



State of Washington
PUBLIC DISCLOSURE COMMISSION

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9:30 a.m.
October 24, 2013

MINUTES – REGULAR MEETING

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

COMMISSION MEMBERS PRESENT

Amit Ranade, Chair
Grant Degginger, Vice Chair
Barry Sehlin, Member
Kathy Turner, Member

STAFF PRESENT

Andrea McNamara Doyle, Executive Director
Nancy Krier, General Counsel
Linda Dalton, Sr. Assistant Attorney General
Lori Anderson, Communications & Training Officer
Michael Smith, Chief Technology Officer
Jana Greer, Outreach Specialist
Phil Stutzman, Director of Compliance
Kurt Young, Compliance Officer
Jennifer Hansen, Filer Assistance Specialist
Nancy Coverdell, Executive Assistant

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Amit Ranade at 9:36 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Opening Comments

Chair Ranade called the meeting to order.

Citizen Comments/Concerns

There were no citizen comments/concerns.

Commissioner Comments/Concerns

There were no Commissioner comments/concerns.

Commission Meeting Minutes

Moved by Commissioner Degginger, seconded by Commissioner Sehlin that:

Motion 14-027

The Commission adopt the minutes of the September 26, 2013 regular meeting as written.

The motion passed unanimously.

FY 13 Annual Report Presentation

Jana Greer, Outreach Specialist, presented the FY13 Annual Report. Ms. Greer highlighted the new look and theme of the report. She noted a statement from the executive director's letter regarding the PDC's struggles to do more with less after the loss of twenty-five percent of funding and

one-quarter of staff during the cutbacks. She also reiterated that the PDC has taken advantage of opportunities to review operations and revise procedures to make the enforcement program more efficient and continues to look for ways to innovate and adapt within our current available resources. Ms. Greer provided highlights from the executive summary, policy, office overview, and Commissioners and executive staff biographies sections.

Commissioner Degginger noted there was a lot of detailed information in the report which showed a lot of good work was completed. For next year, he suggested creating more continuity between the sections in formatting to make it easier for the reader.

Commissioner Turner appreciated the information and thought it was excellent as her first annual report. She noted all the information included was very important to the reader but also agreed with Commissioner Degginger's comments.

Chair Ranade concurred with Commissioner Degginger's comments on the formatting. He would also like to include the message that the PDC can't continue to do its work if its budget keeps getting cut.

Commissioner Sehlin stated that much of the information about resource challenges was included in the report but it's scattered in different areas. He suggested bringing that message together in one place.

Chair Ranade would like to send the message that we did a lot of things, but could do a lot more if the agency was fully funded.

The Commissioners asked that the suggested changes be made to the FY13 Annual Report before distribution.

Strategic Plan

Andrea McNamara Doyle, Executive Director, presented the final revised draft of the 2013-15 strategic plan. Ms. Doyle provided a proposed order for undertaking the activities by including a "who" and "when" section for each of the action items. The revised draft also included additional performance measure targets. She highlighted the six goals and noted that after the first two "critical goals" the remaining goals were not listed in any priority order. Ms. Doyle expects the PDC to initiate about one-third of the strategic plan items in this next quarter with activities in all of the goal areas.

The Commission discussed Commissioner Degginger's comment that there was no strategy to address funding under the critical goals section and he would like the plan to be more explicit about funding to deliver and maintain services.

Motion 14-028

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

The Commission adopt the 2013-2015 strategic plan as amended by the discussion.

The motion passed unanimously.

**Role of the Commission/Commissioners/
Executive Director**

Nancy Krier, General Counsel, provided a historical review on how certain Commission decisions and delegations have come to pass throughout the agency's past. The history included decisions that have been delegated in various ways to the executive director and decisions about posting information on the website.

The Commission has delegated many decisions to the executive director, including day-to-day operations related to Commission meetings and the agency website. In addition to the statute, the Commission has used a variety of mechanisms to define activities of the executive director through rulemaking. Other tools have included the executive director position description form, Commission action at meetings, delegation in a

formal policy, and through a strategic plan update.

The posting of items on the website such as agendas was originally required by statute. The Commission also adopted a policy about when reports filed with the Commission would be posted online, which was later converted into a rule. The posting of modification materials related to F-1s occurred in 2001, which staff recall was consistent with the direction of the Chair. The posting of modification materials came about as a processing tool. The modification cover sheet that summarizes the request was a later tool developed by staff to assist Commissioners to easily see what the request entails. In April 2013, the executive director departed from prior practices by posting only the cover sheets due to a local attack on a judge.

Commissioner Degginger commented that the historical information is very helpful and important.

Reporting Modification

New

Don Benton, State Senator, 17th Legislative District

Jennifer Hansen, Filer Assistance Specialist, presented Senator Don Benton's request for reporting modification.

Senator Benton joined the meeting by conference call.

Ms. Hansen stated that Senator Benton is requesting a reporting modification that exempts him from disclosing business customers that paid \$10,000 or more to an entity known as National Advertising Consultants, Inc., or more commonly the Benton Group.

She further stated that Senator Benton is requesting a reporting modification for the current F-1 filed in 2013, as well as a retroactive modification that covers the previous four years. In addition to the modification request materials, Ms. Hansen described that the Commissioners received copies of Senator Benton's amended reports. These amendments did not include information regarding the modification requests, but included other updates.

Senator Benton has indicated there are 600 total clients of the Benton Group with 120 of these clients paying \$10,000 or more. Senator Benton discussed the undue hardship and competitive disadvantage in disclosing all customers.

Motion 14-029

Moved by Commissioner Turner, seconded by Commissioner Degginger that:

The Commission enter closed session to deliberate on the modification.

The motion passed unanimously.

The Commission entered into and returned from closed session.

Motion 14-030

Moved by Commissioner Degginger, Commissioner Sehlin seconded that:

The Commission grant the reporting modification subject to two conditions: that Senator Benton disclose in his F-1 (1) all customers disclosed on his company's website and in promotional materials; and (2) any Washington customers that paid \$10,000 or more.

The motion passed unanimously.

Commissioner Turner asked staff to assist Senator Benton in checking his supplemental page related to reporting of individual stock accounts and holdings.

Legislative/Budget

Ms. Doyle reported on the draft of legislative principles for evaluation of future legislative proposals. The first principle relates directly to the agency's new 2013-15 Strategic Plan, and states that the Commission will support legislation that helps the agency achieve its strategic plan goals. The remaining principles address other key issues the Commission has traditionally focused on in evaluating the merits of legislative proposals. She also proposed three additional areas the Commission may also wish to address with guiding principles.

Commissioners commented that it is a very helpful and well thought out list, and should include the additional three items.

Motion 14-031

Moved by Commissioner Degginger, seconded by Commissioner Sehlin that:

The Commission adopt the draft legislative principles as amended and discussed.

Ms. Doyle informed the Commission that two IT supplemental budget requests were submitted and are in the review phase at the Office of Financial Management (OFM). She indicated there might not be a response back until the Governor's budget comes out in December. Ms. Doyle also informed the Commission that she received confirmation from OFM that the Governor and the director of OFM received the letter that the Chair sent to Governor Inslee requesting to remove the supplemental IT budget reduction. She noted the request was considered but denied by OFM.

COGEL

Ms. Doyle provided information about the annual COGEL conference scheduled in Quebec City, Canada on December 8-11, 2013.

Rulemaking

Lori Anderson, Communications & Training Officer, provided a status report on the current rulemaking development agenda including the additional topics added since July. The agency is about two-thirds the way through the development agenda as it was presented in July. There are public hearings scheduled for December. Ms. Anderson provided a tentative timeline for the work that will go into the personal financial affairs review, which will start after the elections with a goal of being completed by the end of June or July.

Nancy Krier, General Counsel, provided background information and options for how to move forward on reporting by lobbyists including entertainment, food, beverages and gifts. Ms. Krier asked the Commission if it would like to begin

the rulemaking to adjust all the thresholds in all the lobbying forms, not just the L-2, because the law requires any adjustments to be applied to all dollar amounts in the same category. She also asked if the Commission would like to revisit the view that entertainment includes most food and beverages and all receptions, or whether the Commission would like to parse out separately food and beverage reporting.

Commission Degginger stated yes to both questions.

Commissioner Sehlin agreed and would like to see the reporting simplified for all involved.

Commissioner Turner stated it's important to update the numbers.

Ms. Krier will proceed with starting a plan to get stakeholder input, not just on L-2 but all of the lobbyist reporting thresholds. Staff will continue to work with Mike O'Connell of the Legislative Ethics Board and others on the gift issues that might be implicated for both the F-1 filer as well as lobbyists.

Social Media – Continued from Retreat

Michael Smith, Chief Technology Officer, provided a PowerPoint presentation on social media.

Ms. Krier provided information relating to public agencies' use of social media to reach the public such as Facebook and Twitter. She indicated there are record issues as well as staffing issues.

Mr. Smith stated we have been waiting for standardized terms of service from a number of the social media providers. He described the State did form a social media work group but we have not yet seen a directive on how to utilize these tools.

Ms. Krier provided information regarding examples of mobile apps being used or developed in other states, illustrating the direction in which some campaign finance agencies are headed in.

Commissioner Degginger stated that the mobile app opportunity seems to be a greater opportunity and more useful opportunity than Twitter. He noted information we could make available on a mobile app seems to be more consistent with the agency's mission.

Commissioner Turner suggested that Twitter might be a useful tool to help remind filers about deadlines.

Executive Session/Working Lunch

The Commission went into Executive Session at 12 noon.

The Commission returned to public session at 1:10 p.m.

Enforcement

Review/Reconsideration by full Commission of brief enforcement hearing orders:

- *Douglas Lenker*, PDC Case No. 13-283

Chair Ranade stated he will be recusing from the ACLU enforcement matter on the agenda since he is currently a cooperating attorney for the ACLU on an unrelated case.

Kurt Young, Compliance Officer, reviewed Douglas Lenker's PDC Case No. 13-283.

At the August 1, 2013 brief enforcement hearing the Chair found Mr. Lenker in violation of RCW 42.17A.700 for failing to file an F-1 report. A \$400 penalty was assessed.

Mr. Lenker requested review.

Motion 14-032

Moved by Commissioner Degginger, seconded by Commissioner Sehlin that:

The Commission uphold the initial order and the initial order become the final order.

The motion passed unanimously.

- *Travis Lisenbee*, PDC Case No. 13-284

Mr. Young reviewed Travis Lisenbee's PDC Case No. 13-284.

At the August 1, 2013 brief enforcement hearing the Chair found Mr. Lisenbee in violation of RCW 42.17A.700 for failing to file an F-1 report. A \$100 penalty was assessed of which \$75 was

suspended.

Ms. Lisenbee requested review.

Motion 14-033

Moved by Commissioner Degginger, seconded by Commissioner Sehlin that:

The Commission move to vacate the initial order and dismiss the allegations.

The motion passed unanimously.

- *Marylene Rios*, PDC Case No. 13-312 Mr. Young reviewed Marylene Rios' PDC Case No. 13-312.

At the August 1, 2013 brief enforcement hearing the Chair found Ms. Rios in violation of RCW 42.17A.700 for failing to file an F-1 report. A \$150 penalty was assessed.

Ms. Rios requested review.

Motion 14-034

Moved by Commissioner Degginger, seconded by Commissioner Turner.

The Commission move to vacate the initial order and dismiss the allegations.

The motion passed unanimously.

- *Destiny Stein*, PDC Case No. 13-325

Mr. Young reviewed Destiny Stein's request, PDC Case No. 13-312.

At the August 1, 2013 brief enforcement hearing the Chair found Ms. Stein in violation of RCW 42.17A.700 for failing to file an F-1 report. A \$100 penalty was assessed.

Ms. Stein requested review.

Motion 14-035

Moved by Commissioner Degginger, seconded by Commissioner Sehlin.

The Commission move to vacate the initial order and dismiss the allegations.

The motion passed unanimously.

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Reports to Commission

- *Michael King, Senate Democratic Campaign Committee (SDCC), and The Roosevelt Fund, Case No. 13-023, involving alleged violations by:*
 - Mr. King of RCW 42.17A.435 by concealing the true nature of committee expenditures, and RCW 42.17A.445 by converting committee funds to his personal use; and
 - Alleged violations by the SDCC and The Roosevelt Fund of RCW 42.17A.240 by filing inaccurate C-4 reports of campaign expenditures.

Phil Stutzman, Director of Compliance, presented the staff report and recommendations regarding PDC Case No. 13-023. Mr. Stutzman also provided a handout of what was recently filed by the Senate Democratic Campaign Committee (SDCC).

Mr. Stutzman summarized staff's analysis based on the results of a criminal investigation and court proceedings in King County. The King County Prosecutor filed criminal charges against Mr. King, charging him with four counts of theft in the first degree and four counts of theft in the second degree with respect to the funds misappropriated from the SDCC and The Roosevelt Fund.

Mr. Stutzman provided the background of information leading to those criminal charges; and to the PDC Staff initiated complaint in PDC Case No. 13-023 and the PDC investigation in that case.

Mr. Stutzman reported that on October 3, 2013, Mr. King pled guilty in King County Superior Court to four counts of first degree and four counts of second degree theft charges. He is scheduled for sentencing on November 22, 2013, and the prosecutor is recommending a penalty of two years in prison and restitution of \$250,000.

Mr. Stutzman provided options for the Commission to accept the PDC investigations as complete, or to direct further investigation.

Moved by Commissioner Degginger, seconded by Commissioner Sehlin that:

The Commission move to accept the PDC investigation as complete with respect to Mr. King and take no further action on the grounds that resolution of the criminal matter adequately addresses the same activity that suggests apparent violations of RCW 42.17A and that further investment of state resources is therefore not in the public interest.

The motion passed unanimously.

Motion 14-036

Motion 14-037

Moved by Commissioner Degginger, seconded by Commissioner Sehlin that:

The Commission move to accept the investigation as complete with respect to the SDCC and The Roosevelt Fund and issue an order directing staff to take no further action regarding the Respondents SDCC or the The Roosevelt Fund, on the condition that appropriate amended reports are filed timely with the PDC.

The motion passed unanimously.

Chair Ranade left the meeting at 1:40 p.m.

- *American Civil Liberties Union, et al.,* (45-Day Citizen Action Letter) Case No. 13-019, involving alleged violations of RCW 42.17A.205, 42.17A.235, and 42.17A.240 by failing to register and file the required contribution and expenditure reports with the PDC as a political committee in support of I-502, a statewide initiative on the November 6, 2012 general election ballot.

Mr. Young presented the staff report and recommendations regarding the 45-day citizen action letter filed by three individuals against the American Civil Liberties Union (ACLU), ACLU National, ACLU Washington, ACLU Washington Foundation and ACLU Endowment Fund in September 2012.

The complaint alleged that ACLU National, ACLU Washington, ACLU Washington Foundation and ACLU Washington Endowment failed to timely register as a political committee in violation of RCW 42.17A.205, 42.17A.235, and 42.17A.240 by failing to register and file the required contribution and expenditure reports in connection with their activities supporting Initiative 502 regarding legalization of marijuana in Washington.

Mr. Young explained that in December 2012 before staff could complete its report of investigation to the Commission, the complainants filed a lawsuit in Thurston County. Staff suspended its investigation and all work on the matter pending restitution of that court activity. In July 2013 the citizen suit against ACLU was dismissed and staff completed its investigation.

Mr. Young reviewed the staff recommendations to dismiss the allegations and recommend no further action by the Attorney General and prosecuting

attorneys, and to caution the ACLU Washington Foundations with respect to the C-7 reports.

Motion 14-038

Moved by Commissioner Sehlin, seconded by Commissioner Turner that:

The Commission enter an order dismissing the allegations that ACLU National, ACLU Washington, ACLU Washington Foundation and ACLU Washington Endowment were political committees required to register and report with the PDC and recommend the Attorney General and county prosecuting attorneys take no further action.

The motion passed unanimously.

Staff Reports

Ms. Doyle reported that since July 2013 the PDC has received 45 new complaints. On another matter, she commented that PDC became more involved in the Combined Fund Drive this year and raised \$775 during three events. She thanked Ms. Anderson, Ms. Greer, and Ms. Lince for sponsoring these events.

Adjourn

The meeting adjourned at 2:30 p.m.