Nic Van Putten
Progressive Strategies NW
25 N Broadway #108
Tacoma, WA 98405

5/15/18

Public Disclosure Commissioners,

I am attaching this letter with a fuller explanation of my request for amendment of state administrative rule WAC 390-16-205 regarding the reporting of vendors in campaign expenses. This petition stems from a complaint filed against Noelle Balliett, a Peninsula School Board candidate in 2017, but many of the issues involved have broader applications.

The current requirement for campaigns to list the amount of money paid by a consultant to each vendor in the production of campaign material is impractical – and at times impossible – to follow. Furthermore, doing so distorts the fair market value of the material produces and thereby presents less accurate and less valuable information to the public. Lastly, because the PDC's enforcement is primarily complaint-driven, maintaining an administrative rule that is almost universally not followed by campaigns creates the potential for an uneven playing field that can tip the balance of fair elections.

To provide context, please consider this information in how a typical campaign consulting business operates. Almost all consultants in Washington State make profit both through a flat retainer fee and through markup on campaign material and advertisements. Consultants work with a regular slate of vendors to provide services from graphic design to printing, mailhouse, etc. Most consultants receive preferential pricing from these vendors that reflects the bulk rate and ongoing professional relationship. With some vendors, services are provided under contract and are not paid per item.

In the case of Noelle Balliett's campaign, our consulting firm has an ongoing arrangement to receive graphic design services from Susan Picatti Design. Our agreement bundles logo and typesetting on materials like yard signs, remits, letterhead, etc. into a flat $250 "campaign setup" fee. When we charge campaigns, we bill $200 for the logo itself and $20 each for materials. In most campaigns, that results in $10-$30 profit, but in this case, we operated at a $30 loss because not all material was ordered. We do this because we find that the "fair market value" for logo design – what most consultants and many graphic artists charge candidates – is around $200.

Whereas our business charges a set price per piece for material, the amount we pay our vendors can be subject to negotiation, as is often the case with printers. For example, it wasn't until March of 2018 that we finalized and paid a series of invoices from our printer originating in August of 2017. The requirement to list the amount paid to sub-vendors necessitated that we estimate the allocation of expenses for mailers in the 2017 Primary, whereas the actual distribution of costs was not known until nearly a full year later. While the length of time here is unusual, it is common for vendors to not provide invoices until after reporting deadlines have passed.

Of final consideration on this issue is that the amount paid by our firm is different from the amount that a candidate would have paid directly to the printer, designer, etc. for the same material. By requiring campaigns to report the amount actually paid to sub-vendors rather than either the actual amount paid to our firm or the fair market value of the item, the public is misled about the value of the order. In explaining this rule, commission staff have said that it's intent is for the public to know the value of the service "as if the candidate had ordered it directly form the vendor," but that is not being accomplished under the current rule.

My request is that the Commission consider material produced by an agent, in which the agent tangibly contributed to the production of said material, to be a final product of the agent, rather than the work of a vendor(s). Because our role in creating a logo includes setting the parameters of the design such as colors, font types, and layout, I believe that the logo should be considered to be produced by our firm, and that campaigns should only be required to report the amount of money paid to our firm for the logo.

Therefore, by amending the rule to consider work tangibly produced by an agent as the product of that agent, the public will have a more accurate understanding of the value of campaign expenditures. It will facilitate easier and more accurate reporting by campaigns, involving less guess work and amended reports, and in doing so, will create a more level playing field where campaigns can comply with the rules and avoid enforcement actions. For passthrough activity and services in which the agent had no tangible role – such as the order of yard signs, or a commission on certain types of advertising, the agent should still be required to list the amount allocated to the vendor. This will preserve the Commission's intent to prevent "bundling" services and obscuring the actual flow of campaign money.

If the Commission declines to consider this type of material the product of the agent, then I hope you will at least consider amending the rule to require the fair market value of the service or good produced, rather than the amount actually allocated between vendors. This will not only improve the accuracy of reports, but it will significantly ease the reporting burden on campaigns and the enforcement burden on the PDC.

Lastly, in the particular case of the Noelle Balliett complaint, I request that the Commission reconsider the application of the rule to reflect the ongoing arrangement between Progressive Strategies NW and Susan Picattti Design. The value of the logo design itself should be $200 as was initially reported, with the additional services of typesetting as extra costs that in this case were not incurred and therefore would not need to be reported.