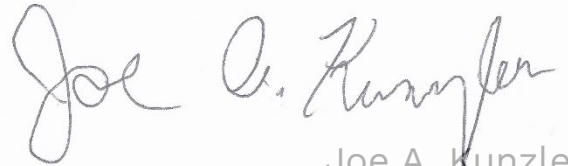


22 January 2024

Dear Public Disclosure Commission;

I have put together from the first three editions of "The WALEG Candle" newsletter for the Coalition for Open Government my ongoing series on a PDC in crisis. The views are 100% mine but I hope the Commission will read and discuss with staff the contents.

Thank you;

A handwritten signature in black ink that reads "Joe A. Kunzler". The signature is written in a cursive style with a large, looped "J" and "K".

Joe A. Kunzler

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Public Disclosure Commission (PDC) in Crisis

Part 1 of a Series

Consider this a closing Advocate's Corner soliloquy from yours truly and part 1 of a series. One should remember at the outset that part of the 1972 initiative that created the Public Records Act also created the Public Disclosure Commission (PDC) to track campaign finance spending. Due to time constraints and wanting to do more research, part 2 is next Sunday.

To that end, I've added a new section to the tracker just for the PDC. We're at a point where I think we have reason to be concerned and intervene where necessary. We can expect a PDC that is reinforced to win for transparency. We also need compliance to be easy.

This is also a time where we have Avrum (Alex) Tsimerman owing the PDC \$36,250 in fines from multiple cases yet Tsimerman has not paid a penny while Tsimerman drives in his 2008 Mercedes CL-Class CL63 AMG going to government meetings to harass our communities with vile hate speech. Suppose Tsimerman continues to be able to defy the PDC without consequence? In that case, I suspect the PDC will be ineffective, thereby endangering our democracy, because Tsimerman will create the perception there are no consequences for noncompliance.

So, I quote Zelensky to you as I am wont to do when dealing with *anything* about Tsimerman:

I wish everyone who has already found themselves in our common cause always to have those who will lend a shoulder and will not let you down in life. I wish everyone still hesitating to make a bold choice... – to defend their own country, to work for it, to help it, to find themselves in their own country because this is the only place on earth where we can all say that we are at home.

Tsimerman's misbehavior also justifies limits on public comment – a matter that gets to the heart of open government. A matter we should all be concerned about.

A strong PDC means more campaign finance transparency and safer skies for all. A weak PDC means more dark money, less transparency, and more hostile skies. There is no 'storming angel' from Bluetooth or Britannia¹ that is going to save us.

¹ This was in reference to Toby Nixon used to work with Bluetooth and Heather "Newsbrooke" Brooke, Ph.D. grew up and trained here in Washington State – now works in the British Isles on transparency issue.

Public Disclosure Commission (PDC) in Crisis

Part 2 of a Series

Suppose the first Advocate's Corner editorial message was to warn about the threat Avrum (Alex) Tsimerman's noncompliance poses to open government. In that case, the second is about the strained enforcement arm of the Washington State Public Disclosure Commission (PDC). Most of this editorial message is from [the December 7, 2023, PDC meeting](#) and [the October 26, 2023, PDC meeting](#) – thankfully covered by TVW, recipient of [the Coalition's Toby Nixon Award](#).

First, as Executive Director Lavalee shared with PDC Commissioners on October 26, 2023, as per the TVW recording linked above,

“While I wish we had vastly more resources and could be even more proactive in, in art and fortunately efforts, and we are simply hamstrung by the resources we are able to bring to bear.”



Lavalee also added that he considered enforcement as the last leg of the three-legged stool and “last resort.” The first is transparency and sharing the campaign finance data of income plus expenditures. The second is customer service to help political actors & actresses – not just candidates but lobbyists, and I can affirm watchdogs like me – get campaign finance law right.

See PDC staff have said in their recent enforcement updates to the PDC Commissioners that a record number of complaints have been pouring into the PDC. Most of the complaints are from a few people. But the number of 525 as of July 1-November 30 is nearing a record. Additionally, more of the complaints are going down a formal investigation process, which is staff intensive, and sometimes the clock is running out by the 90-day mark of a complaint filed.

Completion times are not as well as Commissioners would like. Additionally, complaints are referencing 2018 and 2019 campaigns. This is a challenge for both the PDC and campaigns to go back and get the data to arrive at compliance.

Furthermore, there is concern that having group enforcement to get campaign transparency forms like C-3s and C-4s addressed might mean the PDC may have to drop C-1 or C-2 enforcement due to a lack of resources. Or stagger the enforcement.

Lavalee also noted the legislative mandate to address complaints within a 90-day timeframe. Lavalee urged folks not to “Low hundreds of complaints over the transmit to the PDC.” But Lavelee says the PDC takes every complaint seriously and does “Triage according to the most important factors.”

What are those factors? To quote Lavalee;

“Why does it affect an upcoming election? Is it a significant amount of money? Is it a contested election that that's the public cares about?”

In October, former Commissioner Fred Jarrett mused the need for automated reminders. Jarrett made clear the priority should not be 100%, but “triage” and go after the important ones. Jarrett also worried about “jurisdictions” not informing candidates of their requirements to report their income and expenditures.

Finally, the PDC will enter strategic planning in February, so enforcement matters and using limited PDC resources can be discussed then. Part III will focus on my thoughts on how the PDC can move forward. I will also address [RCW 42.17A.555](#), which deals with public resources for campaigns – such as public comment periods where I’ve had to use PDC complaints citing [RCW 42.17A.555](#) to get some civility into our public comment spaces.

Bottom Line

The bottom line is that the PDC has admitted that they’re triaging complaints and having to decide which ones they’ll act on. This means that we’re not able to get full campaign finance transparency. This also means that dark money can have undue influence over our elections. However, some of the noncompliance is due to a lack of education on campaign finance transparency requirements.

Oh & one last thing – this work wouldn’t be possible without Toby Nixon Award winner TVW. Our big open government nominations for 2023 are due by Friday!

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Public Disclosure Commission (PDC) in Crisis

Part 3 of a Series

Already, we've discussed the threat Avrum (Alex) Tsimerman's noncompliance poses to open government and the Public Disclosure Commission's (PDC's) challenges with inadequate enforcement resources. I want to in Part 3 share with you how the SB 5857 debate went last Friday and how the PDC can move forward.

In my view, the fact the PDC attorney testified that SB 5857 needed another full-time equivalent (FTE) staffer while major enforcement issues are outstanding clearly shows how the PDC is losing focus and not getting after enforcement cases or working on making compliance easier – like sending out automated reminders to registered candidates, even if on an opt-in basis.

The PDC needs legislative appropriations to fund enough staff to have an enforcement department that can get headlines not just for the [mega cases like Tim Eyman's](#) but the big ones like Tsimerman's that are a pattern of multi-year defiance of PDC regulations. Perhaps we should ensure repeat malicious PDC violators over multiple election cycles risk subpoenas and jail time.

Second, the PDC needs to have a strategic plan for what a clear standard of [RCW 42.17A.555 is regarding](#) public comment. Additionally, the PDC needs to be able to go after those candidates who illegally seek public resources for their campaigns, whether that be public comment or office supplies. Otherwise, we will see abuses, and only presiding officers will be held accountable.

Third, the PDC needs to realize that complaints of the PDC being under-resourced for enforcement go back to at least a March 31, 2017, press conference about Tim Eyman. Funding the PDC is an integral part of defending democracy.

Ultimately, if one is not going to concern oneself about the finances of campaigns, one is asking to have your vote and your public comment bought. This should be a Coalition for Open Government concern, please.

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