

**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

MINUTES – Regular Meeting

9:30 a.m. | July 27, 2017

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

Commission Members Present

Anne Levinson, Chair; Jack Johnson, Vice-Chair; John Bridges, Member; David Ammons, Member

Commission Member Absent

Katrina Asay, Member

Staff Present

Peter Lavallee, Executive Director; BG Sandahl, Deputy Director; Scott Douglas, Assistant Attorney General; Chad Standifer, Assistant Attorney General; Kurt Young, Compliance Officer; Phil Stutzman, Compliance Officer; Micaiah Ragins, Compliance Coordinator; James Gutholm, Chief Information Officer; Bruce Wendler, ITS5; Jana Greer, Administrative Officer

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

Public Comments

No public comment was made.

Meeting Minutes | [PDC Meeting Video](#)

The Commission considered approval of the meeting minutes from June 22, 2017, regular Commission meeting.

Commissioner Ammons suggested a minor edit to the language of June 22, 2017, legislative and budget update, changing “thanks in part to a reasonable fiscal year-end bill from the AGO” to “thanks in part to a lower than expected fiscal year-end bill from the AGO...”

Motion 17-039 Moved by Commissioner Ammons, seconded by Commissioner Bridges that:

The Commission approve the June 22, 2017, regular meeting minutes as discussed.

The motion passed.

Executive Director Updates | [PDC Meeting Video](#)

With the primary election approaching, PDC staff updated online guidance on the 8-day public inspection period to make it clear what types of records campaigns are required to make available for public inspection.

Resources permitting, PDC hopes to step up its own auditing of campaign records in the future.

The PDC annual performance report is complete and sent to Results Washington. Staff will work with OFM and Results Washington to review the PDC performance measures that are reported, to ensure they are meaningful and best reflect the agency’s work.

Executive Director Lavalley distributed a draft PDC Commission recurring calendar intended to capture and track major projects, annual dates and milestones. This calendar will allow the Commission to plan for upcoming dates and deadlines and allow them to see the level and complexity of the task/project/item staff is dealing with during that time.

Chair Levinson asked Commission members to give feedback, adding or editing items as needed. This calendar will aid with deciding the balance of agenda items for upcoming meetings.

Next Steps/Follow-up:

Executive Director Lavalley and Deputy Director Sandahl will add a revised date to the calendar, update the Commission ethics training entry to also include all PDC staff, and add any other required trainings to calendar.

Enforcement | [PDC Meeting Video](#)

PDC Case 9059 Spokane for Honest Government

Chad Standifer, Assistant Attorney General, presented a proposed Stipulation as to Facts, Violation and Penalty for Commission consideration of PDC Case 9059, [Spokane for Honest Government, PDC Case 9059](#), involving alleged violations of [RCW 42.17A.260](#) and [.305](#), for failure to timely file C-6 special reports disclosing expenditures for political advertising and electioneering communications, and [RCW 42.17A.240](#), for failure to properly describe expenditures on a C-4 expenditure report, during the 2015 Spokane City Council elections. The C-4 report did not name the candidates who were supported by the media buy nor list the media outlets used, as required by RCW 42.17A and WAC 390.

Dimitri Iglitzin, Counsel for Spokane for Honest Government, took part in the hearing via conference call.

The Respondent stipulated to having violated RCW 42.17A.260 and .305 by failing to file C-6 reports in a timely manner; and RCW 42.17A.240 by failing to adequately describe expenditures for the media buy in the C-4 report.

The Respondent did file the missing reports and information, after the problems were brought to their attention by a third party.

Staff recommended a penalty of \$10,000, with \$5,000 suspended, conditioned on future compliance with RCW 42.17A and WAC 390 over the next four years.

Mr. Standifer referenced PDC cases that are most comparable to the present matter and expressed Staff's belief that the facts presented in the matter before the Commission call for a more significant penalty, due to the higher number of reports filed in this matter, as well as the fact that the reports eventually filed were done long after the 2015 general election, much later than in the comparable cases.

Staff recommended that the Commission accept the Stipulation as presented and enter an order imposing the penalties agreed by the parties.

Chair Levinson asked for clarification regarding the remaining allegations raised in the original complaint and why they were not included at this time.

Phil Stutzman, Compliance Officer, explained that the complaint also alleged multiple entities violated the use of public facilities restriction. These are separate issues, involving separate parties, and do not

substantively relate to PDC Case 905, although they arose in the same election. The remaining allegations listed in the complaint are subjects of separate matters. Staff hopes to present those cases at the August Commission meeting.

Chair Levinson stated that to have a thorough investigation, every allegation in a complaint would need to be reviewed and, if the position of staff is that the remaining allegations are not particular to the Respondent, then the status of each of those allegations should be clearly stated in the Report of Investigation, including reference to case numbers, so that decision-makers or the public could review those cases as well.

Commissioner Ammons expressed concerns about the comparable cases presented by Staff regarding penalties, as none of them reflected the failure to disclose such a significant amount of information comparable to PDC Case 9059. He thought that the Commission could impose the full amount of the penalty.

Mr. Iglitzin, counsel for Respondent, stated that the volunteer Treasurer in this matter pointed out that the PDC did not address filing C-6 reports in the training attended by the Treasurer.

Mr. Iglitzin asked that the Commission approve the Stipulation as presented.

The Commission went into deliberations at 10:08 a.m. and returned to the public meeting at 10:34 a.m.

Chair Levinson stated that the Commission is inclined to accept the Stipulation as to facts, but that with regard to the penalty, the Commission would be more inclined to impose a fine of \$10,000 with only \$2,500 suspended..

The Chair asked the Respondent and Staff if they would prefer to speak offline to discuss the proposed Stipulation further at this time.

Mr. Iglitzin stated that he is not authorized by his client or able to reach them in order to agree at this time. He also expressed concern about the possibility that the Commission might reject Staff's well-considered, proposed stipulation. Commissioner Johnson asked Mr. Iglitzin about the legal structure of the Respondent's campaign organization and their financial capacity. Mr. Iglitzin provided additional information and asked that the Commissioners take that information into consideration.

The Commission went into further deliberations at 10:45 a.m. and returned to the public meeting at 10:50 a.m.

Motion 17-040 Moved by Commissioner Ammons, seconded by Commissioner Bridges that:
The Commission reject the Stipulations and to Facts, Violation, and Penalty.

The motion passed 3-1.

Voting Yes: Commissioners Levinson, Bridges, and Ammons

Voting No: Commissioner Johnson

Rulemaking | [PDC Meeting Video](#)

The PDC prepares a list of proposed rulemaking items each January and June. Staff are required to submit a rulemaking agenda to the Code Reviser. Once the list is submitted, additional items can still be added.

The Commission reviews the proposed items and determines if there are others from the tracking list which should be prioritized for that six-month period. Those not submitted can either be taken off the tracking list, considered again for the next rule-making cycle, or if staff capacity permits, taken up sooner.

Because of the staff transitions, staff did not bring forward the list in June and will have the full tracking list ready for discussion at the August meeting. In the interim, Deputy Director Sandahl discussed those items from the tracking list that staff would like to submit next week to the Code Reviser for the initial agency agenda. They include:

WAC 390

Staff filed a Code Reviser form CR-101 on July 10, 2017, for proposed changes to WAC 390, namely the removal of images of filer forms from various sections of WAC 390 per RCW 42.17A.110(a). The Washington State Registrar number (WSR 17-15-027) has been received and staff are preparing to file the CR-102 form, which will notify the public of proposed changes, after which a public hearing will be scheduled. This is a proposed rule change the Commission has discussed at prior meetings to allow minor improvements to be made to forms on a regular basis without requiring a rule-making to do.

WAC 390-32-030(2)

This proposed change would recodify two incorrect WAC citations per RCW 42.17A.110(1).

This technical change can be submitted under expedited rulemaking and does not require a public hearing. Staff will submit the CR-105 once the Commission approves.

WAC 390-37-143

This change would add violations of the provisions of RCW 42.17A.570, as reflected in the PDC T-1 form, to the penalty schedule codified in WAC 390-37-143 per RCW 42.17A.110(1).

The proposed rule will align the penalty for not filing a timely T-1 form with the existing penalty schedule for other, similar violations. The Commission had requested this update to the penalty schedule during its discussion about T-1 reporting compliance.

WAC 390-14-030

This proposal addresses changes to the Public Records Act enacted in Chapter 304, Laws of 2017, Section 3.

The necessary changes can be done through emergency rulemaking. Once the emergency rulemaking is established to reflect current law in the interim, then the regular rulemaking process would be followed.

Assistant Attorney General Douglas summarized the changes. The rule clarifies what is a valid identifiable records request and provides new guidance regarding fees for electronic records.

Motion 17-041 Moved by Commissioner Ammons, seconded by Commissioner Johnson that:

The Commission approve the staff recommended semi-annual rulemaking agenda as proposed.

The motion passed.

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

The customer service and filer assistance team received 713 helpdesk tickets over the last month. This was a decrease from 1,099 the prior month, yet still higher than the average of 622 per month. On average, the team members were able to provide an initial response to these tickets within one business day.

PDC training videos for compliance and ORCA training are now available online. The videos are very comprehensive and will allow access to information when in-person classes are full.

PDC staff will be offering training in the future on other topics, such as how to complete the F-1 form. Staff recently sent 1,500 alerts to candidates about the available training online.

F-1 Project

Staff sent a survey to 5,000 individuals, and 500 responses have been received to date, an excellent response rate. The survey included asking whether recipients would be interested in participating as future stakeholders, and 150 respondents expressed interest.

Next Steps/Follow-up:

Kim Bradford will provide detailed F-1 survey results to the Commission at the August Commission meeting.

Compliance and Enforcement update June 22 through July 26, 2017

As of July 19, 2017, 50 new complaints have been filed with the PDC, including 30 new Citizen Action complaints.

New complaints received concerning C-5 forms: A total of 27 complaints were filed against entities that allegedly failed to file a C-5 report as an out-of-state committee, which included 21 Citizen Action letters, and six PDC complaints.

After initial review, a total of five complaint return letters were sent per WAC 390-37-060(1)(a): PDC Case 17450, PDC Case 17447, PDC Case 19851, PDC Case 19844, PDC Case 21153.

After staff's review, all six PDC C-5 complaints were returned with no action taken: PDC Case 20133, PDC Case 20152, PDC Case 20518, PDC Case 20159, PDC Case 20162, PDC Case 20163.

After staff's review, eight Citizen Action letters were returned with no action taken: PDC Case 20778, PDC Case 20798, PDC Case 20721, PDC Case 20794, PDC Case 20936, PDC Case 20934, PDC Case 20783, and PDC Case 20796.

Two complaint return letters were sent with a reminder: PDC Case 18352, PDC Case 17466.

One complaint return letter was sent with a formal warning: PDC Case 17366.

Brief Enforcement Hearings are scheduled for August 23, 2017, for the following:

- Annual officials — failure to file F-1 report for CY 2016.
- 2017 Candidates — failure to file C-1 report and/or an F-1 report due within two weeks of declaring candidacy.

Penalty Report

At the end of 2016, PDC staff worked with the Department of Enterprise Services (DES) small agency service to create a penalty receivables system that would remove the need to receive the penalty payment directly at the PDC and lessen the amount of time it would take to process and track.

PDC staff provides the Commission with a monthly update of paid and outstanding penalties that were assessed in a final order.

Once an unpaid penalty is 90 days past due, it is sent to Alliance One for collection. Fifty cases have been sent to Alliance One since 2016. We also have eight other unpaid penalties that have yet to meet to the 90-days threshold and are being monitored by PDC and DES.

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

James Gutholm, Chief Technology Officer, and Bruce Wendler, ITS5, demonstrated the new InfoSearch feature on the PDC website.

The new feature allows a user to find candidates without intricate knowledge of how the PDC conducts business. This model was the overwhelming idea/request from the stakeholders.

More functionality will continue to be added.

Process Improvement Highlight | [PDC Meeting Video](#)

Micaiah Ragins, Compliance Coordinator, reported on the major improvements the Compliance Division is making. The team is currently working on mapping the compliance intake process. The map will show the steps involved with the lifecycle of a case from the time a complaint is received.

This will be valuable to staff and allow them to standardize and manage the cases and find opportunities to streamline workflow and assess alternative resolution possibilities.

Executive Session/Working Lunch | [PDC Meeting Video](#)

The Commission went into Executive Session at 12:13 p.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. Possible action regarding pending litigation, or other matters properly discussed during executive session, will be taken following executive session.

Meeting adjourned at 1:13 p.m.

Approved August 24, 2017.