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 Mark Faith, 2012 candidate for Franklin County Commissioner Respondent.	PDC Case No. 13-100 Notice of Administrative Charges (Brief Enforcement Hearing)

I. Jurisdiction

1. The Public Disclosure Commission (PDC) has jurisdiction over this proceeding pursuant to RCW 42.17A, the campaign disclosure and contribution law; RCW 34.05, the Administrative Procedure Act; and WAC 390. These charges incorporate the Report of Investigation and all related exhibits by reference.

II. Allegations

2. PDC staff alleges that Mark Faith, a candidate for Franklin County Commissioner in 2012 and a Franklin County employee, violated:

   - RCW 42.17A.555 by (1) using the facilities of Franklin County, including the county's email system and staff time, to send a "test" email to determine if his campaign website was active; and (2) by forwarding an email received at his work email address containing a Franklin County Candidate Guide to his personal email address on two separate occasions.

- RCW 42.17A.240 by failing to disclose in-kind contributions received by his 2012 campaign for the monthly fair market value of a room occupied rent-free in a home where he resided during the 2012 election cycle.

III. Facts

3. On April 6, 2012, Mark Faith filed a Candidate Registration (C-1 report) declaring his candidacy for the office of Franklin County Commissioner in 2012. Mr. Faith was a first-time candidate for public office and is employed as a Building Inspector for Franklin County.

Allegation #1: Use of Franklin County Facilities to Assist 2012 Campaign

4. On October 5, 2011, Mr. Faith appeared in person and requested election-related information from the Franklin County Auditor's Office. Later that afternoon Mr. Faith received an email at his Franklin County email address that included a Franklin County Candidate Guide. He used his Franklin County email address to forward the information to his personal email address later that same day, and forwarded the same information again on January 15, 2012.

5. On March 20, 2012, Mr. Faith sent an email using his Franklin County email address to his campaign website as a test to see if his campaign website was active.

Allegation #2: Failure to Disclose In-Kind Contributions Received by 2012 Campaign

6. Mr. Faith stated that on March 20, 2012, he submitted an application for a voter registration listing his address as 3620 Road 92, Pasco, WA 99353. He also listed that same address on his Declaration of Candidacy filed on May 14, 2012.

7. Mr. Faith acknowledged that he occupied one room of the house listed on his Declaration of Candidacy, a house owned by Kyle Pfundheller, from mid-May 2012 until mid-November 2012, a period of approximately six months. Mr. Faith said it was a 3-bedroom house in which Mr. Pfundheller also resided, and that while he offered to pay rent, Mr. Pfundheller refused to accept payment while Mr. Faith was a candidate. Mr. Faith said he did not know the fair rental value of the room, and could not remember offering a specific amount in rent payments.

8. Mr. Faith failed to report or describe the in-kind contributions he received from Mr. Pfundheller for the use of a room in his home during the 2012 election campaign.

IV. Law and Regulations

RCW 42.17A.555 prohibits elected officials, their employees, and persons appointed to or employed by a public office or agency from using or authorizing the use of public facilities, directly or indirectly, for the purpose of assisting a candidate's campaign or for the promotion of, or opposition to, any ballot proposition. This prohibition does not apply to activities that are part of the normal and regular conduct of the office or agency.

WAC 390-05-273 states, in part: "Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW 42.17A.555, means 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."

RCW 42.17A.240 requires candidates and political committees that file detailed reports of contribution and expenditure activities to include the value of in-kind contributions on Schedule B to C-4.

WAC 390-16-207 states that (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.

Respectfully Submitted this 26th day of November, 2014.

Tony Perkins
Assistant Director