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*Original via electronic mail to:
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November 28, 2016

Jacob Berkey
Public Disclosure Commission
711 Capitol Way, Rm. 206
P. O. Box 40908
Olympia, WA 98504-0908

Re: PDC Complaint #9030 (Hilary Franz)
SCBIL File No. 6546-001

Dear Mr. Berkey:

We write to you today on behalf of our client, Hilary Franz, in response to your request for a written response to the allegations in the complaint submitted by Mike Tiufekchiev on October 19. The complaint alleges that Ms. Franz “violated the law by engaging in lobbying activities while not being a registered lobbyist in violation of the requirements set forth in RCW 42.17A.600.”

As further explained herein, this allegation is categorically without merit, and should be dismissed outright.

Brief Statement of Facts

Ms. Franz has long been vocal about Futurewise, the organization for which Ms. Franz was Executive Director prior to her decision to run for the position of Commissioner of Public Lands. She routinely spoke of and praised the work done by its staff, along with its supporters, in the areas of visionary community and environmental planning and policy development, community engagement and outreach, grassroots organizing and advocacy, legislative initiatives, and litigation, all of which took place through strategic collaboration with businesses, local, state and federal government, and community and non-profit partners.

Futurewise employed outside lobbyists and had a registered lobbyist on staff. Those individuals had direct contact with legislators and followed all Public Disclosure Act requirements. Their filings are on record for the public to review.

Ms. Franz’s personal engagement with the Legislature, on the other hand, involved fewer than five direct contacts in any three-month period, going back to 2011. Internal Futurewise records confirm this. Instead, Ms. Franz focused her attention on directing the work of

Futurewise as it gathered together stakeholders, community leaders, and members of the public to try to ensure that the Legislature worked successfully to meet the needs of our community, especially regarding transportation.

The Allegations

Mike Tiufekchiev filed a complaint with the PDC, alleging that “Hilary Franz violated the law by engaging in lobbying activities while not being a registered lobbyist in violation of the requirements set forth in RCW 42.17A.600.” As support for his allegation, he cited Ms. Franz’s statements about the work done by Futurewise generally in Olympia to achieve certain policy goals. Both the law and the facts demonstrate the baselessness of this claim.

RCW 42.17A.005(30) defines “lobbying” as “attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure act, chapter 34.05 RCW.”

RCW 42.17A.600 (“Registration of lobbyists”) states that “[b]efore lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement...” However, RCW 42.17A.610 outlines specific exemptions from registration as a lobbyist. RCW 42.17A.610(5) exempts those individuals

who restrict their lobbying activities to no more than four days or parts of four days during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed *twenty-five dollars.

This dollar amount was changed to \$35 in 2014. *See* WAC 390-20-150.

Under the law, a person is not a lobbyist—and does not have to register as such—unless she has engaged in lobbying activity five or more times (on five or more separate days) in any three-month period. Here, Ms. Franz was not required to register as a lobbyist. Futurewise employed outside lobbyists and had a registered lobbyist on staff to perform lobbying functions. Those individuals had direct contact with legislators and followed all Public Disclosure Act requirements, and their filings are on record for the public to review.

Ms. Franz herself had fewer than five direct contacts in any three-month period, going back to 2011. While she did focus her attention on directing the work of Futurewise to ensure that the Legislature worked successfully to meet the needs of the community—which certainly can be described as “working with the Legislature”—Ms. Franz’s own activities in no way required her to register as a lobbyist.

Jacob Berkey
November 28, 2016
Page 3 of 3

Conclusion

Ms. Franz's activities do not meet the minimum criteria under RCW 42.17A that would have required her to report as a lobbyist. We therefore ask that this claim be dismissed. If you have any questions, or if there is anything we can do to be of assistance to you, please do not hesitate to contact us.

Sincerely,


Dmitri Iglitzin

cc: Hilary Franz (*via email*)