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Sent via email to pdcc@pdcc.wa.gov

July 13, 2018

Micaiah Titus Ragins
Public Disclosure Commission
711 Capitol Way S. #206
PO BOX 40908
Olympia, WA 98504-0908

RE: Washington State Association for Justice (Justice for All) - Alleged Violations of
RCW 42.17A
SCBIL File No. 6553-003

Dear Mr. Ragins:

On behalf of the Washington State Association for Justice (Justice for All PAC) (“the Committee”), we are hereby responding to the allegations raised by Glen Morgan in the above-referenced matter.

Mr. Morgan’s claims are inaccurate. Each item he outlines is either no violation at all or at most a technical correction. Setting all rhetoric aside, there is no item cited in Mr. Morgan’s complaint requiring further inquiry or action from the PDC.

The intent of RCW 42.17A “is not to trap or embarrass people when they make honest remediable errors.” There is nothing beyond a remedial error that occurred here, and each error or issue was immediately corrected upon its discovery. And at all times material to the facts of this case, the Committee worked with the PDC to update and correct its filings. The Committee has regularly consulted with the PDC and has taken active steps to implement systems to ensure that it remains in compliance with Washington law. Therefore, all of Mr. Morgan’s allegations should be dismissed.

We hereby address his complaint (“Failure to file accurate, timely C3 and C4 reports”) by year, in turn, as follows:

2018

Many of the filings identified by Mr. Morgan in 2018 (items #26-32 on “Exhibit A”) amount to “technical corrections” at most. They each reflect a minor correction of a previously timely-filed report. And each correction reflects minor or ministerial error that does not materially impact the public interest and simply needed to be corrected for the report to be in full compliance with the requirements of this chapter. RCW 42.17A.005(51).

For example, Report 100811091 amends Report 100807411, which amends Report 100793441 (a timely-filed report). Each amended report shows essentially the same information, with one minor adjustment (in a dollar amount smaller than the contribution limits set out in RCW 42.17A.405(2)):

	Report #	100811091	100807411	100793441
	Amends	→	→	
	Due Date	-	-	10/17/2017
	Date Submitted	2/7/2018	1/9/2018	10/17/2017
Receipts	C4 Line			
Previous cash	1	\$504,533.98	\$504,533.98	\$504,533.98
Cash received	2	\$130,338.04	\$130,338.04	\$130,338.04
Total contributions	4	\$130,338.04	\$130,338.04	\$130,338.04
Total cash	8	\$634,872.02	\$634,872.02	\$634,872.02
Expenditures	C4 Line			
Previous cash	10	\$282,409.65	\$282,409.65	\$282,409.65
Total cash expenditures	11	\$120,000.00	\$119,500.00	\$121,000.00
Change from previous		-\$500.00	\$1,500.00	

In other words, the Committee’s actions here show a clear intent to comply with “maximum transparency to the public and voters so they may know who is funding political campaigns and how those campaigns spend their money.” 2018 c 304 § 1. In addition, each candidate committee receiving contributions from the Committee also reports the receipt of each contribution, creating a built-in failsafe to ensure timely transparency of funds. It cannot be said that the Committee’s actions “materially impact[ed] the public interest” in any way. RCW 42.17A.005(51). These are clear examples of technical corrections, and they do not warrant further investigation or inquiry by the PDC.¹ The same is true for the other reports cited by Mr. Morgan in 2018.

Two reports from 2018 (items #1 and 2 on Mr. Morgan’s “Exhibit A,” Reports 100821490 and 100821491) identified by Mr. Morgan as being “late” involved a special set of circumstances that call for their separate examination—and exclusion—from this claim. Both

¹ If the PDC disagrees, these cannot be viewed to be more than remedial violations, as they involved amounts totaling no more than the contribution limits set out under RCW 42.17A.405(2) per election; did not constitute material violations because they were inadvertent and minor or otherwise has been cured and, after consideration of all the circumstances, further proceedings would not serve the purposes of this chapter; they did not materially affect the public interest; and they involved a Committee that substantially met the filing deadline for all other required reports within the immediately preceding twelve-month period. RCW 42.17A.005(45).

involved the ORCA software allowing the Committee to timely file the report and showing a green check mark next to the report, indicating to the Committee that they had each been filed.

The Committee filed Report 100821490 on time, and it appeared in the system as though it had been submitted. During the subsequent filing period, the Committee timely filed Report 100821491 on March 12, 2018. ORCA again showed a green check mark, but this time, it also generated an error message.

The Committee reached out to the PDC that same morning—the date the report was due—at 8:46 a.m., to ask whether the report had actually been received (as the green checkmark was present). See Attachment A. After 5:00 p.m. that day, Jennifer Hansen responded to the Committee’s inquiry, stating that the C-3 was not showing up and asking the Committee to provide her with the error message. *Id.* The very next morning, at 7:04 a.m., the Committee complied with this request, noting that both Reports 100821490 and 100821491 had green check marks next to them in the system but may not be showing up as filed. *Id.* Working with Ms. Hansen, the Committee identified the problem and filed the reports on March 15—a mere two days after identifying that the reports had not logged as being filed.

Given these circumstances, these two filings should *not* be considered any type of violation. They do not even rise to the level of a remedial violation, as there was no way for the Committee to have known an issue occurred, and upon being notified that the ORCA system was incorrectly reflecting the status of those two reports, the Committee immediately remedied the issue. This set of circumstances does not meet the definition of a violation under RCW 42.17A; this certainly did not constitute a material violation, as the problem was inadvertent and minor *and* otherwise has been cured.

Therefore, the portion of this complaint referring to allegations surrounding reports submitted in 2018 should be dismissed.

2017

Mr. Morgan’s allegations about the Committee’s 2017 filings are similarly frivolous or overstated.

For example, item #3, Report 100790287, was not late at all, and was reported five business days after deposit, per RCW 42.17A.215(1). Item #4, Report 100786260, was actually an amendment of Report 100786248—with both reports reflecting a grand total of \$2.19 in interest received. Likewise, item #5, Report 100772947, reflects \$2.57 received on 6/30/2017 and deposited on 7/7/2017—five business days after receipt, excluding the weekend and the Fourth of July. In Report 100786248, the Committee had indicated the wrong deposit date for this interest amount (9/5/2017 instead of 8/31/2017). The Committee’s amendment corrected the information within days. There has been no violation here, and these allegations should be dismissed.

Items #33-36 repeat the pattern from 2018 in incorrectly citing to amended reports as being anything other than a technical correction. For example, item #36, Report 100740342, is another series of amendments, with one minor adjustment:

	Report #	100811091	100721188	100720495	100720215
	Amends	→	→	→	N/A
	Due Date	-	-	-	9/12/2016
	Date Submitted	1/9/2017	9/15/2016	9/12/2016	9/12/2016
Receipts	C4 Line				
Previous cash	1	\$853,892.38	\$853,892.38	\$853,892.38	\$853,892.38
Cash received	2	\$71,892.64	\$71,892.64	\$71,892.64	\$71,892.64
Total contributions	4	\$71,892.64	\$71,892.64	\$71,892.64	\$71,892.64
Total cash	8	\$925,785.02	\$925,785.02	\$925,785.02	\$925,785.02
Expenditures	C4 Line				
Previous cash	10	\$455,489.74	\$455,489.74	\$45,489.74	\$456,489.74
Total cash	11	\$180,231.02	\$180,731.02	\$180,731.02	\$180,731.02
Change from previous		\$500.00			

Each amended report shows essentially the same information, with one adjustment in a dollar amount smaller than the contribution limits set out in RCW 42.17A.405(2). These are clear examples of technical corrections, and they do not warrant further investigation or inquiry by the PDC. The same is true for the other reports cited by Mr. Morgan in 2017.

Therefore, the portion of this complaint referring to allegations surrounding reports submitted in 2017 should likewise be dismissed.

2015-2016

Mr. Morgan’s allegations about 2015 through 2016 reports are also overstated.

Mr. Morgan cites a string of amendments that follow the same approach as cited above, whereby the amendments themselves are minor and do not actually impact transparency in elections. If the PDC wishes further clarification on any individual filing, we will happily provide it, but we will not repeat additional examples of the incorrect characterization repeatedly utilized by Mr. Morgan herein.

While it is true that there were some filings submitted late during these previous years, the *amounts* at issue are so trivial as to hardly qualify as a technical correction. For example, item #10, Report 100716044, *only* reflects bank interest of \$3.93. Such interest is *not* a

contribution under RCW 42.17A.005(16)(b) (“‘Contribution’ does not include: (i) Legally accrued interest on money deposited in a political committee’s account.”). This type of information being slightly late does not materially impact the public interest, and simply needed to be corrected for the report to be in full compliance with the requirements of this chapter. Furthermore, the late filing was inadvertent and minor, and otherwise has been cured.

There were only a few late reports filed in the summer of 2016, where the Committee’s designated filer was out of the office due to a serious family medical emergency. Once the Committee realized that these reports had not been filed (in mid-August), the situation was immediately remedied, and all reports were filed. The subsequent filing pattern for the Committee shows that this situation was the exception and not the norm. The Committee addressed the issue, and these particular filings did not have any impact on the public’s ability to know the nature of the Committee’s activities.

Finally, as explained previously, the Committee’s filings in 2017 and 2018 show that their efforts to timely comply with filing requirements have paid off, and the Committee has substantially complied with the requirements of 42.17A in those years. Under these circumstances, it cannot be said that further proceedings would serve the purposes of this chapter. Therefore, these allegations should likewise be dismissed.

Conclusion

The Committee wishes that it be known that it has taken steps since 2016 to ensure that all subsequent filings are timely and comport with the requirements of the law. The facts clearly demonstrate this effort. Ultimately, none of the reports cited by Mr. Morgan in his complaint materially affected the public interest in transparency in elections. Further proceedings would simply not serve the purposes of this chapter.

With respect to Mr. Morgan’s utterly unfounded claim that any of the above actions, if found to be violations of the law, were done with malice as contemplated by RCW 42.17A.750(2)(c): there has been absolutely no malicious action undertaken by the Committee. Alleging the mere “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.

We look forward to working with the PDC to resolve this matter. Please let us know if we can be of any further assistance.

Sincerely,



Dmitri Iglitzin
Laura Ewan

Attorneys for WSAJ Justice for All PAC