

Attn: PDC staff

From:

Glen Morgan

Response to PDC Complaint(s) referenced in PDC Case #42112.

Thank you for the opportunity to address your concerns, and the concerns raised in the 31 complaints filed against me and the PACs I manage last week. As you know, many of these complaints do not allege specific violations of RCW 42.17A, so I won't squander the limited resources of the PDC addressing the complaints that have no legal relevance. To save PDC staff time and energy, I am going to reply to only the allegations which allege specific violations of RCW 42.17A.

However, because there may be additional complaints that will be filed, and they are likely to be repetitive in nature to these first 31 complaints, it is incumbent on me to be specific about exactly which complaints are being responded to in this letter. It is unusual for the Public Disclosure Commission to assign one tracking number for so many different complaints, and it is quite possible that this is new PDC policy for containing such a volume of complaints under one tracking number. So, for clarity's sake, and to avoid staff confusion, the complaints being addressed in this response are the following complaints listed under **PDC Case #42112** by the following people or organizations:

1. Fletcher Sandbeck
2. Jan Dahl
3. Judy Arbogast
4. Richard Offner
5. Risa Schmidt
6. Annie Cubberly
7. Esther Kronenberg
8. Jon Tafejian
9. Paul Cereghino
10. Roger Cummings
11. Shana Oliver
12. Chris Stearns, Thurston County PUD Commissioner
13. David Watterson
14. EJ Zita, Thurston County Port Commissioner
15. Gary Reid
16. Jon McCallum
17. Keith Folkers

18. Marianne Tompkins
19. Anna Mumaw
20. Barbara Buchan
21. Deborah Peterson
22. Logan Reed
23. Marie Schneider
24. Linda Orgel
25. Woodward Rice
26. Barbara Turecky
27. Lynn Jabs
28. Carla M. ("M" for Mystery)
29. Joe Hyer (convicted felon drug dealer from Thurston County)
30. Norma Fried
31. Workerlaw (I reference a few mistakes by Dmitri Iglitzen in the response)

To save PDC staff time, focus, and energy, I am going to reply only to the allegations which allege specific violations of RCW 42.17A.

**1) "Morgan's Ads Falsely Convey to Voters that Purcell, Pakootas, Schlicher, and Zita Have the Endorsement of the Undersigned Organizations in the 2018 Elections." Violation of RCW 42.17A.335(c).**

There are a number of things to point out here. I will reiterate the entirety of the statute (as it relates to this allegation) which reads:

***"(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: (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.***

***For the purposes of this section, 'libel or defamation per se' means statements that tend (a) to expose a living person to hatred, contempt, ridicule, or obloquy, or to deprive him or her of the benefit of public confidence or social intercourse, or to injure him or her in his or her business or occupation, or (b) to injure any person, corporation, or association in his, her, or its business or occupation." RCW 42.17A.335.***

First let us analyze the section which makes unlawful: ***"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. “***

Candidate is defined in RCW 42.17A.005 as: ***“any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first: (a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office; (b) Announces publicly or files for office; (c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or (d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.”***

By the complainant’s own repeated admission, EJ Zita, Teresa Purcell, Joe Pakootas, Nathan Schlicher and Brenda Fincher are not candidates for public office this cycle. Therefore, by their own admission, they do not meet any of the criteria in RCW 42.17A.005. As such, the statute simply is not applicable to this situation or these complaints.

Additionally, EJ Zita, Teresa Purcell, Joe Pakootas, Nathan Schlicher and Brenda Fincher **HAVE** been endorsed by these organizations, which the complainants do not deny.

Finally, in order to be a violation of this statute, complainants must prove that advertising these endorsements constitute “libel and defamation”, which is defined under statute as statements that: ***“that tend (a) to expose a living person to hatred, contempt, ridicule, or obloquy, or to deprive him or her of the benefit of public confidence or social intercourse, or to injure him or her in his or her business or occupation, or (b) to injure any person, corporation, or association in his, her, or its business or occupation.”***

Here the standard of “libel and defamation” is simply not met. In fact, there is nothing even close to this standard to be found in this case. All these mail pieces speak glowingly of the write-in options and are promoting them, not defaming them. Moreover, if the court system were to accept that drafting or suggesting a write-in candidate for public office and highlighting their historic endorsements constituted “libel and defamation”, it would be a radical departure from currently accepted practices and definitions.

## **2) Morgan’s Ads Harm Purcell, Pakootas, Schlicher, and Zita By Falsely Suggesting that They Are Running Write-In Campaigns. (No RCW cited)**

No specific violation of RCW 42.17A is alleged here so I will not respond in length. I will note that write-in campaigns are rarely successful, and most people who “write-in” someone’s name for an office recognize that that person has a very low chance of prevailing. It is usually more about “sending a message” that they are unhappy with the limited, binary choice before them.

It is a unique aspect of American elections that we allow write in options on our voting ballots, which gives American voters, and voters in Washington State the ability to clearly indicate their displeasure with the available candidates on the ballot and to write in anything or anyone they may choose as an alternative option. It is not clear how people who are written in as alternative options on the ballot are harmed by doing so.

**3) Morgan's Ads Fail to Identify the Endorsed Candidate's Party Preference. Violation of RCW 42.17A.320.**

Again, the statute which requires identification of the party of candidates does not apply here because the proposed write-in options were not candidates pursuant to RCW 42.17A.005. Individuals' partisan affiliation can change over time. I did not communicate or coordinate with any of the write-in options since they last ran for public office and do not know if they are all still Democrats, or if they have changed their party affiliation to a different political Party (for example, the Green Party or the Democratic Socialist Party)

I do want to correct the record here a bit for Dmitri Iglitzen, who may not have realized something, based on his written complaint. EJ Zita did not file as a Democrat in 2015 and 2017 on either her declaration of candidacy or on her C1s. The office of Thurston County Port Commissioner is a nonpartisan office.

**4) Conscience of the Progressives PAC Failed to List Officers on Its C-1pc Form/Wrong Telephone Number. Violation of RCW 42.17A.205.**

My name is present on the C-1pc form as officer and campaign manager. When we were initially informed (by a journalist) that the phone number on one of our C-1pc forms had a typo I requested that the form be updated to show the correct number. I will note that my number is available on many places online. For whatever reason, when the form was updated my name was removed as an officer (but not campaign manager) from the form where it originally appeared. This was an inadvertent mistake by my treasurer and possibly an ORCA glitch. As soon as it was brought to our attention by the first journalist with whom I spoke it was fixed.

At no point have I tried to hide my involvement with these PACs. My name appeared on every single flier as the PAC's controlling member/officer as required by RCW 42.17A.320(2)(c). Every single journalist in Washington State who needed to contact me was able to do so within minutes of learning about the flier or receiving one themselves. The only journalist who claims to have not been able to reach me is Shawn Vestal of the Spokesman Review – who claimed he

emailed me, but when challenged on this claim – he now claims that he “lost” his email and can no longer find evidence he sent it.

**5) Failure to receive 10 contributions from 10 registered voters of \$10 or more. Violation of RCW 42.17A.442.**

Both PACs (Brighter Thurston & Send a Message PAC) received contributions of \$10 or more from 10 registered voters before transferring funds. Contribution is defined in RCW 42.17A.005 as “a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, **pledge**, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration.” In one instance, the pledged contributions had not arrived yet to be deposited. All the same, it is a “contribution” as contemplated in RCW 42.17A.442. No violation has occurred.

While I did comply with the statute, it is worth noting for the record, and the information of the various complainants who made this allegation, that the courts have rejected this part of the statute as unconstitutional in 2017. It is worth sharing with the PDC the statement of the court:

***“After the [Moxie Media] incident in 2010, the legislature wanted to make it difficult to conceal the true source of funds by using sham political committees to contribute to other committees, and that is when RCW 42.17A.442 was created. It is argued that this law increases transparency, prevents recurrence of the problem that occurred in 2010 and shed daylight on organizations trying to simply move money from one organization to another. If that is what the statute is supposed to do, it raises several questions/ how will the recruitment of ten extremely small donors prevent or even reduce the existence of sham political committees? It doesn’t seem difficult to obtain ten small contributors. That would hardly be a roadblock as the state has argued. One of the most important and troubling questions in the court’s mind, however, is why must these contributors be registered Washington voters? The state did not and cannot articulate a reason for this classification. The law at issue here distinguishes among different speakers. It also treats political speech of natural persons differently than that of corporations. It requires support of ten natural persons who are also Washington voters before a campaign contribution can be exchanged from one political committee to another.***

***This discriminates in a manner that violates the First Amendment. This was as expressed in Citizens United versus the Federal Elections Commission. Quoting from that case, “Premised on mistrust of governmental power, the First Amendment stands against attempts to disfavor***

***certain subjects of viewpoints... Prohibited, too, are restrictions distinguishing among different speakers, allowing speech by some and not others... Quite apart from the purpose or effect of regulating content, moreover, the government may commit a constitutional wrong when by law it identifies certain preferred speakers. By taking the right to speak from some and giving it to others, the government deprives the disadvantaged person or class of the right to use speech to strive to establish worth, standing and the respect for the speaker's voice." It goes on to further state, "The court has recognized that First Amendment protection extends to corporations... The court has thus rejected the argument that political speech of corporations or other associations should be treated differently under the First Amendment simply because such associations are not 'natural persons'."***

***But moreover, this law also implicates the freedom of association. GMA may not make a particular form of contribution unless it associates politically with ten Washington voters. The United States Supreme Court held that mandatory associations are permissible only when they serve a compelling state interest that cannot be achieved through means significantly less restrictive of associational freedoms. While the mandatory associations at issue in those cases involved comprehensive regulatory schemes that are much different than the case before the court in which GMA could merely opt out and then decline to contribute to the No on 522 campaign, such forced associations regarding political speech should be closely scrutinized. "***

For the record, I believe it is important to point out that I have met or exceeded the transparency requirements of the PDC in the disclaimer statement on all the fliers sent by these PACS, where I also provided the website for the PDC itself so that the public could more easily find information about these PACS.

Finally, some of the complainants apparently are upset that I named one of my PACs, the "Conscience of the Progressives." However, it is worthwhile to reiterate that my role as Conscience of the Progressives is one that I have held for many years since at least 2012. Specifically, I wear that very accurate label with pride and the recognition that nobody else out there is willing to be their conscience. For example:

When the Washington State Democratic Party accepted large sums of money from racist hate cult leader JZ Knight (who claims to channel a 35,000-year-old homicidal Lumarian warrior spirit named "Ramtha"), I was forced to expose her racist public speeches to her followers by posting her videos on YouTube when she made racist and hateful statements about Mexicans, Jews, Catholics, Gays, and others. Eventually, after I kept releasing the videos of JZ Knight making these hateful speeches in 2012 (and it wasn't until after her nasty speech about Organic Farmers was made public – which wasn't racist, but it was weird and hateful) the Washington

State Democratic Party listened to their conscience and divested themselves from at least \$70,000 they had accepted from this racist cult leader. See the article below from some media reports about that event at the time. Fortunately, I wasn't forced to release the exceptionally nasty video clip where she used the "N" word repeatedly for many minutes. While I realize that the Washington State Democratic Party is not necessary "Progressive," they at least claim they are, and I was their conscience:

Seattle Times:

<http://blogs.seattletimes.com/politicsnorthwest/2012/10/26/state-democratic-party-will-donate-money-from-j-z-knight-after-offensive-comments/>

NPR:

<https://www.npr.org/templates/story/story.php?storyId=163750642?storyId=163750642>

Seattle PI:

<https://blog.seattlepi.com/seattlepolitics/2012/10/26/democrats-do-penance-for-j-z-knight-donations/>

However, for reference, President Obama refused to return the \$50,000 the racist cult leader JZ Knight gave to his campaign at the time.

Unfortunately, I have had to repeatedly be the conscience of the "Progressives" for the Thurston County Democrats for many years now, as I repeatedly and alone confronted the Thurston County Democratic Party (and their allies) for accepting just over \$216,000 over four years from the same racist cult leader:

Some specific source documents to back up this claim are here (I have more than this, but these are representative):

<https://www.wethegoverned.com/wp-content/uploads/2016/09/100706890-JZ-TCD-donation-50k.pdf>

<https://www.wethegoverned.com/wp-content/uploads/2016/09/PDC-10k-TCD-6-11-15.pdf>

<https://www.wethegoverned.com/wp-content/uploads/2016/09/PDC-50k-TCD-2-25-14.pdf>

<https://www.wethegoverned.com/wp-content/uploads/2016/09/PDC-15k-TCD-3-24-14.pdf>

<https://www.wethegoverned.com/wp-content/uploads/2016/09/PDC-20k-TCD-9-17-14.pdf>

<https://www.wethegoverned.com/wp-content/uploads/2016/10/100726926-JZK-54k-PAC-10-12-16.pdf>

Interestingly enough, while I was their relentless conscience pointing out that while they pretended to care about racism, they were accepting large sums of money from the only personality in Thurston County to ever make such public racist speeches, and the "Progressives"

were silent, so long as they got the cash from the racist cult leader. At this point, I believe I have a far better claim backed up by actual documentation and effort to be the Conscience of the Progressives than anyone else. I have done this despite multiple lawsuits filed by the cult leader JZ Knight against me including one current active cult lawsuit in which the Thurston County Democrats have joined forces with this racist cult leader.

For more information on JZ Knight, the largest donor ever to the Thurston County Democrats, in the history of their existence:

<https://www.wethegoverned.com/cult-leader-jz-knight-fails-in-federal-court/>

It isn't fun being the Conscience of the Progressives, but someone must at least try.

Best Regards,

Glen Morgan