



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

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MINUTES – Special Meeting

Evergreen Plaza Building, Room 206
711 Capitol Way South
Olympia, Washington

10:30 a.m.
October 5, 2015

COMMISSION MEMBERS PRESENT

(Participated via conference call)

Katrina Asay, Chair
Grant Degginger, Member
Amit Ranade, Member

STAFF PRESENT

Evelyn Fielding Lopez, Executive Director
Fred Kiga, Interim Executive Director
Lori Anderson, Communication and Training Officer
Tony Perkins, Director of Compliance
Phil Stutzman, Sr. Compliance Officer
Jana Greer, Executive Assistant
Chad Standifer, Assist Attorney General

COMMISSION MEMBERS ABSENT

John Bridges, Member
Anne Levinson, Vice Chair

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Asay at 10:33 a.m. in the Evergreen Plaza Building, Room 206 Olympia, Washington.

Opening Comments

Commissioner Asay called the meeting to order at 10:33 a.m.

Rulemaking

Discussion and possible approval of draft language for:

NEW RULES

- WAC 390-37-061 Alternative responses to noncompliance – Goals and objectives – Factors to be considered
- WAC 390-37-075 Deferred enforcement - Process

AMENDED RULES

- WAC 390-37-060 Enforcement procedures – Investigation of complaints – Initiation of hearing (adjudicative proceeding)
- WAC 390-37-070 Enforcement

Lori Anderson presented new revised draft language for consideration and possible approval. She stated that this is a follow-up to the review of rulemaking to establish alternatives that will be used to resolve complaints that allege minor technical violations and do not warrant formal investigations or adjudicative proceedings.

The Commission raised concerns at the last meeting about delegation of Commission authority to the executive director, and directed staff to revise rules to deal with the delegated authority.

Ms. Anderson summarized all substantive changes.

Staff requested that Commission approve draft language for new and amended rules as presented.

Commissioner Degginger asked about WAC 390-37-061, specifically for the definition of a technical violation.

Ms. Anderson noted that there is not currently a definition,

procedures – Complaints dismissed by executive director

- WAC 390-37-090 Cases resolvable by stipulation prior to an enforcement hearing (adjudicative proceeding), or by other alternative dispute mechanisms
- WAC 390-37-103 Commission options following receipt of a staff report on alleged violations

and agreed that adding a definition of “minor” and “technical” violations in the context of this rule would be helpful.

Ms. Anderson and Tony Perkins provided examples of technical violation and minor violation:

- When a sponsor complies with the requirement to identify itself, but gives an online address rather than a physical address—the requirement is not technically complied with, but was complied with in substance.
- When a campaign donor’s information is provided, and the donor’s employer is identified, but the city and state in which the employer is located is left out such is a minor violation.

Staff suggested if the Commission approved these definitions they could be included in the revised rule changes and presented at the public hearing in December 2015 which would allow them to be in place by January 2016.

Chair Asay agreed with approving the rules with the definition revisions regarding “minor” and “technical” violations as discussed

Motion 15-101

Moved by Commissioner Ranade, seconded by Commissioner Degginger that:

The Commission approved the draft proposed language as amended by the discussion for new WAC 390-37-061, WAC 390-37-075, and the amendments to WAC 390-37-060, WAC 390-37-070, WAC 390-37-090, and WAC 390-37-103.

The motion passed unanimously.

Enforcement

PDC Case 15-068, *SEIU 925 45-Day Letter*

Phil Stutzman and Tony Perkins presented staff’s Executive Summary and Staff Analysis of the complaint and allegations in PDC Case No. 15-068, SEIU 925, a 45-day Citizen Action Complaint.

The Complaint alleged that Respondent Service Employees International Union Local 925 (SEIU 925) violated RCW 42.17A as follows:

First Allegation: That SEIU 925 is a political committee because it has an expectation of receiving contributions and making expenditures in support of, or in opposition to, candidates or ballot propositions. The complaint alleged

that as a political committee, SEIU 925 has failed to register and report with the PDC. (RCW 42.17A.205, .235, and .240)

Second Allegation: That SEIU 925, as a lobbyist employer, has failed to file a special report of contributions (PDC form L-3C) for in-kind contributions (reportable if aggregating more than \$110 in a calendar month) to several political committees, including its continuing political committee, SEIU Local 925 Public Service PAC. [RCW 42.17A.630(2)]

Third Allegation: That SEIU 925 and its officers sent a political advertising letter on or about July 17, 2015 to Individual Providers (IPs) who were nonmembers of the union, soliciting them to join the union, and as a full member to authorize a contribution through a payroll deduction to the international union's political committee, SEIU Committee on Political Education (SEIU COPE), a committee registered with and reporting to the Federal Election Commission. The Complaint alleged that sending this political advertising letter triggered several violations, as follows:

1. That SEIU 925 and its officers, as a political committee, failed to report the receipt of contributions authorized by IPs joining the union in response to the July 17, 2015 letter as contributions earmarked for SEIU COPE. (RCW 42.17A.270)
2. That, in the alternative, if the PDC determines that SEIU 925 is not a political committee, SEIU 925 failed to report the July 17, 2015 letter as an independent expenditure not otherwise required to be reported. (RCW 42.17A.255)
3. That SEIU 925 and its officers failed to report the July 17, 2015 letter as independent expenditure political advertising within 24 hours of mailing the letter, a requirement for political advertising mailed within 21 days of an election with a fair market value of \$1,000 or more. (RCW 42.17A.260)
4. That SEIU 925 and its officers failed to timely report the July 17, 2015 letter as an electioneering communication within 24 hours of mailing the letter, a requirement for an electioneering

communication mailed within 60 days of an election that clearly identifies a candidate for a state, local or judicial office either by specifically naming the candidate, or by identifying the candidate without using the candidate's name, with a fair market value of \$1,000 or more. (RCW 42.17A.305).

Mr. Stutzman and Mr. Perkins presented staff's conclusions and recommendation as follows:

First Allegation: SEIU 925 is not a political committee with a requirement to register and report with the PDC, and did not violate RCW 42.17A.205, .235, and .240 because it is not a "receiver of contributions" in support of, or in opposition to, candidates or ballot propositions, and because supporting candidates or ballot propositions is not one of its primary purposes. SEIU 925's primary purpose is to represent employees who are members of the union, to achieve for its members fair wages, hours and working conditions, to secure collective bargaining agreements, and to administer those agreements. While SEIU 925's electoral political activity may have furthered its stated goals and mission, no evidence was found that SEIU 925 has substantially achieved its stated goals and mission by a favorable outcome in an election. SEIU 925 uses means other than electoral political activity to achieve its stated goals.

Second Allegation: It appears that SEIU 925, as a lobbyist employer, has violated RCW 42.17A.630(2) by failing to report on L-3C reports monetary and in-kind contributions to candidates and political committees during the five-year period preceding October 8, 2015 totaling approximately \$635,156.04, and an unknown value of staff time to operate and manage its political committee, SEIU Local 925 Public Service PAC. Although the Executive Summary and Staff Analysis concludes that during the five-year period preceding October 8, 2015, SEIU 925 failed to report on L-3C reports contributions to candidates and political committees totaling approximately \$1,042,000.43, that number should be reduced by \$286,844.39 because the contributions listed in Exhibit 6 included a \$286,844.39 transfer on March 30, 2012 from SEIU 925's former PAC to its current PAC, SEIU Local 925 Public Service PAC, and by \$120,000 because the same \$40,000 pledge was

listed on four consecutive C-4 reports as a contribution.

Staff found that while SEIU 925's lobbyists reported significant contributions on monthly L-2 reports, which in those cases relieved SEIU 925 from the need to file L-3C reports, in many instances, contributions not reported on L-2 reports were not reported, as required, on L-3C reports, including contributions to its own PAC totaling at least \$255,710.50 in 2012 and \$136,767.18 in 2014.

Third Allegation:

1. SEIU 925 and its officers, as a political committee, did not violate RCW 42.17A.270 by failing to report the receipt of contributions authorized by IPs joining the union in response to the July 17, 2015 letter as contributions earmarked for SEIU COPE. The contributions forwarded to SEIU COPE were not earmarked contributions under Washington law.
2. SEIU 925 and its officers, as a political committee, did not violate RCW 42.17A.255 by failing to report the July 17, 2015 letter as an independent expenditure.
3. SEIU 925 and its officers did not violate RCW 42.17A.260 by failing to report the July 17, 2015 letter as independent expenditure political advertising within 24 hours of mailing the letter, a requirement for political advertising mailed within 21 days of an election with a fair market value of \$1,000 or more.
4. SEIU 925 and its officers did not violate RCW 42.17A.305 by failing to timely report the July 17, 2015 letter as an electioneering communication within 24 hours of mailing the letter, a requirement for an electioneering communication with a fair market value of \$1,000 or more, mailed within 60 days of an election that clearly identified a candidate for a state, local or judicial office either by specifically naming the candidate, or by identifying the candidate without using the candidate's name.

Staff recommended that the Commission recommend to the Attorney General that no further action be taken on the Citizen Action Complaint concerning allegation 1 and

the four components of allegation 3.

For allegation 2, staff recommended that the Commission find multiple apparent violations of RCW 42.17.630 and recommend to the Attorney General to take appropriate action concerning SEIU 925's apparent failure to report all of its reportable contributions on L-3C reports when they were not reported on L-2 reports by its lobbyists, including in-kind contributions for the value of staff time and an appropriate amount of overhead to operate and manage its political committee, SEIU Local 925 Public Service PAC.

Staff also recommended that the Commission recommend that the Attorney General take appropriate action for SEIU Local 925 Public Service PAC's apparent failure to report the receipt of in-kind contributions from SEIU 925 for the value of staff time and overhead to manage its operations.

David Dewhirst of the Freedom Foundation addressed the Commission. Mr. Dewhirst stated that he appreciates staff's investigative work, agrees with its recommendation, and hopes the Commission will move the matter to the Attorney General.

He stated that for allegations 1 and 3, the Freedom Foundation disagrees with staff's conclusion, and notes that there may be an evolving interpretation of what is a political committee. He said SEIU 925 continues to increase its cash on hand, which may result in increased political spending, and the Freedom Foundation bringing this matter back to the Commission in a future year.

Mr. Dewhirst thanked the Commission and staff for their good work on this complaint.

The Commission began deliberations with legal counsel at 11:26 a.m. and returned to public session at 11:36 a.m.

For allegation 2, the Commission found multiple apparent violations of RCW 42.17A.630 and recommended that the Attorney General take appropriate action concerning SEIU 925's apparent failure to report all of its reportable contributions on L-3C reports when they were not reported on L-2 reports by its lobbyists, including in-kind contributions for the value of staff time and an appropriate amount of overhead to operate and manage its political committee, SEIU Local 925 Public Service PAC.

Motion 15-102

Moved by Commissioner Ranade, seconded by Commissioner Degginger that:

The Commission accept the staff's recommendation as to allegations 1 and 3 and recommend to the Attorney General that no further action be taken on those allegations.

The Commission accept the staff's recommendation as to allegation 2 and find that there are multiple apparent violations of RCW 42.17A.630 and recommend that the Attorney General take appropriate action concerning these violations.

The motion passed unanimously.

The Commission declined to accept staff's recommendation to recommend that the Attorney General take appropriate action for SEIU Local 925 Public Service PAC's apparent failure to report the receipt of in-kind contributions from SEIU 925 for the value of staff time and overhead to manage its operations, noting that they did not have enough information about those contributions to make a recommendation. Instead, the Commission asked staff to report back at a future meeting about SEIU Local 925 Public Service PAC's apparent failure to report the receipt of in-kind contributions to manage its operations.

Adjourn

Approved

The meeting adjourned at 11:39 a.m.

December 21, 2015