



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

March 24, 2016

Preserve Park Control PAC
Attn: Ken MacKenzie
236 7th Avenue West
Kirkland WA 98033

Order sent electronically to Mr. MacKenzie "washingtongov@screamforicecream.net"

Subject: PDC Case No. 1156

Dear Mr. MacKenzie:

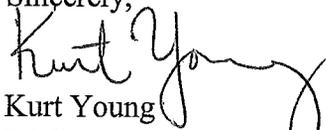
Enclosed is a copy of the Public Disclosure Commission's Order Imposing Fine that was entered in the above-referenced case. The Presiding Officer assessed a \$50 civil penalty against Preserve Park Control PAC, which is payable within 30 days of the date of the Order.

Please pay the \$50 penalty by April 22, 2016, and make the check or money order payable to the "WA STATE TREASURER." Be sure to reference PDC Case No. 1156 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 any questions, please contact me at (360) 664-8854; or by email at kurt.young@pdcc.wa.gov.

Sincerely,


Kurt Young
PDC Compliance Officer

Enclosures: Final Order in Case No. 1156
Information about Appeals and Enforcement of Final Orders



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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

Preserve Park Control PAC
Attn: Ken MacKenzie
236 7th Avenue West
Kirkland WA 98033

In Re Compliance with RCW 42.17A

Preserve Park Control PAC

Respondent.

PDC Case No. 1156

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 March 15, 2016, in Room 206, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington to consider whether Preserve Park Control PAC violated: (1) RCW 42.17A.205 by failing to timely file a Committee Registration (C-1pc report); (2) RCW 42.17A.235 and .240 by failing to timely file a Post-General Election Campaign Summary Contribution and Expenditures reports (C-4 reports); and (3) RCW 42.17A.220 by failing to timely deposit a monetary contribution within five business days of receipt.

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 Ken MacKenzie and Rick Whitney, on behalf of Preserve Park Control PAC on March 1, 2016. Commission Chair Katrina Asay was the Presiding Officer. The Commission staff was represented by Kurt Young, Compliance Officer. Mr. MacKenzie participated in-person, and Nicole MacKenzie participate by telephone on behalf of the Respondent, and provided testimony to the Presiding Officer.

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

FINDINGS OF FACT

1. On October 8, 2015, the Respondent filed a Committee Registration (C-1pc report) registering as a first-time local ballot measure committee formed to oppose Proposition No. 1, a City of Kirkland ballot measure on the November 3, 2015 general election ballot concerning a local aquatic center.

2. The Respondent's officers stated that the committee website went live on September 8, 2015, when they posted six static pages of talking points in opposition to the aquatic center that was used by individuals with the no committee at neighborhood meetings. Based on those statements, the Respondent was required to file a C-1pc report within two weeks of the website going live on September 8, 2015, or no later than September 22, 2015.
3. The Respondent was required to have filed the initial C-4 report no later than September 22, 2015, along with the C-1pc report, disclosing a \$1,588 orders-placed for committee yard signs that was placed on September 21, 2015, and a \$59 in-kind contribution for website hosting fees and domain registration costs. The \$1,646 for the yard signs and website activities were disclosed by the Respondent 35 days late and one week before the general election on the 7-day Pre-General election C-4 report, which was timely filed.
4. On October 19, 2015, the Respondent filed its initial C-4 report disclosing the receipt of \$3,262 in monetary contributions (\$3,100 in committee loans), and \$2,903 in expenditures made for a committee mailer in opposition to Proposition No. 1. The C-4 report was required to have been filed by the Respondent on October 13, 2015, and was filed six days late.
5. During the 2015 election, the Respondent failed to timely file three C-3 reports disclosing the receipt of \$5,600 in total monetary contributions and committee loans. In addition, the Respondent failed to timely deposit a \$2,500 monetary contribution within five days of receipt that was also disclosed late on one of the late filed C-3 reports.
6. Mr. MacKenzie stated the Respondent transitioned from being a group of citizens appointed by the City of Kirkland to write a statement in the Voters Pamphlet against the aquatic center to being a political committee on September 21, 2015 when Bob Sternoff placed an order to print the committee yard signs. He stated the Respondent should have filed a C-1pc report on that date when the committee officers also agreed to solicit contributions and take personal responsibility for any and all debts incurred by their actions to defeat the ballot measure
7. Mr. MacKenzie acknowledged the Respondent failed to timely file the C-1pc report that was filed on October 8, 2015, as well as the initial C-4 report and three C-3 reports. He stated the in-kind loan by Mr. Sternoff was also incorrectly reported by the Respondent, and that the committee failed to timely deposit one \$2,500 contribution that was disclosed on a late filed C-3 report.
8. Mr. MacKenzie apologized for the Respondent's lack of timeliness in filing the PDC reports, and stated the Respondent did not intend on filing the reports late but that the late filings were delayed by committee officer "...errors, inexperience, and misunderstandings."

CONCLUSIONS OF LAW

Based on the above facts, as a matter of law, the Presiding Officer concludes as follows:

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.205 by failing to timely file a Committee Registration disclosing its opposition to a 2015 City of Kirkland ballot measure.
3. The Respondent violated RCW 42.17A.235 and .240 by failing to timely file Monetary Contributions reports and Campaign Summary Contribution and Expenditure reports.
4. The Respondent violated RCW 42.17.220 by failing to timely deposit a monetary contribution within five business days of being received.

ORDER

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

IT IS HEREBY ORDERED that the Respondent is assessed a \$50 civil penalty, which is payable within 30 days from the date of the Order.

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

Entered this 24th day of March, 2016.

Public Disclosure Commission


Evelyn Fielding Lopez
Executive Director

I, <u>Kurt Young</u> , 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. <u>Kurt Young 3/24/16</u>

Enclosure: Information about Appeal Rights

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**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.