



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

City of Auburn  
Attn: Carolyn Robertson, Government Relations Manager  
25 West Main Street  
Auburn WA 98001

In Re the Matter of	)	PDC Case No. 11-029
City of Auburn	)	Findings of Fact,
	)	Conclusions of Law and
Respondent.	)	<b>Order Imposing Fine</b>
_____	)	

A brief enforcement hearing (brief adjudicative proceeding) was held February 28, 2011, in Room 206, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington to consider whether the City of Auburn violated RCW 42.17.190 by failing to timely file reports of Lobbying by State and Local Government Agencies (PDC Form L-5) that disclosed lobbying activities during calendar year 2009.

The hearing was held in accordance with Chapters 34.05 and 42.17 RCW and Chapter 390-37 WAC. Commission Chair Dave Seabrook was the Presiding Officer. The Commission staff was represented by Kurt Young, Compliance Officer. Carolyn Robertson, Government Relations Manager for the City of Auburn participated by telephone and presented testimony to the Presiding Officer.

A brief enforcement hearing notice was sent to Ms. Robertson on February 17, 2011. Having considered the evidence, the Presiding Officer finds as follows:

FINDINGS OF FACT

1. The Respondent retained the services of a contract lobbyist, and on February 9, 2009, Principled Solutions filed a Lobbyist Registration disclosing the Respondent had retained its services as a contract lobbyist, and that it would be paid \$4,000 per month to lobby during calendar year 2009.
2. Principled Solutions timely filed Monthly Lobbyist Expense reports (PDC Form L-2) disclosing payments received from the City of Auburn for lobbying during 2009. On January 11, 2010, Principled Solutions filed an L-2 report disclosing lobbying activities for December 2009, and terminating the Respondent as a Lobbyist Employer effective December 31, 2009.

3. The Respondent filed four L-5 reports on September 13, 2010, disclosing the city's lobbying expenses for 2009 totaling \$63,122, which included \$50,642 for contract lobbying services paid to Principled Solutions.
4. Two of the L-5 reports filed by the Respondent disclosed \$12,480 in city lobbying activities for previously unreported time spent lobbying by city employees as detailed below. The remaining two L-5 reports disclosed contract lobbyist payments made to Principled Solutions for the last two quarters of 2009. No lobbying activities were undertaken by city officials or employees during the last two quarters of 2009.

#### **L-5 reports disclosing City of Auburn employee lobbying expenses**

5. The L-5 report for the first quarter of 2009 was filed by the Respondent on September 13, 2010, 501 days late, disclosing the city's lobbying expenses totaling \$18,342, which included \$6,240 for ten percent of the time spent lobbying by Carolyn Robertson. The L-5 report disclosed \$12,000 in payments made to Principled Solutions to lobby, and was due to be filed by April 30, 2009.
6. The L-5 report for the second quarter of 2009 was filed by the Respondent on September 13, 2010, 410 days late, disclosing the city's lobbying expenses totaling \$18,280, which included \$6,240 for ten percent of the time spent lobbying by Ms. Robertson. The L-5 report also disclosed \$12,000 in payments made to Principled Solutions, and was due to be filed by July 31, 2009.
7. The Respondent timely filed L-5 reports disclosing the value of city employee time spent lobbying for the first quarter of 2008, and the first quarter of 2010.
8. Ms. Robertson stated that she did not believe, given her de minimis presence in Olympia during the 2009 Legislative session that the City of Auburn was required to file an L-5 report for the first two quarters of 2009, disclosing her time spent lobbying. She said the city had not previously retained the services of a contract lobbyist, and she thought the lobbyist forms signed by the city and Principled Solutions was all that was required for the city.

#### **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 42.17.190 by failing to timely file two L-5 reports disclosing lobbying expenditures for city employee time spent lobbying during the first two quarters of 2009.

ORDER

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

**IT IS HEREBY ORDERED that the Respondent is assessed a civil penalty of \$200, of which \$100 is suspended on the condition that no violations of RCW 42.17 are committed for the next four years from the date of the order. The Respondent shall pay the \$100 non-suspended portion of the penalty within 30 days.**

**IT IS HEREBY ORDERED that the remaining allegations of late-filed L-5 reports are dismissed.**

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.

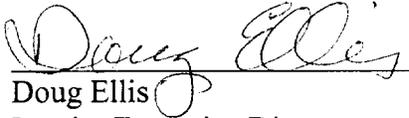
### **ENFORCEMENT OF FINAL ORDERS**

- 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 9<sup>th</sup> day of March, 2011.

Public Disclosure Commission

  
Doug Ellis  
Interim Executive Director