

Written Comment for May Regular Meeting
Conner Edwards

Commissioners:

At last month's meeting, Commissioner North and Commissioner Isserlis expressed concern that the penalty proposed by PDC staff against AARP was too low. These comments came in light of the fact that AARP had failed to timely disclose over \$400,000 worth of contributions until after the election had already ended.

Commissioner North expressed his thoughts in this way:

"...the proposed penalty here amounts to less than one half of one percent of the amount that was basically concealed from the voters because it should have been reported before the election and was in fact not reported until after the election, so the voters didn't have that information at the time of the election..." [emphasis added]

Commissioner Oswald expressed his skepticism about the proposed stipulation in a different way, saying:

"The most concerning part of this is the fact that there were really major expenditures that were not disclosed until after the election. Standing alone that would support Commissioner North's concerns. But we can't – I don't think – ignore there were a whole bunch of committees that perhaps out of some misunderstanding about what ORCA was telling them or something, missed that 7-day preelection report and wound up filing it in their monthly report. **So, all those people, some of those people who had major contributions, wound up reporting those contributions after the election and the staff resolved those complaints without imposing a penalty at all.**

Now, whether or not that was a good idea, or the right thing to do, it was still done. And if we are talking about consistency of application, we're sort of between these two measures: what happened with Let's Go Washington... **...and those situations where no penalty was imposed even though this failure to disclose before the election major expenditures were present there..."** [emphasis added]

This brings me to the point that I want to raise in this written comment.

Why do the agency's monthly meetings not provide any meaningful opportunity for the Commissioners to discuss the propriety of PDC staff's administrative dismissals in specific cases?

The vast, vast majority of substantiated enforcement cases that come before the agency never make it to the Commission level because they are simply dismissed administratively by staff with no penalties being issued.

As Commissioner Oswald alluded to, there are legitimate criticisms as to whether staff's unique reliance on administrative dismissals is actually effective at securing compliance.

The purpose of having appointed Commissioners is to conduct meaningful oversight over how the staff run the agency. Enforcement is widely accepted as one of the most important aspects of a regulatory agency.

Commissioners Jarrett and Hayward also expressed skepticism regarding staff's heavy reliance on administrative dismissals. In fact, back in May of 2024, Commissioner Hayward made a motion in favor of a rule change which would have required staff to seek approval from the Chair prior to issuing administrative dismissals with no penalties.

Commissioner Leach argued strongly against Commissioner Hayward's motion. Commissioner Leach suggested that as an alternative that cases resulting in administrative dismissals could be discussed on a case-by-case basis so that the Commission could provide after-the-fact oversight. Ultimately the Commission sided with this approach.

And, in fact, later in the meeting, the Commission did discuss several complaints that PDC staff had dismissed administratively with no penalties where county sheriffs had misused public resources to appear in a campaign video for a gubernatorial candidate. The gist of the discussion was that the Commissioners disagreed with how staff had used their administrative dismissal power.

To my knowledge, since that meeting there has not been a single meaningful discussion of specific cases where staff have used their administrative dismissal power.

Conclusion

In closing, I just want to say that I continue to be astounded by the types of cases in which staff believe administrative dismissals with no penalties are appropriate.

If the Commissioners had the opportunity to discuss the details of the cases that staff dismiss, I think that you all would be pretty surprised as well and would want to see some type of change.

It's not unusual for campaign finance agencies to exercise some level of prosecutorial discretion, but there is a line between prosecutorial discretion and a disregard for one's prosecutorial duties. Objectively, the PDC has crossed over that line.

Without the intervention of the Commissioners, that will not change.

Best,

Conner Edwards
(425) 533-1677 cell