



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: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

April 21, 2016

GARY JENSEN
2482 HILLTOP RD
FERNDALE WA 98248

Sent electronically to Gary Jensen at garystevenjensen@gmail.com

Subject: PDC Case 1297

Dear Mr. Jensen:

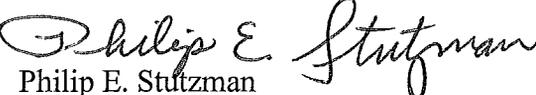
Enclosed is a copy of the Public Disclosure Commission's Order Imposing Fine that was entered in the above-referenced case. The Presiding Officer assessed a \$300 civil penalty against your 2015 Campaign with \$200 suspended on the condition that you pay the \$100 non-suspended portion of the penalty within 30 days from the date of the Order, and that you commit no further violations of RCW 42.17A for four years from the date of the Order.

Please make your check or money order for \$100 payable to "WA STATE TREASURER." Be sure to reference PDC Case 1297 in the memo line of the check or money order, and mail the penalty to:

WA State Treasurer - Public Disclosure Commission
Financial Office
PO Box 41465
Olympia, WA 98504-1465

Thank you for your participation in the Brief Enforcement hearing. If you have questions, please contact me at (360) 664-8853; or by email at phil.stutzman@pdcc.wa.gov.

Sincerely,


Philip E. Stutzman
Sr. Compliance Officer

Enclosures: Final Order in Case 1297
Information about Appeals and Enforcement of Final Orders



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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

Gary Jensen
2482 Hilltop Rd.
Ferndale, WA 98248

In Re Compliance with RCW 42.17A

Gary Jensen

Respondent.

PDC Case 1297

Findings of Fact,
Conclusions of Law, and
Order Imposing Fine

A brief enforcement hearing (brief adjudicative proceeding) was held by the Public Disclosure Commission (PDC) on April 21, 2016, in Room 206, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington to consider whether Gary Jensen violated: (1) RCW 42.17A.235 and .240 by failing to timely report contributions on paper-filed C-3 reports, and by failing to timely report expenditures on paper-filed C-4 reports and on electronically filed C-4 reports; and (2) RCW 42.17A.245 by failing to report contributions and expenditures by the electronic alternative provided by the commission in a timely manner after the campaign expected to expend \$5,000 or more during the campaign.

The hearing was held in accordance with Chapters 34.05 and 42.17A RCW and Chapter 390-37 WAC. A brief enforcement hearing notice was sent to Gary Jensen on April 5, 2016. Commission Chair Katrina Asay was the Presiding Officer. The Commission staff was represented by Phil Stutzman, Sr. Compliance Officer. The Respondent participated in person and provided comments to the Presiding Officer. The Respondent's Treasurer, Suzanne Nevan, also participated in person and provided comments to the Presiding Officer.

Stipulation

The parties jointly submitted a signed Stipulation as to Facts and Violations (Stipulation). Mr. Stutzman summarized the Stipulation and asked the Presiding Officer to accept the Stipulation and assess an appropriate penalty. Mr. Jensen urged the Commission to accept the Stipulation. The Presiding Officer accepted the Stipulation as to Facts and Violations.

Having considered the evidence, the Presiding Officer finds as follows:

FINDINGS OF FACT

Based upon the Stipulation, which is hereby attached and incorporated by reference, the Presiding Officer finds:

1. The facts are established as provided in the Stipulation.

CONCLUSIONS OF LAW

Based upon the Stipulation, which is hereby attached and incorporated by reference, the Presiding Officer concludes:

1. This matter was duly and properly convened and all jurisdictional, substantive and procedural requirements have been satisfied.
2. The Respondent violated RCW 42.17A.235 and .240 by failing to timely report contributions on paper-filed C-3 reports totaling \$11,405, filed 8-36 days late; and on electronically filed C-3 reports totaling \$6,244, filed 1-15 days late; and by failing to timely report expenditures on paper-filed C-4 reports totaling \$4,135, filed 1-40 days late, and on electronically filed C-4 reports totaling \$4,102, filed 60-105 days late.
3. The Respondent violated RCW 42.17A.245 by failing to report contributions and expenditures by the electronic alternative provided by the commission in a timely manner after the campaign expected to expend \$5,000 or more during the campaign, which occurred on or around August 31, 2015.

ORDER

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

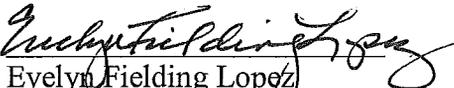
IT IS HEREBY ORDERED that the Respondent is assessed a \$300 civil penalty, of which \$200 is suspended on the following conditions:

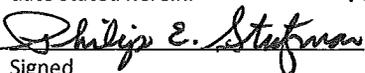
1. **The Respondent commits no further violations of RCW 42.17A for four years from the date of the Order; and**
2. **The \$100 non-suspended portion of the penalty is paid within 30 days from the date of the Order.**

This is an **Initial Order** of the Public Disclosure Commission.

Entered this 21st day of April, 2016.

Public Disclosure Commission


Evelyn Fielding Lopez
Executive Director

I, Philip E. Stutzman ^{E-mailed} certify that I mailed a copy of this order to the Respondent/Applicant at his/her respective address postage pre-paid on the date stated herein.
 4/21/16
Signed Date

Enclosure: Information about Appeal Rights

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

In the Matter of Enforcement Action
Against:

Gary Jensen

Respondent.

Case No. 1297

STIPULATION AS TO FACTS
AND VIOLATIONS

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Evelyn Fielding Lopez, and Respondent Gary Jensen, 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 RCW 42.17A, the state campaign finance and disclosure laws; RCW 34.05, the Administrative Procedure Act; and WAC 390.

FACTS

1. In 2015, Gary Jensen was a candidate for Port of Bellingham Commissioner. His treasurer was Suzanne Nevan. Mr. Jensen was defeated in the November 3, 2015 general election. The campaign raised and spent approximately \$19,618.

Late reporting of contributions on paper-filed and e-filed C-3 reports

2. The Jensen campaign initially filed eight C-3 reports on paper. The paper-filed reports disclosed \$12,405 in contributions received from June 16, 2015 through

October 6, 2015. The reports were filed between June 19 and October 20, 2015. One C-3 disclosed a \$1,000 contribution from the candidate and was timely filed. Seven C-3 reports disclosed \$11,405 in contributions and were filed 8-36 days late.

3. On October 27, 2015, the campaign filed C-3 reports electronically totaling \$15,899. Many of the contributions filed electronically were previously reported on paper-filed C-3 reports. Six electronically filed C-3 reports totaling \$6,244 had not been previously filed on paper-filed reports. They were filed from 1 to 15 days late.

Late reporting of expenditures on paper-filed and e-filed C-4 reports

4. Initially, the Jensen campaign filed its C-4 reports on paper, filing 11 reports covering May 1, 2015 through October 10, 2015, from June 1 through October 20. These reports disclosed aggregate expenditures of \$5,443. Of these expenditures, \$1,308 was filed timely; \$371 was filed one day late; \$596 was filed six days late; \$1,103 was filed seven days late; and \$2,065 was filed 40 days late.
5. On October 27, 2015, seven days before the general election, the campaign electronically filed five C-4 reports covering activity for the period June 1 thru October 26, 2015. The first four reports covered the period June 1 thru October 12, which had previously been covered by paper-filed reports. The fifth report was the 7-Day Pre-General C-4, and it timely disclosed \$10,074 in expenditures. On February 8, 2016, the campaign filed its Post-General C-4 report 60 days late, disclosing \$3,781 in expenditure activity.
6. The e-filed 21-Day Pre-Primary C-4 (June 1 thru July 13) included \$321 that was not previously reported on paper, and was filed 105 days late.

Failure to use electronic alternative in timely manner

7. The Jensen campaign expected to spend \$5,000 or more as of August 31, 2015 when its aggregate contributions totaled \$7,440. Thus the campaign was required to file its Post-Primary C-4 electronically on September 10, 2015, and as of August 31, 2015 was required to re-file all past C-3 and C-4 reports electronically, and file all

remaining C-3 and C-4 reports electronically. The campaign e-filed all previously filed C-3 and C-4 reports on October 27, 2015, and filed its Post-General C-4 and its December 2015 C-4 on February 8, 2016.

Gary Jensen Response

8. Gary Jensen stated that Suzanne Nevan, his Campaign Treasurer, attempted to contact the PDC with filing questions, and in addition, suffered through some family medical problems and was out of the country for a short time while serving as Treasurer. He noted that while not an excuse for the mistakes that were made, it was difficult for his Treasurer to file by the electronic filing method.
9. Mr. Jensen denied that “outside coal money” funded his campaign. Mr. Jensen stated that the negative campaign was life changing for him, and while he intends to continue serving the public in some way, he will never run for any political office in the future. Mr. Jensen said he realizes and acknowledges that mistakes were made in his campaign. He said it was difficult to run and manage a campaign while also working the two jobs of running a small company and serving as the Mayor of Ferndale. However, he acknowledged that the campaign’s mistakes are his responsibility, and said he will live with the consequences and pay whatever fine is assessed without appeal.

Suzanne Nevan Response

10. Suzanne Nevan acknowledged filing handwritten reports throughout most of the campaign and lagging behind in filing during the last month and a half of the campaign. Ms. Nevan stated that she sent in all the required paperwork to file electronically, but when she did not receive anything back, continued to file paper reports by U.S. mail.
11. Ms. Nevan acknowledged that she lacked experience, but insisted that her late reporting and lack of electronic filing were not attempts to hide anything. She stated

that learning to use the PDC's filing software was difficult, and admitted that she did not do well with it.

12. Ms. Nevan said most of the campaign's contributors were local people with the exception of several unions based out of Seattle and Everett. She said the campaign received no money from out of state.
13. Ms. Nevan said her father has been suffering from congestive heart failure, and nearly died several times over the summer months, which she described as a distracting influence in her efforts to serve as Mr. Jensen's campaign treasurer. Ms. Nevan said she also had to leave the county for a short time during the campaign to attend her son's wedding. Ms. Nevan said she truly attempted to do her best in her role as treasurer, and accepts full responsibility for coming up short.

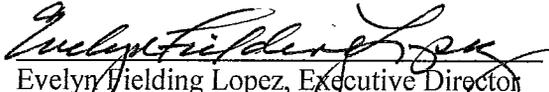
STATUTORY AND RULE AUTHORITY

14. **RCW 42.17A.225, 235 and 240** require candidates and continuing 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. C-4 reports are also required 21 and 7 days before each election in which the committee makes expenditures, and in the month following the election. Contributions are reported weekly during this same time period, and must be disclosed on Monday for contributions deposited the previous seven days.
15. **RCW 42.17A.245** states that each candidate or political committee that expended five thousand dollars or more in the preceding year or expects to expend five thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17A.055.
16. **WAC 390-19-030** provides for quarterly expenditure benchmarks to use in determining when a candidate "expects to spend" \$5,000 or more, and therefore has an electronic filing requirement under RCW 42.17A.245. The rules states, in part, that electronic filing is required if a filer's expenditures meet or exceed \$3,750 on or before September 30 of the current calendar year; or a filer otherwise projects that \$5,000 or more will be spent during the current calendar year.

VIOLATIONS

17. Based on the Stipulation of Facts set forth above, Respondent Gary Jensen stipulates that he violated RCW 42.17A.235 and .240 by failing to timely report contributions on paper-filed C-3 reports totaling \$11,405, filed 8-36 days late; and on electronically filed C-3 reports totaling \$6,244, filed 1-15 days late; and by failing to timely report expenditures on paper-filed C-4 reports totaling \$4,135, filed 1-40 days late, and on electronically filed C-4 reports totaling \$4,102, filed 60-105 days late.

18. Respondent Jensen also stipulates that he violated RCW 42.17A.245 by failing to report contributions and expenditures by the electronic alternative provided by the commission in a timely manner after the campaign expected to expend \$5,000 or more during the campaign, which occurred on or around August 31, 2015.


Evelyn Fielding Lopez, Executive Director
Public Disclosure Commission

4/19/2016
Date Signed


Gary Jensen, Respondent

4-12-2016
Date Signed

**INFORMATION ABOUT APPEALS OF INITIAL ORDERS,
FURTHER APPEAL RIGHTS,
AND ENFORCEMENT OF FINAL ORDERS**

APPEALS

REVIEW OF INITIAL ORDER - BY THE COMMISSION

The presiding officer will issue an initial order following a brief enforcement hearing. Any party may request the Commission **review** an initial order. Parties seeking the review must:

- Make the request orally or in writing, stating the reason for review. *WAC 390-37-144.*
- Deliver the request so it is received at the Commission office within **TWENTY-ONE (21) BUSINESS DAYS** after the postmark date of the initial order.

A Respondent does not need to pay a penalty until after the Commission rules on the request. If the Commission is unable to schedule a meeting to consider the request within twenty (20) business days, the initial order becomes a **final order** and the request will automatically be treated as a **request for reconsideration** of a final order (unless the party advises the Commission otherwise, such as by withdrawing the request). See more information on reconsideration below.

If the request for review was an oral request, it must now be confirmed in writing. The matter will be scheduled before the full Commission as soon as practicable. If the Commission does not receive a request for review within twenty-one (21) business days, the initial order will automatically become a **final order**. At that point, the Respondent is legally obligated to pay the penalty unless reconsideration has been sought or the matter has been timely appealed to Superior Court. *RCW 42.17A.755; RCW 34.05.470; RCW 34.05.570.*

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: 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.