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

8 IN THE MATTER OF ENFORCEMENT
9 ACTION AGAINST:

PDC CASE NO. 14-004

FINAL ORDER

10 Saving Whatcom County dba Save Whatcom,
11 Respondent.
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14 This matter came before the Washington State Public Disclosure Commission on
15 December 5, 2013 at the PDC Office, 711 Capitol Way, Room 206, Olympia, Washington.
16 Those present included Amit Ranade, Commission Chair; Grant Degginger, Vice Chair; and
17 Barry Sehlin, Member. Kathy Turner, Member, was not present and did not participate.

18 In attendance were Phil Stutzman, PDC Director of Compliance; Kurt Young, PDC
19 Compliance Officer; PDC Executive Director Andrea McNamara Doyle; Nancy Krier,
20 Commission General Counsel; and PDC staff member Lori Anderson as recorder/reporter of
21 the proceedings. The Respondent, Saving Whatcom County dba Save Whatcom (Save
22 Whatcom), was represented by attorney Dan Brady, who participated in person. Orphalee
23 Smith, Treasurer for Save Whatcom, was also present and participated on behalf of Save
24 Whatcom. The proceeding was open to the public and recorded.
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1 This case concerns allegations in a 45-day citizen action letter complaint filed on
2 October 18, 2013 by Mike Estes, against the Respondent, alleging the Respondent violated
3 RCW 42.17A.235 and 42.17A.240 by failing to timely file Campaign Summary Receipts &
4 Expenditures reports (C-4 reports) and Cash Receipts Monetary Contributions reports (C-3
5 reports) disclosing contribution and expenditure activities undertaken during the 2013 election;
6 and RCW 42.17A.245 by failing to file required reports electronically.

7 The complaint was submitted to the Washington State Attorney General's Office and
8 referred to the PDC for investigation and possible action.

9 The Commission was provided with a Notice of Administrative Charges dated
10 November 25, 2013; a Report of Investigation dated November 25, 2013 (and exhibits); an
11 Executive Summary and PDC Staff Analysis; and a proposed Stipulation as to Facts,
12 Violations, and Penalty (Stipulation) dated December 4, 2013.

13 Mr. Young summarized the investigation. Mr. Stutzman described the PDC staff
14 recommendation to take appropriate enforcement action against the Respondent and to accept
15 the proposed Stipulation, and to recommend the Attorney General take no further action with
16 respect to the allegations in the complaint. Mr. Brady and Ms. Smith urged the Commission to
17 accept the Stipulation.

18 After deliberating, the Commission accepted the facts and violations as detailed in the
19 Stipulation, but did not accept the stipulated penalty. The Commission proposed that the
20 Stipulation be amended to include a penalty of \$3,000 with \$1,000 suspended for a period of
21 four years from the date of the Commission's Final Order on the condition that: (1) Save
22 Whatcom is not found to have committed further violations during the period of the
23 suspension; and (2) Save Whatcom pays the non-suspended portion of the penalty (\$2,000)
24 within 30 days from the date of the entry of the Commission's Final Order in this matter. After
25 considering the proposed penalty, the parties accepted the Commission's amendment to the
26 Stipulation.

1 The Commission unanimously voted to accept the Stipulation, as amended. The
2 Commission also unanimously voted to recommend the Attorney General take no further
3 action with respect to the allegations in the complaint.

4 The Commission hereby enters the following Findings of Fact, Conclusions of Law,
5 and Order.

6 I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

11 2. The Respondent violated RCW 42.17A.235, RCW 42.17A.240, and RCW
12 42.17A.245 as provided in the Stipulation.

13 In addition, the Commission finds and concludes:

14 3. A civil penalty of \$3,000, with \$1,000 suspended on the conditions enumerated
15 below, is an appropriate resolution of this matter.

16 II. ORDER

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

18 1. The Stipulation, as amended, is accepted.

19 2. The Respondent is assessed a civil penalty of \$3,000 for the stipulated
20 violations. Of the total penalty amount, \$1,000 is suspended based on Respondent's
21 compliance with the following conditions:

22 a. Respondent is not found to have committed violations of RCW 42.17A within
23 four years from the date of the entry of the Commission's Final Order in this matter; and

24 b. Respondent pays the non-suspended portion of the penalty (\$2,000) within 30
25 days of the date of entry of the Commission's Final Order in this matter.
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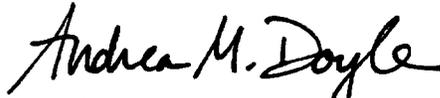
1 3. In the event Respondent fails to meet the conditions in paragraph 2, the
2 suspended portion of the penalty (\$1,000) shall become due without any further intervention of
3 the Commission.

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

5 So ORDERED this 13th day of December 2013.

6 WASHINGTON STATE PUBLIC
7 DISCLOSURE COMMISSION

8 FOR THE COMMISSION:

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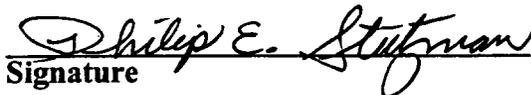
10 Andrea McNamara Doyle
11 Executive Director

12 *Attachments: Stipulation as to Facts, Violations, and Penalty (Dec. 4, 2013)*
13 *Appeals and Enforcement of Final Orders*

14 *Copy of this Order to:*

15 Saving Whatcom County dba Save Whatcom
16 c/o Dan Brady at *brady-dj@comcast.net*

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18
19 I, *Philip E. Stutzman*, certify that I mailed a copy of this order to the
20 Respondent at the respective address above, by electronic mail, on the date stated herein.

21 
22 Signature

23 12/13/2013
24 Date

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.

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

In the Matter of Enforcement Action
Against:

Saving Whatcom County dba Save
Whatcom

Respondent.

Case No. 14-004

STIPULATION AS TO FACTS,
VIOLATION AND PENALTY

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Andrea McNamara Doyle, and Respondent Saving Whatcom County dba Save Whatcom, through its attorney, Dan Brady, 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 suggests modification to 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 42.17A RCW, the state campaign finance and disclosure law; RCW 34.05, the Administrative Procedure Act; and WAC 390.

FACTS

1. Save Whatcom was created on August 9, 2013, and on August 13, 2013, filed a Committee Registration (C-1pc report) registering with the PDC as an "Other Political Committee."

Late Expenditure (C-4) Reports (RCW 42.17A.235 and 42.17A.240)

2. Save Whatcom filed two Campaign Summary Receipts & Expenditures reports (C-4 reports) between six and 35 days late as follows:

- August 2013 C-4 report: On October 15, 2013, Save Whatcom filed its initial C-4 report for August 2013 covering the period August 1 through August 31, 2013, disclosing the receipt of \$5,000 in monetary contributions and in-kind contributions totaling \$1,932, and no expenditures. The August 2013 C-4 report was due by September 10, 2013, and Save Whatcom filed it 35 days late.
- 21-day pre-general election C-4 report: On October 21, 2013, Save Whatcom filed its 21-day pre-general election C-4 report for the period September 1 through October 14, 2013, disclosing \$151,248 in monetary contributions received, \$154,802 in expenditures made, and \$4,343 in in-kind contributions received. The expenditures included: (1) A \$154,000 monetary contribution to Whatcom First made on October 14, 2013; (2) A \$571 expenditure to Print and Copy for printing services made on September 6, 2013; and (3) A \$231 expenditure to Print and Copy for printing services on September 12, 2013. The 21-day pre-general election C-4 report was due by October 15, 2013, and Save Whatcom filed it six days late.

Late Contribution (C-3) Reports (RCW 42.17A.235 and 42.17A.240)

3. Save Whatcom filed a total of 24 Cash Receipts Monetary Contributions reports (C-3 reports) during the 2013 election, disclosing the receipt of \$163,735 in monetary contributions. However, seven of those C-3 reports were electronically filed replacements for six paper-filed reports in which the amounts did not change. One paper-filed C-3 report for \$525 was not re-filed electronically. After the committee filed its C-3 reports electronically (both replacement C-3 reports and new C-3 reports) there were 17 different electronically filed C-3 reports and one paper-filed C-3 report. Without regard to whether the C-3 reports were paper-filed or electronically filed, there were seven late-filed C-3 reports filed between three and 28 days late that disclosed \$151,525 in contributions. However, three of the C-3 reports totaling \$145,150 were filed only three days late, two reports totaling \$1,175 were filed seven days late, and two reports totaling \$5,200 were filed 24 and 28 days late.

4. The seven late-filed reports totaling \$151,525 in contributions received included the following contribution information:

- A September 23, 2013, paper-filed C-3 report disclosed that a \$5,000 contribution from Richard Donahue had been received and deposited on August 23, 2013. The C-3 report was due by August 26, 2013, and was filed 28 days late.
- An October 17, 2013, electronically filed C-3 report disclosed that one \$12,000 contribution from SSA Marine, Inc. had been received and deposited on October 9, 2013. The C-3 report was due by October 14, 2013, and was filed three days late.
- An October 17, 2013, electronically filed C-3 report disclosing that two \$50,000 contributions had been received and deposited on October 10, 2013, one from Cloud Peak Energy, and one from Global Coal Sales. The C-3 report was due by October 14, 2013, and was filed three days late.
- An October 17, 2013, electronically filed C-3 report disclosed that six contributions totaling \$33,150 had been received on October 10, 2013 and deposited on October 11, 2013, including two \$16,000 contributions from Corbin and Barbara Robertson. The C-3 report was due by October 14, 2013, and was filed three days late.
- The remaining three late-filed C-3 reports totaled \$1,375 in contributions received, and were filed between seven and 24 days late, disclosing 13 contributors. Two of the C-3 reports were paper-filed and totaled \$1,175, and one of the C-3 reports was electronically filed and totaled \$200.

Failure to File Electronically (RCW 42.17A.245)

5. On August 23, 2013, Save Whatcom received and deposited a \$5,000 contribution from Richard Donahue. Save Whatcom expected to use this contribution to make expenditures in 2013, and was therefore required to electronically file the C-3 report disclosing this contribution on August 26, 2013, and to file all subsequent reports electronically as well. The committee filed the C-3 report electronically 49 days late on October 14, 2013.
6. In addition to the \$5,000 contribution from Mr. Donohue, and the late electronically filed C-3 reports identified in Paragraph 4 above, Save Whatcom failed to timely electronically file, and in one instance did not electronically file, the following C-3 reports:

- A C-3 totaling \$1,623.45 was due September 23rd and was electronically filed 24 days late on October 17th;
- A C-3 totaling \$1,575 was due September 23rd and was electronically filed 24 days late on October 17th;
- A C-3 totaling \$1,000 was due October 7th and was electronically filed 10 days late on October 17th; and
- A C-3 report totaling \$525 that was due October 14th and was not filed electronically.

7. Save Whatcom's decision to file its initial reports on paper rather than electronically was a result of a lack of knowledge of the electronic filing requirements. Save Whatcom understands that it bears the responsibility for knowing public disclosure law and particularly the requirement for electronic filing. Once Save Whatcom was first informed directly that it needed to file electronically, the committee refiled nearly every form immediately and of its own volition.

STATUTORY AND RULE AUTHORITY

RCW 42.17A.235 and RCW 42.17A.240 require political committees to file timely, accurate reports of contributions and expenditures. Under the full reporting option, until five months before the general election, C-3 and C-4 reports are required monthly when contributions or expenditures exceed \$200 since the last report. C-4 reports are also required 21 and 7 days before each election, and in the month following the election, regardless of the level of activity. Beginning five months before the election, weekly C-3 reports are required to be filed every Monday disclosing contributions received and deposited during the previous week.

RCW 42.17A.245 requires newly registered political committees that expect to expend five thousand dollars or more in the current year to file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under **RCW 42.17A.055**.

VIOLATION

Based on the Stipulation of Facts set forth above, Respondent Saving Whatcom County dba Save Whatcom stipulates that the committee violated RCW 42.17A.235 and RCW 42.17A.240 by failing to timely file Campaign Summary Receipts & Expenditures reports (C-4 reports) and Cash Receipts Monetary Contributions reports (C-3 reports) disclosing contribution and expenditure activities undertaken during the 2013 election, and RCW 42.17A.245 by failing to file required reports electronically.

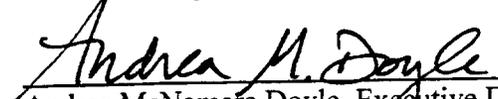
PENALTY

Based upon the stipulated facts and violations set forth above, Respondent Saving Whatcom County dba Save Whatcom agrees to pay a total civil penalty of \$2,000 with \$1,000 suspended on the following conditions:

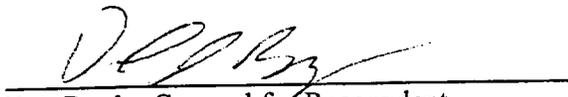
1. Respondent is not found to have committed further violations of RCW 42.17A within four years from the date of the Commission's Final Order in this matter; and
2. Respondent pays the non-suspended portion of the penalty (\$1,000) within 30 days from the date of entry of the Commission's Final Order in this matter.

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

Respondent Saving Whatcom County dba Save Whatcom affirms its intention to comply in good faith with the provisions of RCW 42.17A in the future.


 Andrea McNamara Doyle, Executive Director
 Public Disclosure Commission

12/4/13
 Date Signed


 Dan Brady, Counsel for Respondent
 Saving Whatcom County dba Save Whatcom

12/4/13
 Date Signed