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

In re the Matter of Enforcement Action
Against:

AMERICAN FEDERATION OF STATE,
COUNTY, AND MUNICIPAL EMPLOYEES
(AFL-CIO),

Respondent.

PDC CASE NO. 54145

FINAL ORDER

I. INTRODUCTION

This matter was heard by the Washington State Public Disclosure Commission (Commission) on September 26, 2019, at the Public Disclosure Commission Office, 711 Capitol Way, Room 206, Olympia, Washington 98504. The hearing was held pursuant to Chapter 34.05 RCW, Chapter 42.17A RCW, and Chapter 390-37 WAC.

Commissioners present were Anne Levinson, Commission Chair (presiding); David Ammons, Commission Vice-Chair; and Commissioners William Downing and Russell Lehman. Also present were Assistant Attorney General John S. Meader representing the Commission; Assistant Attorney General Chad Standifer representing PDC staff; and Kurt Young, Compliance Officer, on behalf of PDC Staff. Danielle Franco-Malone, Attorney, appeared on behalf of the American Federation of State, County, and Municipal Employees Union

1 (AFSCME, Respondent). The proceeding was open to the public and recorded.

2 The hearing concerned allegations that AFSCME violated RCW 42.17A.250 by failing
3 to file or timely file monthly Out-of-State Committee Contribution Reports (C-5 Reports)
4 disclosing \$250,000 in monetary contributions made to three political committees in Washington
5 State during calendar years 2015 and 2016.

6 The Commissioners had before them the following materials:

- 7 • Report of Investigation prepared by PDC Compliance Officer Kurt Young, dated September
8 17, 2019, which included:
 - 9 ○ July 3, 2019, complaint filed by the Freedom Foundation against
10 AFSCME;
 - 11 ○ Four C-5 reports timely filed by AFSCME during the period September
12 30, 2014, through December 31, 2018;
 - 13 ○ Late filed C-5 report submitted by AFSCME for August of 2015, dated
14 August 14, 2019;
 - 15 ○ Late filed C-5 report submitted by AFSCME for October of 2015, dated
16 August 14, 2019;
 - 17 ○ Late filed C-5 report submitted by AFSCME for September of 2016, dated
18 August 14, 2019;
 - 19 ○ Four amended C-5 reports submitted by AFSCME for calendar years
20 2014, 2015, 2018, dated August 14, 2019; and
 - 21 ○ Response submitted by Danielle Franco-Malone on behalf of AFSCME,
22 dated August 5, 2019.
- 23
- 24 • Proposed Stipulation as to Facts, Violations, and Penalty submitted by the parties, signed on
25 September 12 and 17, 2019.
- 26

1 **II. STIPULATION**

2 The parties jointly submitted a signed Stipulation as to Facts, Violations, and Penalty
3 (Stipulation). Mr. Standifer presented the Stipulation, reviewed aggravating and mitigating
4 factors, summarized the proposed penalties, and asked the Commission to accept the Stipulation.
5 Mr. Standifer also noted this was the first stipulation presented under RCW 42.17A.755 and
6 WAC 390-37-062 for resolution prior to initiation of an investigation. In response to
7 Commission questions, the Staff provided testimony that the Respondent had been responsive in
8 addressing the complaint and was now in compliance with all reporting obligations. Mr.
9 Standifer and PDC Staff also discussed that for purposes of determining the penalty, there were
10 no previous PDC cases with fact patterns sufficiently similar to be considered comparable.
11 Counsel for the Respondent, Danielle Franco-Malone, spoke on behalf of the Respondent,
12 explained the factors that led to the late filings, noted that Respondent accepted responsibility,
13 and also asked the Commission to accept the Stipulation. The Commission noted that the
14 proposed Stipulation did not make clear that the suspended portion of the penalty will come due
15 without further action of the Commission if the Respondent fails to comply with any of the
16 conditions of the Commission’s Order, and that the Commission’s Order would include this
17 provision. Both parties stated they understood. The Commission voted 3-1 to accept the
18 Stipulation.

19
20 **III. FINDINGS OF FACT**

21 1. AFSCME is a nationwide service employee union with 3,400 associated local unions,
22 58 councils and affiliates in 46 states, and approximately 1.4 million members in the United
23 States.

24 2. AFSCME Special Account is a separate segregated account registered with the Internal
25 Revenue Service as a 527 organization.

26 3. On August 14, 2019, AFSCME filed a C-5 report for August of 2015, disclosing a

1 \$25,000 contribution made on August 26, 2015, to AFSCME Washington Council 2 in Everett,
2 Washington, and listing the purpose as "Grant to an affiliate." The C-5 report should have been
3 filed by the Committee no later than September 10, 2015. The \$25,000 contribution was
4 disclosed 1,434 days late.

5 4. On August 14, 2019, AFSCME filed a C-5 report for October of 2015, disclosing a
6 \$25,000 contribution made on October 16, 2015, to AFSCME Washington Council 2 in Everett,
7 Washington, and listing the purpose as "Grant to an affiliate." The C-5 report should have been
8 filed by the Committee no later than November 10, 2015. The \$25,000 contribution was
9 disclosed 1,373 days late.

10 5. On August 14, 2019, AFSCME filed a C-5 report for September of 2016, disclosing a
11 \$200,000 contribution made on September 9, 2016, to AFSCME Washington Council 28 in
12 Olympia, Washington, and listing the purpose as "Grant to an affiliate." The C-5 report should
13 have been filed by the Committee no later than October 10, 2016. The \$200,000 contribution
14 was disclosed 1,038 days late.

15 6. On November 6, 2014, AFSCME timely filed a C-5 report for October of 2014,
16 disclosing a \$40,000 contribution made to Real Representation in the 35th PAC, a single-year
17 political committee registered with the PDC on October 10, 2014. On August 14, 2019,
18 AFSCME filed an Amended C-5 report for October of 2014, disclosing contributions received
19 from AFSCME International from January 1, through October 31, 2014, totaling \$29,368,240.

20 7. On August 5, 2015, AFSCME timely filed a C-5 report for July of 2015, disclosing a
21 \$100,000 contribution made to the Washington State Democrats on July 29, 2015. On August
22 14, 2019, AFSCME filed an Amended C-5 report for July of 2015, disclosing contributions
23 received from AFSCME International from January 1, through July 28, 2015, totaling
24 \$1,345,757.

25 8. On January 11, 2016, AFSCME timely filed a C-5 report for December of 2015,
26 disclosing two \$100,000 contributions made to the Washington State Democrats on December

1 4, and December 16, 2015, respectively. On August 14, 2019, AFSCME filed an Amended C-
2 5 report for December of 2015, disclosing contributions received from AFSCME International
3 from January 1, through December 31, 2015, totaling \$7,485,733.

4 9. On September 7, 2018, AFSCME timely filed a C-5 report for August of 2018,
5 disclosing a \$200,000 contribution made on August 28, 2018, to New Directions PAC, a
6 continuing political committee registered with the PDC. On August 14, 2019, AFSCME filed
7 an Amended C-5 report for August of 2018, disclosing contributions received from AFSCME
8 International from January 1, through August 31, 2018, totaling \$14,232,354.

9 10. The \$81,293,134 in late-reported total contributions received involved transfers from
10 AFSCME International into AFSCME's own segregated account.

11 11. The overwhelming majority of late-reported contributions received were not spent to
12 influence elections in Washington State.

13 12. AFSCME has not previously been found to have violated Chapter 42.17A RCW or
14 Title 390 WAC.

15 13. Reporting contributions to the Internal Revenue Service does not mitigate the failure
16 to properly file financial disclosures under Washington law.

17 14. The supplemental information provided by the Complainant on August 9, 2019,
18 was posted online and available to the public but was not offered by either party for inclusion
19 in the record. The Commission's Findings of Fact are based exclusively on the evidence of
20 record admitted in the adjudicative proceeding as required by RCW 34.05.461(4).

21 22 **IV. CONCLUSIONS OF LAW**

23 1. The Commission has jurisdiction over this proceeding pursuant to Chapter 42.17A
24 RCW, the State campaign finance and disclosure law; Chapter 34.05 RCW, the Administrative
25 Procedure Act; and Title 390 WAC.

26 2. AFSCME violated RCW 42.17A.250 by failing to timely file Out-of-State Committee

1 Contribution Reports (C-5 reports) disclosing \$250,000 in monetary contributions made to three
2 political committees in Washington State during calendar years 2015 and 2016.

3 3. AFSCME violated RCW 42.17A.250 by failing to timely file C-5 reports disclosing
4 contributions received from AFSCME International into AFSCME's segregated account
5 covering the period October 1, 2014, through August 31, 2018.

6
7 **V. ORDER**

8 Based upon the stipulated Findings and Conclusions, the Commission accepts the
9 Stipulation of the parties and orders that:

- 10
11 1. Respondent AFSCME is assessed a total civil penalty of \$5,250, representing
12 \$750 for each late filed C-5 report in accordance with the Stipulation Penalty
13 Schedule in WAC 390-37-062, of which \$2,000 of the penalty is suspended on
14 the following conditions:
- 15 a. The Respondent is not found to have committed any further violations of
16 Chapter 42.17A RCW or Title 390 WAC within four years of the date of
17 this Final Order. The suspended penalty shall not be assessed based solely
18 upon any remediable violation, minor violation, or error classified by the
19 Commission as appropriate to address by a technical correction.
 - 20 b. The Respondent remains in full compliance with all PDC reporting
21 requirements.
 - 22 c. The non-suspended portion of the penalty (\$3,250) is paid by the
23 Respondent within 30 days of the date of this Final Order.
- 24
25 2. If the Respondent fails to comply with any of the conditions of this Order, the
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1 suspended portion of the penalty shall immediately become due without further
2 action by the Commission.

3 So ORDERED this 4th day of October, 2019.

4
5 WASHINGTON STATE PUBLIC
6 DISCLOSURE COMMISSION

7 FOR THE COMMISSION:

8 

9 Anne Levinson
10 Chair, Public Disclosure Commission

11 *Copy of this Order mailed and/or emailed to:*

12 Danielle Franco-Malone, Attorney for AFSCME, (franco@workerlaw.com)

13 Kurt Young, PDC Staff Compliance Officer (Kurt.young@pdc.wa.gov);

14 Chad Standifer, Assistant Attorney General, Counsel for PDC Staff (ChadS@atg.wa.gov)

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18 I, Kurt Young, certify that I mailed a copy of this order to the Respondent/
19 Applicant at his/her respective address postage pre-paid on the date stated herein.

20  10/7/2019
21 Signed Date

→ and e-mailed

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NOTICE: RECONSIDERATION

Pursuant to the provisions of RCW 34.05.470 and WAC 390-37-150, you may file a Petition for Reconsideration with the PDC within ten (10) days from the date this Final Order is served upon you. Any Request for reconsideration must state the specific grounds for the relief requested. Petitions must be delivered or mailed to the Washington State Public Disclosure Commission, 711 Capitols Way, Room 206, Box 40908, Olympia WA 98504-0908.

NOTICE: PETITION FOR JUDICIAL REVIEW

You have the right to appeal this Final Order to Superior Court, pursuant to the Petition for Judicial Review provisions of RCW 34.05.542. Any Petition for Judicial Review of this Final Order must be filed with the court and also served upon both the Commission and the Office of the Attorney general within thirty (30) days after the date this Final Order is served upon you.