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

6 In the Matter of Enforcement Action Against:

PDC CASE NO. 12-159

7 James Fossos and 2011 James Fossos
8 Campaign

FINAL ORDER

9 Respondent

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11 This matter came before the Washington State Public Disclosure Commission on
12 March 28, 2013 at the PDC Office, 711 Capitol Way, Room 206, Olympia, Washington.
13 Those present included Amit Ranade, Commission Chair; Barry Sehlin, Commission Vice-
14 Chair, Grant Degginger, Member, and Kathy Turner, Member. Participating were: James
15 Fossos on behalf of Respondent; Phil Stutzman, PDC Director of Compliance on behalf of
16 PDC staff; PDC Executive Director Andrea McNamara Doyle; Nancy Krier, General
17 Counsel for the Commission; and PDC staff member Jana Greer as recorder/reporter of the
18 proceeding. The proceeding was open to the public and was recorded.
19

20 James Fossos is an incumbent Fire Commissioner for South King Fire and Rescue,
21 and was a candidate for re-election to that office in the November 2011 election. This
22 matter resulted from allegations that the Respondent violated RCW 42.17 during the 2011
23 election by: (1) failing to timely report expenditures and in-kind contributions for political
24 advertising, including newspaper advertising, printing and mailing, and signs on Campaign
25 Summary Receipts & Expenditures reports (C-4 reports); and (2) failing to timely disclose
26 monetary contributions on Cash Receipts Monetary Contributions reports (C-3 reports).

1 This matter also included allegations that the Respondent: (3) accepted anonymous
2 contributions in excess of the \$300 statutory limit and/or failed to properly report the
3 identity of contributors; and (4) failed to make his campaign books of account available for
4 public inspection.

5
6 PDC Staff submitted to the Commission a memo from Mr. Stutzman dated March
7 21, 2013, with a Notice of Administrative Charges dated March 15, 2013 and a Report of
8 Investigation dated March 15, 2013 (with exhibits).

9 **Proposed Stipulation**

10 The parties jointly submitted a proposed Stipulation as to Facts, Violations and
11 Penalty (Stipulation) dated March 22, 2013 addressing alleged violations (1) and (2). The
12 Stipulation was provided to the Commission with a memo from Mr. Stutzman dated March
13 22, 2013 and with a summary of comparable cases.

14
15 The parties made oral presentations. The parties requested the Commission to
16 accept the Stipulation. The Commission voted 4-0 to accept the Stipulation, which
17 included assessing a \$750 penalty with conditions provided in this Order.

18 **Proposed Dismissals**

19 The March 21, 2013 memo from Mr. Stutzman also recommended the Commission
20 dismiss the two remaining allegations against the Respondent, allegation (3) related to
21 accepting anonymous contributions in excess of the \$300 statutory limit and/or failing to
22 properly report the identity of contributors (RCW 42.17.060), and allegation (4) related to
23 failing to make his campaign books of account available for public inspection (RCW
24 42.17.080). Mr. Stutzman summarized the staff's recommendations presented in the memo.
25
26

1 The commission voted 4-0 to accept staff's recommendation to dismiss allegations (3) and
2 (4).

3
4 **I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

- 7 1. The Jurisdiction, Facts, Legal Authority, and Violations are established as provided
8 in the Stipulation.
9 2. A \$750 penalty, with conditions provided in this Order, is an appropriate
10 resolution of this matter.

11 In addition, based upon the record in this case, the Commission further finds and concludes:

- 12 3. The Respondent did not accept over-limit anonymous contributions; therefore, the
13 allegation that he violated RCW 42.17.060 should be dismissed.
14 4. The Respondent substantially complied with the public inspection requirement in
15 RCW 42.17.080; therefore, that allegation should be dismissed.

16
17 **II. ORDER**

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

- 19 1. The Stipulation is accepted.
20 2. The Respondent is assessed a civil penalty of \$750. Of the total penalty amount,
21 \$250 is suspended on the following conditions:
22 a. That the Respondent is not found to have committed further violations of
23 RCW 42.17 or RCW 42.17A during the period following entry of the
24 Commission's Final Order in this matter through December 31, 2017.
25 b. That the Respondent pays the non-suspended portion of the penalty (\$500)
26 within 30 days from the date of entry of the Commission's Final Order in this
matter.

1 3. In the event the Respondent fails to meet any or all of conditions 2.(a) or (b), the
2 suspended portion of the penalty (\$250) shall become due without any further action
3 by the Commission.

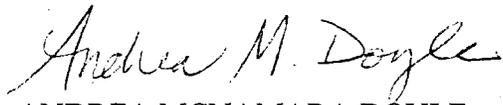
4 4. The two remaining allegations (3) and (4) are dismissed.
5

6 The Executive Director is authorized to enter this order on behalf of the Commission.
7

8 So ORDERED this 25 day of April, 2013.

9 WASHINGTON STATE PUBLIC
10 DISCLOSURE COMMISSION

11 FOR THE COMMISSION:

12 
13 ANDREA MCNAMARA DOYLE
14 Executive Director

15 *ATTACHMENTS:*

- 16 (1) Stipulation as to Facts, Violations, and Penalty (dated March 22, 2013)
17 (2) Appeals and Enforcement of Final Orders
18

19 *Copy of this Final Order to:*

20 James Fossos
21 20730 7th Ave. South
22 Des Moines, WA 98198
23

24 I, James Berkley, certify that I mailed a copy of this order to the
25 Respondent at the above address, postage prepaid, on the date stated herein.

26 
Signature

04/25/2013
Date

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

In the Matter of Enforcement Action
Against:

James Fossos and 2011 James Fossos
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 James Fossos and the 2011 James Fossos 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, the state's campaign disclosure and contribution laws; Chapter 34.05 RCW, the Administrative Procedure Act; and Title 390 WAC.

FACTS

1. On June 27, 2011, James Fossos filed a Candidate Registration (C-1 report) declaring his candidacy for re-election to Fire Commissioner for South King Fire and Rescue, and selecting the Full Reporting option. Mary Fossos, the candidate's spouse, was listed as the campaign treasurer.
2. Mr. Fossos was first elected as a Fire Commissioner in 1993 to a six-year term, and was subsequently re-elected in 1999 and 2005. He was unopposed for his two prior re-election campaigns, having selected the Mini Reporting option on his C-1 report in 1999 and 2005.
3. Prior to the November 8, 2011 general election, Mr. Fossos timely filed four Campaign Summary Receipts and Expenditures reports (C-4 reports). They included the August C-4

report, the 21-day pre-general election C-4 report, the 7-day pre-general election C-4 report, and a C-4 report stating that it included activity for the month of November (the post-general election reporting period) even though it was filed on November 7, 2011.

Failure to timely disclose campaign expenditures and in-kind contributions for political advertising

4. During the period March 31 through April 3, 2012, Mr. Fossos amended or filed for the first time three C-4 reports, disclosing \$15,632 in previously un-reported campaign expenditures and in-kind contributions, as detailed below:
5. **Amended 21-day pre-general election C-4 report:** On April 3, 2012, Mr. Fossos filed an amended 21-day pre-general election C-4 report disclosing the following previously un-reported 2011 campaign activities totaling \$6,227: (1) A \$4,656 campaign expenditure to EASL, Inc. on October 12, 2011 for postage; and (2) A \$1,571 in-kind contribution from Mr. Fossos for two expenditures he made to the Federal Way Mirror on September 20, 2011 for web advertisements. The \$6,227 in previously un-reported campaign activities were disclosed 167 days late and 147 days after the November 8, 2011 general election.
6. **Amended 7-day pre-general election C-4 report:** On April 3, 2012, Mr. Fossos filed an amended 7-day pre-general election C-4 report disclosing the following previously un-reported 2011 campaign activities totaling \$8,935: (1) A \$5,734 campaign expenditure to EASL, Inc. on October 18, 2011, for "*final invoice for mail piece print, design, et al...*;" and (2) A \$3,201 in-kind contribution from Mr. Fossos for an expenditure he made to The Sign Shop on October 31, 2011 for campaign yard signs. The \$5,734 in previously un-reported campaign expenditures were disclosed 153 days late and 133 days after the November 8, 2011 general election. The \$3,201 in-kind contribution from Mr. Fossos for yard signs was disclosed six days late as an expenditure on a C-4 report filed on November 7, 2011, one day before the November 8, 2011 general election.
7. **Late filed June 2011 C-4 report:** On March 31, 2012, Mr. Fossos filed a C-4 report for June 2011, covering the period June 22 through June 30, 2011, disclosing a \$470 in-kind contribution/loan from Mr. Fossos on June 24, 2011 for a political advertisement described as a "*festival ad.*" The political advertisement was required to have been disclosed by Mr.

Fossos as an in-kind contribution on the June 2011 C-4 report that was due on July 11, 2011. This \$470 previously unreported in-kind contribution from Mr. Fossos was disclosed 264 days late and 112 days after the November 8, 2011 general election.

8. Of the total expenditures and in-kind contributions made for the benefit of Mr. Fossos:
 - (1) \$3,201 was disclosed six days late but prior to the November 8, 2011 general election being held; and
 - (2) \$12,431 was disclosed 133 to 264 days late, and more than four months after the general election.

Failure to timely disclose monetary contributions on C-3 reports

9. On March 31, 2012, Mr. Fossos filed three amended Cash Receipts Monetary Contributions reports (C-3 reports), disclosing \$1,510 in previously un-reported monetary contributions, including the following:
 10. On October 28, 2011, an \$800 monetary contribution was received by Mr. Fossos from IAFF Fire PAC, located in Washington D.C. This \$800 contribution was disclosed 144 days late on March 31, 2012. The contribution was required to be disclosed on a C-3 report filed by November 7, 2011, since it was deposited on October 31, 2011.
 11. On August 8, 2011, a \$300 monetary contribution was received from Don Kennedy. This \$300 contribution was disclosed 221 days late on March 31, 2012. The contribution was required to be disclosed on a C-3 report due to be filed on August 22, 2011, since it was deposited on August 15, 2011.
 12. On September 6, 2011, six \$50 monetary contributions totaling \$300 were received from six individuals that should have been deposited by September 12, 2011 and disclosed on a C-3 report on September 19, 2011. The six contributions were previously reported as anonymous contributions. The contributors were identified and disclosed 193 days late.
 13. On September 27, 2011, a \$50 monetary contribution was received from an individual. That contribution should have been deposited by October 3, 2011 and disclosed on a C-3 report on October 10, 2011. The \$50 contribution was disclosed 172 days late.

14. On October 4, 2011, a \$40 contribution was received from Louis Batayola. The contribution should have been reported on October 10, 2011, but was not reported until March 31, 2012, 173 days late.
15. On September 12, 2011, Mr. Fossos contributed \$20 in personal funds. This contribution should have been reported on September 19, 2011, but was not reported until March 31, 2012, 194 days late.
16. The corrected, total monetary contributions received by Mr. Fossos during the 2011 election was \$14,552. Of that total, \$13,042 was timely disclosed by Mr. Fossos before the election, and \$1,510 was disclosed late after the election.

LEGAL AUTHORITY

RCW 42.17.080 and .090¹ require candidates under the full reporting option to file timely, accurate reports disclosing contribution and campaign expenditure activities, including in-kind contributions from the candidate. C-4 reports are required to be filed 21 and 7 days before each election. When the candidate's name appears on the ballot, a post-election report must be filed in the month 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.

VIOLATIONS

James Fossos and the 2011 James Fossos campaign for Fire Commissioner for South King Fire and Rescue violated provisions of the state campaign finance disclosure laws during the 2011 election as follows:

- A. Failure to timely disclose 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. Failure to timely disclose monetary contributions on Cash Receipts Monetary Contributions reports (C-3 reports).

¹ Effective January 1, 2012, RCW 42.17.080 and RCW 42.17.090 were re-codified as RCW 42.17A.235 and RCW 42.17A.240.

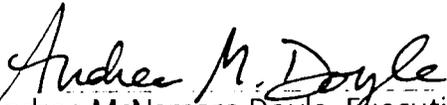
PENALTY

Based upon the stipulated facts and violations set forth above, Respondent James Fossos and the 2011 James Fossos Campaign agree that a civil penalty in the amount of \$750 may be assessed, with \$250 suspended on the following conditions:

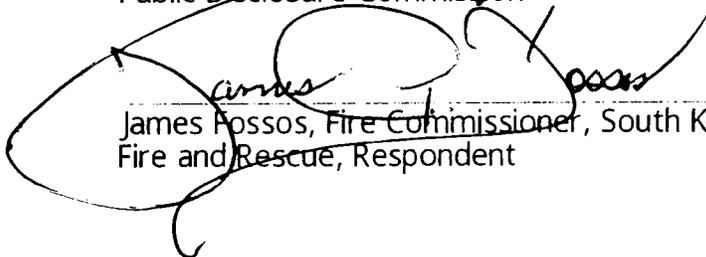
1. Respondent is not found to have committed further violations of RCW 42.17 or RCW 42.17A during the period following entry of the Commission's Final Order in this matter through December 31, 2017; and
2. Respondent pays the non-suspended portion of the penalty (\$500) within 30 days from the date of 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 (\$250) shall become due without any further action by the Commission.

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


Andrea McNamara Doyle, Executive Director
Public Disclosure Commission

3/22/13
Date Signed


James Fossos, Fire Commissioner, South King
Fire and Rescue, Respondent

03/18/2013
Date Signed

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 so it is received 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.