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

9 In Re: The Matter of Enforcement Action
10 Against:

11 REBECCA KELLCY,
12 Respondent.

PDC CASE NO. 22109

ORDER ON RESPONDENT'S
REQUEST FOR
RECONSIDERATION

13 This matter came before the Washington State Public Disclosure Commission on March
14 22, 2018, at the PDC office, Room 206, Evergreen Plaza Building, 711 Capitol Way, Olympia,
15 Washington. Respondent Rebecca Kelcy requested reconsideration of the Commission Order
16 issued on September 5, 2017, following a Brief Enforcement Hearing (brief adjudicative
17 proceeding) in this matter. The hearing was held in accordance with Chapters 34.05 and 42.17A
18 RCW and Chapter 390-37 WAC.

19 Commissioners present included Anne Levinson, Commission Chair (presiding); Jack
20 Johnson, Commission Vice-Chair; and Commissioners David Ammons and William Downing.
21 Also present were Assistant Attorney General Scott Douglas representing the Commission, and
22 Assistant Attorney General Chad Standifer representing PDC Staff. PDC Staff present and
23 participating in the proceeding included Fox Blackhorn-Delph, Compliance Coordinator, Kurt
24 Young, Compliance Officer, and Peter Lavallee, Executive Director. Respondent Rebecca
25 Kelcy participated by telephone. The proceeding was open to the public and recorded.
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1 The Commissioners had before them the following materials:

- 2 1. Case memorandum dated March 13, 2018, prepared by Fox Blackhorn-Delph, PDC
3 Compliance Coordinator;
- 4 2. Initial Order and cover letter dated September 5, 2017;
- 5 3. Printout of Freshdesk Ticket Conversations reflecting communications between
6 Respondent Rebecca Kelcy and PDC Staff between February 21, 2018, and March 13, 2018.
- 7 4. F-1 Personal Financial Affairs Statement filed by Respondent Rebecca Kelcy on June
8 30, 2015;
- 9 5. F-1 Personal Financial Affairs Statement filed by Respondent Rebecca Kelcy on April
10 11, 2016; and
- 11 6. Request for Reconsideration submitted by Respondent Rebecca Kelcy on February
12 21, 2018.

13 I. PROCEDURAL HISTORY

14 The matter involved Ms. Kelcy's request that the Commission reconsider the finding
15 that she violated RCW 42.17A.700 by failing to file a Personal Financial Affairs Statement (F-
16 1 Report) which was due to be filed not later than April 17, 2017. Ms. Kelcy is an incumbent
17 School Director for the Clover Park School District 400, elected in 2015.

18 Ms. Kelcy filed her initial F-1 report on July 2, 2015, as a candidate seeking the office
19 of School Director in 2015. She timely filed an F-1 report as an incumbent School Director on
20 April 13, 2016.

21 Between March 16 through May 23, 2017, PDC staff sent seven e-mail reminders to F-1
22 filers, including Ms. Kelcy. Hers was sent to the e-mail address provided by the Clover Park
23 School District to be used for her annual F-1 filing obligation (beckils@msn.com).

24 On June 19, 2017, PDC staff mailed out F-1 warning letters to filers who had not filed
25 the F-1 report for 2016, including Ms. Kelcy, whose warning letter was mailed to the address
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1 provided by the School District. The address was also the same address Ms. Kelcy listed on the
2 F-1 report she filed on April 13, 2016, (5609 119th St. SW, Lakewood, WA 98499). The warning
3 letter was not returned to the PDC by the U.S. Postal Service.

4 On July 19, 2017, PDC staff mailed a hearing notice to Ms. Kelcy at the address provided
5 by the School District, informing her that an August 23, 2017, Brief Enforcement Hearing had
6 been scheduled concerning her failure to file the missing F-1 report. PDC staff mailed the hearing
7 notice to the same address as the warning letter, and the hearing notice was not returned to the
8 PDC by the U.S. Postal Service.

9 On August 23, 2017, a Brief Enforcement Hearing was held in which the Presiding
10 Officer found Ms. Kelcy in violation of RCW 42.17A.700 for failing to file an F-1 report for
11 calendar year 2016. Ms. Kelcy was assessed a \$250 penalty in accordance with WAC 390-37-
12 143, the penalty schedule adopted by the Commission, which was payable within 30 days of the
13 date of the Order.

14 On September 6, 2017, PDC staff mailed the Initial Order to Ms. Kelcy at the same
15 address to which the warning letter and hearing notice were sent. The Initial Order was not
16 returned to the PDC by the U.S. Postal Service.

17 On February 20, 2018, Ms. Kelcy contacted the PDC concerning statements from the
18 Department of Enterprise Services (DES) she had received for her \$250 penalty assessed by the
19 PDC. She stated that she had moved from the mailing address used by PDC staff, and questioned
20 why she hadn't received e-mail filing reminders from the PDC in 2017. In addition, she stated
21 that she was not aware of the F-1 annual filing requirement.

22 On February 21, 2018, PDC staff explained the F-1 enforcement process to Ms. Kelcy
23 reminding her of the F-1 filing obligation, the expiration of her appeal rights, and her duty to
24 update the PDC with her current contact information.

25 Ms. Kelcy responded by expressing her frustration that the e-mail reminders sent by
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1 PDC staff were the “official method of communicating time sensitive requirements.” She stated
2 that the e-mails had been received by her, but her computer routed the emails into her junk email
3 folder. She requested that the Commission reconsider its Final Order and reduce the \$250 penalty
4 assessed, or waive it completely.

5 On February 22, 2018, Peter Lavalley, PDC Executive Director contacted Anne
6 Levinson, PDC Chair, inquiring whether the Commission would entertain the request for
7 reconsideration for a Respondent whose appeal rights had expired, and Chair Levinson indicated
8 that the request for reconsideration could be heard at the next Commission meeting.

9 On February 22, 2018, Ms. Kelcy attempted to file her missing F-1 report online using
10 the electronic filing application, but she did not complete the necessary steps to successfully
11 submit the report.

12 On March 2, 2018, Ms. Kelcy indicated she had filed the F-1 report for calendar year
13 2016, and inquired about the status of her reconsideration request, and staff informed her the
14 request would be heard on March 22, 2018.

15 On March 13, 2018, PDC Staff completed Ms. Kelcy’s registration for the F-1 filing
16 application, and her F-1 report for calendar year 2017 was received. PDC Staff requested that
17 Ms. Kelcy submit a paper copy of her certification for calendar year 2016 due to system
18 constraints.

19 **II. FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

20 Respondent’s request for reconsideration is granted. This Amended Order will be the
21 Final Order. The Findings of Fact and Conclusions of Law entered on September 5, 2017, are
22 affirmed. Of the \$250 penalty assessed in the September 5, 2017, Order, \$100 is suspended on
23 the following conditions:

24 1. Respondent Rebecca Kelcy is not found to have committed any further violations of
25 RCW 42.17A or WAC 390 within four years of the date of the Amended Order in this matter;
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2. Respondent Rebecca Kelcy pays the non-suspended portion of the penalty (\$150) within 30 days from the date of entry of this Amended Order; and

3. Respondent Rebecca Kelcy is in compliance with all PDC reporting requirements.

If Respondent Rebecca Kellcy fails to comply with any of the conditions of this Order, the suspended portion of the penalty (\$100) shall immediately become due without further action by the Commission.

PDC Staff will send a copy of this Order to legal counsel for the Clover Park School District to remind Ms. Kelcey and other school directors about the F-1 filing requirements.

The Executive Director is authorized to enter this Order on behalf of the Commission.

SO ORDERED this 3rd day of April, 2018.

WASHINGTON STATE PUBLIC
DISCLOSURE COMMISSION

Peter Lavallee
Executive Director

This order sent by mail to:
Rebecca Kellcy
5609 119th Street SW
Lakewood, WA 98499

I, Fox Blackham, certify that I emailed a copy of this order to the Respondent at her respective email address.

And by email to:
Phil Stutzman, PDC Staff
(phil.stutzman@pdc.wa.gov)

Signed Joe Date 4/4/18

Chad Standifer, Assistant Attorney General
(ChadS@atg.wa.gov)