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2
3 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**
4 **OF THE STATE OF WASHINGTON**

5 In the Matter of Enforcement Action Against:
6 Tom Stiger and 2009 Tom Stiger Campaign
7 Respondent

PDC CASE NO. 12-139
FINAL ORDER

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10 This matter came before the Washington State Public Disclosure Commission on
11 May 24, 2012 at the PDC Office, 711 Capitol Way, Room 206, Olympia, Washington.
12 Those present included Barry Sehlin, Commission Chair; Jennifer Joly, Vice Chair; Jim
13 Clements, Member; and Amit Ranade, Member. Participating were: Tom Stiger,
14 Respondent; PDC Director of Compliance Phil Stutzman (representing PDC staff); PDC
15 Executive Director Andrea McNamara Doyle; Nancy Krier, General Counsel for the
16 Commission; and PDC staff member Jana Greer as recorder/reporter of the proceeding.
17 The proceeding was open to the public and was recorded.

18 The Respondent was a candidate for Port of Everett Commissioner in the 2009
19 special election and is currently a Port of Everett Commissioner. This matter resulted from
20 a complaint alleging that Respondent violated RCW 42.17.080, .090, and .3691 by (1)
21 failing to timely file four campaign receipts and expenditure (C-4) reports, disclosing
22 \$19,000 in unreported expenditures and \$4,700 in unreported in-kind contributions, as
23 required by RCW 42.17.080 and .090; (2) failing to timely file two campaign contribution
24 (C-3) reports, disclosing \$5,125 in unreported contributions, as required by RCW 42.17.080
25 and .090; (3) failing to file C-3 and C-4 reports electronically as required by RCW
26 42.17.3691; and, (4) failing to timely report \$404 in campaign contributions on previously
filed C-3 reports, as required by RCW 42.17.080 and .090.

1 PDC Staff submitted to the Commission a cover memo from Mr. Stutzman dated
2 May 15, 2012; a Notice of Administrative Charges dated May 4, 2012; and a Report of
3 Investigation dated May 4, 2012. The parties also submitted to the Commission a proposed
4 Stipulation as to Facts, Violations and Penalty (Stipulation) dated May 15, 2012.

5 Mr. Stutzman summarized the proposed Stipulation and the staff recommendation to
6 accept the Stipulation. Mr. Stiger addressed the Commission and requested the
7 Commission adopt the Stipulation.

8 The Commission voted 4-0 to accept the Stipulation.

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

10 Based upon the Stipulation, which is hereby attached and incorporated by reference,
11 the Commission finds and concludes:

12 1. The Jurisdiction, Facts, Legal Authority, and Violations are established as
13 provided in the Stipulation.

14 2. The Respondent committed multiple violations of RCW 42.17.080, .090, and
15 .3691 as provided in the Stipulation.

16 3. The penalty provided in the Stipulation is an appropriate resolution of this
17 matter.

18 **II. ORDER**

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

20 1. The Stipulation is accepted.
21 2. The Respondent is assessed a civil penalty of \$3,000. Of the total penalty amount,
22 \$2,000 is suspended on the following conditions:

23 a. Respondent is not found to have committed further violations of RCW 42.17 or
24 RCW 42.17A during the period following entry of the Commission's Final
25 Order in this matter through December 31, 2017; and,

26 b. Payment of the non-suspended portion of the penalty (\$1,000) is made within 30
days from the date of entry of the Commission's Final Order in this matter.

1 3. In the event Respondent fails to meet these conditions, the suspended portion of the
2 penalty (\$2,000) shall become due without any further intervention of the
3 Commission.

4 The Executive Director is authorized to enter this order on behalf of the
5 Commission.

6 So ORDERED this 4th day of June, 2012.

7 WASHINGTON STATE PUBLIC
8 DISCLOSURE COMMISSION

9 FOR THE COMMISSION:

10 *Andrea M. Doyle*
11 ANDREA MCNAMARA DOYLE
12 Executive Director

13 **ATTACHMENTS:** (1) Stipulation as to Facts, Violations and Penalty (dated May 15, 2012)
14 (2) Appeals and Enforcement of Final Orders

15 *Copy of this Final Order to:*

16 Tom Stiger
17 PO Box 811
18 Everett WA 98201

19
20 I, JANA V. GREER, certify that I mailed a copy of this order to the
21 Respondent at his respective address, postage prepaid, on the date stated herein.

22 *[Signature]*
23 Signature

24 06-04-12
25 Date
26

INFORMATION ABOUT APPEALS AND ENFORCEMENT OF FINAL ORDERS

APPEALS

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 within **TWENTY-ONE (21) BUSINESS DAYS** of the date that the Commission serves this order upon the party. *WAC 390-37-150*. (Note that 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.

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

In the Matter of Enforcement Action
Against:

Tom Stiger and 2009 Tom Stiger
Campaign

Respondent.

Case No. 12-139

STIPULATION AS TO FACTS,
VIOLATIONS AND PENALTY

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Andrea McNamara Doyle, and Respondent Tom Stiger and the 2009 Tom Stiger Campaign, submit this Stipulation as to Facts, Violations and Penalty in this matter. The parties agree that the Commission has the authority to accept, reject or modify the terms of this Stipulation. The parties further agree that in the event that the Commission seeks to modify any term of this agreement, each party reserves the right to reject that modification. In the event either party rejects a modification, this matter will proceed to hearing before the Commission.

JURISDICTION

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

FACTS

1. On September 5, 2009, Tom Stiger filed a Candidate Registration (C-1 report) declaring his candidacy for Port of Everett Commissioner for the 2009 special election.
2. Mr. Stiger selected the full reporting option indicating that he would file frequent, detailed campaign finance reports.

Alleged Failure to Timely File Four Campaign Receipts & Expenditure (C-4) Reports.

3. Under RCW 42.17.080, the campaign's expenditure reports (C-4 Reports) were due on October 13, 2009, October 27, 2009, December 10, 2009, and January 10, 2010. The campaign failed to file any C-4 Reports during the 2009 election cycle.

4. When the campaign eventually filed the C-4 Reports, more than two years late in 2011, they disclosed \$19,000 in previously unreported monetary expenditures, and an additional \$4,700 in previously unreported in-kind contributions from Mr. Stiger.
5. On October 28, 2011, the campaign paper-filed one C-4 report covering the period September 16, 2009 to November 1, 2009. On December 8 and 19, 2011, the campaign electronically-filed four C-4 reports for the 2009 election as follows:

| 2009 C-4 Report Period | 2009 C-4 Due | 2009 C-4 Filed | Contributions for Period | Expenditures for Period | Days Late |
|--|-----------------|--|-----------------------------|----------------------------|-----------|
| 21-day Pre-General Sep. 1 – Oct. 12 | 10/13/09 | Paper filed 10/28/11; E-Filed 12/8/11 | \$ 7,812 | \$ 4,570 | 745 |
| 7-day Pre-General Oct. 13 – Oct. 26 | 10/27/09 | Paper filed 10/28/11; E-Filed 12/8/11 | \$ 5,550 | \$ 14,430 | 731 |
| Post General Oct. 27 – Nov. 30 | 12/10/09 | E-filed 12/19/11 | \$ 5,638 | \$ 0 | 739 |
| December, 2009 | 1/10/10 | E-filed 12/19/11 | \$ 4,700 | \$ 4,700 | 709 |
| | | | \$23,700 | \$23,700 | |

6. Prior to the November 3, 2009 general election, the public was deprived of information about the campaign's \$19,000 expenditures on political advertising, including vendors used and orders placed.

Alleged Failure to Timely File Two Campaign Contribution (C-3) Reports.

7. On October 7, 2009, the campaign received and deposited contributions from five contributors in the total amount of \$125. Under RCW 42.17.080, these contributions should have been reported on a C-3 Report due October 12, 2009. The campaign reported these contributions on December 8, 2011, 787 days late.
8. On October 20, 2009, the campaign received and deposited a \$5,000 contribution from Mr. Stiger's personal funds. Under RCW 42.17.080, this contribution should have been reported on a C-3 Report due October 26, 2009. The campaign reported this contribution on December 8, 2011, 773 days late.

9. The contributions noted above, reported on December 8, 2011, more than two years after the 2009 general election, are detailed in the chart below:

| Contribution Received | Contribution Deposited | Amount of Contributions | C-3 Report Due | C-3 Report Filed | Days Late |
|-----------------------|------------------------|-------------------------|----------------|------------------|----------------|
| 10/7/2009 | 10/7/2009 | \$ 125 | 10/12/2009 | 12/8/2011 | 787 |
| 10/20/2009 | 10/20/2009 | \$ 5,000 | 10/26/2009 | 12/8/2011 | 773 |
| Totals | | \$ 5,125 | | | 773-787 |

Alleged Failure to File C-3 and C-4 Reports Electronically as required by RCW 42.17.3691.

10. By October 15, 2009, the campaign had made expenditures that exceeded \$10,000. Based on the campaign expenditure totals disclosed on the 7-day pre-general C-4 report and the expenditure thresholds listed in WAC 390-19-030, the campaign was therefore required to file its C-3 and C-4 reports electronically for the 2009 election beginning October 15, 2009.
11. The campaign timely filed seven C-3 Reports, disclosing the receipt of \$13,471 in monetary contributions. The campaign filed the seven C-3 reports with the Commission on paper. The campaign did not file any reports electronically during the 2009 election cycle.

Alleged Failure to Timely Report \$404 in New Monetary Contributions on Amended C-3 Reports.

12. When the campaign electronically re-filed all of its previously-filed paper C-3 Reports on December 8, 2011, the re-filed reports disclosed an additional \$404 in contributions that had not been disclosed on the original C-3 Reports.

LEGAL AUTHORITY

RCW 42.17.080 and .090 require candidates under the full reporting option to file timely, accurate reports of contribution and expenditure activities, including in-kind contributions. C-4 reports are required to be filed 21 and 7 days before each election. A post-election report, when the candidate's name appears on the ballot, must be filed in the months following the election if the campaign has raised or spent \$200 since the last report. In addition, C-3 reports are due every Monday to disclose contributions received and deposited during the previous seven days.

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. The

commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.

(3) Failure by a candidate or political committee to comply with this section is a violation of this chapter.

WAC 390-19-030 stated in part during the 2009 election cycle:...

(1) The "electronic reporting threshold" that requires electronic filing of all contribution and expenditure reports is met when a candidate or political committee has expended \$10,000 or more in the preceding calendar year or expects to expend \$10,000 or more in the current calendar year.

(2) It is presumed that a filer "expects to expend" \$10,000 or more when any one of the following first occurs:

(a) A filer spends at least \$10,000; ...

(e) A filer's expenditures meet or exceed \$7,500 on or before September 30 of the current calendar year.

VIOLATIONS

Tom Stiger and the 2009 Tom Stiger campaign for Port of Everett Commissioner violated provisions of the state campaign finance disclosure laws during the 2009 election as follows:

- A. Failure to timely file four Campaign Receipts & Expenditure (C-4) Reports, disclosing \$19,000 in unreported expenditures and \$4,700 in unreported in-kind contributions, as required by RCW 42.17.080 and .090.
- B. Failure to timely file two Campaign Contribution (C-3) Reports, disclosing \$5,125 in unreported contributions, as required by RCW 42.17.080 and .090.
- C. Failure to file C-3 and C-4 Reports electronically as required by RCW 42.17.3691.
- D. Failure to timely report \$404 in campaign contributions on previously filed C-3 Reports, as required by RCW 42.17.080 and .090.

PENALTY

Based upon the stipulated facts and violations set forth above, Respondent Tom Stiger and the 2009 Tom Stiger Campaign agree that a civil penalty in the amount of \$3,000 may be assessed, with \$2,000 suspended on the following conditions:

- 1. Respondent is not found to have committed further violations of RCW 42.17 or RCW 42.17A during the period following entry of the Commission's Final Order in this matter through December 31, 2017; and

2. Respondent pays the non-suspended portion of the penalty (\$1,000) within 30 days from the date of the entry of the Commission's Final Order in this matter.

In the event that Respondent fails to meet any or all of conditions 1-2, the suspended portion of the penalty (\$2,000) shall become due without any further intervention of the Commission.

Respondent Tom Stiger affirms his intention to comply in good faith with the provisions of RCW 42.17A in the future.

Andrea M. Doyle
Andrea McNamara Doyle, Executive Director
Public Disclosure Commission

5/15/12
Date Signed

Tom Stiger
Tom Stiger, Port of Everett Commissioner
Respondent

MAY 14, 2012
Date Signed