

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF MERCER ISLAND**

In the Matter of	)	No. HEA-001
	)	
<b>December 7, 2023, Ethics Complaint</b>	)	<b>BRIEF OF RESPONDENT</b>
<b>Against Councilmember Jake Jacobson</b>	)	
	)	
	)	
	)	

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**TO:** Hearing Examiner Sorter via email to Clerk to the Hearing Examiner Andrea Larson at [Andrea.Larson@mercergov.org](mailto:Andrea.Larson@mercergov.org)  
**AND TO:** Complainant Richard D. Erwin, Jr., via email to [palamedes61@proton.me](mailto:palamedes61@proton.me)

Respondent Daniel C. ("Jake") Jacobson, by and through his undersigned counsel, submits this Brief in conjunction with the hearing in this matter.

**I. The Complainant is a political activist with a history of filing ethics complaints against perceived political opponents.**

Complainant Richard Erwin, Jr. is an activist in the 41<sup>st</sup> District Democrats. In addition to decades of activity with them, he has served multiple terms as an officer in that organization. See Exhibit R-1. When appointed Chair of the organization he publicly declared, "I look forward to working with my fellow Democrats to win more victories in November and advance the ideals of the Democratic Party."

Both that organization and Richard Erwin in particular have a history of initiating ethics complaints as a political weapon against their perceived adversaries. In just the last two and a half years Erwin has filed ethics complaints against Lisa Anderl (see Exhibit R-2), and against Seth Landau (Exhibit R-3), and against Elle Nguyen (Exhibit R-4). With Erwin's December 2023 Complaint in this matter Councilmember Jacobson is his most recent target.

**II. The Complaint against Councilmember Jacobson is false.**

Erwin's Complaint contends that Councilmember Jacobson misused Mercer Island government resources by embedding a URL link to his 2023 re-election campaign website in the pre-formatted signature block for his Mercer Island emails. That contention is false.

In 2023 Councilmember Jacobson successfully campaigned for re-election to the Mercer Island City Council. As part of his campaign he maintained a campaign website. See Exhibit R-5. The URL for that website is <https://jake4mi.com/>.

For years in advance of ever running for re-election, Councilmember Jacobson maintained a *non*-political website. It contained generic biographical information about him as well as information of general interest to Mercer Island residents. The URL for that website was <http://www.jakeformi.com/>.

The Mercer Island city government furnishes email accounts to each of its councilmembers. Emails to- and from those accounts are managed on the City's server. Councilmember Jacobson's email address is [jake.jacobson@mercerisland.gov](mailto:jake.jacobson@mercerisland.gov).

The City affords to its email account members the ability to auto-affix pre-formatted signature blocks to their outgoing emails. Several years before ever deciding to run for re-election Councilmember Jacobson asked the City to include in the signature block for his City email account a URL link to his *non*-political website. The City did so. Thereafter, outgoing emails of Councilmember Jacobson included a hyperlink to <http://www.jakeformi.com/>.

The Complaint in this matter contends that Jacobson's email signature block included a link to his *campaign* website: <https://jake4mi.com/>. That is false. Councilmember Jacobson never asked the City to include any such link in his signature block, and the City never did so.

Indeed, the sample emails included by Complainant Erwin in his Complaint all show Councilmember Jacobson's signature block as including a URL to his *non*-political website (<http://www.jakeformi.com/>), and as *not* containing any link to his campaign website (<https://jake4mi.com/>).

Because the premise of Erwin's Complaint is false, the ethics charge against Councilmember Jacobson is unfounded.

### **III. Two years before Erwin's Complaint the Mercer Island City Attorney reviewed Councilmember Jacobson's URL link and approved it as part of his email signature block.**

In 2021, a different member of the 41<sup>st</sup> District Democrats wrote to the Mercer Island City Manager, asserting exactly the same charge that Erwin would make several years later:

I've noticed that Council Member Jacobson includes a link to his campaign website in emails from his City account. I don't think it's appropriate to use City emails to direct people to your personal campaign site.

Exhibit R-7.

The City Manager referred the email to the Mercer Island City Attorney. He confirmed that Jacobson's City email signature block referred to his *non*-political website, determined that the link was in compliance with State and local ethical code requirements, and responded:

Mr. Allcorn – Thank you for the opportunity to address the link referenced in your email below. Because the link does not direct people to an active election

campaign, the City does not consider it to be a misuse of facilities of a public office or a violation of any other provision of RCW 42.17A.555.

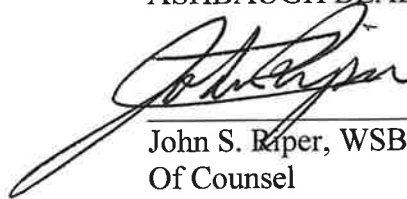
Exhibit R-7.

### **Conclusion**

Just as was true when the City Attorney addressed it in 2021, including a URL link to a non-political website as part of a City official's government emails does not represent any violation of applicable law. Erwin's Complaint in this matter should be dismissed.

DATED this 23rd day of January, 2024

ASHBAUGH BEAL, LLP

A handwritten signature in black ink, appearing to read "John S. Raper", written over a horizontal line.

John S. Raper, WSBA No. 11161  
Of Counsel