



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: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

To: Commission Members
From: Kurt Young, Compliance Officer
Date: May 16, 2016
Re: Request for Reconsideration from Michael Cusick: PDC Case 16-015

Agenda Item

Michael Cusick is seeking a reconsideration by the Commission of a final order entered in an Enforcement Hearing before the Full Commission in PDC Case No. 16-015. The reconsideration is scheduled for the May 26, 2016, Commission meeting.

Background

- Mr. Cusick was appointed Fire Commissioner for Okanogan Fire District No. 3 at the end of calendar year 2007, and he has been re-elected to that position twice.
- As an incumbent Fire Commissioner, Mr. Cusick was required to file an F-1 report no later than April 15, 2015, disclosing personal financial information for calendar year 2014.
- Mr. Cusick failed to file an F-1 or F-1A report for calendar year 2013 and calendar year 2014, and has three prior PDC violations in which he was assessed violations and penalties. He was not eligible for a brief enforcement hearing under the provisions of WAC 390-37-160 because he has not filed the disclosure forms that were the subject of a prior violation in PDC Case No. 14-133, and this is his fourth alleged violation.
- On February 25, 2016, an Enforcement Hearing before the Full Commission was held at which Mr. Cusick was: (1) Found in violation of RCW 42.17A.700 for failing to file an F-1 report for calendar year 2014; (2) Assessed a \$750 civil penalty payable within 30 days of the date of the Order; (3) Required to "cease and desist" from failing to file his required PDC reports in accordance with RCW 42.17A.755(4); and (4) To file the missing F-1 reports for calendar years 2013 and 2014 within 30 days of the date of the Order.
- The initial Order was entered March 9, 2016.

Request for Review/Reconsideration

- In late March of 2016 after receiving the Enforcement Order, Mr. Cusick left a voice message for staff concerning the Order, violation and penalty assessed against him in PDC Case 16-015.

- On April 7, 2016, Mr. Cusick contacted PDC staff stating that he had not been aware of the missing F-1 report, and he questioned how he could appeal the findings in the Order. Staff discussed with Mr. Cusick his appeal rights, including the need for him to request a reconsideration, since his review rights expired after 21 business days, and that he needed to file the missing F-1 reports per the Order.
- On April 15, 2016, Mr. Cusick filed three F-1A reports (Minor or No Change reports) that included: (1) An F-1A report for calendar year 2013; (2) An, F-1A report for calendar year 2014; and (3) An F-1A report for calendar year 2015, that was timely filed.
- Mr. Cusick attached a letter he mailed along with the F-1A reports stating that he attempted to file the missing F-1 report on-line, and claimed he was provided with a notification informing him that his F-1 report had already been filed. He stated that he contacted the PDC staff and "...was told that if I got that notification, my F-1 was successfully filed. Every other time I attempted to file on-line I got the same notification..." He stated that based on that information, he assumed that he had successfully filed the F-1 report each time.
- Mr. Cusick stated he does not have reliable internet service at his residence and that he is not able to regularly check his email. He also stated that the address that had been used by PDC staff was not his current address.

Staff Comments

Staff reviewed the following information:

- Staff searched through all PDC databases and PDC reports filed by Mr. Cusick, and could not find that he had filed an F-1 report using the electronic filing application.
- Staff reviewed Mr. Cusick's electronic filing account information and found he established an F-1 electronic filing account in April of 2010, which indicated that he had a pending F-1 report dated April 14, 2010. However, Mr. Cusick never sent in an F-1 signature card releasing the 2010 F-1 report, and the records did not indicate that any F-1 reports had been saved or submitted electronically by Mr. Cusick.
- Excluding the three F-1A reports filed on April 16, 2016 by Mr. Cusick, he filed the following F-1 or F-1A reports:
 1. An F-1 report was paper filed on June 12, 2008.
 2. An F-1A report was paper filed on April 15, 2009 (for CY 2008).
 3. An F-1 report was paper filed on June 3, 2010 (for CY 2009).
 4. An F-1A report was paper filed on April 15, 2012 (for CY 2011).
 5. An F-1 report was paper filed on July 22, 2013 (for CY 2012).

Attachments:

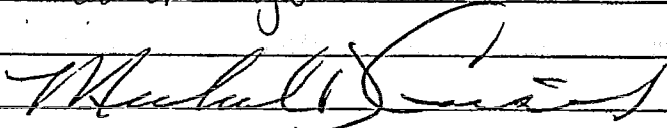
- Letter from Michael Cusick.
- Findings of Fact, Conclusions of Law, and Order Imposing Fine (PDC Case No. 16-015)

April 13, 2016

To Whom it May Concern;

I am writing this letter to appeal the Final Order of the Public Discloser Commission finding me non-compliant in filing my Public Discloser form F-1. After attempting to file on-line, I was given a notification that informed me that my F-1 was already filed. To be sure, I called the Public Discloser Commission office and was told that if I got that notification, my F-1 was successfully filed. Every other time I attempted to file on-line, I got the same notification, and so assumed that it had been successfully

filed each time. After speaking with Kurt Young, we also discovered an additional issue of your office not having my current address & the Post Office not forwarding mail after six months. I do not have reliable internet at my current residence & am not able to check my email regularly. The best form of communication is on my cell number, which Mr. Young now has. Anyways, he advised me that I should write this letter of appeal explaining these issues and hopefully helping to aid in the clearing up of this matter. Thank you.

Sincerely, 



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

March 9, 2016

Michael Cusick
455 Spring Coulee Road
Okanogan WA 98840-8232

Subject: Final Order, Michael Cusick, PDC Case No. 16-015

Dear Mr. Cusick:

Enclosed is a copy of the Public Disclosure Commission's Final Order for PDC Case No. 16-015. The Order assessed a civil penalty of \$750 against you for failing to file a Personal Financial Affairs Statement (F-1 report) for calendar year 2014, which was required to have been filed by April 15, 2015, as an incumbent Fire Commissioner for Okanogan Fire District No. 3.

Under the terms of the Order, you are required to pay the \$750 penalty and file the missing F-1 reports for calendar year 2013 and 2014 within 30 days of the date of the Order, or not later than April 8, 2016. The penalty payment should be made payable to "WA STATE TREASURER", reference PDC Case No. 16-015, and mailed to:

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

If you have questions or require reporting materials, please contact me toll free at 1-877-601-2828.

Sincerely,


Kurt Young
PDC Compliance Officer

Enclosures: Final Order in Case No. 16-015
Information about Appeals and Enforcement of Final Orders

cc: Okanogan Fire District No. 3 Legal Counsel



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March 9, 2016

Okanogan Fire District No. 3
Attn: Legal Counsel
PO Box 1045
Okanogan WA 98840

Subject: Michael Cusick, PDC Case No. 16-015

Dear Sir or Madam:

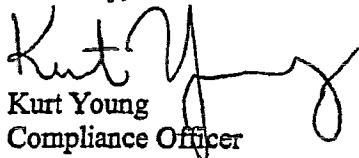
On February 25, 2016, the Washington State Public Disclosure Commission (PDC) held a hearing concerning the allegation that Michael Cusick, an incumbent Fire Commissioner for Okanogan Fire District No. 3, failed to file the annual Personal Financial Affairs Statement (F-1 report) as required for calendar year 2014.

Enclosed is a copy of the Public Disclosure Commission's Final Order for Mr. Cusick in PDC Case No. 16-015. The Order assessed a civil penalty of \$750 against Mr. Cusick for failing to file an F-1 report due April 15, 2015 for calendar year 2014. The F-1 report is an annual filing requirement for elected and appointed officials, due each April 15th for the previous calendar year.

At the request of the Public Disclosure Commission, PDC staff is alerting you to the enforcement action against Mr. Cusick, and offering any help necessary to assist Mr. Cusick and other fire district commissioners in complying with their disclosure requirements as elected officials.

If you have questions, please contact me at (360) 664-8854; toll free at (877) 601-2828 or by email at kurt.young@pdc.wa.gov.

Sincerely,


Kurt Young
Compliance Officer

Enclosure: Final Order in Case No. 16-015

1 At the hearing, Mr. Young testified on behalf of PDC staff. Mr. Young also presented
2 to the Commission and summarized his memo dated February 9, 2016, with exhibits. The
3 exhibits included information concerning the Respondent's prior case in which he was found in
4 violation of RCW 42.17A and assessed a \$500 penalty, and subsequently failed to file the F-1
5 report that was the subject of that violation.

6 Having considered the testimony and record, the Commission enters the following
7 Findings of Fact, Conclusions of Law, and Order.

8 II. Findings of Fact

- 9 1. Elected and appointed officials are required to file an annual F-1 report by April 15th
10 disclosing financial activities for the previous calendar year.
- 11 2. The Commission did not receive an F-1 report from the Respondent by the April 15, 2015,
12 due date for calendar year 2014.
- 13 ~~3. The Respondent is not eligible for a brief enforcement hearing under the provisions of~~
14 ~~WAC 390-37-160, since he has not filed the F-1 report for calendar year 2013 that was the~~
15 ~~subject of the prior violation found in PDC Case No. 14-133.~~
- 16 4. The Respondent did not file an F-1 report as of February 25, 2016, the date of the hearing.
- 17 5. The Respondent has two prior outstanding penalties totaling \$700 that were sent to
18 AllianceOne for collection in PDC Case Nos 14-133 and 13-242.

19 III. Conclusions of Law

20 Based upon the record herein, the Commission unanimously concludes:

- 21 1. The Commission has jurisdiction to hear this matter under RCW 42.17A and WAC 390.
- 22 2. RCW 42.17A.700 required the Respondent to file an F-1 report no later than April 15, 2015,
23 disclosing financial activities for calendar year 2014.
- 24 3. The Respondent violated RCW 42.17A.700 on one occasion by failing to file an F-1 report
25 disclosing his financial activities for calendar year 2014.

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

2 **IV. Order**

3 The Respondent is:

- 4 1) Assessed a civil penalty of \$750 for the missing F-1 report for calendar year 2014;
- 5 2) Required to pay the \$750 penalty within 30 days of the date of the Order;
- 6 3) Required to "cease and desist" from failing to file his required PDC reports in
- 7 accordance with RCW 42.17A.755(4); and
- 8 4) Required to file the missing F-1 reports for calendar years 2013 and 2014 within 30
- 9 days of the date of the Order.

10 In addition, the Commission directed staff to contact the Okanogan Fire District No. 3's

11 legal counsel to remind the Respondent and other fire commissioners about the F-1 filing

12 requirement.

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

14

15 So ORDERED this 9th day of March, 2016

16 WASHINGTON STATE PUBLIC
17 DISCLOSURE COMMISSION
18 FOR THE COMMISSION:

19 
20 Evelyn Fielding Lopez
PDC Executive Director

21 *ATTACHMENT: Appeals and Enforcement of Final Orders*

22 *Copy of this Final Order to:*

23 Michael Cusick
24 455 Spring Coulee Road
25 Okanogan WA 98840-8232

26

1 Okanogan Fire District No. 3
2 Attn: Legal Counsel
3 PO-Box 1045
4 Okanogan WA 98840

5 I, Kurt Young, certify that I mailed a copy of this order to the
6 Respondent/Applicant at his/her respective address postage pre-paid on the date
7 stated herein.
8 Kurt Young 3/9/2016
Signed Date

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