

Summary of Events

Washington State Public Disclosure Commission ("PDC") proceedings against King County Rural Library System ("KCLS")

The Citizen Complaint and PDC Investigation. On November 18, 2004 a citizen complaint was filed with the PDC by a patron of KCLS ("Knedlik"). Knedlik contended that KCLS engaged in misrepresentations in its 2004 bond election campaign, diverted improperly revenues from its used book sales to fund that campaign, and used improperly the judicial offices of KCLS Board members to influence that campaign.

The PDC conducted an *intensive* investigation of the allegations in December 2004 and January 2005, including numerous requests for documents and interviews (under oath) of Bill Ptacek and KCLS employee Julie Wallace. As a result of the investigation, PDC staff focused primarily upon an issue not raised by Knedlik: whether Ptacek used improperly public (KCLS) funds or resources to *promote* the passage of the 2004 bond election.

PDC Staff Recommendations to the PDC. PDC staff completed its investigation and issued a 54-page Report of Investigation dated January 14, 2005. Essentially, staff recommended that the third (book sale revenue diversion) and fourth (judicial influence) claims be dismissed. It converted the Knedlik claims for misrepresentation into an entirely different charge. PDC staff concluded that the 2004 bond election campaign used public funds to "promote" the passage of the bond proposition, and that the campaign was not an ordinary and usual expenditure of public resources.

PDC staff and KCLS legal counsel engaged in discussions in an attempt to resolve the matter. KCLS conditioned any resolution upon an express denial of wrongdoing. The parties never reached agreement on that term, or upon any monetary payment.¹ However, as a part of this process, KCLS convinced PDC staff that the 2004 election campaign was an ordinary and usual campaign. It therefore withdrew that portion of its findings from the draft report, concluding still that Ptacek used public funds to "promote" passage of the measure.

PDC staff concluded that this violation warranted penalties in excess of the jurisdiction of the PDC penalty power (\$2,500), and recommended that the matter be referred to the Washington Attorney General for enforcement of the single ("promotional") violation. It made these recommendations formally to the PDC board. The matter was set for a hearing.

¹ KCLS and Ptacek authorized legal counsel to offer a payment to PDC of \$3,500 (of which \$1,000 would be suspended) on the condition that no wrongdoing be acknowledged by Ptacek. PDC staff rejected that condition, offering to settle first for a payment by Ptacek of \$20,000 and later for \$7,000 (with portions of \$5,000 and \$2,000, respectively, suspended).

PDC Board Hearings. At its first hearing on this matter on January 25, 2005, the PDC Board followed the recommendations of staff in dismissing the third and fourth Knedlik charges. It determined that it could not decide based on the evidence before it whether Ptacek engaged in "promotional" activities with public funds. Accordingly, it set the matter for an evidentiary hearing at a future date. Subsequent to that hearing, KCLS legal counsel contacted PDC legal counsel and requested informally a variety of documents evidencing PDC regulations, guidelines, prior cases and investigative materials regarding "promotional" campaigns.

After approximately 60 days, PDC legal counsel advised Ptacek that it would recommend dismissal of the remaining charges. However, in a draft letter it prepared for the PDC Board, it based the dismissal upon a court injunction that was in force during the early portion of the 2004 election campaign, which precluded PDC staff from offering advice to public agencies on certain campaign procedures. The Board concluded in the draft letter that, as a matter of "fairness," it could not prosecute a charge at a time when it was withholding advice on compliance.

The recommended dismissal was set for hearing on March 31, 2005. Ptacek and KCLS legal counsel attended for the purpose of stating that: a) he agreed with the dismissal; b) he denies any wrongdoing; and c) without the issuance of some regulations or guidelines on "promotional" activities, future violations by public agencies were likely. The PDC Board twice denied Ptacek and legal counsel the opportunity to make a presentation on these issues. The Board voted to dismiss the charges against Ptacek on March 31, 2004. PDC staff issued a letter of dismissal dated April 4, 2005.

Actions. The PDC dismissed the charges against Ptacek.

Under Washington law, Knedlik may bring a citizen's action asserting claims against Ptacek.² On September 2, we received notification of his intent to pursue a citizen's action.

² Washington Administrative Code 390-37-030 states that "a person not satisfied with the dismissal of a citizen complaint by the commission or its executive director may pursue an appropriate remedy under RCW 42.17.400(4)."