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

June 25, 2021

Also delivered electronically to "MSPENCE@BISD303.ORG islandspence@gmail.com mspence@speakeasy.net"

Subject: F-1 Brief Enforcement Hearing Notice; PDC Case Number 94212

Dear SPENCE MICHAEL A:

Public Disclosure Commission (PDC) has not received your Personal Financial Affairs Statement (F-1 report) disclosing financial activities for calendar year 2020. 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 15, 2021.

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 2020. Under the Brief Enforcement Hearing rules, the Presiding Officer has the authority to assess a civil penalty in accordance with WAC 390-37-143, a Brief Enforcement Hearing penalty schedule adopted by the Commission (see enclosed copy).

HEARING INFORMATION

Date and time:	**July 15, 2021 at 12:30 p.m.**
Place:	Remotely from Olympia Live Audio and Online Transmission
Presiding Officer:	Fred Jarrett, Chair, Public Disclosure Commission

HOW 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. Monday, July 12, 2021**:

1. A completed F-1 Report (Online F-1 Instructions are enclosed).
2. A signed *Statement of Understanding* (blank copy enclosed); and
3. A check or money order for $100 for the late filed F-1 report, made payable to "Washington State Treasurer"

   Mail the signed *Statement of Understanding* and payment to the following address:

   Public Disclosure Commission
   PO Box 40908
   Olympia, WA 98504-0908

(Any *Statement of Understanding* or payment received after the July 12, 2021 deadline will be returned.)

PARTICIPATING BY TELEPHONE

The Brief Enforcement Hearing will be audio and video recorded. The Presiding Officer and staff will join the meeting remotely.

Anyone wishing to participate in the hearing by telephone must follow the instructions below and call into the meeting **promptly at 12:20 p.m. on Thursday, July 15, 2021**. Please stay on the call until the Presiding Officer calls your name and case number. After your case has been heard, you may hang up or stay on the call. *Please note that you must keep your phone on mute at all times except while your case is being heard.* Use *6 to mute your phone and *6 again to unmute when it is your turn to speak.

Join on your telephone by dialing:
+1 206-809-2388 United States, Seattle

Follow the verbal prompts and enter the Phone Conference ID: 766 101 95#

Use *6 on your telephone keypad to mute your call and use *6 again to unmute your phone when it is your turn to speak.

If you experience technical difficulties with the call-in participation after the meeting has started at 12:30 p.m., call the PDC's main number 1-360-753-1111 and staff will try to assist you.

INTERPRETER

If a party or witness to this proceeding speaks limited English or is hearing-impaired, and needs an interpreter, a qualified interpreter will be appointed at no cost to you. Please inform us at least five business days before the hearing or no later than **July 8, 2021** if you require an interpreter for this proceeding and/or translation of its written materials in a language other than English. Please contact us by email at pdc@pdc.wa.gov or call us at (360) 753-1111 or 1-877-601-2828 to request an interpreter.

SUBMITTING WRITTEN MATERIALS

In advance of the Brief Enforcement Hearing, you may provide a written response describing the facts of your case for consideration by the Presiding Officer, including any circumstances or mitigating factors you would like considered. Please submit your written response so it is received **by no later than 12:00 p.m. Thursday, July 8, 2021**.

If you have any questions about the hearing process prior to the hearing date, please contact PDC Staff by email at pdc@pdc.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

- F-1 report Instructions
- Statement of Understanding
- Brief Enforcement Hearings FAQ
- PDC Penalty Schedule

Public Disclosure Commission
Shining Light on Washington Politics Since 1972

How to file your Personal Financial Affairs Statement with the PDC

https://www.pdc.wa.gov/engage/news/new-f-1-reporting-experience-now-live

January 8, 2020

Electronic filing of financial affairs disclosure (F-1) statements has moved to a new user experience designed to simplify filing and to help filers know what to report. See our video for a brief overview of the new system and its features. You can also watch this longer training video for step-by-step instruction.

Appointed and elected officials required to submit Personal Financial Affairs (F-1) disclosures will use the new online system to submit their statements.

Here is how to get access to the new system:

1. Set up a SAW account To get started, you'll need a Secure Access Washington (SAW) account, if you don't already have one. This PDC video offers a guide to establishing a SAW account.

In setting up your SAW account, you might want to use an email that you have established already with the PDC. That will be the easiest way to get linked to your F-1 information.

2. Go to the new system Once you have a SAW account, log into it and go to the new system using this link: Financial Affairs online reporting system. Please note that the system is not compatible with Internet Explorer.

If you don't see your name in the upper right-hand corner of the application, you can request access by clicking on "New filer." Enter the email you last used to file a F-1 with the PDC. You should receive an email with a one-time security code that you will need to use to access your reports.

If the email address you've used previously for PDC filings is one you no longer can access, contact the PDC customer service staff at pdc@pdc.wa.gov to report the new email address that you'll use for PDC reporting. Then, return to the application and request access.

3. Start filing

Once you've established access, you will see the landing page of the new filing application. You can click the button labeled "Prior" to see your past F-1 statements. Or, if you're ready to begin filing, click the "Start" button.

4. Find help

Questions about what to report? The application itself includes pop-up windows (marked with a "?" icon) and a FAQ (see the Help? link in the upper right-hand corner) that leads you to instructions on our website. Our full F-1 reporting manual also is available here. If you don't see the answer to your question, contact us at pdc@pdc.wa.gov.

Public Disclosure Commission Statement of Understanding
SPENCE MICHAEL A: PDC Case 94212

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 by April 15, 2021, disclosing personal financial information for calendar year 2020, thereby violating RCW 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 late filed report, in lieu of a July 15, 2021 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, my missing report is completed on-line, and this signed Statement of Understanding are all received by **Monday, July 12, 2021.**

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 by April 15, 2021.

_____ _____

Signature of Respondent Date Signed

Be sure to certify and submit your F-1 report on-line, and make your check or money order payable to "Washington State Treasurer" and mail this Statement of Understanding, and your $100 payment to the following address:

Public Disclosure Commission
PO Box 40908
Olympia, WA 98504-0908

BRIEF ENFORCEMENT HEARINGS – INFORMATION FOR FILERS

You have received a letter or email from the PDC scheduling a Brief Enforcement Hearing before a PDC Commissioner. Here are the answers to some Frequently Asked Questions about these brief hearings. This FAQ is informational only and should not be considered legal advice.

What is a Brief Enforcement Hearing?

The PDC is responsible for enforcing the State's campaign finance laws. We may schedule what is called a Brief Enforcement Hearing (also known as a "Brief Adjudicative Proceeding" under the Administrative Procedure Act) to address compliance with campaign finance reporting requirements 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 Enforcement Hearings may be scheduled on other matters as well, if the basic facts are agreed to or are not being contested, and it is anticipated that the likely penalty imposed (if a violation is found) will be $1,000 or less. The Commission has adopted a penalty schedule for Brief Enforcement Hearings which can be found in the Washington Administrative Code WAC 390-37-143.

A Presiding Officer, who is a PDC 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.

Who are the parties involved?

The PDC Staff initiates and investigates possible violations, and brings cases forward to the Commission or its Presiding Officer. The person who is alleged to be out of compliance with the law is referred to as the "Respondent."

What can I do to avoid the hearing?

If you received a hearing notice, you still have the opportunity to come into compliance by filing the missing report(s), paying the stated penalty, and completing a Statement of Understanding stipulating to the violation(s). If you would like to take this approach, please contact PDC Compliance and Enforcement Staff at pdc@pdc.wa.gov

What do I do to prepare for the hearing?

The brief hearings are informal in nature. You are not required to have an attorney for this hearing. Hearings take place remotely from Olympia, WA by live audio and online transmission. You need to let the Staff know at least five business days before the hearing whether you will be participating by phone or prefer not to participate.

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 for their testimony when you notify the Staff of your participation. The scheduled hearing starting time is the start time for several matters that will be heard by the Presiding Officer, and your case may not be the first one heard. So you will need to remain available to participate until your case is called.

Waiving your right to participate. If you have submitted nothing in writing prior to the hearing, have made no other arrangements, and you do not appear by phone, 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. The hearing will be audio-taped.

The Presiding Officer will swear-in PDC Staff for them to present information regarding the alleged violation of law. You will then have an opportunity to testify, which is your opportunity to present information. All testimony by Staff, Respondents, and witnesses is given under oath. The Presiding Officer may ask you some questions about the information you, PDC Staff, or witnesses have presented. If you have decided to participate in writing instead of 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 that 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 allegation(s) and any appropriate penalty amount. The decision is typically announced orally at the hearing.

The Presiding Officer will use the penalty schedule referred to above that has been adopted by the Commission in rule to determine the appropriate penalty for certain types of violations, taking into account aggravating and mitigating factors. The penalty schedule is below.

What happens after my hearing?

A written decision, called an Initial Order, laying out the Presiding Officer's ruling, including the findings and the penalty, will be sent to you. The PDC tries to get orders issued within 10 days if possible, and not later than 30 days. If a monetary penalty is imposed in the 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 Initial 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.

Penalty Schedule [WAC 390-37-143]:

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
Failure to timely file an accurate and complete lobbyist monthly expense report (L-2):			
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
Failure to timely file an accurate and complete lobbyist employer report (L-3):			
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

Failure to timely file accurate and complete disclosure reports:			
Political committee registration (C-1pc).	$150	$300	$600
Statement of contributions deposit (C-3).	$150	$300	$600
Summary of total contributions and expenditures (C-4).	$150	$300	$600
Independent expenditures and electioneering communications (C-6).	$150	$300	$600
Last minute contribution report (LMC).	$150	$300	$600
Out-of-state committee report (C-5).	$150	$300	$600
Annual report of major contributors (C-7).	$150	$300	$600
Failure to timely file accurate and complete reports disclosing lobbying activities:			
Lobbyist registration (L-1).	$150	$300	$600
Public agency lobbying report (L-5).	$150	$300	$600
Grass roots lobbying report (L-6).	$150	$300	$600
Failure to file electronically.	$350	$650	$1,000
Exceeding contribution limits.	$150	$300	$600
Exceeding mini reporting threshold.	$150	$300	$600
Failure to comply with political advertising sponsor identification requirements.	$150	$300	$600
Failure to include required candidate's party preference in political advertising.	$150	$300	$600
Failure to comply with other political advertising requirements, RCW 42.17A.330through 42.17A.345.	$150	$300	$600
Use of public facilities to assist a campaign for election or promote a ballot measure.	$150	$300	$600
Treasurer's failure to timely file an accurate and complete annual treasurer's report (T-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

"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 PDC staff prior to initiation of enforcement action and cooperation with PDC 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; and

(l) PDC 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 2018 c 304. WSR 18-24-074, § 390-37-143, filed 11/30/18, effective 12/31/18. 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.]