



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

In RE COMPLIANCE WITH  
RCW 42.17 and RCW 42.17A

Brenda Fincher

Respondent.

PDC Case No. 1431

Report of Investigation

**I.**

**Background and Allegations**

- 1.1 On December 18, 2014, Brenda Fincher filed a Candidate Registration (C-1 report) declaring her candidacy for Kent City Council member, Position No. 6 in the 2015 election, and selecting the Full Reporting option. **Exhibit #1.**
- 1.2 Ms. Fincher was a first-time candidate seeking public office in 2015.
- 1.3 On November 5, 2015, Bailey Stober filed a complaint with the Public Disclosure Commission (PDC) alleging that Ms. Fincher violated: (1) RCW 42.17A.235 and .240 by failing to disclose expenditures undertaken by the campaign on the Summary Campaign Contributions and Expenditures reports (C-4 reports) for services purchased by Ms. Fincher using her personal funds and services provided by vendors; and (2) RCW 42.17A.220 by failing to timely deposit campaign contributions dating back to September 1, 2015.
- 1.4 The complaint also alleged that Ms. Fincher violated RCW 42.17A.320 by failing to include a sponsor identification on "robocalls" made by her 2015 campaign, and that she violated RCW 42.17A.555 by including pictures of City of Kent law enforcement and fire department individuals in uniform in political advertisements sponsored by her campaign.
- 1.5 Staff reviewed these two allegations and determined that: (1) the "robocalls" were sponsored by her campaign and did not require a spoken sponsor identification. Thus, Ms. Fincher did not violate RCW 42.17A.320. (2) The photographs of law enforcement and firefighters were taken by a third party prior to Ms. Fincher becoming a candidate in 2015. She stated that the photographs were available to the general public and were considered by the campaign to be "in the public domain", so there was no violation of RCW 42.17A.555 concerning use of public facilities.

## II. Detailed Findings

- 2.1 2015 candidates that selected the Full Reporting option were required to file weekly Monetary Contributions reports (C-3 report) every Monday beginning June 1, 2015, disclosing contributions that were received and deposited the previous seven days. Monetary contributions received by the campaign are required to be deposited within five business days of receipt. In addition, 2015 candidates were also required to file the following Summary Campaign Contributions and Expenditures reports (C-4 reports):
- Monthly C-4 reports by the 10<sup>th</sup> of each month disclosing contribution and expenditure activities incurred in the previous calendar month, if more than \$200, provided no special reports were due during that month.
  - Since Ms. Fincher did not appear on the 2015 primary election ballot, she filed monthly C-4 reports for June, July and August of 2015.
  - A 21-day Pre-General election C-4 report was due on October 13, 2015, covering the period September 1 through October 12, 2015.
  - A 7-day pre-General election C-4 report due on October 27, 2015, covering the period October 13 through October 26, 2015.
  - A Post-General election C-4 report by December 10, 2015, covering the period October 27 through November 30, 2015.
- 2.2 PDC staff's review found that the 2015 Brenda Fincher Campaign (Campaign) substantially complied with the C-3 and C-4 reporting requirements concerning timeliness in filing the reports. However, staff's investigation indicated that the Campaign failed to timely disclose a number of expenditures and in-kind contributions, including those from Ms. Fincher as detailed below.
- 2.3 On December 10, 2015, Ms. Fincher timely filed the Post General election C-4 report. **Exhibit #2.** The Post General election C-4 report disclosed the Campaign received \$2,400 in monetary contributions, and a \$114 in-kind contribution from Ms. Fincher for the campaign Post Office box rental at the UPS store. The C-4 report also disclosed \$3,429 in expenditures; and \$2,879 in liabilities owed, that included an August 24, 2015, \$1,000 candidate loan from Ms. Fincher that had been previously disclosed on several C-4 reports.
- 2.4 The Post General election C-4 report disclosed the Campaign made \$1,700 in expenditures for campaign consulting, \$708 for online political advertisements, and \$650 for candidate robo-calls. The C-4 report also disclosed new liabilities that included a \$436 for orders placed with Facebook for online political advertisements, and \$1,443 for two orders for yard signs. It is likely some of those activities should have been disclosed as orders-placed on the 21 or 7-day Pre-General Election C-4 report.

2.5 The Campaign also filed five amended C-4 reports on December 10, 2015, disclosing several previous unreported campaign activities. **Exhibit #3.** The amended C-4 reports disclosed the following information:

- June 2015 Amended C-4 report: The amended June 2015 C-4 report disclosed a \$249 in-kind contribution from Ms. Fincher for dues paid for membership to the City of Kent Chamber of Commerce.

The \$249 in-kind contribution from Ms. Fincher for Kent Chamber of Commerce dues were disclosed 153 days late and after the 2015 general election had been held.

- 21-day Pre-General election C-4 report: The amended 21-day Pre-General election C-4 report disclosed two in-kind contributions from Ms. Fincher totaling \$303.05 (\$210 for copies of a campaign advertisement; and \$93.05 to Costco for food for a campaign event); and a \$200 in-kind contribution from Mychal Bosier, the owner of Kona Kai coffee for the September 8th campaign kickoff.

The \$503 in late reported activities were disclosed 59 days late and after the 2015 general election had been held.

- 7-day Pre-General election C-4 report: The amended 7-day Pre-General election C-4 report information included two orders placed totaling \$1,443.75 owed to Xpress Sign Company for campaign yard signs.

The \$1,443.75 in orders placed for campaign yard signs was disclosed 44 days late.

2.6 On October 21, 2015, the Campaign filed a C-3 report disclosing the deposit of monetary contributions that was made on October 21, 2015, but the report lists that the contributions had been received during the period of September 8 through October 9, 2015. **Exhibit #4.** The C-3 report disclosed the receipt of 23 monetary contributions of \$25 or more totaling \$3,586 that were disclosed between three and 30 days late. The \$3,586 on contributions received and disclosed on the C-3 report represented 25.7% of all contributions received by the Campaign.

2.7 PDC statutes require that candidates timely deposit all monetary contributions within five business days of receipt. The Campaign failed to timely deposit the 23 contributions on the October 21, 2015 C-3 report. Those contributions were deposited between five and 36 days late.

2.8 Ms. Fincher stated she took “...*full responsibility for what took place regarding the late submissions of receipts and the October submission of September contributions whether it was something done directly by me or not.*” She stated she thought she had timely provided her treasurer with the receipts for her out-of-pocket expenses, but that “turned out to be in error.”

2.9 Ms. Fincher stated that after the complaint had been filed, she collected all the late campaign receipts, sent them to her treasurer, and that all monetary and in-kind contributions have been reported, either on C-4 reports or amended C-4 reports.

- 2.10 Ms. Fincher stated that she was a first time candidate in 2015 and acknowledged making some mistakes. She stated that the Campaign did “...*stumble but addressed the issues once I found out about them. These mistakes will not be repeated.*”
- 2.11 Concerning the remaining two allegations, Ms. Fincher stated that the photographs of City of Kent law enforcement individuals and firefighters that were included in her campaign flyers and on her social media site “...*were taken long before my campaign by someone else, are publicly available and have been widely used by news organizations and other entities.* She added that the campaign included a disclaimer at the bottom of the political advertisements stating that: “*The uniforms worn by the individuals and/or entities in this ad do not suggest that the affiliated public agencies support or endorse any candidate.*”
- 2.12 Ms. Fincher stated that her campaign was involved with several robo-calls, which included calls made by her and by others using their own names. She took exception to the statement that she was “unwilling to comply with the rules and regulations set forth by the state.” She believed that was a false statement, that she cared strongly about complying with the PDC reporting requirements, and as a first-time candidate she tried to comply.

### **III.** **Scope**

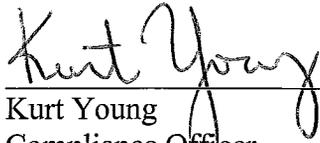
- 3.1 PDC staff reviewed the following documents:
- The complaint filed by Bailey Stober against the Brenda Fincher Campaign on November 5, 2015.
  - C-1 reports, C-3 reports, and C-4 reports filed by the Brenda Fincher Campaign.
  - Several email exchanges between Brenda Fincher and PDC staff transmitted through the Freshdesk portal.

### **IV.** **Laws**

- 4.1 **RCW 42.17A.235 and 240** require continuing political committees to file timely, accurate reports of contributions and expenditures. Under the full reporting option, until five months before the general election, C-4 reports are required monthly when contributions or expenditures exceed \$200 since the last report. C-4 reports are also required 21 and 7 days before each election in which the committee makes expenditures, and in the month following the election. Contributions are reported weekly during this same time period, and must be disclosed on Monday for contributions deposited the previous seven days.

- 4.2 **RCW 42.17A.220** states in part the following: “All monetary contributions received by a candidate or political committee shall be deposited by the treasurer or deputy treasurer in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.”

Respectfully submitted this 24th day of February, 2016.

  
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Kurt Young  
Compliance Officer

**List of Exhibits**

- Exhibit #1** December 18, 2014, Brenda Fincher filed a Candidate Registration (C-1 report) declaring her candidacy for Kent City Council member, Position No. 6 in the 2015 election
- Exhibit #2** December 10, 2015, Post General election C-4 report filed by the Brenda Fincher Campaign.
- Exhibit #3** Five amended C-4 reports filed by the Brenda Fincher Campaign on December 10, 2015.
- Exhibit #4** October 21, 2015 C-3 report filed by the Brenda Fincher Campaign.

