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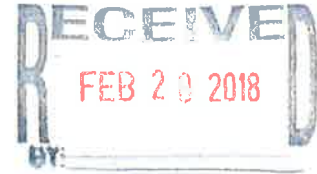
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*Sent via email to lindad@atg.wa.gov
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and via U.S. First Class Mail*

February 15, 2018



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RE: Pierce County Committee on Political Education
Glen Morgan 10-Day Notice Re: Alleged Violations of RCW 42.17A.235 *et seq.*
SCBIL File No. 3398-001

Dear Ms. Dalton and Mr. Perkins:

On behalf of the Pierce County Committee on Political Education ("the Committee"), we are hereby responding to the allegations raised by Glen Morgan in the above-referenced matter. In particular, this letter addresses the following allegations:

- Allegation One: Violation of RCW 42.17A.235 for failure to accurately and timely report contributions and expenditures.
- Allegation Two: Violation of RCW 42.17A.240(8) for failure to accurately, timely report debt.
- Allegation Three: Violation of RCW.42.17A.235 and WAC 390-16-037 for failure to provide detailed breakdowns of expenditures.

Many of Mr. Morgan's allegations are absolutely unfounded, as described herein. Several of the unfounded allegations seem to be based on a fundamental misunderstanding of the internal governing structure of the Committee, of campaign finance law, or even of the basic facts regarding reporting requirements.

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Under normal circumstances, the extent of any errors made by the Committee would have merely been addressed by the PDC in a constructive and meaningful way. The Committee does not believe the extent of any of the actions it allegedly took would justify imposing any sort of penalty in excess of such a referral, if further action is even deemed necessary at all.

We believe that these allegations should be dismissed outright. However, if the State believes further inquiry is warranted, referral to the PDC is the only way for your office to ensure that the purposes of the Fair Campaign Practices Act (“FCPA”) are fairly and properly effectuated. In this way, the Committee may formally resolve these issues with the PDC and the State of Washington. We do not believe this will occur if Mr. Morgan takes action on behalf of the State in Washington Superior Court.

We address the specific claims that were made against the Committee by Mr. Morgan in turn, as follows:

1. ***“Failure to file accurate, timely C3 and C4 reports. (Violation of RCW 42.17A.235)”***

This allegation identifies numerous instances of *amended* reports, supplementing or clarifying information previously reported in a timely fashion (as is even admitted by Mr. Morgan’s “Amended Y/N” column in his spreadsheet entitled “Exhibit A”). This portion of Mr. Morgan’s complaint is based on a legal fallacy—that merely *amending* a previously filed report renders it late.

Mr. Morgan relies upon the novel legal theory, unsupported by any law or precedent, that merely *amending* a filing thereby renders it late. There is no part of the statute, or any case law applying RCW 42.17A, that supports this claim. Such an application of the law would lead to an absurd result. In order to effectuate the FCPA’s focus on “promot[ing] complete disclosure of all information,” RCW 42.17A.001, the ability for a candidate or committee to amend reports without penalty must be preserved. Mr. Morgan’s assertion here would create the perverse incentive to *withhold* complete disclosure, if a reporting entity is to be penalized for discovering and appropriately correcting a mistake.

As outlined in the attached document (Exhibit A), thirteen of the twenty-eight allegations involve reports that were timely filed, but were later amended in order to correct other information. **These allegedly late reports were not late at all—they were simply revised to provide additional information when the Committee became aware that some information had been inadvertently omitted.** Those particular allegations regarding amended reports should therefore be disregarded.

At least one report was submitted based on the “Date Due” listed on the “C4 Reports” tab within the ORCA software that incorrectly listed July 18 as the due date. Another ten reports were filed only nine or fewer days late and consequently involve only *de minimis* violations of the Act.

Taking into account the explanations surrounding the above-described allegations, the alleged violations in Mr. Morgan’s Exhibit A do not warrant judicial enforcement. The PDC is fully capable of investigating these sorts of *de minimis* violations.

2. **“Failure to accurately, timely report debt. (Violation of RCW 42.17A.240(8), see WAC 390-05-295)”**

Mr. Morgan’s assertions about the Committee’s supposed failure to report debts fail as well. As outlined in “Exhibit B,” Mr. Morgan alleges that two expenditures “should have been reported as debt” in a *prior* reporting cycle. For example, by Mr. Morgan’s reasoning, the purchase from the Washington State Labor Council COPE of three President’s Club Memberships *must* have been a “debt” incurred sufficiently in advance to have been reported as a debt in the prior reporting cycle. He has absolutely zero factual basis for this assertion.

He appears to confuse “expenditures”—which were, in fact, properly reported subsequent to being made—and “debts,” which occur, for example, where a commitment to pay has been made, with an agreement that payment be made (in the words of RCW 42.17A.240(8), the debt is now “outstanding”). As RCW 42.17A.005(20) states:

“Expenditure” includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(emphasis added.) There is nothing to indicate that the *decision* to make an expenditure—*without* any further concrete actions being taken—constitutes an “agreement...to make an expenditure” that would require a committee to be “guesstimating” how much that expenditure might be and then reporting it as a “debt”/future “expenditure” *at that time*. Mr. Morgan’s interpretation seems to create a new reporting burden on *any* expenditure a committee may even *contemplate* undertaking. And Mr. Morgan has offered no evidence whatsoever that any specific expenditure was preceded by a promise to pay in an earlier reporting period, and hence a debt that should have been reported.

Even assuming, *arguendo*, that the Committee actually incurred debts on the dates that the Plaintiff imagines, his theory of liability is based on a legal fallacy. Specifically, he alleges that the Committee is cumulatively hundreds of days late in reporting these debts, which amount to thousands of dollars in liability. These inflated figures are based on Mr. Morgan’s novel theory that the obligation to report debt survives the life of the debt itself. That is, Mr. Morgan

claims that, for each expenditure listed, the Committee had a parallel obligation to report a debt which was not extinguished when the debt itself was paid, and that the Committee's failure to amend reports to include already paid debt constituted an ongoing violation continuing up to the date Mr. Morgan submitted his complaint (see column "Approx. days late"). By asserting without basis that the debt was actually incurred in a prior month and should have been reported at that time, and then calculating the imagined date the debt was incurred through the filing of his complaint—despite the fact that the obligation was fully satisfied and reported as an expenditure—Mr. Morgan has created an absurd application of the law, with no principle in law or reason that supports such a result. This claim also must fail.

The ultimate goal of the FCPA is transparency. As long as committees are undertaking their best efforts to report the expenditures they undertake—especially when the expenditures are reported in the correct reporting period—the application of the law in the manner suggested by Mr. Morgan is unreasonable.

Even if the AG or the PDC disagree regarding the nature of reporting debt obligations, without the Committee conceding to Mr. Morgan's allegations, the Committee conscientiously reported the dollar amounts spent, the purpose of the expenditures, and the dates the expenditures were incurred. The public was never deprived of meaningful information by any of the Committee's actions here.

This allegation should be dismissed outright.

3. ***“Failure to properly break down expenses. (Violation of RCW 42.17A.235, see WAC 390-16-205)”***

Mr. Morgan's "Exhibit C" cites various instances where the Committee did not break down expenses to a degree Mr. Morgan would have found suitable.

Several of his examples are flat-out wrong, as, for example, there were no subvendors to identify from the WSLC COPE barbecue tickets. Nor would the Committee's purchase of pins from the WSLC COPE trigger any obligation to identify a subvendor. But, again, even if he were correct that subvendors could have been identified—which we do *not* concede—the public was not deprived of meaningful information by the Committee's actions here.

The Committee believes that its overall successful reporting record in this category should be taken into account, and this allegation should be dismissed outright.

Conclusion

With respect to Mr. Morgan's utterly unfounded claim that any of the above actions, if found to be violations of the law—which we again assert is not the case—were done with malice as contemplated by RCW 42.17A.750(2)(c): there has been absolutely no malicious action

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undertaken by the Committee. Alleging “the possibility” that violations have been committed—with the serious multiplier of allegations of malice—does not amount to sufficient grounds for the criminal prosecution that Mr. Morgan is seeking.

In sum, the allegations in Mr. Morgan’s complaint are either unfounded or involve *de minimis* and technical violations that do not warrant judicial enforcement. We request that the Attorney General accordingly inform Mr. Morgan that it has determined enforcement action is unwarranted.

If you have any questions, or if there is anything we can do to be of assistance to you, please do not hesitate to contact us.

Sincerely,



Dmitri Iglitzin
*Counsel for Pierce County Committee on
Political Education*

DI:clk
OPEIU #8 AFL-CIO

Enclosure

cc: Patty Rose, Secretary/Treasurer
Pierce County Central Labor Council, AFL-CIO

Exhibit A -- Illegally Late filed C3 and C4 reports

Approximate Cumulative Days Late -- 2815							
Violation #	Report #	Report Type	Amended? Y/N	Due Date	Day Reported	Approximate Days Late	PCCLC Response(s)
2	100691004	C4	N	2/10/2016	4/15/2016	65	Got started with 2016 late. Original report was filed 65 days late.
4	100691011	C4	Y	2/10/2016	4/15/2016	65	
25	100691010	C3	N	2/10/2016	4/15/2016	65	
3	100691016	C4	N	3/10/2016	4/15/2016	36	Got started with 2016 late. Original report was filed 36 days late.
17	100753144	C4	Y	3/10/2016	3/22/2017	377	Amended 3/22/17 to reflect voided check.
1	100691017	C4	N	4/11/2016	4/15/2016	4	Original report was filed 4 days late.
18	100753146	C4	Y	4/11/2016	3/22/2017	345	Amended 3/22/17 to reflect voided check.
26	100695094	C3	N	5/10/2016	5/11/2016	1	Original report was filed 1 day late.
15	100753147	C4	Y	5/11/2016	3/22/2017	315	Amended 3/22/17 to reflect voided check.
5	100702251	C4	N	6/10/2016	6/14/2016	4	Original report was filed 4 days late.
13	100753148	C4	Y	6/10/2016	3/22/2017	285	Amended 3/22/17 to reflect voided check.
14	100753149	C4	Y	7/12/2016	3/22/2017	253	Original report was filed 7 days EARLY . Amended 3/22/17 to reflect voided check.
12	100753151	C4	Y	7/26/2016	3/22/2017	239	Original report was filed 1 day EARLY . Amended 3/22/17 to reflect voided check.
6	100753152	C4	Y	9/12/2016	3/22/2017	191	Original report was filed 4 days EARLY . Amended 3/22/17 to reflect voided check.
16	100753154	C4	Y	10/18/2016	3/22/2017	155	Original report was filed ON DUE DATE . Amended 3/22/17 to reflect voided check.
10	100753155	C4	Y	11/1/2016	3/22/2017	141	Original report was filed 1 day EARLY . Amended 3/22/17 to reflect voided check.
7	100753158	C4	Y	12/12/2016	3/22/2017	100	Original report was filed 5 days EARLY . Amended 3/22/17 to reflect voided check.

Exhibit A -- Illegally Late filed C3 and C4 reports

Approximate Cumulative Days Late -- 2815							
Violation #	Report #	Report Type	Amended? Y/N	Due Date	Day Reported	Approximate Days Late	PCCLC Response(s)
8	100753157	C4	Y	1/10/2017	3/22/2017	71	Couldn't set up 2017 until I had amended/refiled all previous reports dating back to voided checks (02-23-2016 & 04-29-2016) and verified bank account balances with bookkeeper.
11	100753160	C4	N	2/10/2017	3/22/2017	40	
9	100753162	C4	N	3/10/2017	3/22/2017	12	
19	100756839	C4	N	4/10/2017	4/19/2017	9	No activity for reporting period.
20	100762305	C4	N	5/10/2017	5/30/2017	20	Accidentally filed the June report instead of the May report. Didn't discover the mistake until I needed to file the June report. Once I did, I filed this one and amended the June report.
27	100769231	C3	N	6/12/2017	6/13/2017	1	Filed amended report (see above.)
21	100769232	C4	Y	6/12/2017	6/13/2017	1	
22	100776131	C4	N	7/11/2017	7/19/2017	8	I was using the "Date Due" listed on the "C4 Reports" tab from the screen shot I created at start of year. It listed July 18th as due date.
23	100778931	C4	N	7/25/2017	7/26/2017	1	Filed 1 day late.
28	100790318	C3	N	10/2/2017	10/4/2017	2	Filed 2 days late.
24	100799744	C4	N	10/31/2017	11/9/2017	9	Missed deadline. No activity for reporting period.