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7 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**
8 **OF THE STATE OF WASHINGTON**

9 IN RE COMPLIANCE WITH RCW 42.17A:

PDC CASE NO. 13-018

ORDER OF DISMISSAL

10 JAMES WATKINS,

11 Respondent.
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14 This matter came before the Washington State Public Disclosure Commission on
15 December 6, 2012 at the PDC Office, 711 Capitol Way, Room 206, Olympia, Washington.
16 Those present included Amit Ranade, Commission Chair; Barry Sehlin, Vice Chair; Jim
17 Clements, Member; and Grant Degginger, Member.¹

18 In attendance were Phil Stutzman, PDC Director of Compliance; Tony Perkins, PDC
19 Lead Political Finance Specialist; PDC Executive Director Andrea McNamara Doyle; Nancy
20 Krier, Commission General Counsel; and PDC staff member Jana Greer as recorder/reporter of
21 the proceedings. The Respondent, James Watkins, was not present. The proceeding was open
22 to the public and recorded.

23 This case concerns allegations in a 45-day citizen action letter complaint filed by Bob
24 Bennett on October 12, 2012 that Respondent filed incomplete and inaccurate information on
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26 ¹ Commissioner Kathy Turner did not participate in this case.

1 his Personal Financial Affairs Statement (Form F-1) in violation of RCW 42.17A.710. The
2 complaint was submitted to the Washington State Attorney General's Office and the King
3 County Prosecutor's Office, and referred to the PDC for investigation and possible action.

4 The Commission was provided with a Report of Investigation dated November 27,
5 2012 (and exhibits); and, an Executive Summary and PDC Staff Analysis. Mr. Perkins
6 summarized the investigation. Mr. Stutzman described the PDC Staff recommendation that the
7 Commission should dismiss the allegations and that the Commission should recommend that
8 the Attorney General and King County Prosecuting Attorney take no further action with
9 respect to the allegations.

10 The Commission voted to dismiss the allegations and to recommend no further action
11 by the Attorney General and King County Prosecuting Attorney with respect to the allegations.

12 The Commission hereby enters the following Findings of Fact, Conclusions of Law,
13 and Order.

14 I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

15 Jurisdiction

16 1. The Commission has jurisdiction to hear this matter as provided in RCW
17 42.17A.

18 Findings of Fact

19 1. The Respondent was a candidate for Washington State Auditor in the November
20 6, 2012 general election. He filed a C-1 Candidate Registration with the PDC on March 13,
21 2012, and a Personal Financial Affairs Statement (F-1 report) on March 14, 2012.

22 2. The Respondent ran unsuccessfully for a federal elected office in 2010. Before
23 2012, the Respondent had not campaigned for state or local office, and had no prior filing
24 history with the PDC. The Respondent was unsuccessful in his 2012 election campaign for
25 State Auditor.

1 3. The complainant made four allegations concerning violations of RCW 42.17A
2 by Respondent.

3 4. **First Allegation: Failure to Disclose Income.** The complaint alleged that
4 Respondent failed to disclose all of his income because he told the *Vancouver Columbian* and
5 the *Seattle Times* that he was going to take a “*huge pay cut to serve as state auditor because he*
6 *makes over three times what the state auditor*” makes (i.e., three times approximately
7 \$116,000) when Respondent’s March 14, 2012 F-1 report disclosed personal income totaling
8 no more than \$139,998.

9 (a) PDC staff reviewed news reporting on the 2012 Washington State Auditor’s
10 race appearing in the *Columbian* and *Seattle Times*, and reporting in other media outlets. Staff
11 found no evidence of any statement by the Respondent, or attributed to him, that his income
12 exceeded that of the State Auditor by a factor of three, or any similar statement.

13 (b) Staff asked the complainant to provide copies of any evidence supporting his
14 allegations about the Respondent’s alleged claimed income. The complainant did not respond
15 to staff’s request.

16 (c) The Respondent stated to PDC staff that his income during the reporting period
17 was accurate as disclosed on his March 14, 2012 F-1 report.

18 5. **Second Allegation: Failure to Accurately Disclose Income.** The complaint
19 alleged that \$20,000 to \$39,000 in income disclosed on Respondent’s F-1 report could not be
20 accurate because the listed source, Redmond Strategy Group, LLC, was incorporated only
21 fourteen days before the date Respondent filed his F-1 report.

22 (a) Respondent’s F-1 report disclosed income in the range of \$20,000 to \$39,000
23 received from the Redmond Strategy Group, LLC. With his F-1 report, Respondent filed an F-
24 1 Supplement listing Intellectual Ventures, a Bellevue-based patent licensing company, as the
25 source of payments of \$10,000 or more to Redmond Strategy Group, LLC. The purpose of the
26 payments was listed as “payment for consulting.”

1 (b) The complaint offered no evidence that Respondent had not performed or
2 received compensation for consulting services, including services performed for Intellectual
3 Ventures, or that the income from Redmond Strategy Group, LLC disclosed on the F-1 report
4 was inaccurate.

5 (c) The Respondent stated to PDC staff that his income was accurate as disclosed.

6 **6. Third Allegation: Failure to Disclose Details of Assets and Investments.**

7 The complaint alleged that in the Assets/Investments section of his F-1 report (Section 3c), the
8 Respondent failed to itemize investments contained in a 401(k) account and mutual funds held
9 through Fidelity Investments, and 401(k) accounts held through USAA and Thomson Reuters.

10 (a) Respondent stated that he previously believed that because the managers of his
11 mutual funds and his 401(k) plan administrators were responsible for buying and selling
12 individual stocks held in the accounts, he was not required to provide more detail on those
13 investments. He stated that while he does not make those granular-level decisions, he does
14 choose which funds he invests in and, several years ago, chose the mutual funds and other
15 investments that would make up his 401(k).

16 (b) On receiving PDC staff's guidance, he provided the missing information
17 regarding his assets and investments in an addendum to his F-1 report. The missing
18 information consisted of a variety of mutual funds, and included no individual stock holdings.

19 **7. Fourth Allegation: Failure to Disclose Creditor Information.** The
20 complaint alleged that Respondent had a loan with a lender that he failed to disclose on his F-1
21 report.

22 (a) The complaint did not include any information about the alleged undisclosed
23 loan owed by Respondent, or any evidence to document the existence of such a loan.

24 (b) PDC staff asked the complainant to provide any evidence supporting his
25 allegations about Respondent's alleged undisclosed loan. The complainant did not respond to
26 staff's request.

1 (c) Respondent stated to PDC staff that his March 14, 2012 F-1 report disclosed the
2 only loans he had outstanding during the F-1 reporting period: his mortgage and an auto loan.

3 9. PDC Staff recommended the Commission dismiss the allegations in the
4 complaint based upon the Report of Investigation and the review of relevant laws.

5 (a) PDC Staff recommended dismissal of the first, second and fourth allegations
6 because no evidence supported those claims.

7 (b) PDC Staff recommended dismissal of the third allegation because the missing
8 information in the Respondent's F-1 report was inadvertently omitted, was immediately
9 disclosed once the Respondent became aware of the error, and the error did not deprive the
10 public of information critical to the election during the 2012 election campaign.

11 **Conclusions of Law**

12 1. RCW 42.17A.700 requires candidates for office in jurisdictions of over 1,000
13 registered voters to file a report of personal financial affairs (F-1 report) within two weeks of
14 becoming a candidate.

15 2. RCW 42.17A.710 specifies the contents of the F-1 report, including
16 compensation received for real or personal property or services, Washington real estate in
17 which the filer, the filer's spouse or registered domestic partner held a financial interest,
18 property purchased or sold, intangible assets and investments, and creditor information.

19 3. Based upon the record herein, the Commission finds and concludes that the
20 Respondent did not violate RCW 42.17A as alleged in the complaint with respect to the first,
21 second and fourth allegations and therefore those allegations should be dismissed.

22 4. Based upon the record herein, the Commission finds and concludes while
23 Respondent, a first-time filer with the PDC, inadvertently omitted some asset and investment
24 information on his F-1 Report as required in RCW 42.17A, he immediately corrected the error
25 once he became aware of it. The Commission finds and concludes that the error did not
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1 | deprive the public of information critical to the election during the 2012 election campaign.

2 | Therefore, the third allegation should be dismissed.

3 | **II. ORDER OF DISMISSAL**

4 | By unanimous vote, the Commission dismisses the allegations against the Respondent
5 | in the citizen action letter.

6 | The Executive Director is authorized to enter this order on behalf of the Commission.

7 |
8 | So ORDERED this 20 day of December, 2012.

9 | WASHINGTON STATE PUBLIC
10 | DISCLOSURE COMMISSION

11 | FOR THE COMMISSION:

12 | *Andrea M. Doyle*
13 | Andrea McNamara Doyle
14 | Executive Director

15 | *Attachment: Appeals and Enforcement of Final Orders*

16 | *Copy of this Order of Dismissal to:*

17 | James Watkins
18 | P.O. Box 2213
19 | Kirkland, WA 98083

20 | I, *Jana Greer*, certify that I mailed a copy of this order to the
21 | Respondent the respective address above, postage prepaid, on the date stated herein.

22 | *Jana Greer*
23 | Signature

24 | *12/20/12*
25 | Date

INFORMATION ABOUT APPEALS AND ENFORCEMENT OF FINAL ORDERS

APPEALS

RECONSIDERATION OF FINAL ORDER – BY THE COMMISSION

Any party may ask the Commission to **reconsider** a final order. Parties seeking reconsideration must:

- Make the request in writing;
- Include the specific grounds or reasons for the request; and
- Deliver the request to the PDC office so it is received within **TWENTY-ONE (21) BUSINESS DAYS** of the date that the Commission serves this order upon the party. *WAC 390-37-150*. (Note that the date of service by the Commission on a party is considered the date of mailing by U.S. mail if the order is mailed, or the date received if the order is personally served. RCW 34.05.010(19). The Commission orders are generally mailed via U.S. mail.)

Within twenty (20) business days after the petition for reconsideration is filed, the Commission may either act on the petition or notify the parties in writing of the date by which it will act. If neither of these events happens within twenty business days, the Commission is deemed to have denied the petition for reconsideration. *WAC 390-37-150*.

A Respondent is not required to ask the Commission to reconsider a final order before seeking judicial review by a superior court. *RCW 34.05.470(5)*.

FURTHER APPEAL RIGHTS – SUPERIOR COURT

A final order issued by the Public Disclosure Commission is subject to **judicial review** under the Administrative Procedure Act (APA), chapter 34.05 RCW. *RCW 42.17A.755*. The procedures are provided in the APA at RCW 34.05.510 - .574.

ENFORCEMENT OF FINAL ORDERS

If **enforcement** of a final order is required, the Commission may seek to enforce a final order in superior court under RCW 42.17A.755 - .760, and recover legal costs and attorney's fees if a penalty remains unpaid and no petition for judicial review has been filed. This action will be taken without further order by the Commission.