

Complaint Description

File a Formal Complaint - Thrinley DiMarco

Thrinley (Tue, 30 Oct 2018 at 5:49 PM)

Background – Two Newspaper Advertisements

On Wednesday October 24, 2018, the local weekly paper serving the San Juan Islands, the *Journal of the San Juan Islands*, published an advertisement on page 17 “VOTE FOR NICK POWER,” apparently paid for by others and which fails to comply with the requirements for political advertising. (<https://www.sanjuanjournal.com/print-editions/?iid=i20181022125202538>). A copy is found below.

It is expected that a second advertisement will be published by the Journal on October 31 by the same “team” “group” or “design committee” led by Bob Allen (robert.allen7@comcast.net). This includes people who contributed to the payment of the advertisement, although the amount is not known. It is stated that George Von Gehr (georgevg@mindspring.com) contributed to the payment of the advertisement although the amount paid by Von Gehr is not stated.

Based upon the email below, the price of each advertisement is believed to be approximately \$750, and the total exceeds \$1000, which triggers reporting requirements.

One person identified in the October 24 advertisement in the “paid for by” list, Mr. Don Pollard, (pra2002@aol.com), had already contributed the maximum amount that an individual can contribute to the Power Campaign as he contributed \$1000.00 as shown on the C3 filed in August 2018. Accordingly, the Power Campaign has received contributions in excessive of the maximum amount allowed by law. To the extent that Mr. Pollard contributed any amount toward the advertisement it is a contribution over the limit.

The rules are readily available to all.

The advertisement fails to follow the on-line instructions for advertisements, “distilled from a variety of RCWs and WACs.” The rules are readily available on-line with this guide: <https://www.pdc.wa.gov/learn/publications/political-advertising-guide> and the supplement for independent expenditures found here <https://www.pdc.wa.gov/learn/publications/independent-expenditure-ads-electioneering-communications>.

This information is readily available on the PDC website with the following question and answer:

Are there laws governing political ads?

Yes. Sponsor identification is usually required in a political ad, and, in some cases, information about the sponsoring committee’s donors. Additionally, there are certain requirements for political ads about candidates. Details are fully explained in the [Political Advertising](#) section of the PDC’s Political Committee instruction manual as well as the [Political Advertising brochure](#) and the [Independent Expenditures & Electioneering Communications brochure](#).

Obvious violations alleged here:

- 1) The identity of the candidate’s party affiliation is omitted from each advertisement in violation of RCW 42.17.320 and WAC 390-18-010 and -020
- 2) If deemed an independent expenditure, the statement: “No candidate authorized this ad. It is paid for by (name, address, city, state)” is omitted for each advertisement in violation of RCW 42.17A.320 and WAC 390-19-010 and -025;
- 3) The “paid for by” list on the October 24 advertisement omits the name and address of George Von Gehr, who is identified as one of two people who paid for the advertisement, in violation of RCW 42.17A.320 and WAC 390-19-010.
- 4) The name and address of each person who contributed to the advertisement is omitted. When not paid by the Nick Power for Prosecutor Committee, then it must include the “Top Five Contributors” followed by a list of the names of the five contributors who made the largest contributions sponsoring committee during the 12 months before the ad appears; AND the full

name of the individual or entity that established or directly maintains or controls the sponsoring committee (or indirectly maintains or controls the sponsoring committee through the formation of one or more political committees) in violation of RCW 42.17A.320 and WAC 390-19-010;

5) Failure to file timely reports (C-6, C-3 or others) in connection with the advertisement in violation of RCW 42.17A.255, RCW 42.17A.305 and RCW 42.17A.360.

6) To the extent that Mr. Don Pollard contributed to the advertisements (as shown on the face of the 10/24/2018 advertisement) such a contribution exceeds the campaign contributions limits or is an unlawful in-kind contribution funneled through Robert Allen.

7) To the extent that advertisements were approved by Nick Power, he had a duty to timely report in-kind contributions by Robert Allen and others who paid for the advertising and has failed to do so in violation of 42.17.235 and WAC 390-16-039.

8) Alternatively, the "group" "team" or "committee" referred to in the email and led by Robert Allen has failed to file with the PDC form C-1pc or Form C-6 in violation of RCW [42.17A.255](#), [42.17A.260](#) and [42.17A.305](#) and WAC 390-16-060 and WAC 390-16-063 and failed to file the documents within 3 days as required by "last minute committees" formed within 3 weeks of an election as required by WAC 390-16-121.

What impact does the alleged violation(s) have on the public?

The public interest supports consequences.

The last-minute timing of the violations deserve consequences. The legislature has described the information that must be known in a campaign and it is easy to find. The group leader here admits that he met with the attorney-candidate prior to finalizing the advertisement. The advertising was done with the attorney-candidate's knowledge, advise, consultation and approval of the candidate/attorney. As an attorney for Glen Morgan, Nick Power has filed four lawsuits in Thurston County against Demorcrats for PDC violations, so ignorance fo the laws is no excuse. Besides the rules are easy to find on the internet.

There is a strong public interest in knowing including the party preference and the names of the top five contributors and the involvement, if any of the Nicholas Power for Prosecutor Committee.

There are several statements in the email that support the violations. Bob Allen wrote on October 26, 2018, "This is our ad, which will run next Wednesday. This one will cost \$739.68. George Von Gehr and I just paid for our first ad by writing checks to The Journal." He added later:

"Our design committee met with Nick Power to discuss our ideas and make sure we weren't doing anything out of line. Writing checks directly to The Journal is okay. Or, as one of our

group did today, you can give a check to me and I can give any extras to the "Nick Power for Prosecuting Attorney." fund.”

As a candidate, Nick Power advocated for “transparency” yet he and his supporters hide behind anonymity and the committee and he and his supporters have not complied with the rules of the Public Disclosure Commission.

Nick Power and his supporters should be leaders in setting an example for the community to follow the PDC requirements, not people who flaunt the rules to get ahead. Independent expenditures are not “independent” when they are coordinated and made after coordination with the candidate, such as has been disclosed in the email. The PDC should take strong action to send a message that a lacksidical approach to the PDC rules will not be tolerated by those who choose to use last-minute advertisements and coordinate with the candidate.

The omission of the party affiliation is significant in this election for prosecuting attorney and especially at this late stage. It suggests that the candidate is an independent, or the party of the people who paid for the advertisement or the party opposite the other candidate. When a candidate chooses a party preference it is important that the candidate’s supporters adhere to it, regardless of the effect on voters.

List of attached evidence or contact information where evidence may be found.

- Exhibit A e-mail explaining advertisements
- Exhibit B advertisement dated 10/24/18
- Exhibit C advertisement for 10/31/18
- Exhibit D C-3 of Nicholas Power

List of potential witnesses with contact information to reach them.

Nicholas Power - on file with the PDC

Cali Bagby, Managing Editor, Journal of the San Juans
640 Mullis Street, Friday Harbor, WA 98250
(360) 378-5696
editor@sanjuanjournal.com

Robert Allen
212 North Bay Lane, PMB 108 685 Spring Street,
Friday Harbor, WA 98250

Don Pollard
2761 Pear Point Rd, PO Box 250
Friday Harbor, WA 98250

George Von Gehr

55 Myers Road, PO Box 1871
Friday Harbor, WA 98250

Complaint Certification:

I certify (or declare) under penalty of perjury under the laws of the State of Washington that information provided with this complaint is true and correct to the best of my knowledge and belief.

EXHIBITS

EXHIBIT A - EMAIL Explaining Advertisements and Involvement of Nick Power (Highlight added)

----- Original Message -----

From: ROBERT ALLEN <robert.allen7@comcast.net>

To: Mike Gallagher <mgallagher018@gmail.com>, Albert Hall <abhall@rockisland.com>, Bruce Hall <bhall07677@rockisland.com>, Harold Harrison <h_sqd@H2VisionS.com>, Tom Huse <seagypsy@me.com>, Dean Mack <dmack@rockisland.com>, "Schwartz, David" <maritimeandair@gmail.com>, Greg Simon <airoper@mac.com>, Art Timmons <timmons@centurytel.net>, John Towson <johnt@outlook.com>, Dave Vanderwal <rndunique@aol.com>, "Robinson, Bill" <wtr@wtrobinson.com>, Bob Brunkow <bobbrunkow@gmail.com>, Rob & Anita Callegari <bobienelle@rockisland.com>, Don Pollard <pra2002@aol.com>, "Tegrotenhuis, David and Lesa" <davidt@rockisland.com>, MIKE Nachlinger <mnach@sjisland.com>, Charlie Bodenstab <charlie@bodenstab.com>, Chris Reed <cvreed98@gmail.com>, George Von Gehr <georgevg@mindspring.com>, jqjfac@mac.com, Patrick Bickford <PBickford@AI-Colorado.com>

Date: October 26, 2018 at 4:21 PM

Subject: Fwd: ad proof

Hello all,

This is our ad, which will run next Wednesday. This one will cost \$739.68. George Von Gehr and I just paid for our first ad by writing checks to The Journal. Cali Bagby and her group assured me that this ad would be up front in the next issue.

Our design committee met with Nick Power to discuss our ideas and make sure we weren't doing anything out of line. Writing checks directly to The Journal is okay. Or, as one of our group did today, you can give a check to me and I can give any extras to the "Nick Power for Prosecuting Attorney." fund.

We were advised that \$1,000.00 is the limit and one of our group has already given that to Nick's campaign. We also learned that Nick has expended \$25,000+ of his own funds in his run to unseat 24 year Gaylord. He has not solicited funds, which is admirable, but if I was his campaign manager, I would have. And, his billable hours time has been dramatically reduced with his attending meetings, addressing letters, responding to phone calls etc. etc. This is the first time anyone has challenged Gaylord since 1998 so I have to take my hat off for throwing his in the ring.

So, if any of you are inclined to give Nick a financial hand please do so. If you wish to send a check to his war chest you can do that directly:

Nick Power for Prosecuting Attorney
540 Guard St., Suite 150

Friday Harbor, WA 98250

Thanks to all of you for being on the team. Please feel free to share this with your friends who hopefully will support the effort.

Go Team,

Bob

----- Original Message -----

From: Tate Thomson <tthomson@sanjuanjournal.com>

To: Robert Allen <robert.allen7@comcast.net>

Date: October 25, 2018 at 4:02 PM

Subject: ad proof

Tate Thomson

Graphic Artist

Office: 360-378-5696

Internal: 45005

Fax: 888-562-8818

640 Mullis Street, West Wing, Friday Harbor, WA 98250



Sound Publishing, Inc.

[Map](#) [Print Rates](#) [Online Rates](#) [Media Kit](#) [Sound Info](#)

EXHIBIT B - ADVERTISEMENT DATED OCTOBER 24, 2018

VOTE FOR  **NICK POWER**
PROSECUTING ATTORNEY

24 YEARS IS ENOUGH!!

SUPPORTED BY FELLOW LOCAL ATTORNEYS

COLEEN KENIMOND, SAN JUAN COUNTY PUBLIC DEFENDER
LAWRENCE CURT DELAY, SAN JUAN COUNTY PUBLIC DEFENDER
PAUL ARONS, CARLA HIGGENSON, STEPHANIE JOHNSON O'DAY,
MARY STONE, J. COOPER DRADY AND GARRETT J. BEYER

PAID FOR BY LOCAL SUPPORTERS. PARTIAL LIST: VONNIE & ROBERT ALLEN, ANITA & ROE CAGLIARI, PATTY & MICHAEL GALLAGHER,
SHARI & HAROLD HARRISON, DON POLLARD, DAVID RALSTON, KATIA & BILL ROBINSON

24 YEARS IN OFFICE IS WAY TOO LONG!!

- BRING BACK ACCOUNTABILITY TO OUR COUNTY
- AGGRESSIVELY PROSECUTE KNOWN DRUG DEALERS
- COUNTY DETECTIVE PARKER'S "QUESTIONABLE CONDUCT" RESULTED IN DISMISSAL OR REDUCED CHARGES IN THREE SEX CRIMES, WHICH COULD HAVE BEEN PREVENTED

✓

VOTE FOR

NICK POWER

PROSECUTING ATTORNEY

PAID FOR BY LOCAL SUPPORTERS. PARTIAL LIST: KRISTI & PATRICK BICKFORD, MARGARET & ALBERT HALL, MARGHERITA & ART TIMMONS, GUY TIMMONS, THALIA & DICK SHORETT, BARBARA & GEORGE VONGEHR

EXHIBIT D C-3 of NICK POWER SHOWING MAXIMUM CONTRIBUTION BY DON POLLARD

Date Received	Contributor's Name, Address, City, State, Zip	Contributions of more than \$100:* Employer's Name, City and State	P R I	G E N	Amount	Aggregate* Total
08/25/18	DON POLLARD 2671 Pear Point Road Friday Harbor, WA 98250	RETIRE OccupationRETIRE		X	\$1,000.00	\$1,000.00