



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

Metro Parks Tacoma
Jack C. Wilson, Executive Director
4702 South 19TH Street
Tacoma, WA 98405

In Re the Matter of)	PDC Case No. 11-030
Metro Parks Tacoma)	Findings of Fact,
)	Conclusions of Law and
Respondent.)	Order Imposing Fine
)	

A brief enforcement hearing (brief adjudicative proceeding) was held February 28, 2011, in Room 206, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington to consider whether Metro Parks Tacoma violated RCW 42.17.190 by failing to timely file reports of Lobbying by State and Local Government Agencies (PDC Form L-5) disclosing lobbying activities during calendar years 2007 through 2009, and the first two quarters of 2010.

The hearing was held in accordance with Chapters 34.05 and 42.17 RCW and Chapter 390-37 WAC. Commission Chair Dave Seabrook was the Presiding Officer. The Commission staff was represented by Kurt Young, Compliance Officer. Nancy Davis, Government Relations Officer for Metro Parks Tacoma, appeared in person and presented testimony to the Presiding Officer.

A brief enforcement hearing notice was sent to Ms. Davis on February 17, 2011. Having considered the evidence, the Presiding Officer finds as follows:

FINDINGS OF FACT

1. The Respondent retained the services of a contract lobbyist, and on January 16, 2007, TK Bentler filed a Lobbyist Registration (PDC Form L-1) disclosing the Respondent had retained his services as a contract lobbyist, and that he would be paid \$40,000 per year to lobby during calendar years 2007 and 2008.
2. On January 8, 2009, TK Bentler filed an L-1 disclosing the Respondent had retained his services as a contract lobbyist, and that he would be paid \$40,000 per year to lobby during calendar years 2009 and 2010.

3. TK Bentler timely filed Monthly Lobbyist Expense reports (PDC Form L-2) disclosing payments received from the Respondent to lobby during calendar years 2007 through 2010.
4. The Respondent filed 17 L-5 reports on October 14, 2010, disclosing park district lobbying activities undertaken during calendar years 2007 through 2009, and the first three quarters of 2010. The L-5 reports disclosed park district lobbying activities totaling \$159,692 during calendar years 2007 through 2009, and the first two quarters of 2010, which included \$155,000 for payments made to TK Bentler for contract lobbying services.
5. Four of the L-5 reports filed by the Respondent disclosed \$4,692 for previously unreported time spent lobbying by park district employees during the first quarter of 2007, the first quarter of 2008, the first quarter of 2009, and the first quarter of 2010, as detailed below.
6. The remaining 13 L-5 reports filed by the Respondent disclosed contract lobbyist payments made to TK Bentler, and no lobbying activities were undertaken by school district officials or employees during the last three quarters of 2007, the last three quarters of 2008, the last three quarters of 2009, and the second quarter of 2010. No L-5 reports were filed by the Respondent during the fourth quarter of 2007, the fourth quarter of 2008, and the fourth quarter of 2009 because no lobbying activities took place during those quarters.

L-5 reports disclosing Metro Parks Tacoma employee lobbying expenses

7. The L-5 report for the first quarter of 2007 was filed by the Respondent on October 14, 2010, 1,262 days late, disclosing the park district's lobbying expenses totaling \$15,797, which included \$797 in time spent lobbying by Nancy Davis for four percent of her time. The L-5 report also disclosed \$15,000 in payments made to TK Bentler for services as a contract lobbyist, and was due to be filed by April 30, 2007.
8. The L-5 report for the first quarter of 2008 was filed by the Respondent on October 14, 2010, 897 days late, disclosing the park district's lobbying expenses totaling \$16,040, which included \$1,040 in time spent lobbying by Ms. Davis for five percent of her time. The L-5 report also included \$15,000 in payments made to TK Bentler for services as a contract lobbyist, and was due to be filed April 30, 2008.
9. The L-5 report for the first quarter of 2009 was filed by the Respondent on October 14, 2010, 532 days late, disclosing the park district's lobbying expenses totaling \$16,524 which included \$1,524 in time spent lobbying by Ms. Davis for seven percent of her time. The L-5 report also disclosed \$15,000 in payments to TK Bentler for services as a contract lobbyist, and was due to be filed by April 30, 2009.
10. The L-5 report for the first quarter of 2010 was filed by the Respondent on October 14, 2010, disclosing the park district's lobbying expenses totaling \$16,331, which included \$1,331 in time spent lobbying by Ms. Davis for six percent of her time.

11. The L-5 report for the first quarter of 2010 also disclosed \$15,000 in payments made to TK Bentler for services as a contract lobbyist, and was due to be filed April 30, 2010.
12. Ms. Davis stated the Respondent was not aware of the L-5 reporting requirement. She said the park district thought when the Executive Director signed the L-1 hiring TK Bentler as a contract lobbyist, the district did not have any further reporting obligations.
13. Ms. Davis stated that Mr. Bentler was responsible for the majority of the Respondent's lobbying activities. Ms. Davis stated she disclosed the small amount of lobbying activities she was involved with, which occurred primarily during the legislative session. She said her lobbying duties were limited to introducing park district elected Commissioners to legislators, so they could discuss the park district's legislative priorities.

CONCLUSIONS OF LAW

Based on the above facts, as a matter of law, the Presiding Officer concluded as follows:

1. This matter was duly and properly convened and all jurisdictional, substantive and procedural requirements have been satisfied.
2. The Respondent violated RCW 42.17.190 by failing to timely file four L-5 reports disclosing lobbying expenditures for park district employee time spent lobbying during the first quarter of 2007, the first quarter of 2008, the first quarter of 2009, and the first quarter of 2010.

ORDER

ON the basis of the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that the Respondent is assessed a civil penalty of \$200, of which \$100 is suspended on the condition that no violations of RCW 42.17 are committed for the next four years from the date of the order. The Respondent shall pay the \$100 non-suspended portion of the penalty within 30 days.

IT IS HEREBY ORDERED that the remaining allegations of late-filed L-5 reports are dismissed.

This is an **Initial Order** of the Public Disclosure Commission. There are two ways the Respondent may appeal this order to the Commission. Once the order becomes a final order, it may also be appealed to Superior Court.

REVIEW OF INITIAL ORDER - COMMISSION

- a. The Respondent may request a review of this Initial Order by the entire Commission.

- b. The request may be made orally or in writing, and must be received at the Public Disclosure Commission office within **21 business days** after the postmark date of this Initial Order. The Respondent must state the reason for the review, and identify what alleged errors are contained in the initial order.
- c. If the Respondent requests a review, no penalty need be paid until after the Commission rules on the request.
- d. By law, a request for review of the initial order is deemed to have been denied if the Commission does not make a disposition of the matter within 20 business days after the request is submitted.
- e. If the Commission is unable to schedule a meeting to consider the Respondent's request for review within 20 business days, the Initial Order becomes a Final Order and the matter will automatically be treated as a request for reconsideration of a final order unless the Respondent advises the Commission otherwise. The matter will be scheduled before the full Commission as soon as practicable.
- f. A request for reconsideration must be in writing. Therefore, if the request for review of the Initial Order was made orally and deemed to have been denied because it could not be scheduled for consideration within 20 business days, the request must now be put in writing. (See Reconsideration of Final Order below.)
- g. If no request for review is received within 21 business days, this order will automatically become a **Final Order** of the Commission, and the Respondent will be legally obligated to pay the penalty unless reconsideration has been sought or the matter has been timely appealed to Superior Court. (RCW 42.17.395, RCW 34.05.470 and RCW 34.05.570).

RECONSIDERATION OF FINAL ORDER - COMMISSION

- a. Any party may ask the Commission to reconsider a final order. The request must be in writing and must include the specific grounds or reasons for the request. Grounds for reconsideration shall be limited to:
 - i) A request for review was deemed denied in accordance with WAC 390-37-144(4);
 - ii) New facts or legal authorities that could not have been brought to the commission's attention with reasonable diligence. If errors of fact are alleged, the requester must identify the specific evidence in the prior proceeding on which the requester is relying. If errors of law are alleged, the requester must identify the specific citation; or
 - iii) Significant typographical or ministerial errors in the order.
- b. The request must be delivered to the Public Disclosure Commission office within **21 business days** after the postmark date of this order.
- c. The Public Disclosure Commission is deemed to have denied the request for reconsideration if, within 20 business days from the date the request 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. (RCW 34.05.470).
- d. The Respondent is not required to ask the Public Disclosure Commission to reconsider the final order before seeking judicial review by a superior court. (RCW 34.05.470).

FURTHER APPEAL RIGHTS – SUPERIOR COURT

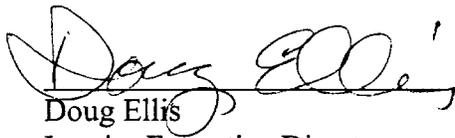
- a. A **final order** issued by the Public Disclosure Commission is subject to judicial review under the Administrative Procedure Act, chapter 34.05 RCW. (RCW 42.17.395(5)). The procedures are provided in RCW 34.05.510 - .598.
- b. The petition for judicial review must be filed with the superior court and 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. (RCW 34.05.542(2)).
- c. Service is defined in RCW 34.05.010(19) as the date of mailing or personal service.

ENFORCEMENT OF FINAL ORDERS

- a. If there is no timely request for review or reconsideration, this Initial Order becomes a Final Order. The Respondent is legally obligated to pay any penalty assessed.
- b. The Commission may seek to enforce a 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 timely filed under chapter 34.05 RCW. This action will be taken without further order by the Commission.

Entered this 2nd day of March, 2011.

Public Disclosure Commission


Doug Ellis

Interim Executive Director