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

9 IN THE MATTER OF ENFORCEMENT  
10 ACTION AGAINST:

PDC CASE NO. 14-005

FINAL ORDER

11 Whatcom First,

12 Respondent.

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14 This matter came before the Washington State Public Disclosure Commission on  
15 December 5, 2013 at the PDC Office, 711 Capitol Way, Room 206, Olympia, Washington.  
16 Those present included Amit Ranade, Commission Chair; Grant Degginger, Vice Chair; and  
17 Barry Sehlin, Member. Kathy Turner, Member, was not present and did not participate.

18 In attendance were Phil Stutzman, PDC Director of Compliance; Kurt Young, PDC  
19 Compliance Officer; PDC Executive Director Andrea McNamara Doyle; Nancy Krier,  
20 Commission General Counsel; and PDC staff member Lori Anderson as recorder/reporter of  
21 the proceedings. The Respondent, Whatcom First, was represented by attorney Dan Brady,  
22 who participated in person. Orphalee Smith, Treasurer for Whatcom First, was also present  
23 and participated on behalf of Whatcom First. The proceeding was open to the public and  
24 recorded.  
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1 This case concerns allegations in a 45-day citizen action letter complaint filed on  
2 October 18, 2013 by Mike Estes, against the Respondent, alleging the Respondent violated  
3 RCW 42.17A.235 and 42.17A.240 by failing to timely file Campaign Summary Receipts &  
4 Expenditures reports (C-4 reports) disclosing contribution and expenditure activities  
5 undertaken during the 2013 election.

6 The complaint was submitted to the Washington State Attorney General's Office and  
7 referred to the PDC for investigation and possible action.

8 The Commission was provided with a Notice of Administrative Charges dated  
9 November 25, 2013; a Report of Investigation dated November 25, 2013 (and exhibits); an  
10 Executive Summary and PDC Staff Analysis; and a proposed Stipulation as to Facts,  
11 Violations, and Penalty (Stipulation) dated December 4, 2013.

12 Mr. Young summarized the investigation. Mr. Stutzman described the PDC staff  
13 recommendation to take appropriate enforcement action against the Respondent and to accept  
14 the proposed Stipulation, and to recommend the Attorney General take no further action with  
15 respect to the allegations in the complaint. Mr. Brady and Ms. Smith urged the Commission to  
16 accept the Stipulation.

17 After deliberating, the Commission accepted the facts and violations as detailed in the  
18 Stipulation, but did not accept the stipulated penalty. The Commission proposed that the  
19 Stipulation be amended to include a penalty of \$1,500 with \$500 suspended for a period of  
20 four years from the date of the Commission's Final Order on the condition that: (1) Whatcom  
21 First is not found to have committed further violations during the period of the suspension; and  
22 (2) Whatcom First pays the non-suspended portion of the penalty (\$1,000) within 30 days from  
23 the date of the entry of the Commission's Final Order in this matter. After considering the  
24 proposed penalty, the parties accepted the Commission's amendment to the Stipulation.

1 The Commission voted unanimously to accept the Stipulation, as amended. The  
2 Commission also unanimously voted to recommend the Attorney General take no further  
3 action with respect to the allegations in the complaint.

4 The Commission hereby enters the following Findings of Fact, Conclusions of Law,  
5 and Order.

#### 6 I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

7 Based upon the Stipulation, which is hereby attached and incorporated by reference, the  
8 Commission finds and concludes:

9 1. The Jurisdiction, Facts, Legal Authority, and Violations are established as  
10 provided in the Stipulation.

11 2. The Respondent violated RCW 42.17A.235 and RCW 42.17A.240 as provided  
12 in the Stipulation.

13 In addition, the Commission finds and concludes:

14 3. A civil penalty of \$1,500, with \$500 suspended on the conditions enumerated  
15 below, is an appropriate resolution of this matter.

#### 16 II. ORDER

17 Based upon the findings and conclusions, the Commission orders that:

18 1. The Stipulation, as amended, is accepted.

19 2. The Respondent is assessed a civil penalty of \$1,500 for the stipulated  
20 violations. Of the total penalty amount, \$500 is suspended based on Respondent's compliance  
21 with the following conditions:

22 a. Respondent is not found to have committed violations of RCW 42.17A within  
23 four years from the date of the entry of the Commission's Final Order in this matter; and

24 b. Respondent pays the non-suspended portion of the penalty (\$1,000) within 30  
25 days of the date of entry of the Commission's Final Order in this matter.  
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# 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.

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

In the Matter of Enforcement Action  
Against:

Whatcom First

Respondent.

Case No. 14-005

STIPULATION AS TO FACTS,  
VIOLATION AND PENALTY

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Andrea McNamara Doyle, and Respondent Whatcom First, through its attorney, Dan Brady, submit this Stipulation as to Facts, Violations and Penalty in this matter. The parties agree that the Commission has the authority to accept, reject or modify the terms of this Stipulation. The parties further agree that in the event that the Commission suggests modification to any term of this agreement, each party reserves the right to reject that modification. In the event either party rejects a modification, this matter will proceed to hearing before the Commission.

**JURISDICTION**

The Public Disclosure Commission has jurisdiction over this proceeding pursuant to Chapter 42.17A RCW, the state campaign finance and disclosure law; RCW 34.05, the Administrative Procedure Act; and WAC 390.

**FACTS**

1. On September 16, 2013, Whatcom First filed a Committee Registration (C-1pc report) registering with the PDC as an "Other Political Committee" disclosing that Whatcom First was affiliated with Save Whatcom.

**Incomplete/Late 21-day and 7-day Pre-general election Expenditure (C-4) Reports (RCW 42.17A.235 and 42.17A.240)**

2. Whatcom First's 21 and 7-day pre-general election Campaign Summary Receipts & Expenditures reports (C-4 reports) were incomplete when initially filed. The amended reports were filed 19 and 12 days late, as follows:

- 21-day C-4: On October 17, 2013, Whatcom First timely filed its initial C-4 report covering the period September 1 through October 15, 2013, and disclosing \$154,190 in monetary contributions received. This report also served as its 21-day pre-general election report. On November 3, 2013, two days before the general election, Whatcom First amended its 21-day pre-general election C-4 report and added \$5,442 in new, previously unreported monetary expenditures, and \$11,839 in previously unreported orders placed. The \$5,442 in new expenditures were all made on October 15, 2013, and included expenditures for mailing services and newspaper advertising. The \$11,839 in previously unreported orders placed were for printing 100,000 brochures, 19,600 postcards for newspaper inserts, campaign signs, and committee remittance envelopes. The \$17,281 in previously unreported expenditures were disclosed 19 days late.
  - 7-day C-4: On October 29, 2013, Whatcom First timely filed its 7-day pre-general election C-4 report. However, the report did not include any orders placed, debts or obligations on Schedule B. On November 10, 2013, Whatcom First amended the report to include \$9,380 in orders placed, debts and obligations. Whatcom First reported these expenditures, for flyer inserts, printing of mail pieces, and postage, 12 days late and seven days after the general election.
3. The late-reported expenditures and orders placed on the 21-day and 7-day pre-general election C-4 reports totaled \$26,661. Of that total, \$17,281 was disclosed 19 days late, and \$9,380 was disclosed 12 days late, representing 17.8 percent of Whatcom First's total campaign expenditures through October 29, 2013.

### STATUTORY AND RULE AUTHORITY

**RCW 42.17A.235 and RCW 42.17A.240** require political committees to file timely, accurate reports of contributions and expenditures. Under the full reporting option, until five months before the general election, C-4 reports are required monthly when contributions or expenditures exceed \$200 since the last report, and 21 and 7 days before each election, regardless of the level of activity.

**VIOLATION**

Based on the Stipulation of Facts set forth above, Respondent Whatcom First stipulates that the committee violated RCW 42.17A.235 and RCW 42.17A.240 by failing to timely and accurately file the 21-day and 7-day Pre-general election Campaign Summary Receipts & Expenditures reports (C-4 reports) and Cash Receipts Monetary Contributions reports (C-3 reports) disclosing contribution and expenditure activities undertaken during the 2013 election.

**PENALTY**

Based upon the stipulated facts and violations set forth above, Respondent ~~County dba Save Whatcom~~ <sup>Whatcom First</sup> ~~County dba Save Whatcom~~ agrees to pay a total civil penalty of \$1,000 with \$500 suspended on the following conditions: AND  
DJS

1. Respondent is not found to have committed further violations of RCW 42.17A within four years from the date of the Commission's Final Order in this matter; and
2. Respondent pays the non-suspended portion of the penalty (\$500) within 30 days from the date of entry of the Commission's Final Order in this matter.

In the event that Respondent fails to meet any or all of conditions 1-2, the suspended portion of the penalty (\$500) shall become due without any further action by the Commission.

Respondent Whatcom First affirms its intention to comply in good faith with the provisions of RCW 42.17A in the future.

Andrea M. Doyle  
Andrea McNamara Doyle, Executive Director  
Public Disclosure Commission

12/4/13  
Date Signed

D. Brady  
Dan Brady, Counsel for Respondent  
Whatcom First

12/4/13  
Date Signed