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October 24, 2018

VIA EMAIL ONLY

Tabatha Blacksmith
Washington State Public Disclosure Commission
P.O. Box 40908
Olympia, WA 98504-0908

RE: PDC Case No. 41519, 42nd Legislative District Committee GOP

Dear Ms. Blacksmith:

I am replying on behalf of the 42nd Legislative District Committee GOP (the "Committee") to your email of October 10, 2018 requesting a response to a complaint filed by James Lazar alleging a violation of RCW 42.17A.442 by the Committee.

The complaint alleges that contributions made by the Committee to the Whatcom County Republican Party on August 8, 2018 and August 17, 2018 violated RCW 42.17A.442 because the Committee allegedly has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington State.

Whatever the facts and circumstances of the transactions in question, in a ruling dated February 28, 2018 in *State of Washington v. Grocery Manufacturers Association*, the Thurston County Superior Court ruled RCW 42.17A.442 unconstitutional. Subsequent to that decision, the Public Disclosure Commission (PDC) is no longer enforcing this statute. Attachment 1.

I hope you find this information useful. Please contact me if I can provide further information.

Sincerely,



Dan Brady, WSBA #33731



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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August 1, 2017

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Kevin J. Hamilton
Perkins Coie
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099

Subject: Complaint regarding (1) Friends of Jimmy PAC, (2) We Want to be Friends of Jimmy Too PAC, and (3) Glen Morgan, PDC Case 9379

Dear Mr. Hamilton:

The Public Disclosure Commission (PDC) has completed its initial review of the complaint you filed on October 28, 2016. Your complaint alleged that (1) Friends of Jimmy PAC, (2) We Want to be Friends of Jimmy Too PAC, and (3) Glen Morgan, the manager of these two committees, may have violated multiple sections of RCW 42.17A.

Your complaint alleged that We Want to be Friends of Jimmy Too PAC had not--according to C-3 reports when the complaint was filed--received contributions of \$10 or more from at least 10 registered voters when the committee contributed the bulk of the contributions it had received to Friends of Jimmy PAC, an alleged violation of RCW 42.17A.442¹.

Your complaint also alleged that Glen Morgan, the Manager of the two committees, concealed the true source of the contributions used by Friends of Jimmy PAC to make two robocalls opposing Jim Cooper, a candidate for Thurston County Commissioner, an alleged violation of RCW 42.17A.435².

¹ RCW 42.17A.442 states: A political committee may make a contribution to another political committee only when the contributing political committee has received contributions of ten dollars or more each from at least ten persons registered to vote in Washington state. The Courts have ruled RCW 42.17A.442 to be unconstitutional, and thus unenforceable.

² RCW 42.17A.435 states: No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.

Finally, your complaint alleged that Glen Morgan and Friends of Jimmy PAC falsely implied that the Thurston County Democrats generated and endorsed the content of Mr. Morgan's robocalls opposing Jim Cooper, by using the Thurston County Democrat's phone number, without authorization, as the callback number for the recipients of the robocalls, an alleged violation of RCW 42.17A.335³.

PDC staff reviewed your allegations, and as a result of staff's initial review, we found the following:

- Glen Morgan replied to the complaint on November 8, 2016. He stated, in part, that We Want to be Friends of Jimmy Too PAC was in compliance with RCW 42.17A.442, because *"it has 11 local donors, as Mr. Hamilton is well aware."*
- When, on October 12, 2016, We Want to be Friends of Jimmy Too PAC contributed \$2,300 to Friends of Jimmy PAC, it had received only five contributions of ten dollars or more from persons registered to vote in Washington state, five short of the then-required ten contributions. However, in a ruling dated February 28, 2017, in *State v. Grocery Manufacturers Association*, Thurston County Superior Court Judge Anne Hirsch found RCW 42.17A.442 to be unconstitutional. Therefore, PDC staff will not pursue enforcement concerning this alleged violation.
- Mr. Morgan stated that he used the same "two-committee structure" to move money from PAC to PAC that has been used by labor organizations represented by the complainant over the years. He said he moved funds between the PACs in this manner to reduce the workload both for himself and the PDC in the event complaints were filed alleging that the Top Five Contributors were not properly listed in the sponsor identification. He said this was necessary because the Top Five Contributors had the potential to change frequently throughout the campaign. Mr. Morgan denied using the "two-committee structure" to obfuscate the true source of the contributions that funded the robocalls in question, in violation of RCW 42.17A.435.
- Mr. Morgan denied violating RCW 42.17A.335(1)(c) by falsely implying that the Thurston County Democrats supported the content of his robocalls. He also denied acting with actual malice⁴. Mr. Morgan said he used the phone number of the Thurston County Democrats for the Caller ID in the robocalls because he wanted recipients to call the party and verify the allegations he was making. He said he expressed that intent in

³ RCW 42.17A.335 states, in part: (1) It is a violation of this chapter for a person to sponsor with actual malice a statement constituting libel or defamation per se under the following circumstances:

- (a) Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office;
- (b) Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent;
- (c) Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

⁴ RCW 42.17A.005(1) states that Actual Malice means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

most of the robocalls, and was sorry he did not state that intent expressly in the first robocall.

Based on these initial findings, staff has determined that in this instance, there is no reason to believe (1) Friends of Jimmy PAC, (2) We Want to be Friends of Jimmy Too PAC, or (3) Glen Morgan, have violated RCW 42.17A.442, 42.17A.435, or 42.17A.335, and no further action is required.

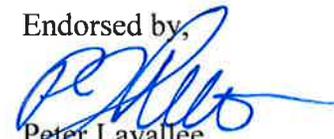
The PDC has closed the matter, and will not be conducting a more formal investigation into your complaint or pursuing Enforcement action in this case.

If you have questions, you may contact Phil Stutzman at 360-664-8853, toll-free at 1-877-601-2828, or by e-mail at phil.stutzman@pdc.wa.gov.

Sincerely,


Philip E. Stutzman
Sr. Compliance Officer

Endorsed by,


Peter Lavalée
Executive Director

cc: (1) Friends of Jimmy PAC, (2) We Want to be Friends of Jimmy Too PAC, and (3) Glen Morgan