



# Smith & Dietrich Law Offices

## South Sound Community Lawyers

Smith & Dietrich  
Law Offices PLLC

September 1, 2017

Via Electronic Delivery

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Re: *Citizen Action Notice Against State Representative Drew MacEwen*

Dear Attorney General Ferguson and County Prosecuting Attorneys Tunheim and Dorcy,

I write to notify you that there is good reason to believe violations of chapter 42.17A RCW, Washington State's campaign finance law, have been committed by State Representative Drew MacEwen and the Committee to Elect Drew MacEwen, a candidate authorized committee (the "Respondents"), between 2015 and the present. Please note that, as provided by RCW 42.17A.765(4), if you do not initiate an action against the Respondents within the applicable statutory notice periods for this Citizen Action Notice, I intend to satisfy any applicable notice requirements and proceed with an action in the name of the State. This message is being sent to each of you at the e-mail address you have provided to the Washington State Bar Association to ensure you receive notification of these allegations as required by RCW 42.17A.765(4).

This notice details seventeen apparent violations of various provisions of Washington's campaign finance law by the Respondents, which took place during their campaign to elect Mr. MacEwen to the Washington House of Representatives for the 35<sup>th</sup> Legislative District in 2016. The cumulative lateness of the untimely reporting summarized in this notice is 721 days as of today. The Respondents have apparently violated chapter 42.17A RCW as follows:

### **A. Personal use and unlawful transfer of candidate's authorized committee funds (10 violations)**

By law, a candidate may not make personal use of funds raised for campaign purposes except under certain narrow circumstances. RCW 42.17A.445. Contributions to political committees are not permitted from authorized committee funds although they may be made using surplus funds. RCW 42.17A.430(8). On October 14, 2016, the House Republican Organizational Committee reported receiving a contribution of \$5,000 from Respondent Committee to Elect Drew MacEwen's surplus funds. However, the Respondent Committee did not report making such a transfer from surplus funds. If the Committee transferred funds directly from its campaign moneys to the HROC, then it

would appear this was a violation of the prohibition on personal use of campaign funds, and an unlawful transfer to another committee.

In a related incident, the Committee reported making an expenditure of \$100 to the Thurston County Republican Party on 2/2/16 for “Lincoln Day Dinner.” To the extent this represented a contribution to another committee from authorized committee funds, *see* RCW 42.17A.005(13)(a)(iv) *and* WAC 390-05-205 (contribution excludes costs of consumables furnished at fundraising event), it violated the prohibitions on personal use of funds and transfers to other political committees.

Contributions to charity are not permitted from authorized committee funds although they may be made using surplus funds. RCW 42.17A.430(4). On 3/21/16, the Committee reported making an expenditure of \$250 to the Cystic Fibrosis Foundation for “donation – fundraising event [at] Smoking Mo’s.” This apparently was not a permissible campaign expenditure because campaign funds were used for the donation, violating the prohibitions on personal use of campaign funds and gifts to charity from the active campaign’s account.

The Committee reported making an expenditure of \$120 to the Kitsap County Republican Party on 5/18/16 for “Kitsap Lincoln Day dinner tickets.” To the extent this represented a contribution to another committee from authorized committee funds, *see* RCW 42.17A.005(13)(a)(iv) *and* WAC 390-05-205 (contribution excludes costs of consumables furnished at fundraising event), it violated the prohibitions on personal use of funds and transfers to other political committees.

The Committee reported making an expenditure of \$200 to the Washington State Republican Party on 10/29/16 for “WSRP annual dinner.” To the extent this represented a contribution to another committee from authorized committee funds, *see* RCW 42.17A.005(13)(a)(iv) *and* WAC 390-05-205 (contribution excludes costs of consumables furnished at fundraising event), it violated the prohibitions on personal use of funds and transfers to other political committees.

**B. Failure to report expenditure for surplus funds account (1 violation)**

A candidate may use surplus funds for certain qualifying purposes provided he or she registers and reports the activity as provided by law. RCW 42.17A.430, WAC 390-16-236. On October 14, 2016, the House Republican Organizational Committee reported receiving a contribution of \$5,000 from Respondent Committee to Elect Drew MacEwen’s surplus funds. Respondents’ PDC filings do not reveal reporting for this surplus funds transfer to date.

If Respondents transferred these surplus funds, they were required to report the account’s expenditures on form C-4. Reporting of the form C-4 for the transfer would be due by 9/10/16 (and is 356 days late), but apparently no surplus funds reporting was filed to date.

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**C. Failure to timely file and/or amend Public Disclosure Commission form C-3 reports (“Cash Receipts Monetary Contributions”) (6 violations)**

The Respondents filed a significant volume of late reporting of their contributions on forms C-3 during 2015-16. The below table identifies six apparent violations of the law requiring timely reporting of contributions during this period. RCW 42.17A.235, .240. The apparent violations break down as follows:

<u>Number</u>	<u>Report Type</u>	<u>Date Filed</u>	<u>Report due</u>	<u>Report days late</u>	<u>Amounts reported late</u>
100675170	C3	1/11/2016	8/10/2015	154	250
100667437	C3	11/7/2015	9/10/2015	58	2000
100667436	C3	11/7/2015	9/10/2015	58	950
100667439	C3	11/7/2015	9/10/2015	58	500
100727691	C3	10/18/2016	9/26/2016	22	50
100727692	C3	10/18/2016	10/3/2016	15	250

<b>TOTAL DAYS LATE / REPORTS (2015-16)</b>	365
<b>TOTAL DOLLAR VALUE LATE (2015-16)</b>	\$4,000.00
<b>NUMBER OF LATE REPORTS</b>	6

I await your position as to whether there is reasonable cause for a civil enforcement action based on these allegations, and whether you will file such an action in the name of the State.

Sincerely,



Walter M. Smith

cc: Linda A. Dalton, Senior Counsel, Attorney General’s Office (via e-mail)  
Public Disclosure Commission staff (via e-mail)