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

In the Matter of Enforcement Action Against:	PDC CASE NO. 11-034
Zona Lenhart and 2010 Zona Lenhart Campaign	FINAL ORDER
Respondent	

This matter came before the Washington State Public Disclosure Commission on September 22, 2011 at the PDC Office, 711 Capitol Way, Room 206, Olympia, Washington. Those present included Jennifer Joly, Vice Chair; Dave Seabrook, Member; and Jim Clements, Member. Participating were: Zona Lenhart, Respondent; PDC Director of Compliance Phil Stutzman (representing PDC staff); PDC Interim Executive Director Doug Ellis; Nancy Krier, General Counsel for the Commission; and PDC staff member Jennifer Hansen as recorder/reporter of the proceeding. The proceeding was open to the public and was recorded.

The Respondent was a candidate for re-election to the position of Franklin County Auditor in 2010. This matter resulted from a complaint that alleged that Respondent violated RCW 42.17.080 and .090 by failing to timely report contributions and expenditures totaling \$24,787; RCW 42.17.369 by failing to timely file by the electronic alternative for 165 days; and RCW 42.17.640 by accepting over-limit contributions totaling \$7,400.

PDC Staff submitted to the Commission a cover memo from Mr. Stutzman dated September 14, 2011; a Notice of Administrative Charges dated August 31, 2011; a Report of Investigation dated August 30, 2011 (with exhibits 1-9); and, a spreadsheet summarizing penalties assessed in comparable cases. The parties submitted to the Commission a

1 proposed Stipulation as to Facts, Violations and Penalty (Stipulation) dated September 16,
2 2011.

3 Mr. Stutzman summarized the proposed Stipulation and the staff recommendation to
4 accept the Stipulation. Ms. Lenhart addressed the Commission and requested the
5 Commission adopt the Stipulation.

6 The Commission voted 3-0 to accept the Stipulation.

7 **I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

8 Based upon the Stipulation, which is hereby attached and incorporated by reference,
9 the Commission finds:

10 1. The Jurisdiction, Facts, Legal Authority, Violations and Penalty are
11 established as provided in the Stipulation.

12 2. The Respondent committed multiple violations of RCW 42.17.080, RCW
13 42.17.090, and RCW 42.17.369, and RCW 42.17.640 as provided in the Stipulation.

14 **II. ORDER**

15 Based upon the findings and conclusions, the Commission orders that:

- 16 1. The Stipulation is accepted.
17 2. The Respondent is assessed a civil penalty of \$4,200.
18 3. The Respondent shall refund the over-limit contributions totaling \$7,400 by
19 refunding \$3,700 to Bart Gallant and \$3,700 to Hilke Gallant.

20 **III. APPEALS**

21 **RECONSIDERATION OF FINAL ORDER - COMMISSION**

22 Any party may ask the Commission to reconsider this final order. Parties must
23 place their requests for reconsideration in writing, include the specific grounds or reasons
24 for the request, and deliver the request to the Public Disclosure Commission Office within
25 **TWENTY-ONE (21) BUSINESS DAYS** of the date that the Commission serves this order
26 upon the party. WAC 390-37-150. Service by the Commission on a party is accomplished

1 on the date of mailing by U.S. mail if the order is mailed, or the date of personal service if
2 personal service is made. RCW 34.05.010(19). The Commission orders are generally
3 mailed via U.S. mail.

4 Pursuant to WAC 390-37-150, the Public Disclosure Commission is deemed to have
5 denied the petition for reconsideration if, within twenty (20) business days from the date the
6 petition is filed, the Commission does not either dispose of the petition or serve the parties
7 with written notice specifying the date by which it will act on the petition. Pursuant to
8 RCW 34.05.470(5), the Respondent is not required to ask the Public Disclosure
9 Commission to reconsider the final order before seeking judicial review by a superior court.

11 FURTHER APPEAL RIGHTS – SUPERIOR COURT

12 Pursuant to RCW 42.17.395(5), a **final order** issued by the Public Disclosure
13 Commission is subject to judicial review under the Administrative Procedure Act, chapter
14 34.05 RCW. The procedures are provided in RCW 34.05.510 - .598. Pursuant to RCW
15 34.05.542(2), a petition for judicial review must be filed with the superior court in Thurston
16 County or the petitioner's county of residence or principal place of business. The petition
17 for judicial review must be served on the Public Disclosure Commission and any other
18 parties within **30 days** of the date that the Public Disclosure Commission serves this final
19 order on the parties. RCW 34.05.542 (4) provides: "Service of the petition on the agency
20 shall be by delivery of a copy of the petition to the office of the director, or other chief
21 administrative officer or chairperson of the agency, at the principal office of the agency.
22 Service of a copy by mail upon the other parties of record and the office of the attorney
23 general shall be deemed complete upon deposit in the United States mail, as evidenced by
24 the postmark."
25
26

1 If reconsideration is properly sought, the petition for judicial review must be served
2 on the Public Disclosure Commission and any other parties within thirty (30) days after the
3 Commission acts on the petition for reconsideration.

4 **IV. ENFORCEMENT OF FINAL ORDERS**

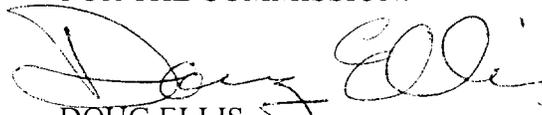
5 The Commission may seek to enforce this final order in superior court under RCW
6 42.17.395-.397, and recover legal costs and attorney's fees, if the penalty remains unpaid
7 and no petition for judicial review has been filed under chapter 34.05 RCW. This action
8 will be taken without further order by the Commission.
9

10 The Executive Director is authorized to enter this order on behalf of the
11 Commission.

12 So ORDERED this 11th day of October, 2011.

13
14 WASHINGTON STATE PUBLIC
DISCLOSURE COMMISSION

15 FOR THE COMMISSION:

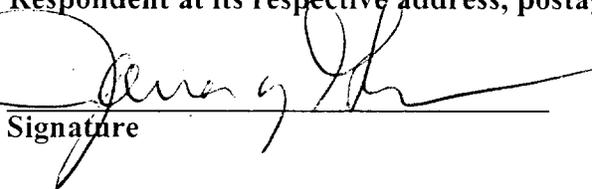
16 
17 DOUG ELLIS
18 Interim Executive Director

19 *ATTACHMENT:* Stipulation as to Facts, Violations and Penalty (dated September 16,
20 2011)

21 *Copy of this Final Order to:*

22 Zona Lenhart
23 3200 Road 92
Pasco, WA 99301

24 I, Jana Greer, certify that I mailed a copy of this order to the
25 Respondent at its respective address, postage prepaid, on the date stated herein.

26 
Signature

Date 10/11/11

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

In the Matter of Enforcement Action
Against:

Zona Lenhart & 2010 Zona Lenhart
Campaign

Respondent.

Case No. 11-034

STIPULATION AS TO FACTS,
VIOLATIONS AND PENALTY

The parties hereto, the Public Disclosure Commission Staff, through its Interim Executive Director, Doug Ellis, and Respondent Zona Lenhart and the 2010 Zona Lenhart Campaign, submit this Stipulation as to Facts, Violations and Penalty in this matter.

JURISDICTION

The Public Disclosure Commission has jurisdiction over this proceeding pursuant to Chapter 42.17 RCW, the Public Disclosure Act; Chapter 34.05 RCW, the Administrative Procedure Act; and Title 390 WAC.

FACTS

1. Zona Lenhart has served as the Franklin County Auditor for the past 20 years. On June 21, 2010, she filed a Candidate Registration (PDC Form C-1) with the Public Disclosure Commission (PDC), declaring her candidacy for re-election in 2010. Ms. Lenhart chose the full reporting option, indicating that she would file the frequent, detailed campaign reports required by law. Ms. Lenhart lost in the 2010 general election.
2. RCW 42.17.080 and .090 require candidates to file timely, accurate reports of contributions and expenditures, including in-kind contributions.
3. RCW 42.17.3691 requires candidates that expended ten thousand dollars or more in the preceding year or expect to expend ten thousand dollars or more in the current

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year to file all contribution reports and expenditure reports required by RCW 42.17 by the electronic alternative provided by the commission under RCW 42.17.369.

4. RCW 42.17.640 states, in part, that no person, other than a bona fide political party or a caucus political committee, may make a contribution to a candidate for county office that in the aggregate exceeds eight hundred dollars. Subsection 14 states that no person may accept contributions that exceed the contribution limitations provided in RCW 42.17.640.

Failure to Timely Report Contributions and Expenditures (RCW 42.17.080 and .090)

5. On October 25, 2010, expenditures totaling \$1,234 were reported from 13 to 45 days late. The campaign filed a C-4 report with a postmark of October 25, 2010 that covered the period July 27, 2010 to October 12, 2010. Contributions totaled \$1,405 and expenditures totaled \$1,234. This report covered the 7-day pre-primary election C-4 report period (July 27 to August 9, due August 10), the post-primary election C-4 report period (August 10 to August 31, due September 10), and the 21-day pre-general election C-4 report period (September 1 – October 11, due October 12). This filing resulted in the following late reporting of expenditures:
 - Expenditures totaling \$236 were required to be reported on the post-primary election C-4 report on September 10, but were reported 45 days late on October 25, 2010.
 - Expenditures totaling \$998 were required to be reported on the 21-day pre-general election C-4 report on October 12, but were reported 13 days late on October 25, 2010.
6. On January 6, 2011, contributions totaling \$9,975 and expenditures totaling \$10,368 were reported from 16 to 188 days late. The report covered the period October 19, 2010 to November 1, 2010. The report included a portion of the 7-day pre-general election C-4 report period and a portion of the post-general election C-4 report period. This C-4 report resulted in the following late reporting:
 - On October 27, 2010, contributions totaling \$100 were reported 16 days late;

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- On October 28, 2010, contributions totaling \$9,000 were reported 24 days late;
- On January 6, 2011, expenditures totaling \$10,343 were reported 72 days late;
- On March 6, 2011, contributions totaling \$4,110, received between August 25, 2010 and October 25, 2010 from Ms. Lenhart, were reported 132 to 188 days late, and 124 days after the general election.

Failure to Timely File by the Electronic Alternative (RCW 42.17.3691)

7. The Lenhart campaign initially filed its C-3 and C-4 reports on paper. Electronic filing is required when expenditures exceed, or are expected to exceed, \$10,000 for a campaign. On September 24, 2010, expenditures exceeded \$10,000 when the campaign placed an order totaling \$6,039 to B&B Express for printing. Orders-placed are expenditures, and on September 24, 2010, the campaign's monetary expenditures totaled \$8,876, making total expenditures (monetary and orders-placed) \$14,915. On March 8, 2011, the campaign electronically filed its C-3 and C-4 reports 165 days late, and 126 days after the November 2, 2010 general election.

Receipt of Over-Limit Contributions (RCW 42.17.640)

8. On September 28, 2010, the Lenhart campaign accepted over-limit general election contributions totaling \$7,400. The over-limit contributions were from Bart Gallant (\$3,700) and Hilke Gallant (\$3,700). The contribution was initially reported on October 28, 2010 as a \$9,000 loan from Bart Gallant. On March 6, 2011, the campaign re-filed a C-3 report electronically and listed the contribution as a \$4,500 loan from Bart Gallant and a \$4,500 loan from Hilke Gallant. Each contributor has an \$800 contribution limit for the general election. Therefore, the campaign accepted a \$3,700 over-limit contribution from Bart Gallant and a \$3,700 over-limit contribution from Hilke Gallant.

MITIGATING FACTORS

9. Zona Lenhart explained that she has worked in public service for 36 years, serving 20 years as the Franklin County Auditor. She said 2010 was her first contested election

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as Franklin County Auditor, and in late August 2010, when she discovered that her July reports had not been filed, she replaced her treasurer.

10. Ms. Lenhart affirmed that in addition to her job responsibilities as Franklin County Auditor and running her campaign, there were many significant issues competing for her time during the 2010 election campaign. Her husband was ill during most of the campaign. He suffered a heart attack in November 2010, and subsequently had open heart quadruple bypass surgery on November 30, 2010. Twenty-four hours after surgery, his kidneys failed.
11. Ms. Lenhart explained that during the 2010 campaign, she was caring for her 82 year old aging and ailing father who suffers from dementia and requires daily care and administration of medicine. She said she also spent a significant amount of time during the campaign dealing with a family member who was in treatment with a significant drug problem.
12. Ms. Lenhart asserted that she has provided the above explanation to show that she did not blatantly, or with intent, ignore the rules of the Public Disclosure Commission. She acknowledges that mistakes were made, and has stated that she takes full responsibility for the mistakes of her campaign, and will accept the consequences of those mistakes.

LEGAL AUTHORITY

13. **RCW 42.17.020** states, in part, ... (15)(a) "Contribution" includes: (i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration...
14. **RCW 42.17.080** states, in part, ... (2) At the following intervals each treasurer shall file with the commission a report containing the information required by RCW 42.17.090: (a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; ; and (b) On the tenth day of the first month after the election; and (c) On the tenth day of each month in which no other reports are required to be filed under this section. ... (3) For the period beginning the first day of the fourth month preceding the date on which the special election is held, or for the period beginning the first day of the fifth month before the date on which the general election is held, and ending on the date of that special or general election, each Monday the treasurer shall file with the commission a report of each bank deposit

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made during the previous seven calendar days. The report shall contain the name of each person contributing the funds so deposited and the amount contributed by each person.

15. **RCW 42.17.090** states, in part, ... (1) Each report required under RCW 42.17.080 (1) and (2) shall disclose the following: ... (b) The name and address of each person who has made one or more contributions during the period, together with the money value and date of such contributions and the aggregate value of all contributions received from each such person during the campaign; (c) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, together with the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument; (f) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, and the amount, date, and purpose of each such expenditure.
16. **RCW 42.17.3691** states, in part, ... (2) Beginning January 1, 2004, each candidate or political committee that expended ten thousand dollars or more in the preceding year or expects to expend ten thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17.369. (3) Failure by a candidate or political committee to comply with this section is a violation of this chapter.
17. **RCW 42.17.640** states, in part, ... (1) The contribution limits in this section apply to: ... (c) Candidates for county office; (2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a legislative office, county office, city council office, or mayoral office that in the aggregate exceed eight hundred dollars... (14) No person may accept contributions that exceed the contribution limitations provided in this section.

VIOLATIONS

Zona Lenhart and the 2010 Zona Lenhart Campaign for Franklin County Auditor violated provisions of the state campaign finance disclosure laws during the 2010 election as follows:

Failure to Timely Report Contributions and Expenditures (RCW 42.17.080 and .090)

- a. On October 25, 2010, expenditures totaling \$1,234 were reported from 13 to 45 days late;
- b. On October 27, 2010, contributions totaling \$100 were reported 16 days late;

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- c. On October 28, 2010, contributions totaling \$9,000 were reported 24 days late;
- d. On January 6, 2011, expenditures totaling \$10,343 were reported 72 days late;
- e. On March 6, 2011, contributions totaling \$4,110, received between August 25, 2010 and October 25, 2010 from Ms. Lenhart, were reported 132 to 188 days late, and 124 days after the general election;

Failure to Timely File by the Electronic Alternative (RCW 42.17.3691)

- f. On March 8, 2011, the Lenhart campaign electronically filed its C-3 and C-4 reports 165 days late and 126 days after the general election; and

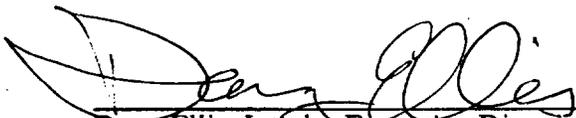
Receipt of Over-Limit Contributions (RCW 42.17.640)

- g. On September 28, 2010, the Lenhart campaign accepted over-limit general election contributions totaling \$7,400. The over-limit contributions were from Bart Gallant (\$3,700) and Hilke Gallant (\$3,700).

PENALTY

Based upon the stipulated facts and violations set forth above, Respondent agrees to pay a total civil penalty of \$4,200. Respondent also agrees to refund the over-limit contributions totaling \$7,400 by refunding \$3,700 to Bart Gallant and \$3,700 to Hilke Gallant.

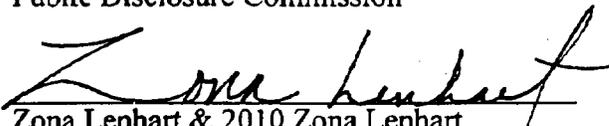
Respondent affirms her intention to comply in good faith with the provisions of RCW 42.17 in the future.



 Doug Ellis, Interim Executive Director
 Public Disclosure Commission

9/16/2011

 Date Signed



 Zona Lenhart & 2010 Zona Lenhart
 Campaign, Respondent

9/14/2011

 Date Signed