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*Original via U.S. First Class mail
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October 6, 2017

Micaiah Titus Ragins
Compliance Coordinator
Washington Public Disclosure Commission
711 Capitol Way S #206
Olympia, WA 98504

Re: PDC - Franz, Hilary - Alleged Violation of RCW 42.17A.235, .240, .710
SCBIL File No. 6555-001

Dear Ms. Ragin:

On behalf of Ms. Franz, we are hereby responding to your e-mail dated September 13, 2017, regarding the above-referenced matter. For the reasons set forth herein, we do not believe that Ms. Franz has engaged in any conduct that warrants any action by the PDC or its Executive Director beyond, potentially, imposition of a "written warning" for minor or technical violations of RCW 42.17A, as authorized by WAC 390-37-060(1)(b). We address the specific claims that were made against Ms. Franz by Glen Morgan as follows:

1. Failure to file a C3 report on the date the treasurer was designated.

It is correct that a few days prior to the date that the PAC named "Friends of Hilary Franz" was registered, April 27, 2016, and a treasurer was designated, Ms. Franz had contributed \$250 to her own campaign. Thus, it is technically correct that this contribution should have been reported on that date (either by Ms. Franz or by her treasurer), not shortly thereafter, as was the case. This is clearly a *de minimis* violation that did not negatively impact the campaign finance transparency goals of the Fair Campaign Practices Act (and therefore does not warrant any substantive sanction), because of the very small amount of money involved, because the delay in disclosure that was involved was minimal, and because it was already and always public knowledge that Ms. Franz was supporting her own campaign.

2. Minor errors in the timely reporting of campaign contributions.

Mr. Morgan has cited several minor errors in the timely reporting of campaign contributions, in alleged violation of RCW 42.17A.235. However, the charges themselves involve conduct either entirely in compliance with PDC requirements, or conduct so trivial or excusable as to warrant no sanction more serious than a written warning. In most cases, such as 2(a) through (h), for example, the only error was misattributing to one spouse a contribution that should properly have been attributed as coming partly from one spouse and partly from the other.

Other allegations involve nothing more than Ms. Franz's treasurer correcting past reports when new information was received (for example, with both 2(i) and 2(j), a check was reported as having been received; when that check was returned by the bank with a Stop Payment order, Ms. Franz's treasurer quite properly amended the prior report, as per the PDC's instructions for dealing with refunds). In all, or almost all, of the other instances complained of, information was reported as it was known, then corrected when more accurate information was subsequently obtained.

In yet other instances cited by Mr. Morgan, the only allegation is that the reports filed suffered from a lack of detail. In most of these cases, the underlying cause of the problem is that the ORCA software memo field is too small to hold the vendor name, full address, and description, so the committee's treasurer generally reported just the vendor name and description (since the addresses are readily available with a quick Google search, and the PDC guidance for payments to campaign consultants says to report the subvendor and the description, not the address). In other cases, the law does not actually (or, at least, specifically and unambiguously) require the level of detail Mr. Morgan claims was required and not present.

3. Alleged failure to timely and accurately report debt.

We do not understand the basis for these allegations. Mr. Morgan appears to confuse "expenditures," which were in fact properly reported subsequent to being made, and "debt," which only occurs under very limited circumstances, e.g., where a commitment to pay has been made, with an agreement that payment be made on a specified date, yet payment is not made on that date, and the money is therefore now owed by the campaign committee (in the words of RCW 42.17A.240(8), the debt is now "outstanding"). None of the items listed by Mr. Morgan constitute what he refers to as a "debt obligation." Instead, these items were expenditures that were reported appropriately (and in a timely fashion) subsequent to having been made.

4. Alleged failure to identify committee officers.

None of the individuals identified by Mr. Morgan as committee officers who were wrongfully not identified on the C1pc, in alleged violation of RCW 42.17A.205(2)(c), were, in fact, committee officers. Ms. Elia, Northwest Passage Consulting, and Katherine Bobman were employed by Ms. Franz's political committee, but were not officers of that committee and did not authorize or make meaningful decisions on her behalf related to the committee's expenditures or actions. Any interpretation of the definition of "committee officer" that would transform all campaign consultants, employees, and/or independent contractors into "officers," because they obviously do make "decisions" as part of the course and scope of their employment, would turn current PDC law and compliance on its head, and must be rejected by the PDC.¹

¹ Additionally, under the plain language of RCW 42.17A.205(1), which explains that the obligations set forth in the subsequent subsections of that provision are imposed only on "[e]very political committee," and not, perforce, on candidates, only Ms. Franz's political committee, Friends of Hilary Franz, not Ms. Franz herself, could potentially be held liable for a violation of RCW 42.17A.205(2)(c).

5. Alleged errors on 2017 F1 Form.

Mr. Morgan alleges that, although Ms. Franz was a “member” of two specific organizations, the Puget Sound Partnership Salmon Recovery Council and the Puget Sound Partnership Ecosystem Recovery Board, she failed to identify those organizations on her 2017 Financial Affairs (F1) form, in violation of RCW 42.17A.710(g). Even assuming (without, by any means, conceding) that either of these somewhat unusual entities is an “organization” covered by the statute, however (in point of fact, they are “governmental entities,” disclosure relating to which is addressed, if applicable, in a different statutory subsection), RCW 42.17A.710(g) only requires that a candidate disclose organizations “in which is held any office....” Mr. Morgan does not allege that Ms. Franz was an “officer” of either of those two boards; thus, his complaint lacks merit on its face.

6. Alleged illegal donations from campaign committee to other political committees.

Mr. Morgan asserts that Ms. Franz violated RCW 42.17A.430(8) by buying tickets to certain political events. However, there is no evidence that Ms. Franz knew, if in fact it is the case, that the cost of the ticket or tickets to each event complained of exceeded the fair market value of the ticket(s). Absent any reason to believe that Ms. Franz had any intent to “transfer funds to any other ... political committee,” no violation of this statutory subsection can legitimately be found. (The facts of the Jim Cooper situation, which Mr. Morgan referenced in his complaint, are clearly, and dramatically, distinguishable, precisely on the issue of intent, as well as in numerous other ways.)

For all of the foregoing reasons, we believe that Ms. Franz has not engaged in any conduct that warrants any action by the PDC or its Executive Director beyond, potentially, imposition of a “written warning” for minor or technical violations of RCW 42.17A, as authorized by WAC 390-37-060(1)(b). We respectfully ask the PDC to so conclude.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dmitri Iglitzin".

Dmitri Iglitzin
Counsel for Hilary Franz

cc: Hilary Franz