



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX
(360) 753-1112 Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

Citizens for Safer Streets & Lower Taxes
Attn: Dave Flink
123 E. Yakima Avenue, Suite 210
Yakima, WA 98901

In Re the Matter of)	PDC Case No. 11-040
Citizens for Safer Streets & Lower Taxes)	Findings of Fact,
)	Conclusions of Law and
Respondent.)	Order Imposing Fine
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A brief enforcement hearing (brief adjudicative proceeding) was held August 10, 2011, in Room 206, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington to consider whether the Respondent, a political committee registered to support Proposition #1, a local ballot measure in the City of Yakima on the February 8, 2011 special election ballot, violated RCW 42.17.080 and RCW 42.17.090 by failing to timely disclose committee expenditures and orders-placed, debts or obligations undertaken in support of Proposition #1.

The hearing was held in accordance with Chapters 34.05 and 42.17 RCW and Chapter 390-37 WAC. Commission Chair Barry Sehlin was the Presiding Officer. The Commission staff was represented by Kurt Young, Compliance Officer. Dave Flink, Treasurer for the Respondent, appeared by telephone and presented testimony to the Presiding Officer.

A brief enforcement hearing notice was sent to Mr. Flink on July 28, 2011. Having considered the evidence, the Presiding Officer finds as follows:

FINDINGS OF FACT

1. The Respondent is a first-time political committee that filed a Committee Registration (PDC Form C-1pc) on December 3, 2010, registering as a local ballot committee in support of Proposition #1 in the City of Yakima, and selecting the full reporting option.
2. Proposition #1, if approved by the voters, would have amended the Yakima City Charter to change the form of government from a Council-Manager to a Mayor-Council form of government.

3. Under the Full Reporting option, political committees supporting a ballot proposition on the February 8, 2011 ballot, were required to file Campaign Summary, Receipts and Expenditures reports (PDC Form C-4), timely disclosing committee contribution and expenditure activities, including all orders-placed.
4. The Respondent was required to file a 21-day pre-special election C-4 report due on January 18, 2011, covering the period of December 1, 2010, through January 17, 2011, and a 7-day pre-special election C-4 report due on February 1, 2011, covering the period January 18 through January 31, 2011. The Respondent was also required to file a post-special election C-4 report due to be filed no later than March 10, 2011, and weekly Monetary Contributions reports (PDC Form C-3) if contributions had been received.
5. The Respondent timely filed its 21-day pre-election C-4 report on January 18, 2011, covering the period of December 1, 2010 through January 17, 2011, disclosing that the campaign received \$17,675 in monetary contributions plus an additional \$4,375 in in-kind contributions. The C-4 report listed no monetary expenditures made during the reporting period.
6. The Respondent filed an amended 21-day pre-election C-4 report on March 30, 2011, disclosing \$5,454 in previously un-reported campaign expenditures made to Yakima Valley Publishing (YVP) for newspaper advertisements, committee yard signs, website design and campaign consulting. The \$5,454 in expenditures represented 14.8 percent of the total committee expenditures made for the special election. The Respondent disclosed the details of the expenditures 71 days late, and more than seven weeks after the February 8, 2011 special election had been held.
7. The Respondent timely filed a post-election C-4 report on March 10, 2011, covering the period February 1 through February 28, 2011. The report disclosed monetary expenditures totaling \$6,978 and \$2,155 in in-kind contributions. Five of the expenditures disclosed on the post-election C-4 report totaled \$6,166, with four of those expenditures being made to Smith Phillips & Dipietro, a local advertising and public relations firm in Yakima.
8. The 7-day pre-special election C-4 report was due to be filed by the Respondent on February 1, 2011, covering the period January 18 through January 31, 2011. None of the five monetary expenditures were properly disclosed on the 7-day pre-election C-4 report as an order-placed, debt or obligation.
9. The Respondent provided invoices for the work conducted by Smith Phillips & Dipietro, and YVP. PDC staff reviewed the invoices which indicated that the orders-placed date for the five expenditures was January 31, 2011. The Respondent was required to include the four expenditures made to Smith Phillips & Dipietro, and the one expenditure made to YVP, as an order-placed, debt or obligation on the 7-day pre-election C-4 report. The five expenditures totaled \$6,166, were disclosed 38 late, and more than a month after the special election was held.

10. Mr. Flink stated that the Respondent did not dispute the charges made by PDC staff. He said the Respondent made some reporting mistakes during the election and improperly disclosed some of the committee's expenditures. He said the Respondent entered the expenditure information into the PDC's ORCA electronic filing software for the 21-day pre-election C-4 report, but failed to upload that information to the PDC when transmitting the amended C-4 report.
11. Mr. Flink said he became aware of the reporting discrepancies due to the blog postings made by Mr. Bonlender, the complainant. He stated that the C-4 totals on the amended 21-day C-4 report reflected the additional expenditures, but acknowledged that the itemized details were reported late. He said the committee officers have learned from the mistakes made during the 2011 election.

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 42.17.080 and .090 by failing to timely disclose committee expenditures and orders-placed, debts or obligations undertaken in support of Proposition #1 in the City of Yakima during 2011.

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 \$400, of which \$150 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.

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 21th day of August, 2011.

Public Disclosure Commission


Doug Ellis
Interim Executive Director