



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

March 15, 2017

Representative Joseph Fitzgibbon
Sent electronically to "jcfitzgibbon@gmail.com"

Subject: Complaint filed by Glen Morgan; PDC Case 11395
Formal Written Warning

Dear Representative Fitzgibbon:

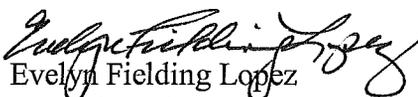
Enclosed is a copy of a letter sent to Glen Morgan concerning a complaint he filed with the Public Disclosure Commission (PDC) on December 30, 2016. The complaint alleged that there were multiple violations of state campaign finance and disclosure laws (RCW 42.17A) during your 2016 campaign for reelection as State Representative for the 34th Legislative District.

As noted in the letter to Mr. Morgan, the PDC will not be conducting a more formal investigation into these allegations or taking enforcement action in this matter. However, your use of surplus campaign funds to purchase a computer that was used both for permitted public office activity, and non-permitted campaign and personal activity appears to have been a violation of allowable uses for surplus campaign funds.

In accordance with WAC 390-73-060(1)(b), this is a Formal Written Warning that surplus campaign funds may only be used as permitted in RCW 42.17A.430. To correct the surplus funds use issue, please reimburse your surplus funds account for portion of the cost of the computer that equals the percentage of campaign and personal use (approximately 60% of the cost per your response to the PDC). Please make the reimbursement to your surplus funds account within 30 days of receiving this letter. If there are future violations of PDC laws or rules, the Commission will consider this Formal Written Warning in deciding on further Commission action.

If you have questions, please contact me at (360) 664-8854, toll-free at 1-877-601-2828, or by e-mail at kurt.young@pdc.wa.gov.

Sincerely,


Evelyn Fielding Lopez
Executive Director



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March 15, 2017

Glen Morgan
Sent via email: glenmorgan89@gmail.com

Subject: Complaint filed against Representative Joseph Fitzgibbon
PDC Case No. 11395

Dear Mr. Morgan:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on December 30, 2016. Your complaint alleged that Joseph Fitzgibbon, an incumbent State Representative from the 34th Legislative District and a candidate seeking re-election to that office in 2016, violated RCW 42.17A on multiple occasions, as detailed below.

PDC staff reviewed your allegations in light of PDC laws and rules in order to determine whether a formal investigation or enforcement action would be warranted. Staff reviewed your complaint, the PDC contribution and expenditure database for Representative Fitzgibbon, Monetary Contributions reports (C-3 reports) and Summary Full Campaign Contribution and Expenditure reports (C-4 reports), and the response letter from Representative Fitzgibbon.

Representative Fitzgibbon was elected State Representative in 2010, and was re-elected to that office in 2012 and 2014. On February 10, 2015, Joseph Fitzgibbon filed a Candidate Registration (C-1 report) declaring his candidacy for State Representative from the 34th Legislative District in 2016, and selecting the Full Reporting option. Based on staff's review, we found that:

Allegation #1: Prohibited expenditures using surplus funds

The complaint alleged that Representative Fitzgibbon made prohibited expenditures using surplus funds in violation of RCW 42.17A.430 by:

- Making expenditures to an organization that was not registered as a charitable organization under RCW 19.09, and
- Personal use of surplus funds for purchasing a computer, travel expenses for a trip outside of the US, and purchasing checks for the surplus funds account.

Representative Fitzgibbon stated in his response:

- The \$200 expenditure made to Industrial Areas Foundation NW was an error. The expenditure was to assist Sustainable Works, an organization which was registered under 19.09, in closing out their debts, but the organization was “no longer able to accept contributions due to being in receivership.”
- The \$63.88 surplus funds expenditure was to purchase checks for the surplus account.
- The \$1,248.92 expenditure from the surplus funds account was to reimburse him for the Air Travel for a 2015 trip he took to Sweden and Denmark, as part of an official eight-person delegation made up of Washington State legislators. He stated that the trip concerned climate change, he traveled in his official capacity as a State Representative, and the reimbursement was office related expenditure from his surplus funds account.
- The \$984.20 expenditure made to Representative Fitzgibbon was for a reimbursement to him from the surplus funds account on April 10, 2016, for the purchase of a computer.

Staff asked additional questions concerning the computer purchase, and Representative Fitzgibbon stated that he uses the computer for a variety of purposes and estimated the percentage of use as follows: 40% for legislative work, 40% for campaign-related work, and 20% for personal use. He acknowledged that the computer was purchased entirely using surplus funds, and he offered to reimburse the surplus funds account for his personal and campaign use of the computer, or as an alternative, to stop using the computer for non-office related activities.

He stated the office-related uses of the computer occur primarily during the legislative sessions, and it is used for email correspondence with staff, other legislators, and constituents, to access his legislative email, for bill tracking, and for researching statutes and legislative history.

Allegation #2: Failure to list Jay Petterson as an officer on the C-1 report.

The complaint alleged that the Friends of Joe Fitzgibbon (Campaign) failed to list Jay Petterson as an officer on the C-1 report.

Representative Fitzgibbon disclosed Jay Petterson as his campaign treasurer on the C-1 report. He stated Mr. Petterson was not authorized to make expenditures, and he was not a principal decision-maker for his campaign. Representative Fitzgibbon stated that he made the decisions for his campaign, and his campaign expenditures were authorized solely by him.

Allegation #3: Prohibited expenditure to the 34th Legislative District Democratic Central Committee (34th LDDCC).

The Complaint alleged that on August 4, 2016, the Campaign made a \$700 prohibited expenditure in the form of a contribution to the 34th LDDCC using 2016 active campaign funds.

Representative Fitzgibbon explained that the \$700 expenditure to the 34th LDDCC was not a contribution to a party organization, but was a payment to a vendor for political advertising. He stated that the payment to the 34th LDDCC was for a 2016 sample ballot or slate card advertisement, which ran throughout the 2016 election cycle, and not on a specific date.

Allegation #4: Failure to timely file the C-1 report.

The Complaint alleged that the Campaign made a \$35.70 expenditure on January 1, 2015, which required the C-1 report to be filed by January 15, 2015, but the C-1 report was not filed until February 10, 2015.

Representative Fitzgibbon acknowledged that the C-1 report was late, but argued that the “period of greater than two weeks between the closure of books for the 2014 campaign and the filing of my 2016 C1 is an exceptionally minor issue, even by the standards of this complaint.”

Allegation #5: Failure to timely disclose obligations and debts owed to vendors

The Complaint alleged that the Campaign failed to timely disclose obligations and debts for payments made to Blue Wave Political Partners LLC, for the monthly recurring treasury and campaign compliance services provided to the Campaign.

Representative Fitzgibbon noted that the PDC has advised candidates that vendors of ministerial services, such as services performed by treasurers, as well as fundraisers, salaries, and other recurring expenditures such as rent should be reported as expenditures in the month paid, but not as debts or outstanding obligations.

PDC staff agree that the disclosure of recurring monthly campaign expenditures made to vendors like Blue Wave Political Partners LLC, fundraisers, salaries for campaign management, and for fixed costs like rent, utilities, etc., should be reported when paid, and should not be reported as debts or obligation for the entirety of the campaign cycle.

Allegation #6: Monetary contributions that exceeded contribution limits

The Complaint alleged that the Campaign received monetary contributions from four contributors during the 2016 election cycle that exceeded the contribution limits. For the 2016 election cycle, beginning January of 2016 the contribution limits for a Legislative candidate were increased to \$1,000 for the primary election and \$1,000 for the general election.

Representative Fitzgibbon stated in his response that he timely refunded the four contributions listed in the complaint that exceeded the 2016 contributions limits. The four contributors that were refunded included:

- Sheet Metal Workers Local 66 (\$900 timely refunded on July 25, 2016).
- WA Federation of State Employees SSF (\$350 timely refunded on October 17, 2016).
- Campaign for Tribal Self-Reliance by WIGA (\$50 timely refunded on September 12, 2016).
- Puget Sound Energy (\$50 timely refunded on September 12, 2016).

Allegation #7: Failure to check box on F-1 report re: RCW 42.52.180

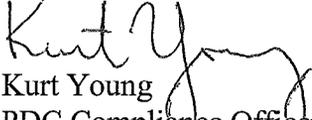
The Complaint alleged that Representative Fitzgibbon failed to check the box on his annual Personal Financial Affairs Statement (F-1 report).

Representative Fitzgibbon acknowledged forgetting to check the box on his F-1 report indicating he was familiar with RCW 42.52.180, "and its prohibition on use of public resources for political campaigns." He stated that he has amended his 2016 F-1 report.

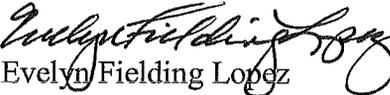
PDC staff concluded that a more formal investigation into your complaint or pursuing enforcement action in this instance is not warranted. However, the PDC Executive Director will send Representative Fitzgibbon a formal written warning in accordance with WAC 390-73-060(1)(b) regarding the use of surplus funds for a computer that is not used entirely for activity related to his public office. The warning will include a request that Representative Fitzgibbon reimburse the surplus funds account for the personal use and campaign use of the computer since April 10, 2016.

If you have questions, you may contact me at (360) 664-8854, toll-free at 1-877-601-2828, or by e-mail at kurt.young@pdc.wa.gov.

Sincerely,


Kurt Young
PDC Compliance Officer

Endorsed by:


Evelyn Fielding Lopez
Executive Director

cc: Joseph Fitzgibbon