



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

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MINUTES – Regular Meeting

Evergreen Plaza Building, Room 206
711 Capitol Way South
Olympia, Washington

9:30 a.m.

October 22, 2015

COMMISSION MEMBERS PRESENT

Katrina Asay, Chair
Anne Levinson, Vice Chair
John Bridges, Member
Grant Degginger, Member
(Participated by Telephone)

STAFF PRESENT

Evelyn Fielding Lopez, Executive Director
Fred Kiga, Interim Executive Director
Lori Anderson, Communication and Training Officer
Tony Perkins, Director of Compliance
Kurt Young, Compliance Officer
James Gutholm, Chief Information Officer
Linda Dalton, Sr. Assistant Attorney General
Chad Standifer, Assistant Attorney General
Jana Greer, Executive Assistant

COMMISSION MEMBER NOT PRESENT

Amit Ranade, Member

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Asay at 9:38 a.m. in the Evergreen Plaza Building, Room 206 Olympia, Washington.

Opening Comments

Commissioner Asay called the meeting to order at 9:38 a.m.

Citizens Comments/Concerns

No comments or concerns were expressed.

Commissioner Comments/Concerns

No comments or concerns were expressed.

Minutes

September 21, 2015 Special Meeting

Motion 15-103

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

The Commission adopt the meeting minutes of September 21, 2015 special meeting.

The motion passed unanimously.

September 24, 2015 Regular
Commission Meeting

Motion 15-104

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

The Commission adopt the meeting minutes of September 24, 2015 regular meeting.

The motion passed unanimously.

October 05, 2015 Special Commission Meeting

Commissioner Levinson stated that she and Commissioner Bridges were not in attendance at the October 05, 2015 special meeting and therefore could not vote on approval of minutes.

The October 05, 2015 special commission meeting minutes will be presented at the next regular commission meeting.

Enforcement

Commissioner Degginger joined the meeting via conference call at 9:40 a.m.

Commissioner Asay recused herself from this matter at 9:40 a.m. Commissioner Levinson presided.

Commissioner Asay stated that she and Cathy Dahlquist were in the same freshman class at the State Legislature and have worked together in the past, therefore she recused herself from hearing this matter.

Cathy Dalquist, PDC Case No. 15-036 (Hearing)

Tony Perkins, Director of Compliance presented the Stipulation as to Facts in PDC Case No. 15-036 on behalf of the PDC staff.

Mr. Perkins reviewed the alleged violations of RCW 42.17A.405 by Cathy Dahlquist, allegedly spending \$3,697.33 general-election designated contributions for her 2014 primary election campaign for State Senator in the 31st Legislative District, exceeding primary election limits.

Mr. Perkins stated that Ms. Dahlquist described other expenditures her campaign paid for in the primary with a mix of primary and general contributions. It was these expenses that PDC staff believe caused Ms. Dahlquist to exceed contribution limits for the 2014 primary election.

Mr. Perkins noted that the Stipulation as to Facts includes and reflects Ms. Dahlquist's sense and concerns of the Commission's rules and instructional reporting material.

Commissioner Bridges asked PDC staff if consideration was given, when drafting the Stipulation of Facts, and in making the recommendation, to the fact that the contributions Ms. Dahlquist reported, although spent prior to the primary, were spent on general election items.

Mr. Perkins stated that this was considered. He explained that the category of expenses for the general election, although they were made in the primary with general elections dollars, are not included in the charges. PDC staff felt that facts did not point to an expenditure of general election dollars for the primary election.

Commissioner Levinson stated that under WAC 390.17.300(5) there is no total bar to using general funds

contributions during the primary period. It is only a bar if so doing would result in an individual's limit being exceeded.

Did staff assess contributions with this in mind?

Mr. Perkins noted that there were contributors that gave the maximum for the primary election and also gave towards the limit for the general. There was an ongoing balance of funds that should have been saved for general election expenditures.

Commissioner Bridges noted that he did not see this in the staff report.

Mr. Perkins stated that staff extensively reviewed the data to assess what contributions would be subject to limitation.

Commissioner Levinson asked that the record reflect the correct contribution limit as \$950.

Commissioner Levinson noted that valid points are made by the petitioner, which are outlined in the stipulation. She asked staff to commit to follow-up on the recommendations.

Cathy Dahlquist was present and addressed the Commission.

Ms. Dahlquist stated that the expenditures stipulated were included in the general election. These items are identified by staff as having a "continued use". She noted that the term "continued use" is not defined in rule or in law, and as a candidate there is no guidance on whether the expenses are qualified or not.

She contended that it is not clear how she can be charged with a violation when there is no law regarding this. The law and rules do not offer accurate guidance and staff is attempting to use unwritten rules in deciding which expenditures qualify.

Motion 15-105

Moved by Commissioner Bridges, seconded by Commissioner Degginger that:

The Commission accept the Stipulations of Facts as submitted.

The motion was passed unanimously.

Both parties presented argument for Commission consideration.

The Commission went into deliberation at 10:18 am and returned to public session at 10:30 a.m.

Tony Perkins presented staff's recommendation on additional allegations that were not included in the staff

charges and asked that the Commission dismiss these accordingly.

Motion 15-106

Moved by Commissioner Degginger, seconded by Commissioner Bridges that:

The Commission accept the staff recommendation and dismiss the alleged claims of exceeding in-kind contribution limits in campaign expenses, RCW 42.17A.405, WAC 390.17.300(5).

The motion was passed unanimously.

Motion 15-107

Moved by Commissioner Degginger, seconded by Commissioner Bridges that:

The Commission find a violation of the primary contribution limit requirement RCW 42.17A.405, WAC 390.17.300(5) and assess a penalty of \$300.

The motion was passed unanimously.

Commissioner Degginger left the meeting at 10:40 a.m.

Commissioner Asay returned to the public session at 10:40 a.m.

Kimberly Lauk, PDC Case No. 15-085
(Report To Commission)

Tony Perkins presented staff's findings, conclusions, and recommendations regarding the allegations contained in PDC Case No. 15-085, a complaint filed with the PDC by Senator Pam Roach on September 8, 2015.

Senator Roach also filed a citizen action letter with the Attorney General's Office on September 14, 2015, making allegations similar to those in her complaint to the PDC.

Mr. Perkins reviewed the allegations in the complaint regarding incomplete personal financial affairs disclosures by Kimberly Lauk. He noted that in most instances, such alleged violations by a candidate or elected official are within the Commission's \$10,000 penalty authority under RCW 42.17A.750(1)(c), and PDC staff has the appropriate expertise to investigate and prosecute the violations before the Commission, assuming enforcement is warranted. In this case, given the complainant's notice to sue for the alleged violations, staff provided this report to enable the Commission to make a recommendation to the AGO concerning the allegations within the citizen action notice period.

Staff recommended that the Commission dismiss the allegations regarding violations of RCW 42.17A.710 by Kimberly Lauk and recommend to the Washington State Attorney General that no further action be taken on the

citizen action complaint.

Motion 15-108

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

The Commission accept staff recommendation to dismiss the allegations regarding violations of RCW 42.17A.710 and recommend to the Washington State Attorney General that no further action be taken on the citizen action complaint.

The motion was passed unanimously.

Donald Baker, PDC Case No. 16-003
(Hearing)

Kurt Young presented staff's allegations that Donald Baker, an incumbent School Director of the Cape Flattery School District No. 401, violated RCW 42.17A.700 by failing to file a Personal Financial Affairs Statement (F-1 report) for 2014. Mr. Young stated that Mr. Baker also failed to file an F-1 report for 2013 and that Mr. Baker has two prior violations with PDC.

Mr. Baker is up for re-election and is running un-opposed.

Staff recommended that the Commission find that Donald Baker violated RCW 42.17A.700 on two occasions by failing to file an F-1 report for calendar year 2013 and 2014 and assess an appropriate penalty of \$400-\$500 for each missing report.

Mr. Young stated that Mr. Baker has a pattern of not reporting.

Commissioner Asay asked for clarification of which reports have been filed. Mr. Young stated that 2010 and 2012 are the only years that have been filed.

Commissioner Levinson requested PDC staff to contact the school district legal counsel and advise them of the non-compliance.

Motion 15-109

Moved by Commissioner Bridges, seconded by Commissioner Levinson that:

The Commission finds that Mr. Baker violated RCW 42.17A.700 by failing to file his 2013 and 2014 F-1 report and assesses a penalty for both violations in the maximum amount of \$500 payable within 30 days from the date of the final order.

Commissioner Levinson seconded the motion and offered a friendly amendment to the motion stating that it be required that there be communication to the filer and the legal counsel for the school district indicating the posture of the cases and Mr. Baker's failure to

comply. As an incumbent it is expected that the District will ensure that its school board members are in compliance with the rule.

Commissioner Bridges accepted the friendly amendment.

Final Motion:

The Commission finds that Mr. Baker violated RCW 42.17A.700 by failing to file his 2013 and 2014 F-1 report and assesses a penalty for each violation for the maximum amount of \$500 payable within 30 days from the date of the order.

It is required that PDC staff communicate to the filer and the legal counsel for the school district that as an incumbent it is expected that the District will ensure that its school board members are in compliance with the rule.

The motion was passed unanimously.

Monte St. Johns, PDC Case No. 16-060, 16-156 (Hearing)

Kurt Young presented PDC staff allegations that Monte St. Johns violated RCW 42.17A.700 by failing to file a Personal Financial Affairs Statement (F-1 report) as an incumbent School Director for the Dieringer School District for 2014 (PDC Case No. 16-060); and RCW 42.17A.205 by failing to file a Candidate Registration (C-1 report) as a candidate for re-election to School Director in 2015 (PDC Case No. 16-156).

Mr. Young stated that Mr. St. Johns was elected to the Dieringer School Board in 2013 as a first-time candidate. He filed both of his initial C-1 and F-1 reports late on October 3, 2013. Mr. St. Johns has two prior violations for PDC Case No. 14-106, and PDC Case No. 13-148, and he failed to file an F-1 report for all of calendar year 2013 and calendar year 2014.

Mr. St. Johns is not eligible for a brief enforcement hearing under the provisions of WAC 390-37-165 because, he failed to file the F-1 report that was the subject of a prior violation in PDC Case No. 14-106.

Staff recommended that the Commission assess a penalty of \$500 for the F-1 violation and a \$300 penalty for the C-1 violation.

Commissioner Levinson asked that the staff recommendation include the requirement of filing the missing reports as well as an assessment of the penalty.

Mr. Young stated that this had not been the PDC practice

and that this could be included in all future cases brought before the Commission.

Linda Dalton stated that the statute allows for the Commission to include in the order to cease and desist from not filing.

Commissioner Levinson asked the Commission to return to PDC Case 16-003 and ensure that the motion include ordering the filer comply with the underlying requirements in the same 30-day period.

Motion 15-110

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

The Commission require Mr. Baker, PDC Case 16-003, to comply with the underlying filing requirements in the same 30-day period.

Commissioner Bridges offered a friendly amendment that the specific language in RCW 42.17A.755(4) be added to the order such that the order contain the language that the respondent must cease and desist from the activity that constitutes a violation.

Commissioner Levinson accepted.

Final Motion:

The Commission, pursuant to RCW 42.17A.755(4), Mr. Baker be ordered to cease and desist from failing to file his reports and submit the two reports within the same 30 days.

The motion was passed unanimously.

Commissioner Levinson asked staff to include this language in all matters regarding the failure to comply with filing in the future.

Motion 15-111

Moved by Commissioner Bridges, seconded by Commissioner Levinson that:

The Commission find Mr. St. Johns in violation of RCW 42.17A.700 for failing to file a personal affairs financial statement as an incumbent school director for the Derringer school district for 2014, and a violation of RCW 42.17A.205 for failing to file a candidate statement C-1 as a candidate for reelection in 2015. The Commission assesses a penalty of \$500 per violation and that he comply with RCW 42.17A.755(4) and cease and desist from filing the late reports and that the penalties be paid within 30-days of the final order.

The motion was passed unanimously.

Commissioner Levinson asked staff to communicate with the filer and legal counsel for the school district indicating the posture of the cases and failure to comply in toto.

As an incumbent it is expected that the District will ensure that its school board members are in compliance with the rule.

Charles Eakins, PDC Case No. 16-104
(Request for Reconsideration)

Kurt Young presented Charles Eakins' request for reconsideration of a final Order entered in a Brief Enforcement Hearing in PDC Case No. 16-104.

Charles Eakins participated via telephone.

Mr. Young stated that Mr. Eakins was assessed a civil penalty of \$300 in accordance with the C-1 and F-1 penalty schedule in WAC 390-37-165. Mr. Eakins is asking that the Commission reconsider the finding that he violated RCW 42.17A.205 by failing to file a Candidate Registration (C-1 report) and violated RCW 42.17A.700 by failing to file a Personal Financial Affairs Statement (F-1 report) within two weeks of becoming a candidate for Mukilteo City Council in the 2015 general election, or by no later than May 31, 2015.

Mr. Young stated that a Brief Enforcement Hearing was held on August 13, 2015. Respondent did not appear or participate. An initial order was entered on August 21, 2015, making Findings of Fact, Conclusions of Law, and assessing a \$300 civil penalty against Respondent in accordance with WAC 390-37-165. The initial order became a final order on September 15, 2015.

Mr. Young noted that the Respondent stated that he had no knowledge of the C-1 or F-1 filing requirements, and that he did not receive notice of the August 13, 2015 Brief Enforcement Hearing.

Staff recommended that the Commission take no further action in this matter.

Motion 15-112

Moved by Commissioner Bridges, seconded by Commissioner Levinson that:

The Commission deny the request for reconsideration.

The motion was passed unanimously.

Katrina Minton-Davis, PDC Case No. 16-208 (Request for Reconsideration)

Kurt Young presented Katrina Minton-Davis' request for reconsideration of a final Order entered in a Brief Enforcement Hearing in PDC Case No. 16-208.

The matter involved the allegation that Ms. Minton-Davis violated RCW 42.17A.205 by failing to file a Candidate Registration (C-1 report) within two weeks of declaring her

candidacy for re-election as City Councilmember for the City of Bonney Lake in 2015.

Mr. Young stated that a brief enforcement hearing was held on August 13, 2015 and the initial order was entered assessing a \$150 civil penalty.

Mr. Young stated that Ms. Minton-Davis requests that the Commission reconsider the order, Ms. Minton-Davis has filed the missing C-1 report, signed statement of understanding, and has paid \$100 penalty. Mr. Young noted that staff had confirmed that the warning letters were sent to an incorrect address. Ms. Minton-Davis had updated her mailing address on the Pierce County election website. Staff confirmed that she had not received proper service of the warning letters.

Staff recommended that The Commission vacate the penalty assessed and refund the \$100 penalty collected.

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

The Commission accept the staff recommendation and vacate the findings of facts, conclusion of law, and order in PDC Case No 16-208 and refund to Ms. Minton-Davis the \$100 penalty that was collected.

The motion was passed unanimously.

Motion 15-113

Rule Making

Discussion and possible approval of draft proposed language to amend:

- WAC 390-05-400 Changes in Dollar Amounts
- WAC 390-16-050 Forms for Contributions and Expenditures of Out of State Political Committees

Lori Anderson presented for discussion and possible approval draft language adjusting dollar amounts found in RCW 42.17A.

Ms. Anderson noted that at the beginning of every even-numbered year, RCW 42.17A.125(1) provides that the Commission shall increase or decrease the contribution limits and other dollar amounts enacted by Initiative 134 and subsequent legislation. She reviewed the formula used in creating the new target range. Ms. Anderson noted that the law also requires an annual modification to the disclosure threshold for large contributions reported by an out-of-state political committee.

Staff requested that the Commission decide whether to make inflationary adjustments to the dollar amounts and, if necessary, approve the draft language proposed. Staff also requested that the Commission approve the proposed draft language to amend WAC 390-16-050 as presented in the attachments.

If approved, the language will be filed with the Code

Reviser and a public hearing will likely be scheduled for the January 2016 meeting.

Motion 15-114

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

The Commission adopt proposal “A” of the draft language to increase limits and other amounts in WAC 390-05-400.

The motion was passed unanimously.

Motion 15-115

Moved by Commissioner Bridges, seconded by Commissioner Asay that:

The Commission approve the draft language that will amend and reflect the disclosure threshold for large contributions and reported by an out-of-state political committee in WAC 390-16-050.

Commissioner Levinson noted that because the Commission is working to eliminate distinctions between in-state and out-of-state requirements in order to simplify filings for the regulated community, she would vote no.

The motion was passed 2 yes, Commissioners Asay and Bridges and 1 No, Commissioner Levinson.

Staff Reports

Compliance and Enforcement

Tony Perkins updated the Commission on the status of the backlog of pending complaints noting that an additional 11 complaints have been removed from the backlog list.

Mr. Perkins reviewed the charts and tables presented to the Commission in regards to the pending complaints. He noted that all new complaints will be entered into the Fresh Desk system. This will provide the same level of reporting to the public and the Commission.

Commissioner Levinson requested that staff report the progress of the backlog in a way that would be meaningful to the public. It is when a case is completed that matters. Once all of the issues of a case have been addressed, it is then at that point complete and the backlog would be eliminated.

Additionally, she asked that the staff project ahead regarding the Commission hearing dates and consider a more planful way of completing the backlog of cases.

Prioritizing Cases

Mr. Perkins presented and reviewed a proposal of tools and criteria that staff would employ in prioritizing cases. Mr. Perkins referenced WAC 390-37-061 a new rule proposed

for adoption that provides for the factors for staff to consider in whether a formal investigation is needed. The rule provides tools that would allow staff to rank cases that would be formally investigated.

The Commission requested that PDC staff review weekly with the Executive Director the prioritization of cases and determine the impact and ramification on the existing caseload and ensure that the AAG assigned knows the priority that is placed on any given case.

Chief Information Officer

James Gutholm reported that the project status report symbols have been changed to allow for easy identification if the report is printed in black and white.

Mr. Gutholm provided an update on the procurement for a new website. Staff continues to score proposals at this time.

Mr. Gutholm reported that the first stakeholder meeting for the e-filing lobbyist application redesign has been scheduled for October 29. He provided copies of information sent out to the stakeholder group for the Commission to review.

Mr. Gutholm provided examples (screenshots) of the new online reporting for customer service, a case management system, Fresh Desk.

Customer Service

Lori Anderson had no additional information to add to her submitted staff report.

Executive Session

The Commission went into executive session at 12:35 p.m. to discuss pending and potential litigation with legal counsel.

The Commission returned to the public session at 1:00 p.m.

Enforcement

Gina Tveit, PDC Case No. 15-045

Chad Standifer presented alleged violations by Gina Tveit, a candidate for Stevens County District Court Judge of: (1) failing to timely file a Candidate Registration within two weeks of receiving an in-kind contribution; (2) failing to timely file a C-3 report, C-4 reports, and orders placed; (3) accepting an in-kind contribution that exceeded contribution limits; and (4) failing to file contribution and expenditure reports using the required electronic method.

Assistant Attorney General Linda A. Dalton represented the PDC. Assistant Attorney General Chad C. Standifer represented PDC staff. Attorney Jerry Moberg represented Respondent Gina Tveit. Ms. Tveit was present and testified on her own behalf. PDC Director of Compliance Tony

Perkins testified for PDC staff.

Mr. Standifer reviewed the allegations that Gina Tveit violated RCW 42.17A.410 by accepting an in-kind contribution for her 2014 election that exceeded contribution limits; violated RCW 42.17A.235 and RCW 42.17A.240 by failing to timely file C-3 Monetary Contributions reports and C-4 Summary, Full Reports of Contributions and Expenditures, including debts and obligations; violated RCW 42.17A.205 by failing to timely file a C-1 Candidate Registration within two weeks of becoming a candidate for office; and violated RCW 42.17A.245 by failing to file contribution and expenditure reports using the required electronic method.

The parties jointly submitted a signed partial Stipulation as to Facts. Mr. Standifer summarized the Stipulation as to Facts and asked the Commission to accept the Stipulation. Mr. Moberg also urged the Commission to accept the Stipulation.

The Commission went into closed deliberations at 3:40 pm and returned to the public meeting at 3:50 p.m.

Motion 15-116

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

The Commission accept the Stipulation as to Facts.

The motion was passed unanimously.

Witnesses Tony Perkins and Gina Tveit provided testimony and were cross examined by Chard Standifer and Jerry Moberg.

Motion 15-117

Moved by Commissioner Bridges, seconded by Commissioner Levinson that:

The Commission finds violations and assess a civil penalty of \$4,500. Of the total penalty amount, \$1,500 is suspended based on Respondent's compliance with the following conditions:

- Respondent file her 2014 contribution and expenditure reports electronically within 30 days of the date of the final order;
- Respondent commit no violations of RCW 42.17A within four years of the date of the final order in this matter; and
- Respondent pays the non-suspended portion of the penalty (\$3,000) within 30 days of the date of the final order.

The motion was passed unanimously.

Commissioner Bridges stated that the stipulated findings set forth the findings that are necessary in addressing the violations other than the in-kind contributions.

Commissioner Bridges, speaking for himself, felt that the facts in this case were as follows: In December 2013 the Judge and her father had discussions concerning a potential opponent who might file against her in the upcoming 2014 election cycle. Also, in December 2013 the Judge went to the Superior Clerk's office and obtained all of the records that pertained to her potential opponent. The evidence indicates that the Judge's father engaged a private investigator in January of 2014 and ultimately that investigator rendered a report. The investigator was paid by the Judge's father, the amount makes this an over limit contribution.

The evidence is clear, undisputed, that none of the report would have been generated and only came about because of the potential candidate, and the private investigator would not have been hired if it were not for the election. The private investigator contacted the Judge and she received the investigator's report, it is not clear if the report was from the investigator or her father, she then used the report and filed the report with the Bar association.

Commissioner Bridges stated that in looking at "in cooperation, consultation, or in concert with" the actual use of the report was the key to the decision.

Commissioner Levinson stated that the issue about "cooperation, consultation, or in concert with" is if the candidate is not aware of the contribution then those are the indicia to which you look. The importance is receipt of the report, and you then have personal knowledge that an expenditure had been made.

Commissioner Levinson asked for clarification whether the contribution limit at the time was \$1800 as opposed to \$1900 because of the language in finding 3.31 that referenced an \$1800 limit. The staff affirmed the limit in effect was \$1900.

Executive Director

Evelyn Fielding Lopez reported that the PDC will extend the personal service contract with Susan Harris to continue to help with the backlog of complaints. She will assist Evelyn with administrative issues and assist in guiding the Compliance division.

Ms. Lopez noted that she is in the process of looking for a reporting tracking tool that staff will use to report tasks and

ongoing items.

Ms. Lopez noted that weekly compliance team meetings to discuss complaints filed and compliance cases have been occurring and will continue.

Ms. Lopez discussed pre-2015 investigations and the status of the investigations which she captured in a chart for the Commission.

Ms. Lopez discussed the status of Commission's interpretations and conversion to rule. She noted that a number of the interpretations have been converted to rule. There is a group of interpretations that staff will begin working on in November to develop a more comprehensive rule dealing with the use of facilities. This work would take several of the current interpretations off of the list of ones to convert to rule. She also noted the interpretations that staff suggests that the Commission leave as interpretations at this time.

Commissioner Levinson asks that the Commission be prompted to look at interpretations for review a couple times a year.

Adjourn

Approved

The meeting adjourned at 4:15 p.m.

December 3, 2015