

Written Public Comment for November Special Meeting of the PDC
By Conner Edwards

Commissioners:

At Thursday's meeting, you all will hear cases where filers are alleged to have not filed F1s on time. These cases are being brought to the Commission for adjudication by agency staff, who were actively monitoring whether or not these filers filed by the appropriate deadline. When the filers failed to file by the appropriate deadline, agency staff took prompt action to initiate enforcement.

Let's say that I come to the Thursday meeting and say: *"you know what? The agency doesn't really need to monitor whether filers are submitting F1s on time. And if a member of the public happens to notice that a particular filer has failed to file an F1 and brings that to the attention of the agency via a complaint, you don't have to issue a monetary penalty. You can just issue a warning letter to the respondent and ask them nicely not to do it again, and that's a sufficient way to deal with that."*

If I said that, that idea would be laughed out of the room by both Commissioners and by agency staff. And rightly so. Without the threat of actual penalties for non-filing/late-filing, there is little incentive for candidates to file by the appropriate deadlines. Despite this reality, the favorite tool of agency staff in dealing with candidates who fail to timely file C3s and C4s is the so-called "warning letter", which is essentially a warm admonishment to the candidate not to do it again. These letters are frequently issued after the election is already concluded.

No intelligent person takes these letters seriously. Former PDC Commissioner Russ Lehman correctly noted that these letters play a negative impact on compliance because they educate the filing community on exactly how much they can get away with before they have to start paying real penalties.

What are the consequences of the agency's non-enforcement of C3 and C4 reporting deadlines? The main consequence is that it creates a perverse incentive. The agency's failure to act in this arena has made it so that there are no substantive penalties associated with noncompliance. Learning how to comply with PDC requirements and file electronically is an extremely time-intensive process, but why bother to do this when you can just not file any reports and not face any substantive penalties? Alternatively, why spend your limited campaign funds on a professional campaign treasurer when the PDC is perfectly willing to look the other way if you fail to file a single report over the entire campaign cycle?

The point I am trying to make is this: no-one at the PDC would find it acceptable if agency staff failed to monitor whether candidates file F1s on time. No-one at the PDC would ever find it acceptable to simply dismiss instances of late/non-filing of F1s with a "don't do it again" letter.

So why is the agency willing to simply look the other way when candidates flout the law and fail to file reports on time? How does the agency reconcile the current non-enforcement of C3 and C4 reporting deadlines with its mission to promote confidence in the political process?