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M E M O R A N D U M

Date: October 15, 2026

To: Public Disclosure Commission Members

From: Peter Frey Lavallee, Executive Director

Subject: Options for Enforcing Final Orders

I. Introduction

The Commission requested that PDC Staff provide it with enforcement options for situations where a respondent has failed to comply with a final agency order. The purpose of this memo is to present information to the Commission about their available options, which will differ depending on the specific respondent.

II. Enforcement Options

Sending a Final Order to a Collections Agency

- Following the issuance of a final order, Department of Enterprise Services invoices respondents on behalf of the PDC. In Fiscal Year 2026, about 75 percent of respondents paid outstanding penalties during this initial period.

- If payment is not received after 90 days of mailing and emailing bills to the respondent, PDC Staff send the final order to a collections agency. The PDC works with one of the three vendors that has a contract with the state for collection services. Under the terms of that contract, the vendor must, at minimum:

    - notify the debtor in writing that Contractor is handling the account and demand immediate payment from the debtor. If the letter is returned due to a bad address, attempt telephone, email, or other contact with the debtor to get a working address. If no contact is made or no contact information is found, perform a skip trace to locate debtor and/or use a credit reporting service or other database to locate sources;

  - Subsequently, if the initial letter is not returned for a bad address, the contract requires the vendor to use a variety of different methods to collect including but not limited to any of the following actions: 1. Send an additional letter or letters demanding payment; or 2. Attempt telephone, email or other contact with the debtor to demand payment and/or make payment arrangements; or 3. Perform a skip trace to locate debtor; or 4. Use a credit reporting service or other database to locate sources for a Department administrative lien.

- This is the most resource-efficient option for enforcing final orders, as it requires minimal work from overstretched PDC Staff and involves no associated attorney or court fees. The collections agency recoups interest and fees on the penalties it is able to collect. For most respondents, this is a reasonable and proportionate next step if they fail to comply with a final agency order.

- The downside is a low success rate. The PDC currently has 682 cases placed with the collections agency (with the vendor having inherited 391 of those from the previous collections agency), with an average age of five years. Since February 2025 when the current vendor came on board, it has collected on just 21 of those. Of the 131 cases sent to collections in Fiscal Year 2026, the PDC's collections agency has collected on one.

- Of the PDC cases placed with the collections agency, the average outstanding penalty is $574, and the most common penalty is $250.

Judicial Enforcement of a Final Order

- Another option is to file a lawsuit in superior court seeking judicial enforcement of a final order, as authorized by RCW 29B.60.030 and RCW 34.05.578. This involves filing a petition for enforcement and motion to show cause, which will prompt the court to issue an order directing the respondent to appear and show cause as to why the agency order should not be enforced according to its terms.

- If the respondent does not appear, or if they do appear but the court finds that the order is: (1) unsatisfied; (2) regular on its face; and (3) the respondent has no valid reason as to why the order should not be enforced, then the court will issue an order enforcing the final order.

- The court's order of enforcement, when entered, shall have the same force and effect as a civil judgment. If the respondent continues to ignore the lawful court order, Staff may file a motion for contempt and/or seek additional penalties, such as wage garnishment or a lien on property. However, seeking additional penalties may require the appointment of a Special Assistant Attorney General (SAAG) that specializes in collections/debt law.

- One illustrative example involves a case where Staff sought judicial enforcement against the elected mayor of a small town. This respondent was subject to seven separate final orders related to his failure to file F-1 reports, and Staff sought enforcement of the two most recent orders. Pursuant to these final orders, the respondent was required to file

missing F-1 reports for four calendar years, and was required to pay a cumulative penalty of $11,000. Counsel for Staff was able to obtain a civil enforcement order requiring the respondent to comply with the terms of the two agency orders and pay the penalty, with interest. After he initially ignored the civil enforcement order, Staff filed a motion for contempt of court, which prompted him to eventually file the missing F-1 reports. Staff also recorded a lien against his real estate for the unpaid penalties and the collections agency reported the debt to credit bureaus.

- Because this is a serious process involving significant time and resources (including attorney fees, court costs, costs for hiring a process server, etc.[1]), Staff has traditionally reserved it for respondents who have failed to comply with multiple final orders, and who are still in office or actively participating in an election.

Referral to the Attorney General's Office

- A final option the Commission may wish to consider in cases where a respondent has engaged in repeated or egregious violations of the FCPA would be to refer that case to the Attorney General's Office pursuant to RCW 29B.60.020(4), in lieu of holding a hearing and issuing a Final Order in a pending matter.

- The Commission could consider this option in cases where: (1) additional authority is needed to ensure full compliance; (2) an apparent violation potentially warrants a penalty greater than the commission's penalty authority; or (3) the maximum penalty the commission is able to levy is not enough to address the severity of the violation. The Attorney General's authority to enforce the law, including seeking civil and criminal remedies, is further described in RCW 29B.60.040.

- The AGO has discretion regarding how to handle referrals, so the PDC is not guaranteed to obtain a particular approach after referral. For example, the AGO can decline to pursue a case. Under RCW 29B.60.040(1)(b), the Attorney General must publish on its website a decision whether to commence a lawsuit, within 45 days of a PDC referral. Publication of a decision not to pursue a case precludes a citizen's action lawsuit.

[1] In the example of the mayor against whom the PDC sought judicial enforcement, the cost to the agency was approximately $15,000.