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via electronic mail only

Mx. Fox Blackhorn
Compliance Coordinator 2
Public Disclosure Commission
711 Capitol Way South, Suite 206
P.O. Box 40908
Olympia, WA 98504-0908

Re: PDC Case Number 16055

Dear Mx. Blackhorn,

I stood for election to the Burien City Council in 2013. I served as a Councilmember from 2014-2017. At no point did I run for re-election. At no point have I stood for election to any other public office. In fact, I no longer reside in Burien. Respectfully, the allegations in Mr. Morgan's complaint that do not exceed the statute of limitations period are frivolous or unfounded. At most, they are technical corrections or appropriate for resolution as minor violations.

A. Allegation One Is Unfounded Because I Was Not The Treasurer, I Had No Actual Malice, And Any Errors Made By My Treasurer Were Technical (And Corrected) Violations.

First, the obligation to report items defined in RCW 42.17A.240 falls on the treasurer, not the candidate or elected official. RCW 42.17A.235(2) required: "Each treasurer shall file with the commission a report..." *Emphasis added*. Similarly, RCW 42.17A.235(3) required: "...the treasurer shall file with the commission a report of each bank deposit made..." *Emphasis added*. Therefore, Mr. Morgan's First Allegation only alleges duties of campaign treasurers.

I engaged a treasurer for my campaign in 2013 and for any post-election activities related to my 2013 campaign. I have not stood for election in any other campaign. At no time was I the treasurer of any campaign. Accordingly, the duty to report the alleged check in question fell to my treasurer, not me. Therefore, Mr. Morgan's contention that I violated RCW 42.17A.240 by allegedly incorrectly reporting a \$500 contribution from UFCW 21 PAC is unfounded.

Second, Mr. Morgan's claim that I acted with actual malice is without merit and offensive. I engaged a treasurer to avoid dealing with matters related to individual donations. Such engagement and reliance on a well-known, competent treasurer is responsible and typical, not reckless disregard. Certainly, I had no knowledge of any falsity in any report submitted by my treasurer or me.

Third, Mr. Morgan's complaint indicates only that Mr. Upthegrove reported the contribution, then corrected his report. Any alleged wrongdoing by my treasurer amounts to allegations of technical errors, or corrections of technical errors, made by the campaign treasurer. Mr. Morgan fails to allege any actual violation.

B. Allegations Two And Three Are Unfounded Because I Was Not A Candidate.

As previously noted, I was not a candidate in 2014 or 2016. RCW 42.17A.005(9) defines "candidate" not merely as receiving a contribution or renewing a website, but doing so "...with intent to promote his or her candidacy for office" or "to promote his or her candidacy." I had no intent to promote my candidacy for office at any time after my election in 2013. Accordingly, I was not a candidate. I had no duties under RCW 42.17A.210 or WAC 390-16-230(1). Therefore, Mr. Morgan's second allegation is unfounded.

I remain not a candidate as defined by RCW 42.17A.005(9). I have no intent of promoting my candidacy for any office. I am not standing for election to any office. I have not stood for election to any office since 2013. Therefore, I have no duty to file the reports listed in Mr. Morgan's third allegation.

C. Allegation Nine Is Unfounded.

Plainly, Mr. Morgan is incorrect when he asserts, without any evidence or even any legitimate basis, that I failed to retain records and books of accounts for five years after the close of the 2013 election campaign. My treasurer did retain records and books of accounts for five years after the close of the 2013 election campaign. Mr. Morgan's "belief" to the contrary is, simply, wrong.

D. Allegation Ten Is Frivolous, Technical, And Exceedingly Minor.

Mr. Morgan's tenth allegation is that I failed to check a box on an F-1 report. This box would have acknowledged my understanding of RCW 42.17A.555. Importantly, nowhere does Mr. Morgan allege that I *violated* RCW 42.17A.555. He simply alleges that I failed to check a box. To the extent that my accidental failure to check a box can be corrected now, I hereby state that I understand RCW 42.17A.555. This allegation is the epitome of frivolous, technical, and minor allegations. It does not merit the expenditure of limited PDC resources.

E. Allegation Twelve Is Unfounded.

Mr. Morgan's twelfth allegation is that I did not divulge confidential attorney-client relationships. In 2016, I opened a solo law practice and properly incorporated it as a PLLC. For my F-1 Report covering 2016, I was unsure of how to complete the income section. In an abundance of caution, I reported, "confidential individual client," as if my income came from a client, not my law firm corporation. In short, I correctly reported that I received more than \$12,000.00 in 2016 from my solo law firm. RCW 42A.17.710 does not require I provide any more detailed information about my clients than that. Accordingly, Mr. Morgan's twelfth allegation is unfounded.

I am no more obligated to report the identities of my law firm's clients than I am obligated to report the identities of the clients of the law firm for which I worked prior to 2016. Notably, Mr. Morgan does not claim that my lack of reporting individual clients' payments to my prior law firm is a violation. The same reasoning prohibits Mr. Morgan's claim as applied to my solo law practice. Surely, if lawyers had to report individual clients' names and confidential settlement agreement terms on F-1 filings, lawyers would be barred from holding public office. Such requirements would conflict with attorneys' ethical obligations. Mr. Morgan's interpretation of the section is absurd.

F. Allegations Four, Five, Six, Seven, Eight, Eleven, Thirteen, And Fourteen Exceed The Statute Of Limitations.

I agree with the PDC's preliminary determination that these allegations exceed the statute of limitations. I respectfully reserve the right to supplement my response should the PDC determine these allegations remain active.

G. Conclusion

I ran a hotly-contested election in 2013, and served as a councilmember in a tumultuous time in Burien. I engaged a treasurer to handle the behind-the-scenes matters while I campaigned and served. I completed all forms truthfully and to the best of my ability. I did not seek re-election or any other elected office. I am, and have been, a lawyer who takes my legal and ethical obligations seriously. Mr. Morgan's claims are unfounded, trivial, technical, or minor. I respectfully request they be dismissed in their entirety.

Best regards,
s/Lauren H. Berkowitz
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