

Exhibit 1

"Better - B" - 30 second TV

Video

Words on screen in special effect.

Photo of DS, background image of Insurance Commissioner Office.
Words on screen:

Suspended \$700,000 fine to get four new staff members in own office. *Seattle Times 2/20/97*

Background change to State Leg.
Words on screen:

Tried to Cover -Up Deal from State Legislature. *Seattle Time 2/20/97*

Newspaper background. SPI Banner Head. Pull quotes from article:
"easily could lead to conflict-of-interest abuses"
Seattle Post Intelligencer 2/27/97

White flash. Words on Screen:
www.senninsurancecrisis.com

Paid for by Voter Education Committee

Audio

Who is Deborah Senn looking out for?

As Insurance Commissioner, Senn suspended most of a \$700,000 fine against an Insurance company ... in exchange for the company's agreement to pay for four new staff members in Senn's own office.

Senn even tried to cover up the deal from State Legislators.

The Seattle Post Intelligencer said Senn's actions "easily could lead to conflict-of-interest abuses"

Washington deserves better ... log on to learn more.
Debra Senn lets us down

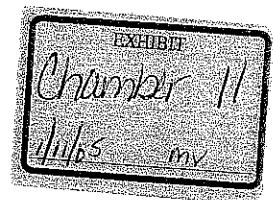


Exhibit 2



State of Washington
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

TO: Members, Public Disclosure Commission

FROM: Susan Harris, Assistant Director

DATE: September 9, 2004

SUBJECT: Voters Education Committee, Bruce Boram, Valerie Huntsberry and other
Unknown Agents – Apparent Failure to Register and Report as a Political
Committee

LAW

RCW 42.17.040 through RCW 42.17.090 requires that a person or entity with the expectation of receiving contributions or making expenditures in support of or in opposition to any candidate or any ballot proposition register with the Public Disclosure Commission and file frequent and detailed reports of contribution and expenditure activities.

RCW 42.17.120 states: “No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.”

FACTS

Summary - The Public Disclosure Commission staff became aware that on or about September 2, 2004, advertisements began to be broadcast on television stations around Washington State that are identified as being paid for by Voters Education Committee. The ads concerned Deborah Senn, a candidate for Attorney General, who is on the September 14, 2004 primary election ballot.

The Voters Education Committee has filed form 8871, Notice of Section 527 Status, with the Internal Revenue Service identifying Bruce Boram as the Contact and Valerie Huntsberry as the Custodian of Records. As stated on this form, the purpose of the organization is “a non-partician (sic), non-profit, non-discriminatory, political action committee which provides issue education.” (SEE ATTACHMENT 1)

Staff obtained and reviewed a copy of the Committee’s initial ad that was broadcast on KIRO TV on September 3, 2004. The text of the audio portion of the ad is as follows:

“Who is Deborah Senn looking out for? As Insurance Commissioner, Senn suspended most of the \$700,000 fine against an insurance company in exchange for the company’s agreement to pay for four new staff members in Senn’s own office. Senn even tried to cover up the deal from state legislators. The Seattle Post Intelligencer said Senn’s actions easily could lead to conflict of interest abuses. Deborah Senn let us down. Log on to learn more.”

It has been reported in the media that at least \$500,000 has been paid or pledged to various TV stations around the state. Staff has verified that at least \$365,000 has been spent at three TV stations in the Puget Sound area. The ads have been running in media outlets throughout the state, including Seattle, Tacoma, Yakima and Spokane.

In determining what is “express advocacy” and thus requires a committee to register and report their activities, the Washington Supreme Court in Washington State Republican Party v. Washington State Public Disclosure Commission et al., 141 Wn.2d 245, 270 4 P.3d 808 (2000), stated, “[W]hen a candidate’s character and campaign tactics are attacked, the ad may be subject to only one reasonable interpretation: an exhortation to vote against the candidate.” Following this decision, the Commission issued an interpretive opinion that is posted on the Commission’s website, outlining the Court’s and Commission’s view of what “express advocacy” is.

We are not here today because the ad was negative in tone, and certainly not because it was partisan. We are here today because Deborah Senn's character was attacked, and as such, the ad constitutes “express advocacy.”

Staff asserts that the ad constitutes an attack on the character of Ms. Senn. The first sentence, “Who is Deborah Senn looking out for” attacks Ms. Senn’s character. It is worded in the present tense and when taken in context with the remainder of the message, it tells the viewer that she was less than honorable in carrying out her public duties; that she put her office’s interests ahead of the public interest, ahead of doing the right thing.

The sentence, “Senn even tried to cover up the deal from state legislators” is an additional attack on Ms. Senn’s character. The dictionary definition of the term “cover up” is “an effort or strategy intended to conceal something, as a crime or scandal.” The plain meaning of the words “cover up” connote dishonest activity by the perpetrator. Therefore, use of the term “cover up” constitutes an accusation that Ms. Senn engaged in under-handed activity and is not to be trusted.

The advertisement, taken as a whole, represents an assault on Ms. Senn’s character as contemplated by the Washington Supreme Court because it goes beyond taking issue with Ms. Senn’s actions as Insurance Commissioner, and assails her integrity and credibility.

Voters Education Committee is a Political Committee – Voters Education Committee, Bruce Boram, Valerie Huntsberry and other unknown agents (VEC et al.) made significant expenditures for broadcast advertising that maligned Ms. Senn’s character resulting in express opposition to her election. This activity makes Voters Education Committee and its agents a political committee under state law and requires the committee to register and file detailed reports of contributions received and expenditures made with the Public Disclosure Commission. To date, neither Voters Education Committee, Bruce Boram, Valerie Huntsberry nor other unknown agents of Voters Education Committee have registered or reported as required by the Public Disclosure Law. In fact, through their counsel, they have refused to do so by claiming that their ad is issue advocacy.

VEC et al. have Concealed Activities – PDC staff informed Voters Education Committee, its contact person, Bruce Boram, and its custodian of records, Valerie Huntsberry, on September 7, 2004 that it had until 12:00 p.m. (Noon) on September 9, 2004 to file all required forms,

including a committee registration statement and detailed reports of contributions received and expenditures made.

After being put on notice, VEC et al. failed to comply with PDC staff's request to file the required reports. VEC et al. have received contributions and/or made expenditures in such a manner so as to conceal the identity of the source(s) of their contributions and in such a manner as to conceal their expenditures.

CONCLUSION AND RECOMMENDATION

Based on the facts specified above, staff recommends that the Commission find apparent multiple violations of RCW 42.17.040 through 42.17.090 and 42.17.120 by Voters Education Committee, Bruce Boram, Valerie Huntsberry, and other unknown agents of Voters Education Committee by:

- failing to register and report as a political committee;
- failing to file detailed reports of their contributions received and expenditures made;
- concealing the amount and identity of the source(s) of their contributions and the amount and recipients of their expenditures.

Based on these findings, the Commission is urged to refer the matter to the Office of the Attorney General for appropriate action, including seeking a court order compelling Voters Education Committee, Bruce Boram, Valerie Huntsberry or other unknown agents of the Committee to file the disclosure reports required by RCW 42.17.040 through 42.17.090.

Exhibit 3

1 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**
2 **OF THE STATE OF WASHINGTON**

3 IN RE COMPLIANCE WITH
4 RCW 42.17

5 Voters Education Committee, Bruce Boram,
6 Valerie Huntsberry and other Unknown Agents

7 Respondents.

PDC CASE NO. 05-027

ORDER OF REFERRAL
TO THE WASHINGTON STATE
ATTORNEY GENERAL'S
OFFICE

8
9 **INTRODUCTION**

10 This matter came before the Washington State Public Disclosure Commission on September
11 9, 2004, at its Special Commission Meeting at the PDC offices in the Evergreen Plaza Building,
12 Room 206, 711 Capitol Way South, Olympia, Washington. Those present by telephone included
13 Commission members Michael Connelly, Chair, Jeannette Wood, Vice-chair, Earl Tilly, and
14 Jane Noland; Those present at the PDC offices included Commission member Francis Martin,
15 Secretary; PDC Executive Director Vicki Rippie; PDC Assistant Director Susan Harris; PDC
16 Director of Compliance Philip E. Stutzman; Senior Assistant Attorney General Linda A. Dalton;
17 and Senior Assistant Attorney General Linda Moran. Voters Education Committee was provided
18 advance notice of the meeting and advance notice of the meeting and this matter were posted on
19 the PDC's website. John J. White, Jr., representing Voters Education Committee, et al. was
20 present by telephone and addressed the Commission.

21 Susan Harris, representing PDC Staff, presented the Commission with an oral summary of
22 the issues and alleged apparent multiple violations of RCW 42.17.040 through 42.17.090 and
23 RCW 42.17.120 by Voters Education Committee, Bruce Boram, Valerie Huntsberry and other
24 unknown agents. The Commission also reviewed a written memorandum from Staff with
25 attached exhibits regarding this matter and a written response from John J. White, Jr. on behalf
26 of Voters Education Committee et al.

Exhibit 4

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

VOTERS EDUCATION)	
COMMITTEE, ET AL.,)	
)	
PLAINTIFFS,)	CAUSE NO.
)	
VS.)	04-2-23351-1 SEA
)	04-2-03247-8 SEA
PUBLIC DISCLOSURE)	
COMMISSION, ET AL.,)	
)	
DEFENDANTS.)	

VERBATIM REPORT OF PROCEEDINGS

HEARD BEFORE THE HONORABLE RICHARD A. JONES

AUGUST 12, 2005

APPEARANCES:

JOHN WHITE, ATTORNEY-AT-LAW, APPEARING ON BEHALF OF THE PLAINTIFFS;

LINDA DALTON, ATTORNEY-AT-LAW, APPEARING ON BEHALF OF THE DEFENDANTS;

MICHAEL E. WITHEY, ATTORNEY-AT-LAW, APPEARING ON BEHALF OF THE INTERVENOR;

WHEREUPON THE FOLLOWING PROCEEDINGS WERE HAD AND DONE,
TO-WIT:

ORDERED BY: MICHAEL E. WITHEY 826-8219

REPORTED BY LADD A. SUTHERLAND, RPR, CSR,
OFFICIAL COURT REPORTER

1 FRIDAY, AUGUST 12, 2005; 11:03 AM

2
3 THE COURT: GOOD MORNING, AGAIN. PLEASE BE SEATED.

4 FIRST OF ALL I WANTED TO THANK ALL OF THE COUNSEL IN
5 THIS CASE FOR THE ADVOCACY AND THE MANNER IN WHICH YOU
6 REPRESENTED YOUR CLIENTS AND THE LEVEL OF DETAIL THAT YOU
7 PROVIDED TO THE COURT. THE BRIEFING AND MATERIALS
8 SUBMITTED WERE VERY INSTRUMENTAL AND HELPFUL TO THE COURT
9 IN REACHING THE DETERMINATION THAT I HAVE MADE. I ALSO
10 DEEPLY APPRECIATE THE MANNER IN WHICH YOU RELATED TO EACH
11 OTHER, AS WELL, COUNSEL.

12 THE FOLLOWING RULING APPLIES TO BOTH MOTIONS FOR
13 SUMMARY JUDGMENT AND THE TWO CAUSES OF ACTION.

14 AT THE OUTSET THIS COURT CONCLUDES THAT THE FOCUS OF
15 THESE MOTIONS PERTAINED TO TWO TELEVISION ADVERTISEMENTS
16 CONCERNING FORMER INSURANCE COMMISSIONER DEBORAH SENN. AT
17 THE TIME OF THESE ADS MS. SENN WAS A CANDIDATE FOR ATTORNEY
18 GENERAL. THE STATEMENTS IN THE ADS INCLUDE REFERENCES TO
19 PRESS COVERAGE OF MS. SENN AS INSURANCE COMMISSIONER.
20 THERE IS NO FACT DISPUTE REGARDING THE CONTENT OF THE
21 ADVERTISEMENT. HENCE THERE ARE NO GENUINE ISSUES OF
22 MATERIAL FACT, AND THE SOLE DETERMINATION CONCERNS
23 STATUTORY CONSTRUCTION. SUCH CONSTRUCTION IS A QUESTION OF
24 LAW THAT MAY BE RESOLVED BY THE COURT AT THIS TIME.

25 MS. SENN'S COUNSEL HAS CONCEDED DURING ARGUMENT THAT
KING COUNTY SUPERIOR COURT

1 THERE IS NO CR 56 MOTION OUTSTANDING, AND THAT THIS MATTER
2 IS RIPE FOR RESOLUTION, DESPITE THE REPRESENTATIONS IN HIS
3 BRIEFING.

4 THE ISSUES BEFORE THIS COURT ARE WHETHER THE VEC HAD
5 A DUTY TO REGISTER AS A POLITICAL COMMITTEE AND FILE
6 REPORTS TO DISCLOSE TO THE PUBLIC INFORMATION REQUIRED BY
7 STATUTE.

8 IN REACHING ITS CONCLUSIONS THIS COURT WISHES TO MAKE
9 A FORMAL RECORD OF ITS ANALYSIS OF THE APPLICABLE AND
10 CONTROLLING LEGAL AUTHORITIES.

11 THERE IS NO DISPUTE THAT BUCKLEY VS. VALEJO WAS
12 CONTROLLING AUTHORITY AT THE FEDERAL LEVEL ON POLITICAL
13 SPEECH PRIOR TO 2003. BUCKLEY CLEARLY PROVIDED A
14 DISTINCTION FOR PURPOSES OF CAMPAIGN FINANCING BETWEEN
15 ADVOCACY THAT WAS EXPRESS -- THAT IS, ADVOCATED FOR THE
16 ELECTION OR DEFEAT OF THE CANDIDATE AND THAT RELATED SOLELY
17 TO ISSUE STATEMENTS. THE SUPREME COURT CLEARLY CONCLUDED
18 IN BUCKLEY THAT THE MANDATORY DISCLOSURE REQUIREMENTS OF
19 THE FEDERAL CAMPAIGN LAWS APPLIED ONLY TO EXPRESS ADVOCACY
20 FOR THE ELECTION OR DEFEAT OF A CLEARLY IDENTIFIED
21 CANDIDATE FOR FEDERAL OFFICE.

22 THE COURT IN BUCKLEY ATTEMPTED TO CLARIFY EXPRESS
23 ADVOCACY BY GIVING EXAMPLES OF LANGUAGE AND TERMS THAT HAVE
24 SINCE BECOME KNOWN AS THE "MAGIC WORDS." OUR OWN STATE
25 SUPREME COURT HAS FURTHER DEFINED EXPRESS ADVOCACY IN THE
KING COUNTY SUPERIOR COURT

1 WASHINGTON STATE REPUBLICAN PARTY DECISION, WSRP,
2 HEREINAFTER TO INCLUDE STATEMENTS THAT EXHORT A LISTENER TO
3 VOTE EITHER FOR OR AGAINST A PARTICULAR CANDIDATE. THE
4 BUCKLEY AND WASHINGTON STATE REPUBLICAN PARTY DECISIONS
5 MAKE IT CLEAR THAT SPEECH THAT LACKS A SPECIFIC EXHORTATION
6 TO VOTE IN A PARTICULAR WAY IS TO BE IDENTIFIED AS ISSUE
7 ADVOCACY AND BEYOND THE REACH OF GOVERNMENT REGULATION AND
8 FULLY PROTECTED AS POLITICAL SPEECH UNDER THE FIRST
9 AMENDMENT.

10 IN 2003 IN MCCONNELL, THE UNITED STATES SUPREME
11 COURT'S MOST RECENT ANALYSIS OF THESE STATUTES CHANGED THE
12 RULES OF ENGAGEMENT ON THE DISTINCTION BETWEEN EXPRESS AND
13 ISSUE ADVOCACY. IN THIS COURT'S ANALYSIS THE UNITED STATES
14 SUPREME COURT IN MCCONNELL OVERTURNED A SIGNIFICANT PORTION
15 OF BUCKLEY AS RELIED UPON BY OUR STATE SUPREME COURT IN
16 WSRP, AND RENDERED A DISTINCTION BETWEEN EXPRESS AND ISSUE
17 ADVOCACY AS THE DECISION INDICATED, "FUNCTIONALLY
18 MEANINGLESS." THE SO-CALLED "MAGIC WORDS" NO LONGER
19 CONTROLLED IN THE ANALYSIS.

20 CONSEQUENTLY IN THIS COURT'S ANALYSIS THE DISTINCTION
21 BETWEEN EXPRESS OR ISSUE ADVOCACY IS NO LONGER THE
22 CONTROLLING LAW. WHILE THE COURT IS SATISFIED THAT THIS IS
23 A CORRECT CONCLUSION, THERE ARE NONETHELESS CASES AND
24 DECISIONS CONTINUING TO ANALYZE EXPRESS VERSUS ISSUE
25 ADVOCACY, AS HAD BEEN DONE PRIOR TO 2003, ANDERSON VS.

KING COUNTY SUPERIOR COURT

1 SPEARS, TO NAME ONE.

2 EVEN IF THIS COURT WERE TO CONCLUDE THE DISTINCTION
3 STILL EXISTED, THE COURT WOULD NONETHELESS HOLD AS A MATTER
4 OF LAW THAT THE AD REGARDING SENN IS CLEARLY EXPRESS
5 ADVOCACY UNDER THE AUTHORITY OF WSRP, WHICH CLEARLY HELD
6 THAT STATE RESTRICTIONS FOR REPORTING REQUIREMENTS CAN BE
7 APPLIED. WSRP INCLUDED IN ITS DEFINITION OF EXPRESS
8 ADVOCACY IF IN THAT AD THE CANDIDATE'S CHARACTER AND
9 CAMPAIGN TACTICS ARE ATTACKED, THE AD MAY BE SUBJECT TO
10 ONLY ONE REASONABLE INTERPRETATION AND EXHORTATION: TO
11 VOTE AGAINST A CANDIDATE.

12 WSRP ALSO DEFINED ISSUE ADVOCACY AS ADVOCACY THAT
13 INTENDS TO INFORM THE PUBLIC ABOUT PARTICULAR ISSUES
14 GERMANE TO AN ELECTION. IN THE INSTANT CASE THERE WERE TWO
15 ADVERTISEMENTS OF MS. SENN'S RECORD AS AN INSURANCE
16 COMMISSIONER. THE FIRST AD IS ISSUE ADVOCACY BEYOND THE
17 REACH OF GOVERNMENT REGULATION PROTECTED BY THE FIRST
18 AMENDMENT. THE SECOND GENERALLY FITS IN THE SAME CATEGORY
19 EXCEPT FOR ONE LINE WHICH CLEARLY TRANSITIONS THE SCOPE OF
20 THE AD FROM ISSUE TO EXPRESS ADVOCACY. THAT BEING, "SENN
21 EVEN TRIED TO COVER UP THE DEAL FROM STATE LEGISLATORS."

22 UNDER ANY NOTION OF RATIONAL INTERPRETATION THE
23 SUGGESTION THAT AN ELECTED OFFICIAL ENGAGED IN A "COVER UP"
24 IS AN ASSERTION THAT CLEARLY AND UNAMBIGUOUSLY SUGGESTS THE
25 OFFICIAL ENGAGED IN AN ACT OF DECEIT, DECEPTION, FRAUD OR

1 CONCEALMENT.

2 UNDER THE WORDS QUOTED BY THE SUPREME COURT IN
3 MCCONNELL IN FOOTNOTE 78, THE NOTION THAT THIS
4 ADVERTISEMENT WAS DESIGNED PURELY TO DISCUSS THE ISSUES AND
5 NOTED A PERSONAL ATTACK ON THE CHARACTER STRAINS CREDULITY.
6 ANY LISTENER KNOWING OF THE CITIZEN'S CANDIDACY FOR
7 ATTORNEY GENERAL WOULD HAVE ONLY ONE REASONABLE
8 INTERPRETATION: THAT IS, THAT THE AD WAS AN EXHORTATION TO
9 VOTE AGAINST SENN. IT IS CLEAR TO THIS COURT THAT AN
10 ASSERTION THAT A PUBLIC OFFICIAL WAS INVOLVED IN A COVER-UP
11 IS NOT A DISCUSSION OF ISSUES; IT IS A CLEAR ATTACK ON THE
12 CHARACTER OF THE CANDIDATE.

13 IN MAKING THIS DETERMINATION THE COURT AGREES WITH
14 VEC THAT A MAJOR PURPOSE OF THE FIRST AMENDMENT IS TO
15 PROTECT THE FREE DISCUSSION OF GOVERNMENTAL AFFAIRS,
16 INCLUDING THE DISCUSSION OF CANDIDATES. HOWEVER, WHEN THE
17 NATURE, SCOPE AND BREADTH, AS IN THIS CASE, EXCEEDS
18 CONSTITUTIONAL PROTECTIONS, IT CANNOT BE SANCTIONED BY THE
19 COURT.

20 IN THIS ANALYSIS THE COURT ALSO REJECTED VEC'S
21 ARTICLE I, SECTION 5 ARGUMENT. VEC'S GUNWELL ANALYSIS IS
22 FLAWED. THIS COURT HOLDS THAT AFTER REVIEWING THE ANALYSIS
23 OF THE RESPECTIVE PARTIES, ANY ADDITIONAL PROTECTIONS
24 SHOULD BE EXTENDED TO THE VOTERS' RIGHT TO INFORMATION
25 REGARDING POLITICAL ACTIVITY, NOT THE RIGHT OF VEC TO

1 RESTRICT DISCLOSURE OF THE INFORMATION.

2 THE FINAL GUNWELL FACTOR, THAT IS "MANAGED WITH
3 PARTICULAR STATE INTEREST OR LOCAL CONCERN" IS A MATTER OF
4 PARTICULAR IMPORTANCE IN THIS COURT'S CONCLUSION AND
5 ANALYSIS. THE AUTHORITIES CITED BY THE PARTIES PERSONALLY,
6 THE HISTORY, THE CURRENT STATEMENT OF STATE AND FEDERAL
7 LAW, INDICATES THAT THE GROWING TREND IN THIS COUNTRY IS TO
8 PROVIDE GREATER PROTECTION FOR THE LISTENING PUBLIC ON THE
9 FINANCING OF CAMPAIGNS.

10 IN THIS REGARD IF THERE IS TO BE GREATER PROTECTION,
11 WASHINGTON PRECEDENT MAKES IT CLEAR THAT IT IS TO BE
12 CONSISTENT WITH THE PROTECTION OF THE PUBLIC. MOREOVER,
13 WHILE THERE WAS NO EVIDENCE OR SUPPORT OF AUTHORITY OF
14 WASHINGTON CONSTITUTIONAL HISTORY ADDRESSING THE SCOPE OF
15 PROTECTION OF ARTICLE 1, SECTION 5, IT WOULD APPEAR A FAIR
16 READING SHOULD BE CONSTRUED TO PROVIDE GREATER OPPORTUNITY
17 FOR WASHINGTON VOTERS TO RECEIVE INFORMATION IN THE
18 ELECTION PROCESS THAN TO RESTRICT IT.

19 VEC HAS ALSO ALLEGED THAT REQUIRING THEM TO REGISTER
20 AND DISCLOSE CONSTITUTES A PRIOR RESTRAINT. THIS CLAIM IS
21 NOT SUPPORTED IN LAW OR IN FACT. THE PDC DEMAND TO
22 REGISTRATION IS NOT BEING DONE TO REGULATE THE CONDUCT OF
23 THE VEC AND/OR PROHIBIT ANY EXPRESSION OF SPEECH. THE
24 CLEAR STATUTORY PURPOSE OF THE REGULATION IS THE
25 IDENTIFICATION OF THOSE WHO SPONSORED THE SPEECH. THIS

1 ACTIVITY DOES NOT RISE TO THE LEVEL OF BEING A PRIOR
2 RESTRAINT.

3 LAST VEC SEEKS INJUNCTIVE RELIEF UNDER 42 USC,
4 SECTION 8, 1983. PLAINTIFFS' MOTION TO DISMISS IS GRANTED.
5 VEC HAS FAILED IN ALL RESPECTS TO PROVE ANY ELEMENT OF A
6 1983 CLAIM.

7 FOR ALL THE FOREGOING REASONS THE PDC'S MOTION FOR
8 SUMMARY JUDGMENT IS GRANTED. VEC'S MOTION FOR SUMMARY
9 JUDGMENT IS DENIED. AND INTERVENOR'S MOTION TO COMPEL
10 ADDITIONAL DISCOVERY IS DENIED BASED ON COUNSEL'S
11 CONCESSIONS IN ORAL ARGUMENT.

12 THIS IS THE COURT'S RULING IN THIS MATTER.

13 COUNSEL, DO YOU HAVE AN ORDER AVAILABLE FOR THE COURT
14 AT THIS TIME?

15 MS. DALTON: NOT AT THIS TIME.

16 THE COURT: I'LL GIVE YOU A DATE AND TIME FOR FORMAL
17 PRESENTMENT TO THE COURT. IF THE PARTIES ARE IN AGREEMENT
18 AS TO THE LANGUAGE, YOU CAN SUBMIT THE ORDER TO THE COURT
19 EX PARTE WITHOUT PRESENTATION. IF THERE'S ANY ISSUE OF
20 LANGUAGE TO BE INCLUDED, THE COURT'S BAILIFF AT THIS TIME
21 WILL GIVE YOU A DATE AND TIME FOR FORMAL PRESENTMENT.

22 COUNSEL, HOW MUCH TIME WILL THE PARTIES NEED FOR
23 FORMAL PRESENTMENT?

24 MR. WHITE: TWO WEEKS.

25 MS. DALTON: TWO WEEKS, YES.

1 THE BAILIFF: SETTING IT AS A MORNING MATTER, JUDGE?

2 THE COURT: COUNSEL, DO YOU THINK YOU'LL NEED MORE
3 THAN 15 MINUTES OR SO FOR PRESENTMENT?

4 MS. DALTON: NO. I THINK WE'LL AGREE TO THE TERMS OF
5 THE ORDER AS IS.

6 THE COURT: WE'LL SET IT AS A MORNING MATTER. AND,
7 COUNSEL, IF ALL PARTIES SIGN OFF ON THE ORDER, PLEASE
8 CONTACT THE BAILIFF, AND THE HEARING DATE WE'RE ABOUT TO
9 GIVE YOU WILL BE STRICKEN, AND NO PARTY NEEDS TO APPEAR.

10 THE BAILIFF: TUESDAY, SEPTEMBER 6TH AT 8:45 AM.

11 THE COURT: COUNSEL, IF THERE'S A POINT OF
12 CLARIFICATION IN WHATEVER ORDER THAT YOU'RE PREPARING, I'LL
13 GIVE YOU TWO ALTERNATIVES. THE FIRST IS IF THERE'S NO
14 OBJECTION, YOU CAN CONTACT THIS COURT, AND WE CAN SET UP A
15 TELEPHONE CONFERENCE TO MINIMIZE THE PARTIES HAVING TO COME
16 BACK TO THE COURT FOR CLARIFICATION. IF YOU WISH TO HAVE
17 THE ISSUES AND QUESTIONS A MATTER OF FORMAL RECORD, WE CAN
18 ALSO DO THAT IN COURT ON THE DATE OF THE FORMAL
19 PRESENTATION. I'M JUST TRYING TO MAKE IT EASIER ON THE
20 PARTIES, WHICHEVER WAY YOU WANTED TO DO IT. I'LL GIVE YOU
21 A DATE FOR FORMAL PRESENTMENT.

22 WE'LL BE IN RECESS.

23 (WHEREUPON THE HEARING IN THE ABOVE-ENTITLED MATTER
24 CONCLUDED AT 11:17 AM.)

25

Exhibit 5

SUPERIOR COURT OF WASHINGTON, KING COUNTY

VOTERS EDUCATION COMMITTEE, a)
Washington nonprofit corporation;)
BRUCE BORAM, an individual;)
VALERIE HUNTSBERRY, an individual,)

Plaintiff(s),)

vs.) No. 04-2-23551-1SEA

WASHINGTON STATE PUBLIC DISCLOSURE)
COMMISSION; MICHAEL CONNELLY,)
JEANETTE WOOD, FRANCIS MARTIN,)
EARL TILLY, and JANE NOLAND,)
Commissioners of the Washington)
State Public Disclosure Commission)
in their individual capacities,)
VICKI RIPPIE, Executive Director)
of the Washington State Public)
Disclosure Commission, in her)
individual capacity, and CHRISTINE)
GREGOIRE, Attorney General of the)
State of Washington in her)
individual capacity,)

Defendant(s).)

And)

DEBORAH SENN,)
Intervenor.)

DEPOSITION UPON ORAL EXAMINATION OF
BRUCE BORAM

10:00 A.M.

OCTOBER 13, 2004

200 SECOND AVENUE WEST
SEATTLE, WASHINGTON

REPORTED BY: PATSY D. JACOY, CCR No. 2348

1 Q. And who was the -- who are the recipients or
2 senders of those E-mails from the U.S. Chamber of
3 Commerce?

4 A. Rob Engstrom.

5 Q. How do you spell his name?

6 A. E-N-G-S-T-R-O-M.

7 Q. Okay. Anybody else?

8 A. Ann McCord.

9 Q. Anybody else?

10 A. That's it.

11 Q. Did you review any -- now, was there any
12 written correspondence in addition to E-mails between
13 VEC and the Chamber?

14 A. Not that I recall.

15 Q. Were there any documents that were submitted?

16 A. Submitted where?

17 Q. To the U.S. Chamber, to or from the U.S.
18 Chamber of Commerce, hard copies.

19 A. I don't think so.

20 Q. If you wanted to search a file to determine
21 whether there was any documents, what file would you
22 search?

23 A. I suppose it would be in a file where all the
24 IRS and PDC and those kinds of documents are, and that
25 is a paper file.

1 around. I mean -- yeah. Agreed --

2 Q. Well, you actually agreed -- sorry.

3 A. I mean, yeah, that was the number that we
4 were -- I don't know if we even came to that in the
5 ends, but yes, 1.5.

6 Q. And 1.5 million was, in fact, provided to the
7 Voters Education Committee by the U.S. Chamber of
8 Commerce, correct?

9 A. Yeah. I think it was a little less than
10 that, but I think that's about right.

11 Q. And did you conduct any polling or focus
12 group or research to test the concept or copy for the
13 ad?

14 A. I did not.

15 Q. Did anybody?

16 A. I don't -- I think the Chamber did.

17 Q. And do you know who the Chamber used to do
18 that research?

19 A. I have no idea.

20 Q. Who would know?

21 A. Rob.

22 Q. Who was your main contact at the Chamber
23 after your initial contact with Ann?

24 A. Rob.

25 Q. And again, do you know what his position is?

1 both, but I don't remember.

2 Q. Did you see anything in writing, including
3 electronically, as to the results of the U.S.
4 Chamber's research?

5 A. No.

6 Q. On the copy of the ad.

7 A. As far as focus groups or anything like that,
8 no.

9 Q. And do you know who performed that research?

10 A. I don't.

11 Q. And do you know how much that research cost?

12 A. I have no idea.

13 Q. Do you know who paid for it?

14 A. I mean, I don't. I really don't know
15 anything about it at all.

16 Q. How much did the polling cost?

17 A. I don't know.

18 Q. Who made -- who bought the polling for the
19 VEC? Strike that.

20 Did the VEC purchase the polling data?

21 A. No.

22 Q. Who did?

23 A. I got it from the U.S. Chamber.

24 Q. So --

25 A. That's all I know.

1 A. My sense was that there had been maybe some
2 initial discussions about maybe doing something like
3 this before. There hadn't been any interest. They
4 weren't involved now, so they wouldn't be involved. I
5 was very, very fuzzy on that point, but it was very
6 clear that they were not going to be involved, and I
7 had no discussions with them.

8 Q. And that you therefore should not contact any
9 local Chambers?

10 A. No, absolutely not.

11 Q. And was that --

12 A. And that included the local U.S. Chamber
13 person.

14 Q. Who was who?

15 A. Renee Radcliffe.

16 Q. Why would Renee Radcliffe not be contacted
17 where the U.S. Chamber of Commerce is funding a local
18 ad campaign?

19 A. That's what they decided to do.

20 Q. Do you know Renee?

21 A. I do.

22 Q. How long have you known Renee?

23 A. Off and on for probably, I don't know, four
24 or five years. She used to be a state legislator.

25 Q. So as I understand it, you were acting under

1 Rob's directions or instructions to not contact either
2 the Association of Washington Businesses or the U.S.
3 Chamber representative here in Washington State; is
4 that correct?

5 MR. WHITE: Object to the form of the
6 question.

7 A. Yeah. They're his members, so I respect
8 that.

9 Q. (BY MR. WITHEY) Who would know whether any
10 local members of the Chamber of Commerce made
11 contributions to the U.S. Chamber of Commerce for the
12 purposes of this ad?

13 A. I mean, I would have no idea. I mean, it
14 would be something you would have to take up with the
15 Chamber.

16 Q. Right. So you believe that at least Rob
17 would know, correct?

18 A. I mean, my -- I never heard any inclination
19 of anything like that, so, I mean, I have no idea.

20 Q. Did Rob ever mention anyone else he talked to
21 within the U.S. Chamber about this project?

22 A. His boss, whose name is Lisa, and that's all
23 I know, and a guy named Stan, who I can't remember his
24 last name.

25 Q. Stan Anderson?

1 A. Yeah.

2 Q. And what did Rob tell you about his
3 conversation with his boss, Lisa, or with Stan
4 Anderson about this project?

5 A. Just keeping them apprised of the details as
6 it was progressing.

7 Q. You assumed from this discussion that Lisa
8 and Stan had approved of the project, because
9 otherwise it probably wouldn't have happened; fair
10 enough?

11 A. Yes.

12 Q. And did you send any E-mails that had cc's to
13 either Stan or Lisa?

14 A. I don't believe so, unless I replied all to
15 one that I got.

16 Q. Do you recall any E-mails from either Ann or
17 Rob that indicated that they had copied Stan or Lisa
18 on their E-mails to you?

19 A. I don't recall. It seems to me like Lisa,
20 maybe, but I really don't recall about Stan. I don't
21 recall any specific instances, no.

22 Q. Did either of them mention Sean McBride of
23 the Institute for Legal Reform?

24 A. I don't think so.

25 Q. And do you know who Steve Leahy is?

1 other than Rob or Ann; that is, the content of the
2 words used in the ad?

3 A. No. Oh, I would have sought legal counsel.

4 Q. From Mr. White?

5 A. Yes.

6 Q. Anybody else?

7 A. No.

8 Q. What about -- what about the focus group or
9 the research that the U.S. Chamber did, that would
10 have disclosed the content of this ad to at least the
11 people who were watching it or hearing it.

12 A. I don't know anything about that.

13 Q. Well, you know that they did it, correct?

14 A. Yeah, I don't know -- I don't really have
15 much information about it, so I don't -- I wouldn't
16 know what was said or to who or any of that.

17 Q. How come the payment for that part of the
18 project wasn't paid through the Voters Education
19 Committee?

20 A. I don't know.

21 Q. How much was it?

22 A. I have no idea.

23 Q. Rob would be the best witness on that?

24 A. Yeah.

25 Q. And do you know what the stage of the ad was

1 record out into the public.

2 Q. So the goal was to influence people's
3 decisions.

4 A. Uh-huh.

5 Q. Voters' decisions, correct?

6 A. Yes.

7 Q. And who -- I probably asked you this earlier,
8 but who chose the media outlets?

9 A. The media outlets? The buyer did.

10 Q. Was there any input from the U.S. Chamber
11 about which media outlets would be used?

12 A. I mean, it was a pretty simple buy. No. I
13 mean, it was just like you wanted to do a state-wide
14 buy and just kind of -- there was some discussions, I
15 believe, about -- I mean, there was very basic
16 discussions, nothing that I even recall.

17 Q. And who made the decision to not list the
18 contributors?

19 A. We were just following the law as we
20 understood it.

21 Q. So you made the decision or the U.S. Chamber
22 made the decision or all of you?

23 A. We all made the decision.

24 Q. And who made the decision to not register the
25 Voters Education Committee with the public disclosure

1 committee as a PAC?

2 A. It would be the same, everybody, because --

3 Q. U.S. Chamber, you. How about Doyle?

4 A. He's not involved. He's a vendor.

5 Q. He was not involved in the political
6 decisions?

7 A. That's correct.

8 Q. Did you have any contact with any candidate
9 or politician or individual listed -- strike that.

10 Did you have any conversation with any
11 candidate for office for attorney general about the ad
12 either before, during or after?

13 A. No.

14 Q. Did you ever tell anyone other than the names
15 you've already mentioned in this morning's session
16 that the ad would air?

17 A. No.

18 Q. Now, did you ever tell Jack McRae that you
19 had gotten funding from the U.S. Chamber of Commerce
20 for this ad, or was about to get funding, pledged
21 funding?

22 MR. WHITE: Are you talking about pre-airing?

23 MR. WITHEY: Yes. Now I am, yes.

24 A. I don't recall.

25 Q. (BY MR. WITHEY) I thought in your testimony

1 that the U.S. Chamber has done other than what you've
2 already testified to?

3 MR. WHITE: Objection to the extent that it
4 relates to anything to do with the general election.

5 MR. WITHEY: Okay. Are you going to instruct
6 him not to answer?

7 MR. WHITE: I'm going to instruct him not to
8 answer.

9 Q. (BY MR. WITHEY) It indicates that, "The
10 effort in Washington state is only the tip of the
11 iceberg. In about 25 states, the business-advocacy
12 group is targeting candidates for attorney general and
13 supreme-court justice who are seen as opposed to legal
14 overhaul or other business interests." Do you see
15 that?

16 A. I did.

17 Q. Did you understand that that was one of the
18 general political goals of the U.S. Chamber of
19 Commerce?

20 A. No, not really. We didn't talk about any
21 other states.

22 Q. Well, I understand you didn't -- may not have
23 talked to Ann or Rob about any other states. I'm just
24 saying based on your background and your experience in
25 this, you understand that that was one of the goals of

1 the U.S. Chamber in getting into elections in local
2 states?

3 A. My understanding is they get involved -- over
4 the years have gotten involved in lots of elections
5 around the states. I mean, I've heard of other stuff
6 they've done in like Louisiana and other states, and
7 that's about the extent of my involvement. That's a
8 little more than I had realized.

9 Q. All right. Would you agree, though, that
10 their activities taken in Washington State with
11 respect to the Senn ad is consistent with that
12 statement?

13 A. Yes.

14 Q. In other words, it's part of a broader plan,
15 as far as you can understand, right?

16 A. I don't know anything about a broader plan,
17 but, I mean, I see what it says in the article. We
18 didn't discuss what they were doing in other states
19 and the broader plan.

20 Q. Did you understand that U.S. Chamber is
21 backing a group called the November Fund?

22 A. No, I don't know anything about that.

23 Q. You've never heard that name?

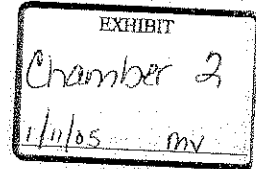
24 A. I don't think so.

25 Q. Were you aware that the U.S. Chamber and the

Exhibit 6

Engstrom, Rob

From: Engstrom, Rob
Sent: Thursday, September 16, 2004 2:22 PM
To: Shaffer, Judy
Subject: this ok?



ILR Members,

The U. S. Chamber Institute for Legal Reform has been engaged in an aggressive issue advocacy campaign in the Washington State Attorney General Democrat primary that was on September 14th. The campaign focused on the extreme anti-business record of former Insurance Commissioner Deborah Senn in her campaign against former Seattle City Attorney Mark Sidran. Senn defeated Sidran 53%-47% in a hard fought contest. This is the first time since the 2000 campaign that the U. S. Chamber of Commerce has been publicly disclosed as a partner in these state races.

Chamber of Commerce Targets State Races Money Pours Into Ads Challenging Candidates Who Are Seen as Anti-Business

By JOHN R. WILKE
Staff Reporter of THE WALL STREET JOURNAL
September 16, 2004; Page A4

The U.S. Chamber of Commerce's campaign to keep candidates it considers antibusiness from winning state races fell short in its first effort. Despite negative television ads financed by the Chamber, a Democratic attorney general candidate in Washington state won a primary contest.

The Chamber spent \$1.5 million against Deborah Senn, a former state insurance commissioner who beat her primary opponent, a moderate Democrat, on Tuesday. The Chamber had tried to keep its role secret, but a state-election watchdog, the Public Disclosure Commission, forced it into the open with a ruling that the ads were political advocacy and that their funding must be reported.

The effort in Washington state is only the tip of the iceberg. In about 25 states, the business-advocacy group is targeting candidates for attorney general and supreme-court justice who are seen as opposed to legal overhaul or other business interests. The push shows how important the decisions of these state officials have become for business.

CAMPAIGN 2004



See continuing coverage as the presidential election gets into full swing, at WSJ.com/Campaign2004².

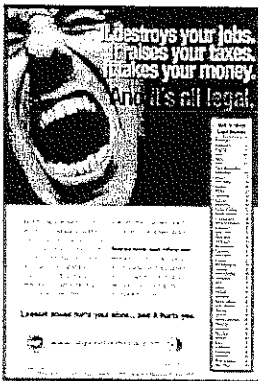
The Chamber's goal is to turn the tide against trial lawyers, who it says have used sympathetic state and local courts in class-action cases that extracted millions of dollars in damages from businesses.

It wants most class-action cases tried in federal court, not state courts, and is pushing

for, among other things, a streamlined approach to dealing with asbestos claims, which are pending across the country.

In Illinois, for example, "you can get stuck with some Madison County judge who's close to the trial bar in a national class action, with plaintiffs from 30 states, and corporate defendants from out of state," said Stan Anderson, the Chamber's chief legal officer. The Chamber plans to get involved in the state's race for supreme-court justices in an effort to educate voters about these issues, he said.

Mr. Anderson said the Chamber would back a legal challenge of the Washington state commission's ruling that the ads attacking Ms. Senn -- placed by a local group that concealed its funding -- amounted to direct advocacy for or against a specific candidate. The Chamber argues that the local group it funded was acting within its constitutional right to free speech. "We concluded that this woman's record was very liberal and anti-business, and we thought it was important to engage in the process there," Mr. Anderson said. "We didn't ask people to vote against her, we merely informed the public about the things she did as insurance commissioner. The ads weren't express advocacy and didn't require any kind of disclosure."



Ms. Senn angered businesses with her tough tactics as state insurance commissioner from 1993 through 2001, and one of the ads criticized the way she handled a big insurance settlement in 1997.

Mr. Anderson said none of the insurance firms among his membership were aware of the Chamber's effort.

The negative ads, which saturated the Seattle, Olympia and Yakima markets for weeks, succeeded in narrowing Ms. Senn's early lead and nearly cost her her victory. The Chamber's spending, funneled through a local affiliate called the Voters Education Committee, amounted to more than that of all the other candidates in the race combined.

"We were ahead in the polls by 12 points as recently as three weeks ago, and \$1.5 million later it was neck and neck," said Karen Besserman, a spokeswoman for Ms. Senn. "It was character assassination, and they tried to keep it secret." The state Public Disclosure Commission, in finding against the group, referred the matter to Washington's attorney general, a Democrat, who sued to force disclosure. The Chamber's affiliate then pulled its ads.

With 85% of precincts reporting, Ms. Senn held a 53%-to-47% lead over former Seattle City Attorney Mark Sidran, the Associated Press reported yesterday. In the general election, she will face King County Councilman Rob McKenna. The Chamber hasn't decided whether it will re-enter the fray in the general election, Mr. Anderson said. "We are going to look at the data over the next week, do some polling, figure out what happened and what we are going to do next."

The Chamber defends its right to run what it calls voter-education advertising without disclosing its involvement. Its political arm, the Institute for Legal Reform, is considering

a role in state races for supreme-court justices and attorneys general in at least two dozen states reaching from Pennsylvania and West Virginia to Mississippi and Texas.

The Chamber is also funding efforts that target the U.S. Senate Democratic leader, Tom Daschle, who is locked in a tight race in South Dakota. In the presidential election, the Chamber is backing the November Fund, an independent political-advocacy group, that plans to run ads in "battleground" states, targeting former trial lawyer and Democratic vice-presidential candidate Sen. John Edwards of North Carolina.

Mr. Anderson acknowledges that the Chamber's legal-overhaul effort targets mostly Democrats. But he says he spent a day in Arkansas recently campaigning alongside Sen. Blanche Lincoln, one of a handful of Democrats who voted in favor of Chamber-backed legal-overhaul legislation that fell short in Congress earlier this year. "It's not about whether they're Republican or Democrat, but whether they are supporting us on legal reform," Mr. Anderson said. "She was with us."