



State of Washington

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908
(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

RICHARD EMERY
1408 GOAT TRAIL ROAD
MUKILTEO, WA 98275

Also delivered electronically to “REMERY@MUKILTEOWA.GOV”

August 16, 2018

Subject: F-1 Brief Enforcement Hearing Notice PDC Case Number 38823

Dear: RICHARD EMERY

The Public Disclosure Commission (PDC) has not received your Personal Financial Affairs Statement (F-1 report) disclosing financial activities for calendar year 2017. RCW 42.17A.700 requires every elected or appointed official to file an annual F-1 report, which was to have been filed no later than April 16, 2018. On July 16, 2018, PDC staff sent you a warning letter reminding you to file the missing F-1 report.

In accordance with RCW 42.17A.110 and RCW 42.17A.755, a Brief Adjudicative Proceeding (Brief Enforcement Hearing) has been scheduled to determine if you violated RCW 42.17A.700 by failing to file the required annual F-1 report for calendar year 2017. Under the Brief Enforcement Hearing rules, the Presiding Officer has the authority to assess civil penalties in accordance with WAC 390-37-143, a penalty schedule adopted by the Commission (see enclosed copy).

HEARING INFORMATION

Date and time: **September 24, 2018 at 10 a.m.**
Place: Evergreen Plaza Building, Room 206
711 Capitol Way, Olympia, WA, 98504-0908
Presiding Officer: Anne Levinson, Chair, Public Disclosure Commission

TO AVOID THE HEARING

In order to avoid the Brief Enforcement Hearing, please ensure that the following items are received by the PDC no later than **12:00 p.m. Wednesday, September 19, 2018**:

1. A completed and signed F-1 or F-1A Report (a blank F-1/F-1A form is enclosed).
2. A signed Statement of Understanding (blank copy enclosed); and
3. A check or money order for \$100, made payable to Washington State Treasurer and mail all three items to the following address:

**WA State Treasurer - Public Disclosure Commission
Financial Office
PO Box 41465
Olympia, WA 98504-1465**

If there are circumstances you wish to have considered at the Brief Enforcement Hearing, you may attend the hearing in person, or participate by telephone. For your information, most Respondents who participate at the Brief Enforcement hearings participate by telephone or in writing.

If you cannot participate at the Brief Enforcement Hearing, you may provide a written response describing the facts of your case and any circumstances or mitigating factors you would like the Presiding Officer to consider. Please submit your written response by **12:00 p.m. Friday, September 21, 2018**.

If you plan on participating at the Brief Enforcement hearing or have questions about the hearing process, please contact PDC Staff by email at pdcc@pdcc.wa.gov – and be sure to reference your case number in the subject line of the email.

Sincerely,

PDC Staff
Compliance and Enforcement Division

Enclosures:

- Statement of Understanding
- F-1 Penalty Schedule
- Blank F-1/F-1A form
- Brief Enforcement Hearings FAQ



PUBLIC DISCLOSURE COMMISSION  711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828	PDC FORM F-1 (1/15)	PERSONAL FINANCIAL AFFAIRS STATEMENT	P M PDC OFFICE USE O A S R T K
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Refer to instruction manual for detailed assistance and examples.

Deadlines: Incumbent elected and appointed officials -- by April 15.
 Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position.

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION

DOLLAR CODE	AMOUNT
A	\$1 to \$4,499
B	\$4,500 to \$23,999
C	\$24,000 to \$47,999
D	\$48,000 to \$119,999
E	\$120,000 or more

R
E
C
E
I
V
E
D

Last Name	First	Middle Initial
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Names of immediate family members, including registered domestic partner. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse or registered domestic partner. See F-1 manual for details.

Mailing Address (Use PO Box or Work Address) *

City	County	Zip + 4
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Filing Status (Check only one box.)

An elected or state appointed official filing annual report

Final report as an elected official. Term expired: _____ year

Candidate running in an election: month _____ year

Newly appointed to an elective office

Newly appointed to a state appointive office

Professional staff of the Governor's Office and the Legislature

Office Held or Sought

Office title: _____

County, city, district or agency of the office, name and number: _____

Position number: _____

Term begins: _____ ends: _____

1 INCOME List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member, including registered domestic partner, received \$2,400 or more during the period. Include stock options received during the reporting period that had a value of \$2,400 or more. (Report interest and dividends in Item 3.)

Show Self (S) Spouse (SP/DP) Dependent (D)	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)

Check Here if continued on attached sheet

2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$12,000 in which you or a family member, including registered domestic partner, held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)

Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received		
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount - (Use Code) Original Current
All Other Property Entirely or Partially Owned					

Check here if continued on attached sheet

CONTINUE ON NEXT PAGE

3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS

List bank and savings accounts, insurance policies, stock, bonds and other intangible property (including but not limited to stock options) held during the reporting period.

<p>A. Name and address of each bank or financial institution in which you, a family member, including registered domestic partner, had an account over \$24,000 any time during the report period.</p>	<p>Type of Account or Description of Asset</p>	<p>Asset Value (Use Code)</p>	<p>Income Amount (Use Code)</p>
<p>B. Name and address of each insurance company where you, a family member, including registered domestic partner, had a policy with a cash or loan value over \$24,000 during the period.</p>			
<p>C. Name and address of each company, association, government agency, etc. in which you, a family member, including registered domestic partner, owned or had a financial interest worth over \$2,400. Include stocks, bonds, ownership, retirement plan, IRA, notes, stock options, and other intangible property. If you, your spouse, registered domestic partner and/or dependents had decision making authority regarding individual assets/investments list each asset or investment, the value and any income amount. EXAMPLE: If you self-directed an investment account identify each stock or other asset in that account.</p>			
<p>Check here <input type="checkbox"/> if continued on attached sheet</p>			

4 CREDITORS

List each creditor you or a family member, including registered domestic partner, owed \$2,400 or more any time during the period. Don't include retail charge accounts, credit cards, or mortgages or real estate reported in Item 2.

AMOUNT (USE CODE)

Creditor's Name and Address	Terms of Payment	Security Given	Original	Present
<p>Check here <input type="checkbox"/> if continued on attached sheet</p>				

5 All filers answer questions A thru D below. If the answer is YES to any of these questions, the F-1 Supplement must also be completed as part of this report. If all answers are NO and you are a candidate for state or local office, an appointee to a vacant elective office, or a state executive officer filing your initial report, no F-1 Supplement is required.

Incumbent elected officials and state executive officers filing an annual financial affairs report also must answer question E. An F-1 Supplement is required of these officeholders unless all answers to questions A thru E are NO.

- A. At any time during the reporting period were you, your spouse, registered domestic partner or dependents (1) an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity or (2) a partner or member of any limited partnership, limited liability partnership, limited liability company or similar entity including but not limited to a professional limited liability company? ____ If yes, complete Supplement, Part A.
- B. Did you, your spouse, registered domestic partner or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business at any time during the reporting period? ____ If yes, complete Supplement, Part A.
- C. Did you, your spouse, registered domestic partner or dependents own a business at any time during the reporting period? ____ If yes, complete Supplement, Part A.
- D. Did you, your spouse, registered domestic partner or dependents prepare, promote or oppose state legislation, rules, rates or standards for compensation or deferred compensation (other than pay for a currently-held public office) at any time during the reporting period? ____ If yes, complete Supplement, Part B.
- E. **Only for Persons Filing Annual Report.** Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse, registered domestic partner or dependents (or any combination thereof) accept a gift of food or beverages costing over \$50 per occasion? ____ or 2) Did any source other than your governmental agency provide or pay in whole or in part for you, your spouse, registered domestic partner and/or dependents to travel or to attend a seminar or other training? ____ If yes to either or both questions, complete Supplement, Part C.

ALL FILERS EXCEPT CANDIDATES. Check the appropriate box.

I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.

I hold a local elected office. I have read and am familiar with RCW 42.17A.555 regarding the use of public facilities in campaigns.

***CANDIDATES:** Do not use public agency addresses or telephone numbers for contact information.

CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.

Signature _____ Date _____

Contact Telephone: () *

Email: _____ (work) *

Email: _____ (Home) Optional

REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE

**Public Disclosure Commission
Statement of Understanding
2018 Annual Officials Enforcement Re: F-1 Report**

I hereby acknowledge that I, _____,
(Printed Name of Respondent)

did not timely file the required Personal Financial Affairs Statement (F-1 Report) with the Public Disclosure Commission (PDC) that was due to be filed on April 16, 2018, disclosing personal financial information for calendar year 2017, thereby violating 42.17A.700.

I want to avoid the time and expense resulting from a Brief Adjudicative Hearing (Brief Enforcement Hearing) before the Presiding Officer. Therefore, I am filing the F-1 report, completing the Statement of Understanding, and enclosing a check or money order in the amount of \$100 for the missing report, in lieu of a September 24, 2018, Brief Enforcement hearing being held.

I understand that this will resolve all issues with the PDC regarding my failure to timely file the F-1 report, provided that a check or money order for \$100, the completed missing report(s), and this signed Statement of Understanding are all received by **Wednesday, September 19, 2018.**

I further understand that Commission staff will not be scheduling a Brief Enforcement hearing before the Presiding Officer regarding my obligation to timely file the F-1 report that was due April 16, 2018.

Signature of Respondent/Candidate Date Signed

Be sure to include your F-1 report, and make your check or money order payable to "Washington State Treasurer." Mail or deliver this Statement of Understanding, your completed F-1 report, and your payment to the following address:

**WA State Treasurer - Public Disclosure Commission
Financial Office
PO Box 41465
Olympia, WA 98504-1465**

BRIEF ENFORCEMENT HEARINGS

You have received a letter scheduling a brief enforcement hearing before the Public Disclosure Commission. You are referred to as the Respondent in this matter. Here are the answers to some Frequently Asked Questions about brief hearings. They are informational only and should not be considered legal advice.

What is a brief enforcement hearing?

The PDC may schedule a brief enforcement hearing (also known as a “brief adjudicative proceeding” under the Administrative Procedure Act) when evidence shows the following types of alleged violations may have occurred:

- Failure to file or timely file required reports of financial affairs, campaign contributions and/or expenditures, independent expenditures or funds spent on lobbying;
- Improper use of public facilities or resources in election campaigns when the value of public funds expended or facilities used was minimal; and
- Infractions of political advertising laws regarding sponsor identification or political party identification.

Brief hearings may be scheduled on other matters as well, if the basic facts are agreed to or not being contested, and it is anticipated that the likely penalty imposed (if a violation of law or rule is found) will be \$1,000 or less. The Commission has adopted a penalty schedule for Brief Enforcement Hearings which can be found in WAC 390-37-143.

A Presiding Officer, who is the Chair of the Public Disclosure Commission or another commissioner, will conduct the hearing. PDC staff will present the case to the Presiding Officer, and you will have an opportunity to explain the circumstances related to the alleged violations. You may do this in person, by telephone, or in writing by email or letter.

What can I do to avoid the hearing?

If you received a hearing notice that included information about how to avoid a hearing, you may do so by filing the missing report(s), paying the stated penalty, and completing a Statement of Understanding stipulating to a violation. If you would like to stipulate and have questions, please contact PDC Compliance and Enforcement staff.

What do I do to prepare for the hearing?

The brief hearings are informal in nature, and you are not required to have an attorney for this hearing. Most people represent themselves, but that is your decision.

In-person participation. If you are attending in-person, bring all of the written information that you want the Presiding Officer to consider in making a decision. You will need to bring three copies of each — one for you, one for PDC staff, and one for the Presiding Officer. Alternatively, you may submit one copy to PDC staff so long as it is received five business days before the day of the hearing.

If you are having other people (witnesses) testify on your behalf, they must be available at the hearing, and staff needs to be informed of the number of witnesses and time needed. The scheduled hearing starting time is an estimate, as there is frequently more than one hearing scheduled for that day, and you will need to remain available to participate until your case is called.

Telephone participation. If you wish to participate by phone, please let PDC staff know five business days in advance the number where you can be reached and the timeframe you are available. You must be available at the designated time and telephone number. Be aware the hearing time is an estimate, and you must be available until your case is called.

Participation in writing. If you are participating in writing only, make sure any written materials you want the Presiding Officer to consider are delivered to the PDC office no later than five business days before the hearing.

If you have submitted nothing in writing prior to the hearing, have made no other arrangements, and you do not appear in person or through your legal counsel at the hearing, it will be presumed that you have decided to waive your right to participate at the hearing.

What happens at the hearing?

The Presiding Officer will introduce the participants and explain the procedure for the hearing. Hearings typically follow a set format and time limits, but the process is informal enough that non-lawyers can effectively present their cases and respondents can represent themselves.

PDC staff will first present information regarding the alleged violation of law or rule. You will then have an opportunity to present information relevant to your case. All testimony is given under oath. The Presiding Officer may ask you some questions about the information you or PDC staff have presented. If you have decided to participate in writing instead of in person or by phone, your written information will be considered by the Presiding Officer as part of the hearing materials.

If at any time the Presiding Officer believes the alleged violations are serious enough to merit penalties greater than \$1,000, the Presiding Officer will adjourn the hearing and direct the matter be scheduled for a hearing before the full Commission at a later time.

How is the decision made?

After considering all the information presented at the hearing, the Presiding Officer will make a decision about the allegations and any appropriate penalty amount. The decision is typically announced orally at the hearing. A written decision, called an initial order, will be sent to you within 10 business days.

In some cases, the Presiding Officer may use a penalty schedule referred to above that has been adopted by the Commission in rule to determine the appropriate penalty for certain types of violations.

What happens after my hearing?

You will receive a written initial order, along with a cover letter explaining the Presiding Officer's findings, within 10 business days. If a monetary penalty is imposed in this initial order, the penalty must be paid to the **Washington State Treasurer**, and mailed to the address listed in the order cover letter within the time frame stated in the order.

Along with your initial order, you will also receive information about your appeal rights, including how to request review or reconsideration by the full Commission if you disagree with the order. Follow these procedures carefully if you wish to appeal. If there is no appeal before the PDC, the initial order becomes a final order, and further appeals must be made in Superior Court.

What are the rules that apply to the procedures of my hearing?

The PDC's laws and rules are available on the PDC's website at www.pdc.wa.gov. The laws are in the Revised Code of Washington (RCW) Chapter 42.17A. The rules are in the Washington Administrative Code (WAC) Title 390. Brief adjudicative proceedings are described at WAC 390-37-140 through 390-37-150 and in the Administrative Procedure Act (APA) at RCW 34.05.482-494

WAC 390-37-143

Brief enforcement hearings (adjudicative proceeding)—Penalty schedule.

The presiding officer may assess a penalty up to one thousand dollars upon finding a violation of chapter 42.17A RCW or Title 390 WAC.

(1) Base penalty amounts:

Violation	1st Occasion	2nd Occasion	3rd Occasion
Failure to timely file an accurate and complete statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000
Candidate's failure to timely file an accurate and complete registration statement (C-1)/statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150 per report	\$150 - \$300 per report	\$300 - \$600 per report up to \$1,000
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150 per report	\$300 per report	\$600 per report up to \$1,000
Failed to file report by date of enforcement hearing.	\$250 per report	\$500 per report	consideration by full commission

.... (emphasis added)

"Occasion" means established violation. Only violations in the last five years will be considered for the purpose of determining second and third occasions.

(2) In determining the appropriate penalty, the presiding officer may consider the nature of the violation and aggravating and mitigating factors, including:

(a) Whether the respondent is a first-time filer;

(b) The respondent's compliance history for the last five years, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;

(c) The respondent's unpaid penalties from a previous enforcement action;

(d) The impact on the public, including whether the noncompliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;

(e) The amount of financial activity by the respondent during the statement period or election cycle;

(f) Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;

(g) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention;

(h) Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action, and a demonstrated wish to acknowledge and take responsibility for the violation;

(i) Personal emergency or illness of the respondent or member of his or her immediate family;

(j) Other emergencies such as fire, flood, or utility failure preventing filing;

(k) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization;

(l) Commission staff, third-party vendor, or equipment error, including technical problems at the agency preventing or delaying electronic filing.

(3) The presiding officer has authority to suspend all or a portion of an assessed penalty under the conditions to be determined by that officer including, but not limited to, payment of the nonsuspended portion of the penalty within five business days of the date of the entry of the order in that case.

(4) If, on the third occasion, a respondent has outstanding penalties or judgments, the matter will be directed to the full commission for consideration.

(5) The presiding officer may direct a matter to the full commission if the officer believes one thousand dollars would be an insufficient penalty or the matter warrants consideration by the full commission. Cases will automatically be scheduled before the full commission for an enforcement action when the respondent:

(a) Was found in violation during a previous reporting period;

(b) The violation remains in effect following any appeals; and

(c) The person has not filed the disclosure forms that were the subject of the prior violation at the time the current hearing notice is being sent.

[Statutory Authority: RCW [42.17A.110](#)(1) and [42.17A.570](#). WSR 18-10-088, § 390-37-143, filed 5/1/18, effective 6/1/18. Statutory Authority: RCW [42.17A.110](#). WSR 17-03-004, § 390-37-143, filed 1/4/17, effective 2/4/17.]