



## STATE OF WASHINGTON

### PUBLIC DISCLOSURE COMMISSION

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TO: Commissioners

FROM: Philip E. Stutzman, Director of Compliance

DATE: March 21, 2013

SUBJECT: James Fossos, 2011 Candidate for Fire Commissioner - Stipulation and Recommendation About Remaining Allegations, Case No. 12-159

#### **Allegations for which Respondent and Staff Are Stipulating to Violations**

James Fossos was a candidate for Fire Commissioner for South King Fire and Rescue in 2011. This case involves violations of the state campaign finance disclosure laws during the 2011 election cycle as follows:

- A. Failing to timely report expenditures and in-kind contributions for political advertising, including newspaper advertising, printing and mailing, and signs on Campaign Summary Receipts and Expenditures reports (C-4 reports); and
- B. Failing to timely disclose monetary contributions on Cash Receipts Monetary Contributions reports (C-3 reports).

Staff will be providing you a Stipulation as to Facts, Violations and Penalty for your consideration that staff and the Respondent believe accurately describes the nature of the violations, the relevant facts, and an appropriate penalty. We will also provide a document showing comparable cases. We will be requesting the Commission to accept the Stipulation.

#### **Remaining Allegations and Staff Recommendations**

This case also involves two additional allegations that PDC staff is recommending be dismissed as follows:

- **Allegation that Mr. Fossos accepted anonymous contributions in excess of the \$300 statutory limit and/or failed to properly report the identity of contributors**

Under PDC reporting requirements, Mr. Fossos was limited to receiving \$300 in anonymous or unidentified contributions during his 2011 campaign. The complaint alleged that Mr. Fossos incorrectly reported contributions received by his campaign as anonymous contributions, when in fact the contributions were attributable to sources that

were known to him. The Fossos campaign filed the following C-3 reports disclosing anonymous contributions:

- On September 12, 2011, a C-3 report disclosed \$366 in anonymous contributions received on September 6, 2011.
- On October 10, 2011, a C-3 report disclosed an additional \$226 in anonymous contributions received on September 27, 2011, making an aggregate total of \$592.

After being made aware of the complaint and the limit on anonymous contributions, Mr. Fossos reviewed the contributions received by his campaign and determined that his campaign had incorrectly reported \$300 in anonymous contributions on the September 12, 2011 C-3 report when he should have disclosed six \$50 contributions from six individual contributors.

On March 31, 2012, Mr. Fossos filed an amended C-3 report disclosing the names and addresses of the six contributors. Mr. Fossos stated that when he took the PDC compliance training class, he misunderstood the instructions and thought his campaign could accept up to \$50 anonymously, as long as he did not see who made the contribution. After Mr. Fossos filed the amended C-3 report on March 31, 2012, the campaign's anonymous contributions totaled \$292, under the \$300 limit for anonymous contributions.

### ***Staff Recommendation***

Mr. Fossos did not accept over-limit anonymous contributions. Although he initially misreported \$300 as being from anonymous sources, his campaign in fact was aware of the identity of the contributors. His failure to properly report the names and addresses of six \$50 contributions to the PDC was due to a misunderstanding of the reporting requirements, and the identity of the contributors has been disclosed through amended reports. For these reasons, the allegation that James Fossos violated RCW 42.17.060 by accepting anonymous contributions above the \$300 statutory limit should be dismissed.

- **Allegation that Mr. Fossos failed to make his campaign books of account available for public inspection**

Candidates appearing only on the 2011 general election ballot were required to make their books of account available for public inspection for two hours beginning eight days before the general election. Mr. Fossos contacted PDC staff by telephone and e-mail during the open records inspection period with questions and concerns about his safety and the safety of his spouse. He said he was not comfortable allowing the complainant to inspect the campaign records at his personal residence, which was the location Mr. Fossos had initially listed on his C-1 report for inspecting records.

On November 1, 2011, Mr. Fossos transmitted an e-mail to PDC staff as an attachment to his C-1 report stating “... *due to security concerns I have changed my meeting place for candidate financial view of my books... to the Des Moines Library.*” Mr. Fossos stated

that he had initially agreed to meet with the complainant to allow him to review his campaign books of account, but based on past interactions with the complainant at fire district meetings, he had concerns about his safety and the safety of his spouse.

Mr. Fossos stated that the complainant made an issue out of bringing his gun to the records inspection meeting. He said he asked the complainant not to bring his gun to the library for the inspection of his campaign records. Mr. Fossos stated that the complainant would not agree to his request, and when Mr. Fossos arrived at the library for the records inspection, the complainant and his assistant began to videotape their meeting. Mr. Fossos said he asked the complainant to stop videotaping, but he refused, resulting in Mr. Fossos informing the complainant that the inspection could not take place.

***Staff Recommendation***

Mr. Fossos made a good-faith effort to accommodate the complainant's request to inspect his campaign books of account during the 2011 general election. Under the circumstances, Mr. Fossos substantially complied with the inspection opportunity requirements, and the allegations that he violated RCW 42.17.080 should be dismissed.