



STATE OF WASHINGTON  
**PUBLIC DISCLOSURE COMMISSION**

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BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

|   |   |                         |
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| IN RE COMPLIANCE                        | ) | PDC CASE NO: 2863       |
| WITH RCW 42.17A                         | ) |                         |
|   | ) |                         |
| Washington State Association for        | ) |                         |
| Justice (WSAJ); WSAJ Executive Director | ) | REPORT OF INVESTIGATION |
| Gerhard Letzing; and WSAJ Deputy        | ) |                         |
| Director Suone Cotner                   | ) |                         |
|   | ) |                         |
| Respondents.                            | ) |                         |
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**I.**

**BACKGROUND**

- 1.1 The Washington State Association for Justice (hereafter WSAJ) was originally formed in 1953 as the National Association of Claimants Compensation Attorneys (NACCA); in 1967 became the Washington State Trial Lawyers Association (WSTLA); and in 2008 became the Washington State Association for Justice (WSAJ). WSAJ is a member association made up of approximately 2500 attorneys and staff. The Web site of the WSAJ is [www.washingtonjustice.org](http://www.washingtonjustice.org), which describes WSAJ as being committed exclusively to the needs of plaintiff's attorneys and a proven voice for injured people in Washington courtrooms.
- 1.2 On January 25, 2016, David Dewhirst and James Abernathy of the Freedom Foundation filed a 45-Day Citizen Action Notice with the Washington Attorney General and Thurston County Prosecutor, alleging violations of RCW 42.17A by WSAJ, Gerhard Letzing, and Suone Cotner (respectively, WSAJ Executive Director and Deputy Director). (**Exhibit 1.**) The Citizen Action Notice alleged that as a lobbyist employer, WSAJ made in-kind and monetary contributions without properly reporting to the PDC, alleged violations of RCW 42.17A.630(2)(a).
- 1.3 On February 10, 2016, the Washington State Attorney General's office forwarded Mr. Dewhirst and Mr. Abernathy's Notice to PDC staff with a request for review and possible investigation.

## II.

### ALLEGATIONS IN COMPLAINT

- 2.1 First allegation: WSAJ, as a lobbyist employer, violated RCW 42.17A.630 by failing to file required reports detailing its monetary and in-kind contributions to candidates, elected officials, officers and political committees. Based on C-3 reports filed by political committees and candidates from 2010 to present, the complaint alleged that WSAJ contributed as least \$160,984 to candidates and political committees without reporting any of the monetary contributions on any L-3c or L-2 reports.
- 2.2 Second allegation: Washington State Association for Justice Justice for All PAC (WSAJ PAC), WSAJ's own political committee, reimbursed WSAJ for administrative fees and professional services. The complaint alleged that these payments to WSAJ indicated that WSAJ made in-kind contributions to WSAJ's political committee, and failed to report these contributions as a lobbyist employer, additional alleged violations of RCW 42.17A.630.
- 2.3 Third allegation: Between the period of 2010 and the present, other political committees reported reimbursements to WSAJ for alleged in-kind contributions and a \$500,000 monetary loan. The complaint alleged that WSAJ failed to report approximately \$1,467,387 in in-kind contributions and a monetary loan to the PDC over a five-year period, additional alleged violations of RCW 42.17A.630.

## III.

### FINDINGS

#### PDC Staff Review of WSAJ Contributions and Reporting

- 3.1 On February 25, 2016, a response to the Notice was received from Dmitri Iglitzin, legal counsel to WSAJ. (**Exhibit 2.**) Staff reviewed information in that response; information in campaign finance reports and data filed with the PDC by WSAJ, by PACs affiliated with WSAJ, and unaffiliated candidate and political committees. PDC staff assessed WSAJ's reportable contributions during the five-year period of the PDC's statute of limitations, RCW 42.17A.770.
- 3.2 Although the Notice alleged expenditures by WSAJ totaling \$1,467,387 from 2010 to the present day for monetary and in-kind contributions to candidates and political committees, including a \$500,000 loan, special reports of any contributions that were due prior to March 2011 fall outside the five-year statute of limitations. In particular, a \$500,000 monetary loan by WSAJ to the Stop the Insurance Industry Takeover committee in opposition to 2010 Initiative 1082 was made on or around October 8,

2010. **(Exhibit 3.)** An L-3c report disclosing this contribution would have been required in November of 2010, more than five years before the date of this report.

- 3.3 Staff's initial review of reports and data on file with the PDC indicated that between February 1, 2011 and March 1, 2016, WSAJ used general treasury funds to make approximately \$123,997.60 in contributions to candidates and political committees. **(Exhibit 4.)** The amount attributed to WSAJ consisted of monetary contributions to a WSAJ-affiliated political committee (WSAJ-Justice in Action PAC), the committee Our Washington PAC, and three candidates' campaigns.
- 3.4 On February 29, 2016, PDC staff received an email from Dmitri Iglitzin sent on behalf of WSAJ, clarifying that three contributions totaling \$2,800 that were attributed to WSAJ in reports filed by candidates James Gizzi, Pramila Jayapal, and Robert McCaslin were not, in fact, made from the general treasury of WSAJ. Rather, Mr. Iglitzin stated that the contributions were made from the PAC funds of WSAJ Justice for All PAC, and were misattributed by the recipients. **(Exhibit 5.)** PDC staff reviewed contemporaneous reports filed by Justice for All PAC, and saw that the committee did disclose making the three contributions to the candidates. Because the candidate contributions were not made by WSAJ, they were not required to be disclosed by WSAJ on L-3c reports.
- 3.5 On March 7, 2016, PDC staff received an additional email from Mr. Iglitzin, clarifying that three contributions totaling \$39,324.80 that were attributed to WSAJ in reports filed by WSAJ Justice in Action PAC were not, in fact, made from the general treasury of WSAJ. Rather, Mr. Iglitzin stated that the contributions were made from the PAC funds of WSAJ Justice for All PAC, and were misattributed by Justice in Action PAC. **(Exhibit 6.)** PDC staff reviewed contemporaneous reports filed by Justice for All PAC, and saw that the committee did disclose making the contributions to Justice in Action PAC. Because the contributions were not made by WSAJ, they were not required to be disclosed by WSAJ on L-3c reports.
- 3.6 With these adjustments, staff's review indicates that within the five-year statute of limitations, WSAJ made two contributions totaling \$81,872.20 from general treasury funds<sup>1</sup>. The first of these contributions was a \$11,872.20 contribution to WSAJ Justice in Action PAC made on or around January 10, 2012, and the second was a \$70,000 contribution to Our Washington PAC made on or around October 12, 2012.

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<sup>1</sup> On February 17, 2016, following the date of the Citizen Action Notice, WSAJ filed an L-3c report disclosing \$78,575.42 in contributions made to WSAJ Justice For All PAC on January 11, 2016, ostensibly from the general treasury of WSAJ. However, on March 2, 2016, Mr. Iglitzin contacted PDC staff to clarify that this total of contributions was in fact attributable to numerous individual members of WSAJ, and not to the association itself. The names of these individual contributors were first disclosed by WSAJ Justice For All PAC on a C-3 monetary contributions report filed one week before the WSAJ L-3c report. Because the contributions came from the personal funds of a number of individuals rather than from the general treasury of WSAJ, the L-3c report filed on February 17, 2016 was not required.

3.7 During the five-year period reviewed by staff, five individuals were registered with the PDC to lobby on behalf of WSAJ. The individuals were as follows:

1. Elizabeth Berry
2. Lindsey Grad
3. Larry Shannon
4. Michael Temple
5. Anita Yandle

Staff reviewed monthly L-2 Lobbyist Expense Reports filed by these five lobbyists, and saw that only Mr. Shannon and Mr. Temple disclosed contributions to any candidate or political committee on form L-2. Without exception, the contributions disclosed were from the personal funds of the lobbyist. None of the lobbyists' L-2 reports disclosed contributions on behalf of their employer, WSAJ.

3.8 Considering the contribution activity discussed above, it appears WSAJ failed to file L-3c reports disclosing \$81,872.20 in contributions made in 2012, when those contributions were not disclosed by the association's registered lobbyists. It appears that L-3c reports were not filed as required on two occasions after WSAJ exceeded the monthly reporting threshold<sup>2</sup>.

3.9 In addition, PDC staff's review indicates that WSAJ's \$70,000 contribution to Our Washington PAC, made on or around October 12, 2012, was not disclosed on the annual L-3 report WSAJ filed as a lobbyist employer on February 28, 2013 for calendar year 2012. **(Exhibit 7.)** At the time WSAJ made this contribution to Our Washington PAC, the latter was sponsoring Independent Expenditure political advertising and Electioneering Communications in opposition to the 2012 Rob McKenna Campaign for Governor. **(Exhibit 8.)**

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<sup>2</sup> This threshold was more than \$100 in aggregate monthly contributions until December 1, 2014, when it was adjusted to \$110. WAC 390-20-150.

### **Response by WSAJ to Citizen Action Notice**

3.10 In his February 25, 2016 response to the Notice, Mr. Iglitzin addressed the allegations concerning WSAJ's failure to disclose contributions made by a lobbyist employer. He stated:

- “[Freedom Foundation] asserts that WSAJ ‘made substantial, unreported in-kind contributions’ to its own continuing political committee, WSAJ PAC. It bases this claim on evidence that ‘[f]rom 2012 to the present, WSAJ PAC reimbursed WSAJ at least \$636,310 for its in-kind contributions to WSAJ PAC.’ ”
- “[Freedom Foundation] misunderstands its own asserted evidence. The ‘Schedule A’ forms submitted by WSAJ PAC along with that PAC’s C4 filings plainly show that all of the money which was reported as being transferred from the PAC to WSAJ during the period of time potentially covered by any action that might be brought by the State of Washington was transferred to pay for expenses incurred by the PAC in exchange for services described most commonly as ‘Administration Fees’ or ‘Admin. Fees,’ or occasionally as ‘Reimbursement, Professional Services.’ ”
- “Because there is no evidence that WSAJ conveyed anything of value to WSAJ PAC or any other political committee during the last five years other than as a result of a transaction whereby the item of value was purchased from it by the PAC, there is no evidence to support this allegation [that WSAJ made unreported in-kind contributions] and it should be rejected in its entirety.”
- “WSAJ may have violated RCW 42.17A.630(2)(a) by failing to report monetary contributions to political committees.”
- “Subject to further investigation and review by the undersigned, it does appear that WSAJ may have failed, in its role as a lobbyist employer, to report each and every contribution it has made to a political committee on a monthly basis on an L3c form, and these contributions were not otherwise reported on an L2 form, as would have been permitted (in the alternative) by RCW 42.17A.630(2)(b)...there does appear to be a basis for the PDC and the Office of the Attorney General to conclude that WSAJ has improperly failed to comply with the requirements of RCW 42.17A.630(2)(b)<sup>3</sup> by failing to properly report certain of its monetary contributions to political committees on an L3c form.”

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<sup>3</sup> Here, it appears Mr. Iglitzin may have intended to refer to RCW 42.17A.630(2)(a), which requires lobbyist employers to file special reports of contributions.

IV.

SCOPE

4.1 PDC staff reviewed the following documents:

1. A 45-Day Citizen Action Notice filed on January 25, 2016 with the Washington Attorney General and Thurston County Prosecutor by David Dewhirst and James Abernathy, alleging violations by WSAJ, Gerhard Letzing, and Suone Cotner;
2. Information concerning WSAJ available on the WSAJ Web site, [www.washingtonjustice.org](http://www.washingtonjustice.org);
3. PDC campaign finance and lobbying reports and data;
4. A response to the Citizen Action Notice, received on February 25, 2016 from Dmitri Iglitzin, counsel to WSAJ; and
5. Subsequent email correspondence received from Mr. Iglitzin.

V.

LAW

RCW 42.17A.630<sup>4</sup> requires an employer of a registered Washington State lobbyist to file an annual report with the Commission disclosing, among other information, all contributions made in the prior calendar year to a political committee supporting or opposing a candidate for state office. The law further requires a lobbyist employer to file a special report if the employer makes a contribution or contributions aggregating more than \$110 in a calendar month to a candidate, elected official, officer or employee of an agency, or political committee, unless the contribution is reported by the lobbyist under RCW 42.17A.615.

Respectfully submitted this 9 day of March 2016.



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Tony Perkins  
PDC Compliance Officer

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<sup>4</sup> For periods prior to January 1, 2012, RCW 42.17A.630 was codified as RCW 42.17.180.

**EXHIBIT LIST**

- Exhibit 1** Citizen Action Notice submitted by David Dewhirst and James Abernathy on January 25, 2016 (without exhibits).
- Exhibit 2** Response to the Citizen Action Notice, received on February 25, 2016 from Dmitri Iglitzin, counsel to WSAJ.
- Exhibit 3** Stop the Insurance Industry Takeover (No on I-1082) C-3 report filed on October 11, 2010.
- Exhibit 4** Contributions attributed to WSAJ, February 1, 2011 - March 1, 2016.
- Exhibit 5** February 29, 2016 email from Dmitri Iglitzin to PDC staff.
- Exhibit 6** March 7, 2016 email from Dmitri Iglitzin to PDC staff.
- Exhibit 7** WSAJ L-3 Lobbyist Employer report for calendar year 2012, filed on February 28, 2013.
- Exhibit 8** C-6 Independent Expenditure political advertising report filed by Our Washington on September 13, 2012.