BEFORE THE PUBLIC DISCLOSURE COMMISSION

OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT ACTION AGAINST Dennis Nusbaum, Seattle School District No. 1 Respondent.	)	PDC CASE NO.: 04-664 **FINAL ORDER IMPOSING FINE**

INTRODUCTION

The Washington State Public Disclosure Commission (Commission) conducted an enforcement hearing (adjudicative proceeding) under chapters 34.05 and 42.17 RCW and chapter 390-37 WAC on January 25, 2005, with respect to the above-captioned matter. The Commission convened the hearing at the Evergreen Plaza Building, Room 206, 711 Capitol Way South, in Olympia, Washington. The Staff appeared through Senior Assistant Attorney General Linda Dalton. Dennis Nusbaum, Respondent, was present and was represented by Harriet Strasberg, his legal counsel.

The Commission was provided a copy of the Notice of Administrative Charges dated December 27, 2004; a Report of Investigation dated October 6, 2004 with exhibits; Respondent's Prehearing Brief; and a Stipulation of Facts (Stipulation) of the parties dated January 25, 2005.

The Commission heard the testimony of Mr. Nusbaum.

After due consideration of the above documents and testimony, and oral argument by counsel for Staff and the Respondent, by a 4-0 vote, the Commission accepted the Stipulation, made the following findings and enters the following order.

FINDINGS AND CONCLUSIONS

Based upon the stipulated facts and testimony, the Commission enters the following findings and conclusions.

The Commission finds and concludes the Respondent used the public facilities of the public schools in violation of RCW 42.17.130.

ORDER

The Commission orders as follows:

1. That the Stipulation of Facts is accepted and is incorporated by reference in this order; and,
2. That a total civil penalty of $500 is assessed against the Respondent, with $450 suspended if there is no future violation of RCW 42.17 for two years from the date of this Order.

RECONSIDERATION OF FINAL ORDER - COMMISSION

Any party may ask the Commission to reconsider this final order. Parties must place their requests for reconsideration in writing, include the specific grounds or reasons for the request, and deliver the request to the Public Disclosure Commission Office within **TEN (10) days** of the date that the Commission serves this order upon the party. Pursuant to RCW 34.05.470(3), the Public Disclosure Commission is deemed to have denied the petition for reconsideration if, within twenty (20) days from the date the petition is filed, the

Commission does not either dispose of the petition or serve the parties with written notice specifying the date by which it will act on the petition. Pursuant to RCW 34.05.470(5), the Respondent is not required to ask the Public Disclosure Commission to reconsider the final order before seeking judicial review by a superior court.

FURTHER APPEAL RIGHTS – SUPERIOR COURT

Pursuant to RCW 42.17.395(5), a **final order** issued by the Public Disclosure Commission is subject to judicial review under the Administrative Procedures Act, chapter 34.05 RCW. The procedures are provided in RCW 34.05.510 - .598. Pursuant to RCW 34.05.542(2), a petition for judicial review must be filed with the superior court in Thurston County or the petitioner's county of residence or principal place of business. The petition for judicial review must be served on the Public Disclosure Commission and any other parties within **30 days** of the date that the Public Disclosure Commission serves this final order on the parties.

If reconsideration is properly sought, the petition for judicial review must be served on the Public Disclosure Commission and any other parties within thirty (30) days after the Commission acts on the petition for reconsideration.

ENFORCEMENT OF FINAL ORDERS

The Commission will seek to enforce this final order in superior court under RCW 42.17.395-397, and recover legal costs and attorney's fees, if the penalty remains unpaid and no petition for judicial review has been filed under chapter 34.05 RCW. This action

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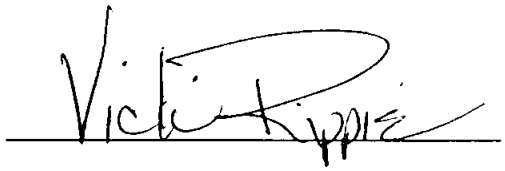
will be taken without further order by the Commission.

DATED THIS 17th day of February 2005.

FOR THE COMMISSION:



VICKI RIPPIE, Executive Director

Attachment: Stipulation of Facts Dated January 25, 2005

MAILING DATE OF THIS ORDER:

Copies mailed to:

Harriet Strasberg, Counsel for Respondent

Linda Dalton, Senior Assistant Attorney General

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In the Matter of Enforcement Action Against Dennis Nusbaum, Seattle School District No. 1 Respondent.	NO. 04-664 STIPULATION AS TO FACTS

COMES NOW the parties hereto, the Public Disclosure Commission Staff, by and through its attorneys of record, ROB McKENNA, Attorney General and LINDA A. DALTON, Senior Assistant Attorney General, and the Respondent, DENNIS NUSBAUM, appearing through his attorney, HARRIET STRASBERG, and submits this Stipulation as to Facts ~~and Violation~~ in this matter.

The parties hereto stipulate to the following facts contained in the Notice of Administrative Charges submitted by the Public Disclosure Commission Staff in the above-entitled matter:

1. During the 2003-04 school year, the Respondent, DENNIS NUSBAUM, was a teacher at Ballard High School in the Seattle School District No. 1. He has been a teacher for 26 years, teaching in the Seattle School District for 18 years. The 2003-04 school year was his fourth year at Ballard High School.

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1125 Washington Street SE
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2. During the 2003-04 school year, Mr. Nusbaum was a building representative for the Seattle Education Association (SEA) at Ballard High School. He had been a building representative for one year prior to the 2003-04 school year. The SEA is a local affiliate of the Washington Education Association.

3. Mr. Nusbaum used his school email account and computer to forward an email from Maggie Crain, Associate Executive Director of the SEA, to the 141 employees of Ballard High School, most of whom were members of the SEA.

4. Mr. Nusbaum's introduction to Ms. Crain's email stated as follows:

> Colleagues, Please return completed petitions by noon tomorrow. The remaining incomplete or yet to be completed petitions will be collected on 5/24/04. Thanks. . . Dennis."

The email distributed is attached as "A" to this Stipulation.

5. At the time Mr. Nusbaum distributed the email, he was unaware of any prohibition on using public facilities to support or oppose a ballot proposition.

6. Mr. Nusbaum received completed petitions in his school district mailbox.

Stipulated to and dated this 25th day of January, 2005.

Vicki Rippie

Vicki Rippie, Executive Director
Public Disclosure Commission

Harriet Strasberg

HARRIET STRASBERG, WSBA #15890
Attorney for Respondent

Dennis Nusbaum

DENNIS NUSBAUM

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