

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

MINUTES – Regular Meeting

9:30 a.m. | March 22, 2018

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

Commission Members Present

Anne Levinson, Chair; Jack Johnson, Vice-Chair; David Ammons, member; Bill Downing, member.

Staff Present

Peter Lavalley, Executive Director; BG Sandahl, Deputy Director; Kim Bradford, Communications and Outreach Director; Kurt Young, Compliance Officer; Phil Stutzman, Sr. Compliance Officer; Fox Blackhorn-Delph, Compliance Coordinator; James Gutholm, Chief Technology Officer; Jana Greer, Administrative Officer; Toni Lince, Customer Service Representative; Scott Douglas, Assistant Attorney General; and Chad Standifer, Assistant Attorney General.

The regular meeting of the Public Disclosure Commission (PDC) was called to order by Commission Chair Anne Levinson at 9:30 a.m.

Chair Levinson noted the amended agenda, which included requests for reporting modifications and extended the meeting time.

Public Comments | [PDC Meeting Video](#)

Glen Morgan commented and discussed the benefits of [ESHB 2938 as well as the importance of the PDC's implementation of it](#).

Meeting Minutes | [PDC Meeting Video](#)

The Commission considered approval of the February 27, 2018 regular meeting minutes.

Motion 18-015 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission approve the February 27, 2018 regular meeting minutes.

The motion passed.

Enforcement Hearing | [PDC Meeting Video](#)

Shift Washington, [PDC Case 7561](#)

Phil Stutzman, Compliance Officer, participated on behalf of the Staff.

Dan Brady, legal counsel for Shift Washington, and Matthew Lund, Shift Washington, participated for the Respondent.

Chad Standifer, Assistant Attorney General (AAG), presented the proposed Stipulation as to Facts, Violations, and Penalty for Commission consideration.

[PDC Case 7561](#) involved an alleged violation of RCW [42.17A.255](#) by failing to timely file a C-6 Report disclosing an Independent Expenditure that was made in opposition to Initiative 732 (I-732), a 2016 statewide ballot proposition concerning a carbon tax; and an alleged violation of RCW [42.17A.320](#) by failing to include complete sponsor identification on Facebook ads that constituted political advertising.

Mr. Standifer summarized the alleged allegations and proposed Stipulation, assessing a civil penalty of \$2,500, with \$1,250 suspended contingent on the Respondent being in compliance with reporting requirements and having no further violations of RCW 42.17A or WAC 390 for four years, with the non-suspended portion due within 30 days of the date of the Order.

Mr. Standifer reviewed the mitigating factors and comparables provided by Staff.

Staff recommended approval of the agreed-to Stipulation as to Facts, Violations, and Penalty as presented. Mr. Brady also recommended approval and provided the Respondent's perspective.

Mr. Stutzman answered additional questions from the Commission about the investigation.

Motion 18-016 Moved by Commissioner Ammons, seconded by Commissioner Downing that:

The Commission accept the Stipulation as to Facts, Violations, and Penalty as proposed in PDC Case 7561.

The motion passed.

Next Steps/Follow-up: Commissioner Downing asked Staff what standard they use to determine "purpose" (i.e., intent).

Staff noted that it would be timely to review Interpretation 07-04 in light of new legislation and report back to the Commission.

Request for Reconsideration | [PDC Meeting Video](#)

Rebecca Kellcy, [PDC Case 22109](#)

Rebecca Kellcy participated via telephone.

Fox Blackhorn-Delph, Compliance Coordinator, and Kurt Young, Compliance Officer, participated on behalf of the Staff.

On August 23, 2017, Rebecca Kellcy, an incumbent School Director for Clover Park School District #400, was found in violation of [RCW 42.17A.700](#) by failing to timely file a Personal Financial Affairs Statement (F-1 report) due no later than April 17, 2017, disclosing financial information for calendar year 2016. At that hearing, a \$250 penalty was assessed, which Rebecca Kellcy requested be reconsidered by the full Commission.

Mx. Blackhorn-Delph noted that Ms. Kellcy filed the missing 2016 F-1 report on March 15, 2018.

Staff recommended that the Commission approve the request for reconsideration and reconsider the original penalty amount assessed.

Staff recommended that the Commission suspend the portion of the \$250 penalty previously assessed that it deemed appropriate, conditioned on Ms. Kellcy coming into and remaining in compliance with RCW 42.17A and WAC 390 for four years from the date of the final Order.

Motion 18-017 Moved by Commissioner Johnson, seconded by Commissioner Downing that:

The Commission grant the request for reconsideration.

The motion passed 3 to 1.

Commissioners Levinson, Johnson, and Downing voted Yes.

Commissioner Ammons voted No.

Director Lavalley noted that the public does not appear to have been deprived of information in this case since there has been no public records request for Ms. Kelly F-1 form to-date.

Commissioner Ammons noted that it is an incumbent's responsibility to have a way for the PDC to contact him or her. He reminded all office holders to update their addresses with the PDC.

Motion 18-018 Moved by Commissioner Johnson, seconded by Commissioner Downing that:

The Commission amend the Initial Order and suspend \$100 of the \$250 penalty assessed by the Presiding Officer on the condition that the unsuspended portion of the penalty is paid within 30 days from the date of the final Order and Ms. Kelly remains in full compliance and has no further violations of RCW 42.17A or WAC 390 for the next four years, and that the Amended Order become the Final Order.

The motion passed.

Compliance and Enforcement Update | [PDC Meeting Video](#)

Kurt Young, Compliance Officer, updated the Commission on compliance and enforcement as of February 23, 2018.

Total number of open cases as of March 20, 2018: **423**

Total number of cases closed covering the period February 23 through March 20, 2018: **44** matters were closed during the period, including five enforcement cases.

Case summary for the current period:

- New complaints received, and cases opened February 23 through March 20, 2018: There have been **11** new complaints filed with the PDC during this timeframe.
- Cases closed – no technical violation, minor filing error may have occurred ([WAC 390-37-060\(1\)\(a\)](#)): **9**
- Cases closed – Action Commenced by Attorney General under [RCW 42.17A.765](#): **5**
- Cases closed – Action Commenced by Citizen under [RCW 42.17A.765](#): **9**
- Cases closed – minor technical violation and/or minor filing error – Reminder letter issued ([WAC 390-37-060\(1\)\(a\)](#)): **9**
- Cases resolved by Brief Adjudicative Proceedings (Brief Enforcement Hearings): **4**

Next Steps/Follow-up: Chair Levinson asked staff to review the case detail listed within the case summary report, as some statuses and descriptions need clarification or updating.

Commissioner Johnson asked about the status of a Respondent's actions ordered at the previous meeting. Chair Levinson reminded staff about the Commission's past request for staff to report back on some cases where Respondents had pending requirements.

Rulemaking | [PDC Meeting Video](#)

Deputy Director Sandahl presented rule amendments to [WAC-390-143](#), adding the annual treasurer's statement (T-1 form) to the penalty schedule, for consideration and possible approval.

A public hearing was held at the PDC offices on March 15, 2018. No one attended or submitted comments.

Staff recommended that the Commission approve the final adoption of the proposed amendments as presented.

Motion 18-019 Moved by Commissioner Ammons, seconded by Commissioner Johnson that:

The Commission adopt the amendments to WAC 390-143 as presented.

The motion passed.

Executive Director and Deputy Director Update | [PDC Meeting Video](#)

Executive Director Lavalley discussed [ESHB 2938](#), including the potential impacts and possible needed staffing levels if the bill is signed and implemented. He discussed a list of projects that have been identified to date.

Included in the presentation was a draft outline of potential positions (the information does not include the “baseline” items that were identified in the Governor’s budget and incorporated into the budget that passed the Legislature.)

Director Lavalley also updated the Commission on the status and progress of strategic plan items.

An “Ideal State” for the PDC

Director Lavalley provided an overview of the “ideal state” of the PDC based on the categories identified in the draft strategic plan:

Empower the public to “follow the money” in politics

- Real-time access — immediate turnaround of data
- Complaints/cases “triaged” within 24 hours (Remedial, Technical, Actual)
 - Remedial complete within 1 week
 - Technical complete within 2 weeks
 - Actual Violations scheduled for preliminary hearing within 30 days
 - All but most complicated matters resolved within 90 days
 - Every case addressed before relevant election period
 - Automated analysis where possible (e.g., jurisdiction)
- Routine audits of campaigns, committees and individual filing requirements
- Widespread awareness of importance of agency mission and understanding of campaign finance system
- Resolve public and media inquiries within 24 hours
- Automate public records requests to maximum extent possible
 - All disclosure and enforcement documents on website immediately

Help regulated community achieve and maintain compliance

- Provide expert guidance
 - In-person training across the state (regularly scheduled and as requested)
 - Constant innovation and expansion of electronic training library
 - FAQs become training topics within 30 days
 - Resolve all customer inquiries within 24 hours
- Facilitate e-filing for all disclosures with accessible, technologically up-to-date options
 - Seamless logins across platforms — “My PDC” / “My Requirements”
- Real-time, interactive feedback as filings are made (“TurboTax-style”)

- Continually scrutinize campaign finance laws and regulations for areas of improvement

Continue to build a better, more agile, and more responsive organization

- Secure robust, independent, sustainable agency funding
- Staff levels commensurate with workload — throughout seasonal cycles
- State-of-the-art equipment and solutions
- Anticipate, identify and respond to emerging trends and issues
- Cross-training and skills enhancement — all staff able to perform multiple functions
- Continuous process improvement
- Regularly survey federal and state counterparts to ensure best-in-the-nation organizational and systems capabilities

Attract and retain a talented and dedicated workforce

- Establish PDC as an employer of choice
- Sustain culture of clean and open government, as embodied in agency's grassroots heritage
- Broaden guest-speaker series and other historical recognition events
- Enable all staff, over time, to attend industry conferences (e.g., COGEL)
- Provide and encourage opportunities for growth
- Ensure employees receive regular, relevant and robust training (far beyond state-mandated minimums)
- Accommodate work/life integration
- Provide state-of-the-art technology for flex-/remote-work opportunities
- Achieve and maintain reputation and best-in-the-nation campaign-finance authority

Commissioners highlighted also having a robust stakeholder engagement system and being able to respond rapidly prior to the election at issue to address those cases most impactful to the public. Commissioner Ammons suggested identifying funds for potential overtime pay to be able to have a team that can respond rapidly in addition to managing regular workloads.

Rules and legislation pertaining to [ESHB 2938](#)

Deputy Director Sandahl provided a handout of existing rules that may be impacted if [ESHB 2938](#) is signed into law.

Ms. Sandahl noted that for rulemaking that might affect campaigns the agency is up against a June 30 statutory cut-off. Prioritizing rules and the need for emergency rulemaking needs to be planned out soon.

The Commission asked the staff to move forward with proposed rule changes in one omnibus rule, rather than multiple proposed rules, since the changes will be inter-related and the Commission as well as stakeholders will want to review the proposed changes in a comprehensive way.

In order to meet the June deadline, staff will meet with the Assistant Attorneys General this week to put together the detailed week-to-week schedule and start drafting. The proposed rules will be on the agenda for the Commission at its April and May meetings.

Because there are a number of other topics for possible rulemaking still on the rules tracking list, Chair Levinson asked staff to review those and make sure any other priorities are moved forward as well.

Staff priorities going into the next legislative session

Executive Director Lavallee identified the priorities:

- Agency-request legislation as the Commission discussed with the Legislature for additional improvements to ESHB 2938
- Revisit bills that were not passed

Next steps/follow-up: Chair Levinson asked that the bills proposed by legislators that did not pass this session that the agency was following in addition to the PDC's bills be added to the leg tracking list.

Communications and Outreach Report | [PDC Meeting Video](#)

Kim Bradford, Communications and Outreach Director, reported that the customer service staff continues to handle many requests while keeping resolution times down.

Developmental assignments continue, with Scott Haley now answering questions about F-1 requirements and filing.

There is a large deadline approaching for F-1 and T-1 annual reports. Customer Service will be focusing on filer assistance during this time. There will also be ongoing communications, outreach and training related to the legislation passed.

Information Technology Report | [PDC Meeting Video](#)

James Gutholm, Chief Technology Officer, reported that the executive team has reviewed the IT portfolio and prioritized items in anticipation of the many new projects that would arise if [ESHB 2938](#) passes. The core priorities identified earlier still make sense and will remain.

Bruce Wendler, ITS5, will be retiring in May 2018 and recruitment will begin soon to fill this position. Also, two, 2-year project positions will be recruited for. The project positions will be working on the F-1 and L-5 applications, as well as planning for replacement of the ORCA in-house campaign finance software package.

Mr. Gutholm reported on the status of current projects.

Executive Session

The Commission went in to Executive Session at 12:30 a.m. to discuss matters allowed in Executive Session pursuant to [RCW 42.30.110](#), including but not limited to discussion of enforcement matters, pending and potential litigation with legal counsel. Any action regarding pending litigation, or other matters properly discussed during executive session, would be taken following the Executive Session.

The Commission returned to the open public meeting at 1:30 p.m.

Modification Requests for F-1 Reports | [PDC Meeting Video](#)

Jennifer Hansen, Filer Specialist, presented requests for reporting modifications.

Chair Levinson stated that she had worked with four of the five applicants but did not feel that it would affect her ability to objectively decide on their requests.

Commissioner Downing stated he had worked with all five applicants, but did not feel that it would affect his ability to objectively decide on their requests.

The following individuals requested a renewal of reporting modification (Personal Residence: [WAC 390-28-100\(d\)](#)):

- [Karen Donohue](#) – Superior Court Judge, King County

- [Michael Finkle](#) – District Court Judge, King/Snohomish County NE
- [Edward J. McKenna](#) – Municipal Court Judge, City of Seattle
- [Lisa Napoli O'Toole](#) – District Court Judge, King County, East Division
- [Steven Rosen](#) – Superior Court Judge, King County

Motion 18-020 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission grant the partial reporting modification as requested, finding that literal application of the law would cause a manifestly unreasonable hardship on the applicants and that a limited modification would not frustrate the purposes of the Act.

The motion passed.

Adjourned at 1:42 p.m.

Minutes approved April 26, 2018