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REPLY TO TACOMA OFFICE

June 20, 2017

Fox Blackburn
Compliance Coordinator
Washington Public Disclosure Commission
Evergreen Plaza, 711 Capitol Way S #206
Olympia, WA 98504

Dear Mr. Blackburn:

I am writing on behalf of my client, Dierdre Gethers. I am writing regarding the request from the PDC on May 31, 2017, for a response to a complaint received from Mr. Barry Johnson.

Nature of Complaint. The PDC received a complaint from Barry Johnson, my client's opponent in the 2015 Fife City Council Election, in which Mr. Johnson asserts that my client failed to disclose in kind contributions received from the Pierce County Community Newspaper Group (Fife Free Press).

PDC Identification of Issues. The PDC communication to my client requests a response to Mr. Johnson's claim of failing to disclose in kind contributions. In addition, however, the PDC communication references a failure to register as a political committee (in the subject line) and in the body of the text a failure to register as a candidate for election. Neither of these two issues are raised by Mr. Johnson in his complaint. My client was a candidate for office, and registered as such with the PDC. She was not a political committee as that term is defined in the PDC's regulations. For that reason, this response will focus on the substance of Mr. Johnson's complaint.

Response to Complaint. Fife Free Press and its owner arranged for print, billboard and sign support for my client's campaign. That said, Fife Free Press and its owner did so without request or solicitation from my client, without consulting in any way with my client, and when asked by my client for information on the value of what was being provided by Fife Free Press, its owner stated that he had a right as a citizen to support who he wanted and that he was exercising his right to do so. Fife Free Press refused to provide any information as to cost or value. As evidence of the unsolicited nature of these in kind contributions, many of the materials provided by Fife Free Press contained errors, including incorrectly identified the Fife City Council position for which my client was running.

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When examining the PDC regulations, it is difficult to determine how to have properly filed information with the PDC on these unsolicited in kind contributions.

WAC 390-16-205, regarding reporting of expenditures by agents and employees does not appear to apply, because Fife Free Press was not an agent and was engaging in activities without request, supervision, payment or control from my client.

WAC 390-16-031, requiring filing of form C-3, could not be complied with because Fife Free Press refused to provide information regarding the value of the unsolicited in kind contributions.

RCW 42.17A.310, regarding electioneering contributions, does not appear to apply because that statute contemplates some level of cooperation or coordination between the candidate and the contributor, but here there was none.

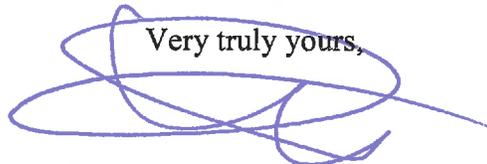
This type of situation appears to fall outside the fairly broad definition of contribution under RCW 42.17A.005, which in pertinent part defines contribution as “an expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents.” The level of cooperation, consultation and in concert activity recognized in the statute is absent in the unusual circumstance.

Recent Developments To add to the confusing nature of this situation, my client recently received a bill from Fife Free Press (nearly a year after the 2015 election) demanding payment for the unsolicited campaign support. If the bill is legally valid (we contend it is not because these were unsolicited services) then there was not a contribution at all.

Conclusion My client did not intentionally fail to disclose information required under PDC statute and regulation, and we do not believe that she did, in fact, fail to make a required disclosure. However, in the spirit of the PDC's goal of keeping elections in Washington open and transparent, my client will file a supplemental statement with the PDC if you can help us determine how this could be reported accurately.

Thank you for your consideration. Please reach out to me with further communication.

Very truly yours,



MARK A. HOOD

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