



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In Re Compliance with RCW 42.17

PDC Case No. 12-162

Brian Brooks

Report of Investigation

Respondent.

I. Background & Allegations

- 1.1 On July 6, 2011, Brian Brooks filed a Candidate Registration (C-1 report) with the Public Disclosure Commission (PDC), declaring his candidacy in the 2011 general election for Kennewick School District 17, School Director, Position 5. **See Exhibit 1.** The C-1 report disclosed that Mr. Messinger selected the Mini Reporting option for the financing of his campaign, which limits the candidate to raising and spending no more than \$5,000, and receiving contributions of no more than \$500 in the aggregate from any one contributor, other than the candidate.
- 1.2 Mr. Brooks listed himself as the campaign treasurer, and Ty Haberling was listed as one of three committee principal members.
- 1.3 Mr. Brooks was a first time candidate for public office in 2011. He was opposed by Uby Creek in the November 8, 2011, general election. Mr. Brooks won by receiving 54.8 percent of the vote.
- 1.4 On December 12, 2011, Tom Staly, Jr., filed a complaint with the PDC alleging that three 2011 candidates for School Director in the Kennewick School District (Brian Brooks, Ron Mabry, and Benjamin Messinger,) each received contributions exceeding the \$500 contribution limit of the Mini Reporting option each had selected, in violation of the state's campaign disclosure and contribution laws and rules. **See Exhibit 2.**

II. Findings

- 2.1 On August 29, 2011, Brian Brooks received a \$250 monetary contribution from Ty Haberling.

- 2.2 On October 5, 2011, Ty Haberling made an expenditure totaling \$2,817 on behalf of the Brian Brooks, Benjamin Messinger, and Ron Mabry campaigns, for the postage costs associated with three political advertisements that consisted of mailings supporting each of the three candidates.
- 2.3 Each candidate paid for their proportional share of the printing costs. Mr. Haberling coordinated the postage expenditure with each of the three candidates, making the value of each his in-kind contribution to each candidate \$939.
- 2.4 PDC statutes, rules and reporting requirements state that coordinated expenditures, such as the postage paid for by Mr. Haberling, are in-kind contributions to the benefitted candidates. When the postage costs are included in the aggregate contributions from Mr. Haberling, the Brooks campaign received a total of \$1,189 from Mr. Haberling. This amount exceeded the \$500 limit under the Mini Reporting option selected by Mr. Brooks by \$689.
- 2.5 Tom Staly, Jr. inspected the campaign records of Brian Brooks, Benjamin Messinger, and Ron Mabry during the records inspection period October 31 through November 7, 2011. He provided an accounting of those records as an attachment to his complaint.
- 2.6 Prior to the complaint being filed, PDC staff had been in contact with Mr. Staly, and based on those conversations, PDC staff contacted Mr. Brooks concerning the alleged excess contributions received from Mr. Haberling on October 5, 2011.
- 2.7 On November 21, 2011, the Brooks campaign re-paid Ty Haberling \$939 for the campaign's portion of the postage expense.
- 2.8 On March 29, 2012, Brian Brooks submitted his response to the PDC about the complaint filed by Mr. Staly. **See Exhibit 3.** Mr. Brooks stated this is his first time running for public office, and that his total expenses for the campaign were under \$5,000, and all other contributions received were under the \$500 Mini Reporting contribution limit.
- 2.9 Mr. Brooks stated that Mr. Haberling paid \$939 for the postage costs of the mailers for all three candidates as a matter of convenience. Mr. Brooks stated that he re-paid Mr. Haberling the \$939 very quickly, just a matter of a few days later. He stated that he was not aware that "this short term advance counted as a contribution from Mr. Haberling" which exceeded the Mini Reporting limits.
- 2.10 RCW 42.17.020(15)(b)(iii) states that a contribution does not include a contribution received by a candidate that is returned to the contributor within five business days of the date on which it is received by the candidate. The Brooks campaign re-paid \$939 to Mr. Haberling 47 days after Mr. Haberling's initial expenditure and 15 days after the general election had been held.

- 2.11 The Brooks campaign did not exceed \$5,000 in total contributions received or expenditures made and did not accept more than \$500 from any other contributors.
- 2.12 Mr. Brooks stated he now understands that he should have paid the postage himself, and said he accepts full responsibility for his mistake and misunderstanding. He said his mistake was unintentional.

III. Scope

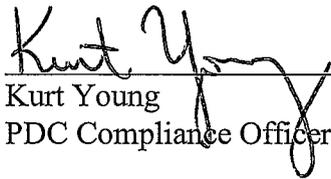
- 3.1 PDC staff reviewed the complaint, supporting e-mails, and advertisements filed by Tom Staly.
- 3.2 PDC staff reviewed Brian Brooks' initial response letter.
- 3.3 PDC staff spoke with Mr. Staly.
- 3.4 PDC staff conferred by telephone and e-mail with Mr. Brooks.
- 3.5 PDC staff reviewed Mr. Brooks follow-up e-mail response to additional PDC staff questions.

IV. Laws and Regulations

- 4.1 **RCW 42.17.020(15)(a)** states, "Contribution" includes: A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration.
- 4.2 **RCW 42.17.040** states that every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission.
- 4.3 **RCW 42.17.080 and 090** require candidates under the full reporting option to file timely, accurate reports of contributions and expenditures.
- 4.4 **WAC 390-16-105** states that a candidate shall not be required to comply with the provisions of RCW 42.17.065 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures exceed the amount of the candidate's filing fee provided by law plus a sum not to exceed \$5,000 and no contribution or contributions from any person other than the candidate within such aggregate exceed \$500.

- 4.5 **WAC 390-16-125** states that a candidate or political committee shall apply in writing to the commission for authorization to change reporting options before the limitations specified in WAC 390-16-105 are exceeded. Exceeding the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 without complying with the provisions of this section shall constitute one or more violations of chapter 42.17A RCW or 390-17 WAC.

Respectfully submitted this 17th day of September, 2012.


Kurt Young
PDC Compliance Officer

List of Exhibits

- Exhibit 1** Candidate Registration filed by the 2011 Brian Brooks Campaign on July 6, 2012.
- Exhibit 2** Complaint filed by Tom Staly against Brian Brooks received on December 12, 2011.
- Exhibit 3** Response letter received on March 29, 2012, from Brian Brooks.