

November 26, 2018

Public Disclosure Commission
PO BOX 40908
Olympia, WA 98504-0908

RE: Pierce County Democratic Central Committee (PCDCC)
Response to 2018 Complaint 42704 -Alleged Violations of RCW 42.17A

Dear Mr. Raggins:

On October 23, 2018, Glen Morgan filed a complaint alleging the PCDCC has failed to “timely or accurately file contribution or expenditure reports and failure to timely deposit contributions.” He further alleged the PCDCC “habitually and willfully committed frequent and multiple violations of RCW 42.17A.” This complaint follows a prior Morgan citizen complaint from a year ago that resulted in a settlement agreement with the Attorney General’s Office (included with complaint 42704). As part of the settlement, half the penalties were suspended on the condition that the PCDCC have no further campaign finance violations for four years. Morgan argues that his new complaint is a basis for ending the suspension and putting the full amount of prior penalties into effect.

Since the last complaint, the campaign finance compliance laws have changed and the PDC retains control of complaints through an assessment of facts process. I understand that is the process we are going through now. The PCDCC appreciates the opportunity to clear up any confusion created by Morgan’s complaint. We believe that any errors that may have occurred since October 25, 2017 (the date of the settlement in the prior complaint) are minor technical errors, which were communicated to the PDC at the time, insignificant in amount or impact on any campaign outcome, or just minor human error.

Background: In late 2016 the PCDCC elected a new Treasurer who accepted the nomination but, despite her financial background, realized her other commitments were inconsistent with performing the extensive treasurer responsibilities, particularly those related to the PDC. During her brief tenure, records were not kept and reports were not filed. In early 2017 she resigned, as did the Chair of the PCDCC. It took time to recruit a new Treasurer and shortly after one was identified, the original Morgan claim was received by the PCDCC. The PCDCC attempted to piece together the financial records for early 2017 and file remedial PDC reports. All reports were corrected and filed, but at that point the Attorney General had filed a lawsuit based on the complaint, and there were no alternatives to litigation other than settlement. Therefore, the PCDCC worked with the Attorney General’s Office and negotiated a substantial settlement.

The settlement, and the possibility of the suspended penalties coming back into play if there is even a minor filing issue, has been extremely difficult for our organization. Most of our fundraising efforts have been to pay the penalties and fees (\$3,000 every January and June until the debt is paid). We have had a difficult time recruiting a Treasurer, and have had a great deal of turnover in that position because of the anxiety associated with the zero-tolerance provision of the settlement. In fact, the Treasurer who started at the time of the last complaint resigned in late summer, and since I had been the Assistant Treasurer I stepped into the position. However, I am stepping down at the end of this month, and another temporary treasurer will take over until the organization holds officer elections.

In order to exercise more oversight on financial matters and PDC filings, the PCDC has established a Budget and Finance committee. The Budget and Finance Committee will continue to develop an effective support network of people to assist the Treasurer with accountability and will assure that PDC requirements and rules are followed.

Complaint: The complaint covers reports that were corrected, filed, or refiled as part of the corrective process after the first Morgan complaint. We were working with the AGO to bring all records current, and our understanding is that was part of the basis for the settlement that was signed on October 25, 2017. It is inappropriate to include any late filed or corrected reports from that correction process in a current complaint. We would ask the PDC to either disregard the late reports due prior to October 25, 2017, or bifurcate the complaint and dismiss the alleged late reports or actions prior to October 25, 2017.

The complaint alleges that the PCDC “has habitually and willfully committed frequent and multiple violations of RCW 42.17A.” But that is not correct. The complaint double counts days so that a report may be timely filed, but later corrected or amended after the fact; the complaint disregards the timely filing, and counts the amended report as a late report.. If a report is amended again, then it is counted as another late report, with even more days delinquent. This use of cumulative late days grossly overstates the number of late days truly at issue. When the filings covered by the agreed settlement are correctly deleted, the alleged cumulative late days drops significantly. The remaining items involve small amounts of money, are not donations to candidates, and do no substantive harm to the public interest. There is certainly no material violation that would support the imposition of an immediate penalty of \$15,840 (the amount of prior penalties suspended in the settlement). At most, what remains could be classified as “relatively insignificant violation of the statute” perhaps warranting remedial steps to address any concerns the PDC may have. Please see the attached spreadsheet for an itemized explanation of filings.

The complaint also asserts that the PCDC has failed to “report debt and properly break down/detail expenditures.” However, there is no detail in the complaint on that point. The PCDC has developed stronger audit and budget controls to make sure that information is being reported correctly. We also call the PDC and work with filer assistants when we have questions. If more detail is required, we will provide it, but at this time we believe we are in compliance with requirements.

The complaint uses inflammatory language in an attempt to inappropriately sway the PDC’s decision. For example, it states that the PCDC has “habitually and willfully committed frequent and multiple violations of RCW 42.17A,” and that “other violations of this chapter have occurred beyond what I have identified.” This is simply not true. Our organization is a volunteer-run political group. We endorse candidates for office, and then share information about Democratic candidates at community events and fairs. We organize volunteers to door-bell for candidates and set up phone banks. We coordinate information for other Democratic groups in our county, and we hold an annual fundraiser to cover our administrative expenses. We have used funds to engage in “get out the vote” activities in the past as well. All of these efforts are organized and run by volunteers. We have been significantly hampered over the last year by worries about our PDC compliance because of last year’s settlement. We are having a hard time finding anyone who wants to act as Treasurer because of the likelihood of more complaints from Morgan. But we press on because we believe grass roots political action is the basis for Democracy, and we’re not going to let conservative activists shut Democracy down.

Last legislative session, when Engrossed Substitute House Bill 2938 was passed, it included a statement about the overall goals of the changed campaign finance compliance laws. The Legislature found that state campaign finance laws should provide “maximum transparency to the public and voters.” However, those laws should not be so “complex and complicated that volunteers and newcomers to the political process cannot understand the rules or have difficulty following them.” These laws:

[S]hould not be a barrier to participating in the political process, but instead encourage people to participate in the process by ensuring a level playing field and a predictable enforcement mechanism. The legislature intends to simplify the political reporting and enforcement process without sacrificing transparency and the public's right to know who funds political campaigns.

The public disclosure commission should be guided to review and address major violations, intentional violations, and violations that could change the outcome of an election or materially affect the public interest.

Clearly, any residual mistakes on the part of the PCDDC are not major violations, intentional violations, violations that could change the outcome of an election, or violations that materially affect the public interest. We are a county political organization. We are trying to comply with all requirements and we will continue to do so. We look forward to working with the PDC as we move through the assessment process.

Dominick Bergeron
Outgoing Treasurer,
Pierce County Democratic Central Committee

(45) "**Remedial violation**" means any violation of this chapter that:

- (a) Involved expenditures totaling no more than the contribution limits set out under RCW [42.17A.405](#)(2) per election, or one thousand dollars if there is no statutory limit;
- (b) Occurred:
 - (i) More than thirty days before an election, where the commission entered into an agreement to resolve the matter; or
 - (ii) At any time where the violation did not constitute a material violation because it was inadvertent and minor or otherwise has been cured and, after consideration of all the circumstances, further proceedings would not serve the purposes of this chapter;
- (c) Does not materially affect the public interest, beyond the harm to the policy of this chapter inherent in any violation; and
- (d) Involved:
 - (i) A person who:

(A) Took corrective action within five business days after the commission first notified the person of noncompliance, or where the commission did not provide notice and filed a required report within twenty-one days after the report was due to be filed; and

(B) Substantially met the filing deadline for all other required reports within the immediately preceding twelve-month period; or

(ii) A candidate who:

(A) Lost the election in question; and

(B) Did not receive contributions over one hundred times the contribution limit in aggregate per election during the campaign in question.

(51) "**Technical correction**" means a minor or ministerial error in a required report that does not materially impact the public interest and needs to be corrected for the report to be in full compliance with the requirements of this chapter.

~~((8))~~ (10) It is not a violation of this section to submit an amended report within twenty-one days of filing an underlying report if:

(a) The report is accurately amended;

(b) The corrected report is filed more than thirty days before an election;

(c) The total aggregate dollar amount of the adjustment for the individual report is within three times the contribution limit per election or two hundred dollars, whichever is greater; and

(d) The committee reported all information that was available to it at the time of filing, or made a good-faith effort to do so, or if a refund of a contribution or expenditure is being reported.