



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

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IN RE COMPLIANCE	)	PDC CASE NO: 12-159
WITH RCW 42.17	)	
	)	
James Fossos and 2011 James Fossos	)	Report of Investigation
Campaign	)	
	)	
Respondent.	)	
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**I. Background**

- 1.1 On June 27, 2011, James Fossos filed a Candidate Registration (C-1 report) declaring his candidacy for re-election to Fire Commissioner for South King Fire and Rescue, and selecting the full reporting option. Mary Fossos, the candidate's spouse, was listed as the campaign treasurer.
- 1.2 Mr. Fossos was first elected as a Fire Commissioner in 1993 to a six-year term, and was subsequently re-elected in 1999 and 2005. He was unopposed for his two prior re-election campaigns, having selected the mini reporting option on his C-1 report in 1999 and 2005.
- 1.3 For his 2011 re-election campaign, Mr. Fossos' opponent was Jerry Galland, the complainant in this matter. Because there were only two candidates, the names of both Mr. Fossos and Mr. Galland only appeared on the November 8, 2011 General election ballot. Mr. Fossos defeated Mr. Galland, and was re-elected Fire Commissioner.
- 1.4 Mr. Galland filed three complaints against Mr. Fossos concerning the 2011 election. The three complaints, filed on November 8, December 14, and December 28, 2011, were combined into one investigation, PDC Case No. 12-159. **See Exhibit #1.**

**II. Allegations**

- 2.1 Mr. Galland's complaints alleged that Mr. Fossos:
  - A. Failed to timely report expenditures and in-kind contributions for political advertising, including newspaper advertising, printing and mailing, and signs;
  - B. Failed to timely file a post-general election Campaign Summary Receipts and Expenditures report (C-4 report);
  - C. Failed to timely disclose contributions on Cash Receipts Monetary Contributions reports (C-3 reports);

- D. Accepted more than \$300 in anonymous contributions during his 2011 campaign, which, if true, would exceed the statutory limit for anonymous contributions. Mr. Galland further alleged that some of the anonymous contributions were attributable to known sources such that Mr. Fossos failed to properly report the names and addresses of some contributors; and
- E. Failed to make his campaign books available for public inspection during the eight days prior to the 2011 general election.

### **III. Findings**

- 3.1 Mr. Fossos' campaign began in late June 2011. Under the Full Reporting option, as a candidate that only appeared on the November 8, 2011, general election ballot, Mr. Fossos was required to file C-3 reports and C-4 reports as follows:
- Weekly C-3 reports were required to be filed every Monday beginning four months prior to the election, disclosing contributions received and deposited for the previous five business days;
  - Monthly C-4 reports were required by the 10<sup>th</sup> of every month or reporting period, that Mr. Fossos received \$200 in contributions or made \$200 in expenditures since the last C-4 report was filed;
  - A 21-day pre-general election C-4 report was required on October 18, 2011, covering the period September 1 through October 17, 2011;
  - A 7-day pre-general election C-4 report was required on November 1, 2011, covering the period October 18 through October 31, 2011;
  - A post-general election C-4 report was required no later than December 12, 2011, covering all of calendar month November 2011.
- 3.2 After filing several amended C-4 reports for the 2011 election cycle, the final C-4 report filed by Mr. Fossos disclosed that his campaign received a total of \$19,610 in monetary and in-kind contributions, and made \$16,217 in monetary and in-kind expenditures, with \$4,700 in outstanding liabilities.
- 3.3 On March 6, 2012, Mr. Fossos submitted a response to the allegations in the complaint. **See Exhibit #2.**

#### **Allegation A: Mr. Fossos failed to timely disclose campaign expenditures and in-kind contributions for political advertising.**

- 3.4 Prior to the November 8, 2011 general election, Mr. Fossos timely filed four C-4 reports. They included the August C-4 report, the 21-day pre-general election C-4 report, the 7-day pre-general election C-4 report, and a C-4 report stating that it included activity for the month of November (the post-general election reporting period) even though it was filed on November 7, 2011. When the November C-4 report was amended on April 3, 2012, it removed the \$3,201 in expenditures that were initially reported (the expenditures

were included on an amended 7-day pre-general election C-4 report) and showed that no contribution or expenditure activity occurred during the month of November. Thus, the original post-general election C-4 report that was filed on November 7, 2011 was not late and did not exclude any November 2011 contribution or expenditure activity.

3.5 During the period March 31 through April 3, 2012, Mr. Fossos amended the four C-4 reports filed before the November 8, 2011 election. **See Exhibit #3.** Mr. Fossos also filed three “zero activity C-4 reports” for the periods of July 2011, December 2011, and January through March 2012. Those three reports did not disclose any additional contributions received or expenditures.

3.6 The amended 21-day and 7-day pre-general election C-4 reports, and the June 2011 C-4 report filed by Mr. Fossos, disclosed \$15,632 in previously un-reported campaign expenditures and in-kind contributions, as detailed below:

- **Amended 21-day pre-general election C-4 report:** On April 3, 2012, Mr. Fossos filed an amended 21-day pre-general election C-4 report disclosing the following previously un-reported 2011 campaign activities totaling \$6,227: (1) A \$4,656 campaign expenditure to EASL, Inc. on October 12, 2011 for postage; and (2) A \$1,571 in-kind contribution from Mr. Fossos for two expenditures he made to the Federal Way Mirror on September 20, 2011 for web advertisements. The \$6,227 in previously un-reported campaign activities were disclosed 167 days late and 147 days after the November 8, 2011 general election.
- **Amended 7-day pre-general election C-4 report:** On April 3, 2012, Mr. Fossos filed an amended 7-day pre-general election C-4 report disclosing the following previously un-reported 2011 campaign activities totaling \$8,935: (1) A \$5,734 campaign expenditure to EASL, Inc. on October 18, 2011, for “*final invoice for mail piece print, design, et al...*,” and (2) A \$3,201 in-kind contribution from Mr. Fossos for an expenditure he made to The Sign Shop on October 31, 2011 for campaign yard signs. The \$5,734 in previously un-reported campaign expenditures were disclosed 153 days late and 133 days after the November 8, 2011 general election.
- **Late filed June 2011 C-4 report:** On March 31, 2012, Mr. Fossos filed a C-4 report for June 2011, covering the period June 22 through June 30, 2011, disclosing a \$470 in-kind contribution/loan from Mr. Fossos on June 24, 2011 for a political advertisement described as a “*festival ad.*” The political advertisement was required to have been disclosed by Mr. Fossos as an in-kind contribution on the June 2011 C-4 report on July 11, 2011. This \$470 previously unreported in-kind contribution from Mr. Fossos was disclosed 264 days late and 112 days after the November 8, 2011 general election.

**Allegation B: Mr. Fossos failed to timely file a Post-general election C-4 report.**

3.7 The \$3,201 in-kind contribution from Mr. Fossos for yard signs was disclosed six days late as an expenditure on the original post-general election C-4 report filed November 7, 2011, one day before the November 8, 2011 general election. The in-kind contributions should have been reported on November 1, 2011 on the 7-day pre-general election C-4 report.

- 3.8 As noted earlier, on April 3, 2012, Mr. Fossos filed an amended post-general election C-4 report disclosing that there was no contribution or expenditure activity during the post-general election C-4 reporting period of November 1 through November 30, 2011. This amended C-4 report replaced the post-general election C-4 report filed on November 7, 2011.
- 3.9 Of the total expenditures and in-kind contributions made for the benefit of Mr. Fossos, \$3,201 was disclosed six days late but prior to the November 8, 2011 general election, and \$12,431 was disclosed 133 to 264 days late, and more than four months after the election.

**Allegation C: Mr. Fossos failed to timely disclose monetary contributions on C-3 reports**

- 3.10 Prior to the November 8, 2011 general election, Mr. Fossos filed two C-3 reports disclosing that his campaign had received \$13,042 in monetary contributions. PDC staff reviewed the deposit dates listed on the C-3 reports and the Schedule A to C-4 reports, and found that Mr. Fossos timely filed the C-3 reports. One of the C-3 reports included a \$12,000 monetary contribution received on October 5, 2011 from IAFF Local 2024 that was timely deposited on October 6, 2011, and timely disclosed on October 10, 2011.
- 3.11 On March 31, 2012, Mr. Fossos filed three amended C-3 reports, disclosing \$1,510 in previously un-reported monetary contributions. **See Exhibit #4.** The amended C-3 reports included the following:
- On October 28, 2011, Mr. Fossos received an \$800 monetary contribution from IAFF Fire PAC, located in Washington D.C. This \$800 contribution was disclosed 144 days late on March 31, 2012. The contribution was required to be disclosed on a C-3 report filed by November 7, 2011, since it was deposited on October 31, 2011.
  - On August 8, 2011, Mr. Fossos received a \$300 monetary contribution from Don Kennedy. This \$300 contribution was disclosed 221 days late on March 31, 2012. The contribution was required to be disclosed on a C-3 report due to be filed on August 22, 2011, since it was deposited on August 15, 2011.
  - On September 6, 2011, Mr. Fossos received six \$50 monetary contributions totaling \$300 from six individuals that should have been deposited by September 12, 2011 and disclosed on a C-3 report on September 19, 2011. The six contributions were previously reported as anonymous contributions. The contributors were identified and disclosed 193 days late.
  - On September 27, 2011, Mr. Fossos received a \$50 monetary contribution from an individual. That contribution should have been deposited by October 3, 2011 and disclosed on a C-3 report on October 10, 2011. The \$50 contribution was disclosed 172 days late.
  - On October 4, 2011, Mr. Fossos received a \$40 contribution from Louis Batayola. The contribution should have been reported on October 10, 2011, but was not reported until March 31, 2012, 173 days late.

- On September 12, 2011, Mr. Fossos contributed \$20 in personal funds. This contribution should have been reported on September 19, 2011, but was not reported until March 31, 2012, 194 days late.

3.12 The corrected, total monetary contributions Mr. Fossos received during the 2011 election was \$14,552. Of that total, Mr. Fossos timely disclosed 92% before the election, and 8% was disclosed late after the election.

**Allegation D: Mr. Fossos accepted anonymous contributions in excess of \$300 statutory limit and/or failed to properly report identity of contributors**

3.13 Under the PDC reporting requirements, Mr. Fossos was limited to receiving \$300 in anonymous or unidentified contributions. The complaint alleged that Mr. Fossos incorrectly reported contributions received by his campaign as anonymous contributions, when in fact the contributions were attributable to sources that were known to him.

3.14 The Fossos campaign filed the following C-3 reports during the 2011 election cycle disclosing anonymous contributions:

- On September 12, 2011, Mr. Fossos timely filed a C-3 report disclosing that his campaign had received \$366 in anonymous contributions on September 6, 2011.
- On October 10, 2011, Mr. Fossos filed a C-3 report disclosing that his campaign had received an additional \$226 in anonymous contributions on September 27, 2011, and an aggregate total of \$592 in anonymous contributions.

3.15 After being made aware of the complaint and the limit on anonymous contributions, Mr. Fossos reviewed the contributions received by his campaign and determined that his campaign had incorrectly reported \$300 in anonymous contributions on the September 12, 2011 C-3 report when he should have disclosed six \$50 contributions from six individual contributors.

3.16 On March 31, 2012, Mr. Fossos filed an amended C-3 report disclosing the names and addresses of the six contributors and listing them in Section 2 of the C-3 report. The amended C-3 report included 14 contributions for which the name and address were provided, disclosing contributions received from September 6 through October 28, 2011. Mr. Fossos stated that when he took the PDC compliance training class, he misunderstood the instructions and thought he could accept up to \$50 anonymously, as long as he did not see who made the contribution.

3.17 After Mr. Fossos filed the amended C-3 report on March 31, 2012, the campaign's anonymous contributions totaled \$292, under the \$300 limit for anonymous contributions.

**Allegation E: Mr. Fossos failed to make campaign books of account available for public inspection**

3.18 Candidates appearing only on the 2011 general election ballot were required to make their books of account available for public inspection for two hours beginning eight days

prior to the general election. For the 2011 general election, the records inspection period was from October 31 through November 7, 2011.

- 3.19 Mr. Fossos contacted PDC staff by telephone and e-mail during the open records inspection period with questions and concerns about his safety and the safety of his spouse. He said he was not comfortable allowing Mr. Galland to inspect the campaign records at his personal residence, which was the location Mr. Fossos had initially listed on his C-1 report for inspecting records.
- 3.20 On November 1, 2011, Mr. Fossos transmitted an e-mail to PDC staff as an attachment to his C-1 report stating “... *due to security concerns I have changed my meeting place for candidate financial view of my books... to the Des Moines Library.*” See **Exhibit #5**.
- 3.21 Mr. Fossos stated in his response letter to the complaint that he had initially agreed to meet with Mr. Galland to allow him to review his campaign books of account. However, he noted that based on past interactions with Mr. Galland at fire district meetings, Mr. Fossos had concerns about his safety and the safety of his spouse.
- 3.22 Mr. Fossos stated that Mr. Galland made an issue out of bringing his gun to the records inspection. Mr. Fossos said he asked Mr. Galland not to bring his gun to the library for the inspection of his campaign records. Mr. Fossos stated that Mr. Galland would not agree to his request. He went on to state the following about his dispute with Mr. Galland over inspecting his campaign records:

*“...and when I got there he and his assistant began to videotape our meeting. I asked him to turn off the camera before I would meet with him and show him my books and he refused...I informed him as long as he would not turn the camera off I would not meet with them. After which he became confrontational and belligerent...”*

#### **IV. Scope**

As part of its investigation, PDC staff reviewed:

- 4.1 The complaints filed against James Fossos.
- 4.2 The C-3 and C-4 reports filed by Mr. Fossos’ 2011 campaign.
- 4.3 Mr. Fossos’ response to the complaints.
- 4.4 Records of communications from Mr. Fossos regarding open inspection requirements and issues.

#### **V. Law**

- 5.1 **RCW 42.17.080 and .090** require candidates to file timely, accurate reports of contributions and expenditures, including in-kind contributions. Under the full reporting option, C-3 and C-4 reports are required to be filed monthly when contributions or expenditures exceed \$200 since the last report. During the election cycle, C-3 reports are required to be filed weekly and C-4 reports are required 21 and 7 days before each election, and in the month following the election, regardless of the level of activity.

- 5.2 **RCW 42.17.060(4)** states that anonymous contributions, in excess of one percent of the total accumulated contributions received in the current calendar year, or three hundred dollars, whichever is more, may not be used, or expended, but shall be returned to the donor if his or her identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state and shall be paid to the state treasurer for deposit in the state general fund.
- 5.3 **RCW 42.17.080(4)** states that during the eight days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the committee's statement of organization filed under RCW 42.17A.205, the books of account must be open for public inspection by appointment at the designated place for inspections between 8:00 a.m. and 8:00 p.m. on any day from the eighth day immediately before the election through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days. The appointment must be allowed at an authorized time and day for such inspections that is within twenty-four hours of the time and day that is requested for the inspection.

Respectfully submitted this 15<sup>th</sup> day of March, 2013.



Kurt Young  
PDC Compliance Officer

#### List of Exhibits

- Exhibit #1** Complaints filed by Jerry Galland against James Fossos on November 8, 2011, December 14, 2011, and December 28, 2011.
- Exhibit #2** March 6, 2012, e-mailed response from Mr. Fossos to the complaint allegations.
- Exhibit #3** 2011 post-general election C-4 report, and four amended C-4 report filed by Mr. Fossos March 31 through April 3, 2012.
- Exhibit #4** March 31, 2012, three amended C-3 reports filed disclosing \$1,510 in previously un-reported monetary contributions.
- Exhibit #5** November 1, 2012, e-mail from Mr. Fossos to the PDC notifying the public of a change in location for the public records inspection of the campaign records.