shoot came directly from the sheriff, or secondhand through another person. **(Exhibit 24.)** She stated that her telephone records do not indicate calls to or from the sheriff's number in the days leading up to June 10, 2016. However, she stated that she did find a June 9, 2016 text from her husband in which he forwarded a message from "Karen," conveying Sheriff Trenary's wish that Ms. Larsen participate in the photo shoot. (In a separate interview under oath on September 8, 2016 **[Exhibit 25]**, Jeff Ross identified "Karen" as Karen Fournier of the Snohomish County Sheriff's Office, and the Deputy Sheriff's Association.) In her written statement, Ms. Larsen also stated that she may have learned about the Sheriff's request from another friend named Becky Lewis (Mertzig), also a sheriff's deputy, who Ms. Larsen said she spoke with on June 9, 2016.
- 3.25 For his part, Sheriff Trenary stated in a September 7, 2016 interview under oath that he did not suggest that Cindy Larsen participate in the Proposition 1 photo shoot. **(Exhibit 26.)** Sheriff Trenary stated that he first learned that Ms. Larsen would participate in the photo shoot when he arrived at the shoot and saw her there. However, he did confirm that Jason Cummings, Chief Civil Deputy for the prosecutor's office, was originally selected to participate with his family in the photo shoot, and that Ms. Larsen was his replacement.
- 3.26 In a September 7, 2016 interview under oath with PDC staff, Brooke Davis also stated that she did not suggest that Cindy Larsen participate in the photo shoot. **(Exhibit 27.)** Ms. Davis stated that she first learned of Ms. Larsen's participation from Mark Roe. She stated that once she learned that Ms. Larsen would participate, she consulted with Ms. Larsen concerning the clothing she should wear for the shoot.
- 3.27 In a separate interview under oath on September 9, 2016, Mark Roe stated that although the June 10, 2016 text from Ms. Larsen appears to contradict his recollection, he believed that it was him, and not Sheriff Trenary, who contacted Cindy Larsen to request her participation in the Proposition 1 photo shoot. **(Exhibit 28.)** Mr. Roe stated that he believed he made the request in a telephone call to Ms. Larsen. He stated that he believed he made this contact because he had arranged for Jason Cummings to participate, and felt responsible for finding a replacement when Mr. Cummings became unavailable. In response to PDC staff's question about why Ms. Larsen was

chosen to participate in the photo shoot, Mr. Roe stated that it was because she and her family are photogenic; because Ms. Larsen's husband is a member of the deputy's association, which was supporting Proposition 1; and because Ms. Larsen lived in Everett, not far from the location of the photo shoot in Grand Avenue Park.

3.28 In her interview with PDC staff, Brooke Davis stated that she was A Safer Snohomish County's main contact for Northwest Passage Consulting, as the vendor worked on production of the mailing. In a separate interview under oath on September 13, 2016, Christian Sinderman of Northwest Passage Consulting confirmed that Ms. Davis was his point of contact with the political committee. **(Exhibit 29.)** Following the photo shoot, Ms. Davis sent drafts of the Proposition 1 mailing to the Proposition 1 "team," including Mark Roe. Mr. Roe forwarded the drafts to Ms. Larsen via email on July 2, 2016, and Ms. Larsen responded with permission to attribute the quote to her<sup>1</sup>. **(Exhibit 30.)** On July 7, 2016, Ms. Davis sent the final draft of the mailing directly to Ms. Larsen, stating, "I won't send it out until I know you have seen it. I want you to see the photos and know a quote is in there." **(Exhibit 31.)**

3.29 Based on the evidence and testimony reviewed by PDC staff, it is not clear that either Cindy Larsen or Brooke Davis initiated an effort to have Ms. Larsen included in the mailing sponsored by A Safer Snohomish County. However, due to Ms. Larsen's participation in the Proposition 1 photo shoot and her pre-production review of the mailing's content, it appears that the mailing was conducted in cooperation, consultation, concert, or collaboration with a candidate. Additionally, due to the involvement of Ms. Larsen's campaign manager Brooke Davis in managing production of the mailing, it appears that related expenditures by A Safer Snohomish County were made by, in consultation with, or with the assistance of a person who had been an officer of the candidate's authorized committee during the twelve months preceding the expenditure. Finally, to the extent that the Larsen campaign's debts outstanding to Brooke Davis during July 2016 constituted "compensation," it appears that the Proposition 1 mailing represented an expenditure made in consultation with a person who, during the twelve months preceding the expenditure, had been receiving campaign-related compensation from a candidate or the candidate's authorized committee.

### **Response to Allegations**

3.30 In separate interviews under oath with Cindy Larsen, her husband Jeff Ross, her campaign manager Brooke Davis, Sheriff Ty Trenary, Mark Roe, and Christian Sinderman of Northwest Passage Consulting, all subjects stated

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<sup>1</sup> The emails attached as **Exhibit 30** that were sent to Ms. Larsen on July 2, 2016 originated from an account with the display name "Lisa Paul." In his September 9, 2016 interview under oath, Mark Roe reviewed the emails and confirmed that they were written and transmitted by him through an account used by his wife.

that Ms. Larsen was not included in A Safer Snohomish County's communications for the purpose of supporting her campaign for Snohomish County Superior Court Judge. Rather, the testimony consistently indicated that Ms. Larsen's participation in the communications was intended to demonstrate her personal support for Proposition 1, and to meet the committee's need for a family-friendly face for its advertising at short notice.

- 3.31 Notwithstanding this testimony, the evidence reviewed indicates that both Ms. Larsen and Ms. Davis had questions about whether Ms. Larsen was *permitted* to appear in A Safer Snohomish County's advertising. Ms. Larsen's concerns centered on whether the Canons on Judicial Conduct permitted a candidate for judicial office to comment on a ballot proposition. **(Exhibit 31.)** In her interview under oath, Brooke Davis stated that her concerns went beyond Ms. Larsen's concerns about the Canons. However, she could not describe those concerns in more detail. She stated that she discussed her concerns with Christian Sinderman, and concluded that there was no obstacle to Ms. Larsen's participation in A Safer Snohomish County's advertising. Mr. Sinderman stated that he could not recall having such a conversation with Ms. Davis. In his interview with PDC staff, Mark Roe stated that he recalled conversation about the question of Ms. Larsen's participation in the mailing on the occasion of the June 10, 2016 photo shoot at Grand Avenue Park. However, he could not recall the persons involved in this discussion, or specifically what was said.
- 3.32 PDC staff noted a campaign budget that Ms. Davis prepared for Ms. Larsen on June 16, 2016, and the fact that the budget did not include a primary election mailing. **(Exhibit 32.)** In her interview, Ms. Davis stated that the Larsen campaign did not plan a primary mailing because they hoped to save contributions raised during the summer for the general election campaign: *"We had a lot of discussion about her planning for the primary. Honestly, mail was never a part of the discussion because we never had the resources to do something like that. She was really focused on outreach work, getting out and about to every group that would have her."* In response to staff's question of whether she would have recommended a primary election mailing had there been sufficient funds, Ms. Davis stated that she may have made such a recommendation, but that she was not certain. She agreed that there was a risk in not conducting a primary mailing, but stated that there is a risk in omitting any mode of voter contact.
- 3.33 PDC staff noted that Rico Tessandore made \$65,664.60 in campaign expenditures through the date of the August 4, 2016 primary election **(Exhibit 33)**, and that his expenditures included mailings. Noting that Ms. Larsen spent only \$10,821.25 in that same period **(Exhibit 22)** and that she sponsored no mailings, PDC staff asked Ms. Larsen in her interview to describe the activities she undertook during the primary to support her candidacy. Ms. Larsen responded that she did not conduct doorbelling or

phone banking, but that she sponsored yard signs and T-shirts. She stated that a major focus of her primary campaign was seeking endorsements, and in that effort, either she or another campaign representative visited the 1<sup>st</sup>, 10<sup>th</sup>, 38<sup>th</sup>, and 39<sup>th</sup> Democratic legislative district central committees, the Snohomish County Republican Central Committee, and the 1<sup>st</sup>, 39<sup>th</sup>, and 44<sup>th</sup> Republican legislative district committees. She stated that she spoke before every law enforcement guild that held meetings, and that as a result of that effort and her law enforcement background, almost all law enforcement in the county had endorsed her. Additionally, she stated that her campaign met with the firefighters' union, the SEIU, and AFSCME. She stated that her campaign attended and distributed cards and candy in several parades and community festivals, including parades in Marysville, Lake Stevens, and Monroe, 4<sup>th</sup> of July parades in Edmonds, Everett, and Arlington, and the Taste of Edmonds festival. She stated that she encouraged her supporters to promote her campaign through social media, a strategy that she viewed as very cost-effective. In her written statement received on September 9, 2016 (**Exhibit 24**), Ms. Larsen added that her campaign sponsored a large color advertisement in the July-August edition of the Senior Services Newspaper, and that she also attended local Rotary Club meetings to promote her campaign.

- 3.34 Noting that Ms. Larsen bested Mr. Tessandore by more than ten percentage points in the primary election, staff asked Ms. Larsen in her interview what she believed explained her healthy primary returns. She responded that being listed first out of four candidates on the ballot may have given her an advantage. Additionally, she stated that she was the only woman in a four-person race, and had been told that that fact alone would have given her a 10% advantage. She stated that she had also been told that Mr. Tessandore's campaign signs were poorly designed. She stated that she believed her law enforcement endorsements were more persuasive to voters than the political endorsements that Mr. Tessandore touted from legislative officials. Finally, she stated she believed that having the name Larsen created a natural association with Congressman Rick Larsen that worked in her favor.
- 3.35 In her preliminary and formal responses to the complaint, Ms. Larsen reiterated that she did not participate in the photo shoot for A Safer Snohomish County for the purpose of supporting her campaign, and that she did not believe the committee's communications had the effect of supporting her campaign. She pointed out that she was not identified anywhere in the communications as a candidate, and that the race for Superior Court was not mentioned. She stated that she was not an incumbent who would benefit from name recognition. Finally, she noted that Proposition 1 was rejected by voters, and that it was illogical to conclude that she promoted her candidacy by connecting her name to an unpopular tax measure.

- 3.36 In her interview, Ms. Larsen stated that she believed that the voting precincts in which she performed well did not line up uniformly with areas that demonstrated strong support for Proposition 1. To examine this response, PDC staff reviewed precinct-level returns in the August 4, 2016 Proposition 1 election and the race for superior court. **(Exhibit 33.)**
- 3.37 Staff's review indicates that Proposition 1 received more than 50% of the vote in 134 Snohomish County precincts. In 21 of those precincts, Ms. Larsen matched or out-performed her countywide vote percentage of 44%. In comparison, Rico Tessandore matched or out-performed his county-wide percentage of 33% in 36 precincts where Proposition 1 was approved. In 23 of those 36 precincts, Mr. Tessandore beat Ms. Larsen outright. In one of two precincts where Proposition 1 received 66% of the vote, the strongest support shown in the county, Mr. Tessandore beat Ms. Larsen. In the other precinct, the outcome was reversed. Accordingly, there appears to be no strong correlation between support for Proposition 1 and support for Ms. Larsen's candidacy.

#### IV. SCOPE

##### 4.1 PDC staff reviewed the following documents:

1. Original and amended PDC registrations, campaign finance reports and data submitted by Cindy Larsen, Rico Tessandore, and A Safer Snohomish County;
2. PDC complaint against Cindy Larsen, filed by Beth Lucas on July 25, 2016;
3. PDC complaint against Cindy Larsen, filed by Melissa Day on August 4, 2016;
4. A copy of a Citizen Action Notice complaint that Robert Schiffner filed with the Washington Attorney General and Snohomish County Prosecuting Attorney under RCW 42.17A.765(4) on August 21, 2016;
5. Email correspondence received from Phil Lloyd on behalf of A Safer Snohomish County on August 1, 2016;
6. Preliminary response to the Beth Lucas complaint, received from Cindy Larsen on August 1, 2016;
7. Formal response to the Lucas and Day complaints, received from Cindy Larsen's legal counsel Greg Wong on August 19, 2016;
8. Copies of email correspondence and text messages received from Cindy Larsen and Jeff Ross on September 2, 2016, through Ms. Larsen's counsel Greg Wong;

9. A written statement from Cindy Larsen, received on September 9, 2016; and
10. Election results for the August 4, 2016 primary election in Snohomish County.

4.2 The following persons participated in recorded interviews under oath:

1. Brooke Davis was interviewed on September 7, 2016;
2. Snohomish County Sheriff Ty Trenary was interviewed on September 7, 2016;
3. Cindy Larsen was interviewed on September 8, 2016;
4. Jeff Ross was interviewed on September 8, 2016;
5. Snohomish County Prosecutor Mark Roe was interviewed on September 9, 2016; and
6. Christian Sinderman was interviewed on September 13, 2016.

V. LAW

**RCW 42.17A.005(19)(a)** defines an “electioneering communication” as follows:

“Electioneering communication” means 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 42.17A.310** states, in part, that *“An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents is a contribution to the candidate.”*

**RCW 42.17A.005(13)(a)(ii)** defines the term “contribution” to include *“An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, the person or*

*persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents[.]”*

**WAC 390-05-210(3)** provides as follows:

(3) **Consulting with a state, local or judicial candidate.** An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent is a contribution to such candidate. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent when:

(a) Any arrangement, coordination or direction by the candidate, the candidate's authorized committee or agent is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that candidate or opposing one or more of that candidate's opponents; or

(b) An expenditure is made based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, the candidate's authorized committee or agent with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the candidate's authorized committee; or

(d) The expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the candidate, the candidate's authorized committee or agent. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

**WAC 390-05-245** states that *“For purposes of chapter 42.17A RCW and Title 390 WAC, ‘officer of a candidate's authorized committee,’ or ‘officer of a candidate's committee’ or ‘officer of a political committee’ includes the following persons: Any person designated by the committee as an officer on the C-1 or C-1pc registration statement and any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee.”*

**RCW 42.17A.235** and **.240** require candidates to file timely, complete and accurate reports of contributions and expenditures.

**WAC 390-16-207** provides as follows:

(1) An in-kind contribution occurs when a person provides goods, services or anything of value, other than money or its equivalent, to a candidate or political committee free-of-charge or for less than fair market value, unless the item or service given is not a contribution according to RCW 42.17A.005 or WAC 390-17-405.

...

(3) An in-kind contribution also occurs when a person makes an electioneering communication that is a contribution as provided in RCW 42.17A.310.

...

**(5) In-kind contributions to recipients who have limits under RCW 42.17A.405 or 42.17A.410.**

(a) If a candidate receives in-kind contributions from any person valued at more than \$25 in the aggregate for an election, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limit provided in RCW 42.17A.405 or 42.17A.410.

...

**(7) Reporting by recipients.** Except as provided in subsection (5) of this section, in-kind contributions from one source are not reportable by the recipient candidate or political committee until the aggregate value of all in-kind contributions received from that source during a reporting period is more than \$50. If this threshold is met, the in-kind contributions must be reported in part 1 of Schedule B to the C-4 report covering that reporting period.

**RCW 42.17A.410** prohibits any person from making, and any judicial candidate from accepting, contributions to a candidate for judicial office that exceed \$1,600 in the aggregate for each election in which the candidate is on the ballot. Per **WAC 390-05-400**, for the 2016 election, this limit was adjusted to \$2,000 per election.

Respectfully submitted this 15<sup>th</sup> day of September, 2016.



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Tony Perkins  
PDC Compliance Officer

### **EXHIBIT LIST**

- Exhibit 1** C-1 Candidate Registration filed by Cindy Larsen on May 30, 2016.
- Exhibit 2** C-1pc Political Committee Registration filed by A Safer Snohomish County on April 15, 2016.
- Exhibit 3** PDC complaint against Cindy Larsen, filed by Beth Lucas on July 25, 2016.
- Exhibit 4** PDC complaint against Cindy Larsen, filed by Melissa Day on August 4, 2016.
- Exhibit 5** A copy of a Citizen Action Notice complaint that Robert Schiffner filed with the Washington Attorney General and Snohomish County Prosecuting Attorney under RCW 42.17A.765(4) on August 21, 2016, alleging violations of RCW 42.17A by Cindy Larsen.
- Exhibit 6** 21-day pre-primary C-4 report for the reporting period of June 1 – July 11, 2016, filed by A Safer Snohomish County on July 12, 2016, and 7-day pre-primary C-4 report for the reporting period of July 12 – 25, 2016, filed on July 26, 2016.
- Exhibit 7** C-6 Electioneering Communication report filed on behalf of A Safer Snohomish County on August 1, 2016.
- Exhibit 8** August 1, 2016 email from Phil Lloyd to PDC Staff.
- Exhibit 9** May 2016 C-4 report, filed by A Safer Snohomish County on June 9, 2016.
- Exhibit 10** Payments by A Safer Snohomish County to Brooke Davis and Brooke Davis Consulting, Inc. during the 2016 primary election campaign.
- Exhibit 11** Amended C-1 Candidate Registration filed on August 1, 2016, by Cindy Larsen.
- Exhibit 12** Second amended C-1 Candidate Registration filed on August 16, 2016, by Cindy Larsen.

- Exhibit 13** Preliminary response to the Beth Lucas complaint, received from Cindy Larsen on August 1, 2016.
- Exhibit 14** Formal response to the Lucas and Day complaints, received from Cindy Larsen's legal counsel Greg Wong on August 19, 2016.
- Exhibit 15** September 8, 2016 recorded interview under oath with Cindy Larsen.
- Exhibit 16** C-4 report filed by Cindy Larsen on July 12, 2016 for the period of June 1 – July 11, 2016.
- Exhibit 17** Emails exchanged by Cindy Larsen and Brooke Davis on May 30 – 31, 2016.
- Exhibit 18** Emails exchanged by Cindy Larsen and Brooke Davis on June 1, 2016. (Enlarged for legibility.)
- Exhibit 19** Amended C-4 report for the period of June 1 – July 11, 2016, filed by Cindy Larsen on August 1, 2016.
- Exhibit 20** Two Last Minute Contribution (LMC) forms filed by Cindy Larsen on August 1, 2016.
- Exhibit 21** Email from Brooke Davis, sent to Cindy Larsen on August 10, 2016.
- Exhibit 22** C-4 report for the post-primary election period of July 26 – August 31, 2016, filed on September 9, 2016 by Cindy Larsen.
- Exhibit 23** Text message sent by Cindy Larsen to Snohomish County Prosecutor Mark Roe on the morning of June 10, 2016.
- Exhibit 24** Written statement from Cindy Larsen, received on September 9, 2016.
- Exhibit 25** September 8, 2016 recorded interview under oath with Jeff Ross.
- Exhibit 26** September 7, 2016 recorded interview under oath with Snohomish County Sheriff Ty Trenary.

- Exhibit 27** September 7, 2016 recorded interview under oath with Brooke Davis.
- Exhibit 28** September 9, 2016 recorded interview under oath with Snohomish County Prosecutor Mark Roe.
- Exhibit 29** September 13, 2016 recorded interview under oath with Christian Sinderman of Northwest Passage Consulting.
- Exhibit 30** Emails exchanged by Cindy Larsen and Mark Roe on July 2, 2016.
- Exhibit 31** Emails exchanged by Cindy Larsen and Brooke Davis on July 7, 2016.
- Exhibit 32** Email from Brooke Davis to Cindy Larsen, sent on June 16, 2016 with campaign budget attached.
- Exhibit 33** C-4 report for the post-primary reporting period of July 26 – August 31, 2016, filed by Rico Tessandore on September 12, 2016.
- Exhibit 34** Precinct-level returns in the August 4, 2016 Proposition 1 election and the race for Snohomish County Superior Court.