



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

2010 HERB OBERG CAMPAIGN
708 FERRY STREET
SEDRO WOOLLEY WA 98284

In Re the Matter of)	PDC Case No. 10-062
2010 Herb Oberg Campaign)	Findings of Fact,
)	Conclusions of Law and
Respondent.)	Order Imposing Fine
_____)		

A brief enforcement hearing (brief adjudicative proceeding) was held July 22, 2010, in Room 206, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington to consider whether the Respondent violated RCW 42.17.080 and .090 by failing to timely file Cash Receipts Monetary Contributions reports (PDC Form C-3) and Campaign Summary, Receipts and Expenditures reports (PDC Form C-4) disclosing contributions and expenditures, including in-kind contributions undertaken for the 2010 campaign.

The hearing was held in accordance with Chapters 34.05 and 42.17 RCW and Chapter 390-37 WAC. Commission Chair David Seabrook was the Presiding Officer. The Commission staff was represented by Kurt Young, Compliance Officer. Herb Oberg participated by telephone and presented testimony to the Presiding Officer.

Brief enforcement hearing notice was sent to Herb Oberg on July 9, 2010. Having considered the evidence, the Presiding Officer finds as follows:

FINDINGS OF FACT

1. Herb Oberg is a first-time candidate seeking election to the office of Skagit County Sheriff in 2010. Mr. Oberg is a Captain with the Snohomish County Sheriff's Office. He filed a Candidate Registration (PDC Form C-1) on February 10, 2009, declaring his candidacy for Sheriff, and selecting the Full Reporting option.
2. Under the Full Reporting option, candidates are required to file Monthly C-3 and C-4 reports through May of the election year if they receive monetary or in-kind contributions or make expenditures of more than \$200 since the last C-4 report was filed.

Alleged Failure to timely file C-3 reports (RCW 42.17.080 and .090)

3. The Respondent's campaign failed to timely file 14 C-3 reports totaling \$8,070 for bank deposits made during the period of February 2, 2009 through March 10, 2010.
4. The C-3 reports filed by the Respondent's campaign were disclosed between 32 and 282 days late. Six of the C-3 reports totaled \$2,920 and were filed between 32 and 282 days late. One of the C-3 reports totaled \$4,700 and disclosed personal funds contributed by the candidate that were received by the Respondent's campaign prior to Mr. Oberg filing the C-1. The C-3 report was filed 55 days late on April 29, 2009.
5. The remaining seven C-3 reports totaled \$450 and were filed by the Respondent's campaign between 70 and 282 days late. The C-3 reports were for small bank deposits of campaign contributions between \$20 and \$100.

Alleged Failure to timely file C-4 reports (RCW 42.17.080 and .090)

6. The Respondent's campaign filed multiple C-4 reports for the 2010 election cycle, including C-4 reports that have been amended at least once.
7. The Respondent's campaign submitted 13 late-filed C-4 reports on May 19, 2010. The 13 C-4 reports filed by the Respondent's campaign totaled \$9,946 in contributions and \$9,861 in expenditures, and were filed between nine and 373 days late.
8. In addition, the three initial C-4 reports filed by the Respondent's campaign were filed between 19 and 57 days late as follows:

C-4 Report Period	C-4 Report Due Date	Date C-4 Report Filed by campaign	Days Late	Contributions	Expenditures
February 2009	3/10/2009	5/6/2009	57	\$ 5,200	\$ 2,547
March 2009	4/10/2009	5/6/2009	26	- 0 -	\$ 1,068
April 2009	5/11/2009	5/30/2009	19	- 0 -	\$ 1,500

9. No C-4 reports were filed by the Respondent's campaign during the period May 30, 2009 through April 28, 2010.

Alleged Failure to timely disclose in-kind contributions (RCW 42.17.090)

10. Candidates under the full reporting option are required to disclose in-kind contributions of more than \$25 on a Schedule B to form C-4, for the periods the contributions are received.
11. On May 19, 2010, the Respondent's campaign filed multiple Schedule B reports disclosing in-kind contributions totaling \$7,128 that were between nine and 373 days late.

12. The Respondent's campaign filed two amended Candidate Registrations (PDC Form C-1), on May 5 and May 19, 2010, respectively. The Respondent's campaign filed 11 C-3 reports, 13 C-4 reports, and 18 amended C-4 reports between May 19 and June 1, 2010, bringing the campaign finance reports up-to-date and providing in-kind contribution and expenditure information that had been omitted by the previous treasurer.
13. Mr. Oberg took responsibility and apologized for the late filed C-3 and C-4 reports. He said he thought that his former treasurer was filing all of the required reports.

CONCLUSIONS OF LAW

Based on the above facts, as a matter of law, the Presiding Officer concluded 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 42.17.080 and .090 on multiple occasions by failing to timely file Cash Receipts Monetary Contributions reports (PDC Form C-3) and Campaign Summary, Receipts and Expenditures reports (PDC Form C-4) disclosing contributions and expenditures, including in-kind contributions undertaken for the 2010 campaign.

ORDER

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

IT IS HEREBY ORDERED that the Respondent is assessed a \$200 civil penalty, of which \$100 is suspended on the condition that no violations of RCW 42.17 are committed through the end of the 2010 election cycle, and the \$100 non-suspended portion of the penalty is paid within 30 days.

This is an **Initial Order** of the Public Disclosure Commission. There are two ways the Respondent may appeal this order to the Commission. Once the order becomes a final order, it may also be appealed to Superior Court.

REVIEW OF INITIAL ORDER - COMMISSION

- a. The Respondent may request a review of this Initial Order by the entire Commission.
- b. The request may be made orally or in writing, and must be received at the Public Disclosure Commission office within **21 business days** after the postmark date of this Initial Order. The Respondent must state the reason for the review, and identify what alleged errors are contained in the initial order.
- c. If the Respondent requests a review, no penalty need be paid until after the Commission rules on the request.
- d. By law, a request for review of the initial order is deemed to have been denied if the Commission does not make a disposition of the matter within 20 business days after the request is submitted.

- e. If the Commission is unable to schedule a meeting to consider the Respondent's request for review within 20 business days, the Initial Order becomes a Final Order and the matter will automatically be treated as a request for reconsideration of a final order unless the Respondent advises the Commission otherwise. The matter will be scheduled before the full Commission as soon as practicable.
- f. A request for reconsideration must be in writing. Therefore, if the request for review of the Initial Order was made orally and deemed to have been denied because it could not be scheduled for consideration within 20 business days, the request must now be put in writing. (See Reconsideration of Final Order below.)
- g. If no request for review is received within 21 business days, this order will automatically become a **Final Order** of the Commission, and the Respondent will be legally obligated to pay the penalty unless reconsideration has been sought or the matter has been timely appealed to Superior Court. (RCW 42.17.395, RCW 34.05.470 and RCW 34.05.570).

RECONSIDERATION OF FINAL ORDER - COMMISSION

- a. Any party may ask the Commission to reconsider a final order. The request must be in writing and must include the specific grounds or reasons for the request. Grounds for reconsideration shall be limited to:
 - i) A request for review was deemed denied in accordance with WAC 390-37-144(4);
 - ii) New facts or legal authorities that could not have been brought to the commission's attention with reasonable diligence. If errors of fact are alleged, the requester must identify the specific evidence in the prior proceeding on which the requester is relying. If errors of law are alleged, the requester must identify the specific citation; or
 - iii) Significant typographical or ministerial errors in the order.
- b. The request must be delivered to the Public Disclosure Commission office within **21 business days** after the postmark date of this order.
- c. The Public Disclosure Commission is deemed to have denied the request for reconsideration if, within 20 business days from the date the request is filed, the Commission does not either dispose of the petition or serve the parties with written notice specifying the date by which it will act on the petition. (RCW 34.05.470).
- d. The Respondent is not required to ask the Public Disclosure Commission to reconsider the final order before seeking judicial review by a superior court. (RCW 34.05.470).

FURTHER APPEAL RIGHTS – SUPERIOR COURT

- a. A **final order** issued by the Public Disclosure Commission is subject to judicial review under the Administrative Procedure Act, chapter 34.05 RCW. (RCW 42.17.395(5)). The procedures are provided in RCW 34.05.510 - .598.
- b. The petition for judicial review must be filed with the superior court and served on the Public Disclosure Commission and any other parties within **30 days** of the date that the Public Disclosure Commission serves this Final Order on the parties. (RCW 34.05.542(2)).

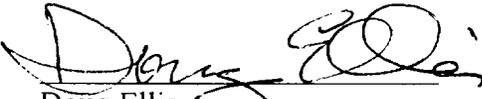
- c. Service is defined in RCW 34.05.010(19) as the date of mailing or personal service.

ENFORCEMENT OF FINAL ORDERS

- a. If there is no timely request for review or reconsideration, this Initial Order becomes a Final Order. The Respondent is legally obligated to pay any penalty assessed.
- b. The Commission may seek to enforce a final order in superior court under RCW 42.17.395 - .397, and recover legal costs and attorney's fees, if the penalty remains unpaid and no petition for judicial review has been timely filed under chapter 34.05 RCW. This action will be taken without further order by the Commission.

Entered this 27th day of July, 2010.

Public Disclosure Commission


Doug Ellis
Interim Executive Director