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 Tom Mielke Respondent.	PDC Case No. 2337 (formerly Case No. 15-052) Notice of Administrative Charges (Brief Enforcement Hearing)

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 Tom Mielke, Clark County commissioner, violated RCW 42.17A.555 by: (1) using his Clark County email address to oppose Proposition 1, the 2014 Clark County Home Rule Charter ballot measure; and (2) using his Clark County email address to assist the 2014 Clark County Commissioner campaign of Jeanne Stewart.

III. Facts

3. The November 4, 2014 general election ballot in Clark County included Proposition 1, a Home Rule Charter ballot measure that if approved would replace the existing system of three County Commissioners. In addition, Craig

Pridemore and Jeanne Stewart were on the general election ballot running for the position of County Commissioner in District 3.

4. Voters approved the Home Rule Charter by a 53.35% to 46.65% margin, with 63,731 Yes votes and 55,727 No votes.

5. Jeanne Stewart defeated Craig Pridemore in the race for County Commissioner, District 3, by 0.21%, receiving 60,131 votes to Mr. Pridemore's 59,226 votes.

Alleged use of county email to oppose Proposition 1, the Clark County Home Rule Charter ballot measure, by telling Darlene Johnson to not let the Woodland Chamber of Commerce take a position on the ballot measure

6. On October 23, 2014, Commissioner Mielke used his Clark County email address to respond to Darlene Johnson of the Woodland Chamber of Commerce, and tell her, *"… Please don't let the chamber take a position on this, it will put them in a bad light."*

7. Commissioner Mielke was responding to an email he received from Ms. Johnson at his Clark County email address that she had received from John "JJ" Burk, Executive Director of the Woodland Chamber of Commerce. The email chain included an email from Kelly Love, CEO/President of the Greater Vancouver Chamber of Commerce, explaining why the Greater Vancouver Chamber of Commerce and the Camas-Washougal Chamber of Commerce officially supported Proposition 1. Ms. Johnson forwarded the email chain to Commissioner Mielke at his Clark County email address and at his personal email address with the comment, *"Thought you might be interested in what is being emailed to Chamber on the Charter issue. Dar"*

8. Commissioner Mielke responded using his Clark County email address by saying, *"Wow! Hi Dar, I can't believe how hard they are working to do private*

presentations and so on. I'm not sure who the 60% might be, but the Charter is a disaster. Please don't let the chamber take a position on this, it will put them in a bad light. Tom"

Alleged use of county email to assist the 2014 Clark County Commissioner campaign of Jeanne Stewart by subscribing to and accepting an email that supported Ms. Stewart and opposed her opponent, Craig Pridemore

9. On October 23, 2014, Commissioner Mielke used his Clark County email address to respond to an email from Larry Patella's *"Local Mailing List" with a subject of "What Others Are Saying" by stating, "Wow! Just wow! Hard to believe all this went right down party lines … Enough about working well with others. Tom"*

10. The email started out by stating, *"Good Morning, Please read and then vote for Jeanne Stewart. Below is information provided by reliable sources and the Fish Wrapper spotlighting the highlights of Pridemore's political career. As you can see, Pridemore repeatedly ignored the voice of the people and has voted for, or spoke in favor of: multiple taxes & hikes … bridge tolls… elimination of the 2/3 majority in Olympia…, etc."*

11. The email concluded by stating that the facts were obtained by scanning the archives of The Columbian newspaper from 1996 to the Summer of 2014 concerning Craig Pridemore's political history which resulted in two files attached to the emails titled "Pridemore Report."

12. Commissioner Mielke subscribed to and accepted the "Local Mailing List" email at his Clark County email address of tom.mielke@clark.wa.gov. Even though the email included instructions for unsubscribing to the emails created by Mr. Larry Patella, Commissioner Mielke maintained his subscription to receive Mr.

Patella's emails at his Clark County email address, which in this case, was an email supporting Jeanne Stewart and opposing Craig Pridemore, candidates for Clark County Commissioner.

IV. Law

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: … (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 11th Day of April 2016.

Evelyn Fielding Lopez
Executive Director