



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

Skagit County  
Attn: Melinda Miller  
605 South Third  
Mount Vernon WA 98273

In Re the Matter of	)	PDC Case No. 12-002
Skagit County	)	Findings of Fact,
	)	Conclusions of Law and
Respondent.	)	<b>Order Imposing Fine</b>
_____	)	

A brief enforcement hearing (brief adjudicative proceeding) was held August 10, 2011, in Room 206, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington to consider whether Skagit County violated RCW 42.17.190 by failing to timely file reports of Lobbying by State and Local Government Agencies (PDC Form L-5), disclosing lobbying activities undertaken by the county during calendar year 2007, the first, second and fourth quarters of 2008 and 2009, and the first two quarters of 2010.

The hearing was held in accordance with Chapters 34.05 and 42.17 RCW and Chapter 390-37 WAC. Commission Chair Barry Sehlin was the Presiding Officer. The Commission staff was represented by Kurt Young, Compliance Officer. Melinda Miller, Civil Deputy for Skagit County, appeared by telephone and presented testimony to the Presiding Officer.

A brief enforcement hearing notice was sent to Ms. Miller on July 28, 2011. Having considered the evidence, the Presiding Officer finds as follows:

FINDINGS OF FACT

1. The Respondent retained the services of MWW Group (Ryan Pennington), a contract lobbying firm, who on September 6, 2006, filed a Lobbyist Registration (PDC Form L-1) disclosing that fact. MWW Group filed an additional L-1 on January 6, 2007, disclosing that Skagit County had retained the services of MWW Group as a contract lobbyist during 2007 and 2008.
2. MWW Group timely filed Monthly Lobbyist Expense reports (PDC Form L-2) disclosing payments received from the Respondent. The L-2 reports disclosed MWW Group received \$1,400 per month for August through December of 2007, and \$1,800 per month for January through April of 2008. MWW Group terminated the lobbying agreement effective April 30, 2008.

3. The Respondent filed 14 L-5 reports on January 13, 2011, disclosing lobbying activities undertaken during calendar years 2007 through 2010. The L-5 reports disclosed the Respondent spent \$23,213 for lobbying activities undertaken during calendar year 2007, the first, second and fourth quarters of 2008 and 2009, and 2010.
4. There were no lobbying activities undertaken by the Respondent during the third quarter of 2008, the third quarter of 2009, and the third quarter of 2010. The L-5 report for the fourth quarter of 2010 was timely filed.
5. The L-5 reports disclosed the Respondent spent \$7,665 for employee time spent lobbying during the four-year period, and \$3,568 for lobbying related travel costs. The L-5 reports also disclosed that the Respondent made payments totaling \$12,831 to MWW Group for contract lobbying services provided during 2007 and 2008.

**L-5 reports disclosing Skagit County employee lobbying expenses**

6. The Respondent filed four L-5 reports on January 13, 2011, for calendar year 2007 disclosing \$7,946 in funds spent for lobbying activities, which included \$1,834 for the time spent lobbying by employees, and \$512 for lobbying related travel costs. The L-5 report for the first quarter of 2007 disclosed \$1,642 in funds expended for lobbying which included \$1,130 in employee salaries for Kendra Smith, Natural Resources Lands Policy Coordinator, who spent 5.7 percent of her time lobbying, and Barbara Leander, Chief Deputy Auditor, who spent .43 percent of her time lobbying. The L-5 report also disclosed \$512 for travel during the period.
7. The L-5 report filed by the Respondent for the second quarter of 2007 disclosed \$144 for the time spent lobbying by Ms. Smith, .77 percent of her time. The L-5 report filed by the Respondent for the fourth quarter of 2007 disclosed \$560 for the time spent lobbying by Ms. Smith, three percent of her time.
8. The Respondent filed three L-5 reports on January 13, 2011, for calendar year 2008 disclosing \$10,047 in funds spent for lobbying activities, which included \$2,071 for the time spent lobbying by employees, and \$744 for lobbying related travel costs. The L-5 report filed by the Respondent for the first quarter of 2008 disclosed \$1,387 in employee salaries for Ms. Smith who spent 5.7 percent of her time lobbying, Ms. Leander who spent 1.6 percent of her time lobbying, and Tim O'Holloran, County Administrator, who spent .4 percent of his time lobbying. The L-5 report also disclosed \$744 for lobbying related travel costs.
9. The L-5 report filed by the Respondent for the second quarter of 2008 disclosed \$140 for the time spent lobbying by Ms. Smith, .77 percent of her time. The L-5 report filed by the Respondent for the fourth quarter of 2008 disclosed \$544 in employee salaries for Ms. Smith who spent three percent of her time lobbying.
10. The Respondent filed three L-5 reports on January 13, 2011, for calendar year 2009 disclosing \$2,303 in funds spent for lobbying activities, which included \$1,837 for the time spent lobbying by employees during the year, and \$466 for lobbying related travel costs.

11. The L-5 report filed for the first quarter of 2009 disclosed \$1,619 in funds spent by the Respondent for lobbying activities, which included \$1,153 in employee time for Ms. Smith, who spent 5.7 percent of her time lobbying, and Mr. O'Holloran, who spent .4 percent of his time lobbying. The L-5 report also disclosed \$467 for lobbying related travel costs.
12. The L-5 report filed by the Respondent for the second quarter of 2009 disclosed \$140 for Ms. Smith, who spent .77 percent of her time lobbying. The L-5 report filed by the Respondent for the fourth quarter of 2009 disclosed \$544 for Ms. Smith, who spent three percent of her time lobbying.
13. The Respondent filed an L-5 report on January 13, 2011, for the first quarter of 2010 disclosing \$2,331 in county funds expended for lobbying which included \$1,481 in county employee salaries for Ms. Smith, who spent 4.6 percent of her time lobbying, Wes Richards, Chief Deputy Public Defender, who spent 1.5 percent of his time lobbying, and Wes Hagen, Chief Deputy Assessor, who spent 1.2 percent of his time lobbying. The L-5 report also disclosed \$851 for lobbying related travel costs.
14. The L-5 report filed by the Respondent for the second quarter of 2010 disclosed \$135 in lobbying expenses for Ms. Smith, who spent .77 percent of her time lobbying.
15. Ms. Miller stated that the Respondent had failed to timely file the L-5 reports, but said the oversight was inadvertent. She said the Respondent has taken steps to correct the oversight by designating specific staff persons to monitor and report agency lobbying activities. She said the Respondent had conducted training for elected officials, department heads and other staff about the public agency lobbying reporting requirements.
16. Ms. Miller said the Respondent employees involved in filing the L-5 reporting process included the Clerk of the Board, an administrative staff person, and her paralegal. She said that staff is now aware of the need to compile the time spent lobbying each quarter by employees of the Respondent. She said that all subsequent L-5 reports will be timely filed.

#### 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 on multiple occasions by failing to timely file L-5 reports disclosing lobbying activities for county employee time spent lobbying during calendar year 2007, the first, second and fourth quarters of 2008 and 2009, and the first two quarters of 2010.

### 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 \$250, of which \$125 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.**

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 24<sup>th</sup> day of August, 2011.

Public Disclosure Commission

  
Doug Ellis  
Interim Executive Director