



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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April 21, 2016

Todd Donovan
2407 Cherry St
Bellingham, WA 98225

Subject: Complaint filed against Washington State Republican Party, PDC Case 15-074

Dear Mr. Donovan:

Public Disclosure Commission (PDC) staff has completed our investigation of your complaint received on September 30, 2013, alleging that the Washington State Republican Party violated RCW 42.17A.460 and RCW 42.17A.270 by receiving contributions from Pacific International Terminals, Inc. and Burlington Northern Santa Fe Railroad, and earmarking those contributions for specific local Whatcom County candidates in the 2013 election cycle. The complaint was considered in light of the following statutes:

RCW 42.17A.460 states that all contributions made by a person, either directly or indirectly, to a candidate or to a political committee are considered to be contributions from that person or entity to the candidate or political committee, as are contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate or political committee. For the purposes of this section, "earmarked" means a designation, instruction, or encumbrance, whether direct or indirect, expressed or implied, or oral or written, that is intended to result in or does result in all or any part of a contribution being made to a certain candidate.

RCW 42.17A.270 states that a political committee receiving an earmarked contribution for the benefit of a candidate or another political committee must report the contribution in accordance with the reporting requirements found in RCW 42.17A.235 and 42.17A.240, and also complete a PDC "Earmarked contributions" report form.

PDC staff reviewed your complaint and attachments, responses and email communications from Caleb Heimlich, Executive Director of the Washington State Republican Party (WSRP), the PDC database for WSRP contribution and expenditure activities, and the Monetary Contributions reports (C-3 reports) and Summary Campaign Contributions and Expenditures reports (C-4 reports) filed by the WSRP. As a result of our investigation, we found the following:

WSRP reporting:

- The WSRP is a bona-fide state political party organization that has been registered with the PDC as a Bona-Fide Political Party Committee and filing PDC contribution and expenditure reports since the 1970's. As a bona-fide major political party committee, the WSRP is allowed under PDC laws and regulations to establish an Exempt funds account (Exempt) and a Non-exempt funds account (Non-exempt), which the WSRP did in 2013.

- The PDC laws, rules and reporting requirements for political party committees allows the party to establish a separate Exempt and Non-exempt bank account, and requires it to timely file PDC reports disclosing contribution and expenditure activities for each of those accounts. For calendar year 2013, the WSRP filed C-3 and C-4 reports for both an Exempt funds account and a Non-exempt funds account, disclosing the following:
 - WSRP Exempt funds account: The WSRP reported \$456,008 in total contributions received, and the committee made expenditures totaling \$336,108.
 - WSRP Non-exempt funds account: The WSRP reported \$99,652 in total contributions received, and the committee made expenditures totaling \$75,479.
- In 2013, the WSRP filed: (1) Three C-3 reports disclosing the receipt of three monetary contributions from Burlington Northern Santa Fe Railroad (BNSF) totaling \$15,000 to the WSRP in 2013. The \$15,000 in contributions from BNSF included \$10,500 in contributions that were deposited in the Exempt funds account, and a \$4,500 monetary contribution deposited in the WSRP Non-exempt funds account. (2) Two C-3 reports disclosing the receipt of two monetary contributions from Pacific International Terminals, Inc. (PITI) totaling \$30,000 that were both deposited into the WSRP Exempt funds account.
- The total amount contributed to the WSRP in 2013 by BNSF and PITI was \$40,500 that included \$36,000 in contributions deposited into the WSRP Exempt funds account, and the \$4,500 BNSF contribution that was deposited into to the WSRP Non-exempt funds account. The \$36,000 in total contributions received by the WSRP Exempt funds account from the two entities represented 7.9% of the total Exempt funds received.
- During the 2013 election the WSRP Exempt funds account made expenditures totaling \$34,700 to the Whatcom County Republican Party, which represented 10.3% of total Exempt funds expenditures made in 2013. Staff noted that the totals included a \$7,500 contribution received by Whatcom County Republicans on November 19, 2013, from the WSRP Exempt account two weeks after the general election had been held.
- The majority of the WSRP exempt funds expenditures made in 2013 were for the following: (1) \$99,000 in expenditures for transfers to the WSRP federal account for the party's state portion of non-federal joint or shared administrative expenses; (2) \$55,000 in expenditures to the law firm of Livengood, Fitzgerald & Alskog for legal fees and services; (3) \$49,000 in donations made to Washington State University; and (4) \$45,707 for expenditures made to Cardmember Services for WSRP credit card payments for services provided to the party.
- During the 2013 election, the WSRP Non-exempt funds account disclosed making \$75,479 in total expenditures, which included \$74,555 for monetary and in-kind contributions to 2013 candidates for office. Of the \$74,555 in total monetary and in-kind contributions made to candidates in 2013, \$70,255 in WSRP Non-exempt contributions were made to the Jan Angel for Senate Campaign in the 26th Legislative District's 2013 special election.
- The WSRP Non-exempt funds account disclosed making \$2,500 in monetary contributions to four Whatcom County Council candidates and two Port of Bellingham Commissioner candidates.

WSRP Responses

- Caleb Heimlich, WSRP Executive Director stated that he did not have any role in soliciting the contributions from PITI or BNSF during the 2013 election, and to the best of his knowledge, no other WSRP staff member or party official solicited any of the contributions from PITI or BNSF during 2013. He stated that the WSRP Chairman is the primary fundraiser for the party.
- Mr. Heimlich stated that he was not aware of anyone from PITI or BNSF approaching any WSRP staff about the 2013 contributions, and that the monetary contribution checks from BNSF and PITI were received in the mail through the US Postal Service. He stated that he deposited them into the appropriate WSRP accounts in compliance with applicable state and federal campaign finance laws.
- Mr. Heimlich stated that in late 2012, Kirby Wilbur, former WSRP Chairman was approached by members of the Whatcom County GOP requesting funds for a new voter engagement technique called "Building Genuine Relationships." He stated that when the WSRP State Committee adopted the 2013 budget, it included a line item to make up to \$75,000 in Exempt funds available during 2013 to pay for proposed party building activities in King, Kitsap, Pierce and Whatcom counties.
- Mr. Heimlich stated that the WSRP does not receive earmarked contributions. He stated that the WSRP contributions to the Whatcom County Republican Party were for party building activities in Whatcom County such as voter registration, voter identification and get-out-the-vote efforts (GOTV), and not for direct candidate support. He recalled that his discussions with Whatcom County Republican Party officials involved conducting the grassroots activities listed above, and the costs associated with the hiring of people and the technology to assist in those efforts.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation finding no evidence to demonstrate that the WSRP received earmarked or designated contributions from BNSF or PITI, to be used to support 2013 local candidates in Whatcom County.

No evidence was found that any WSRP staff members or party officials solicited contributions from BNSF or PITI during 2013, and or that any WSRP staff members or officials communicated with BNSF or PITI how their contributions would be spent. In addition, the WSRP stated that their long-standing policy is to refuse earmarked contributions.

Because staff's investigation has not revealed sufficient evidence to establish a material violation of any laws or regulations under the Commission's jurisdiction, I am dismissing your complaint filed against the Washington State Republican Party with the concurrence of the Chair of the Public Disclosure Commission.

I sincerely regret how long it has taken to bring this matter to conclusion, and appreciate your patience as PDC compliance staff members have worked their way through the backlog of complaints from prior elections.

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If you have questions, please contact Kurt Young, PDC Compliance Officer at 360 664-8854, or toll-free at 1-877-601-2828 or by e-mail at kurt.young@pdc.wa.gov.

Sincerely,


Evelyn Fielding Lopez
Executive Director