



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE)	PDC CASE NO: 11-020
WITH RCW 42.17)	
)	
Washington State Republican Party)	Report of Investigation
)	
Respondent.)	
_____)	

I. Background

- 1.1 The Washington State Republican Party (WSRP) is a bona-fide major political party organization. The WSRP has filed committee reports with the Public Disclosure Commission (PDC) since the 1970s. Its current officers include Kirby Wilbur, Chairman, Peter Graves, Executive Director, and Colleen Morse, Treasurer.
- 1.2 The WSRP has two state accounts registered and reporting with the PDC, a non-exempt funds account and an exempt funds account. The WSRP is required to file frequent and detailed reports disclosing all contribution and expenditure activities undertaken for each account.
- 1.3 **Non-exempt funds:** "Non-exempt funds" are so named because they are not exempt from contribution limits. However, they may be used for any allowable purpose. All monetary and in-kind contributions to candidates or to other political committees must be made using non-exempt funds.
- 1.4 During 2010, the WSRP non-exempt funds account was subject to a \$4,000 contribution limit for contributions received from corporations, unions, political committees, and other entities. There are no contribution limits for contributions received for the non-exempt account from individuals, caucus political committees, other political party organizations, or from the surplus funds of candidates, except for the prohibitions governing the receipt of contributions within 21-days of a general election, in accordance with RCW 42.17.105(8).
- 1.5 **Exempt funds:** "Exempt funds" are so named because they are generally exempt from contribution limits. Their use, however, is restricted to expenditures defined by RCW 42.17.640(15). In addition, exempt funds are subject to a \$5,000 limit within 21 days of a general election.

- 1.6 Exempt funds may be used by a political party organization for its own internal organization or fund-raising, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates. Exempt funds may also be used for independent expenditures or for electioneering communications as defined in statute. Exempt funds cannot be used to make monetary or in-kind contributions to candidates or political committees.

II. Allegations

- 2.1 During the 2010 election cycle, several complaints were received alleging violations of RCW 42.17 by the WSRP after the August 17, 2010 primary election. The complaints alleged that the WSRP failed to disclose in-kind contributions made to candidates on the 7-day pre-primary C-4 report due to be filed on August 10, 2010, covering the period of July 27 through August 9, 2010. The report filed by the WSRP non-exempt funds account disclosed an expenditure totaling \$30,898, but failed to provide a description of the expenditure, including whether any candidates were supported by the expenditure.
- 2.2 The WSRP filed an amended 7-day pre-primary C-4 report on September 1, 2010, for its non-exempt funds account providing a breakdown of the previously reported expenditure totaling \$30,898, and disclosing in-kind contributions for mailings made by the WSRP on behalf of several candidates. At the time, PDC staff reminded the WSRP of its reporting requirements, including its requirements to timely disclose contribution and expenditure activities that supported candidates for the remainder of the 2010 election cycle.
- 2.3 There were two additional complaints filed against the WSRP that were included in PDC Case No. 11-020, as noted below:
- On September 8, 2010, a complaint was received from Alvin Brown alleging that the WSRP failed to timely report making an in-kind contribution to Marty McClendon, a candidate for State Representative in the 26th Legislative District, for a mailing prior to the 2010 primary election. **See Exhibit 1.**
 - On November 12, 2010, a complaint was received from State Representative Sam Hunt, on behalf of the House Democratic Campaign Committee, alleging that the WSRP failed to timely report receipt of a \$120,000 contribution from the House Republican Organizational Committee (HROC), and that the WSRP accepted contributions that exceeded the \$5,000 limit within 21 days of the November 2, 2010 general election when it accepted the contribution from HROC, and when it accepted two contributions from the Senate Republican Campaign Committee (SRCC). **See Exhibit 2.**

III. Findings

- 3.1 PDC staff reviewed Monetary Contribution Reports (PDC Form C-3), Campaign Summary Receipts and Expenditures Reports (PDC Form C-4), and Last Minute

Contribution (LMC) reports filed by the WSRP for its non-exempt and exempt funds accounts for 2010.

- 3.2 Under the Full Reporting option, political committees, including political party organizations that are participating in the 2010 primary or general elections, were required to file a 21-day pre-election C-4 report, a 7-day pre-election C-4 report, and a post-election C-4 report, disclosing all contribution and expenditure activities, including in-kind contributions. In addition, political party organizations were required to timely report contributions on C-3 reports on a weekly basis.

Alleged Late Reporting of In-kind contribution to Marty McClendon (RCW 42.17.080/.090):

- 3.3 The WSRP, as a political party organization under the full reporting option, was required to file a 7-day pre-primary election C-4 report by August 10, 2010, covering the period July 27 through August 9, 2010.
- 3.4 The WSRP timely filed its 7-day pre-primary C-4 report on August 10, 2010, covering the period of July 29 through August 9, 2010, and disclosing an expenditure totaling \$30,898. However, the WSRP failed to provide any details of the expense on the Schedule A to C-4 report, including whether the expenditure was an in-kind contribution, the candidates supported, the nature of the expense, such as a mailing, and the amount of expense attributable to each candidate supported.
- 3.5 The WSRP filed an amended 7-day pre-primary C-4 report on September 1, 2010, providing a breakdown of the previously reported expenditure, which disclosed a \$15,350 in-kind contribution to Dave Schmidt, a \$6,004 in-kind contribution to Tony Moore, and a \$9,544 in-kind contribution to Marty McClendon.
- 3.6 The in-kind contributions received by the Dave Schmidt and Tony Moore Campaigns were timely reported by the candidates as in-kind contributions and on timely filed LMC reports. In both instances, the public was aware of the in-kind contributions received by the Dave Schmidt and Tony Moore campaigns prior to the primary election. The complaints filed against the WSRP regarding these contributions were not investigated.
- 3.7 The Marty McClendon campaign failed to disclose the receipt of the in-kind contribution from the WSRP on its initial 7-day pre-primary election C-4 report, or on a Last Minute Contribution (LMC) report. Special LMC reports are due when contributions of \$1,000 or more are made or received within 7 days of a primary election or within 21 days of a general election. The McClendon campaign filed an amended 7-day pre-primary C-4 report on October 8, 2010, disclosing the \$9,544 in-kind contribution as a "Bio primary mailer." The McClendon campaign reported receiving the in-kind contribution on August 6, 2010.
- 3.8 In this instance, the public was not aware of the in-kind contribution received by the Marty McClendon Campaign until September 1, 2010, when the WSRP first reported it, almost two weeks after the primary election was held. The \$9,544 in-kind contribution was not disclosed to the public by the McClendon campaign until October 8, 2010, 59 days late, and seven weeks after the August 17, 2010 primary election.

- 3.9 At a Brief Enforcement Hearing held February 28, 2011, the Presiding Officer found that Marty McClendon violated RCW 42.17.080 and 42.17.090 by failing to timely disclose the \$9,544 in-kind contribution from the WSRP.
- 3.10 The McClendon campaign was assessed a \$200 civil penalty, of which \$100 was suspended on the condition that Mr. McClendon commits no further violations of RCW 42.17 for the next four years.

Late Reporting of Contributions and C-3 reports (RCW 42.17.080/.090):

WSRP Non- exempt Funds Account:

- 3.11 The WSRP filed a C-3 report on October 25, 2010, for its non-exempt funds account disclosing seven contributions totaling \$399,500. See Exhibit 3. Three of the contributions totaled \$378,500 and listed the date received by the WSRP as between October 22 and 24, 2010. The three contributions included two contributions of \$175,000 and \$83,500 from the Senate Republican Campaign Committee (SRCC), and a \$120,000 contribution from the House Republican Organizational Committee (HROC), as listed in the chart below.

Date Contribution Received	Date Deposited	Date C-3 Report Due	Date C-3 Report Filed	Contributor Name	Total	Days Late
10/8/2010	10/8/2010	10/11/2010	10/25/2010	SRCC	\$ 175,000	14
10/11/2010	10/11/2010	10/18/2010	10/25/2010	SRCC	\$ 83,500	7
10/11/2010	10/11/2010	10/18/2010	10/25/2010	HROC	\$ 120,000	7
Total					\$ 378,500	

- 3.12 The two SRCC contributions and one HROC contribution were initially reported as received by the WSRP on October 22, 2010, a date within 21-days of the general election when contributions are limited to \$5,000 from a single source. (RCW 42.17.105(8))
- 3.13 PDC staff reviewed correspondence with the WSRP to determine whether the contributions had been received within 21-days of the general election.
- 3.14 The WSRP provided documentation confirming that the three contributions had been received more than 21-days before the general election and prior to the LMC reporting period. The three contributions received by the WSRP totaling \$378,500 were disclosed to the public on October 25, 2010, between 7-14 days late, and eight days before the general election.
- 3.15 The WSRP filed multiple amended versions of the C-3 report for the non-exempt funds account before the information was properly disclosed. See Exhibit 4. In addition, the WSRP improperly filed an LMC report on October 25, 2010, disclosing that the two SRCC contributions totaling \$258,500, and the \$120,000 contribution from HROC, had been received on October 22, 2010. These reporting errors created the mistaken

impression that the WSRP had received contributions in excess of \$5,000 during the 21 days before the general election.

- 3.16 The WSRP non-exempt funds account later filed multiple amendments to the 21-day pre-general election C-4 reports prior to properly reflecting the contribution totals on the C-4 report, and to correct the information about the deposit dates and amounts.
- 3.17 The multiple amended C-3 and C-4 reports filed by the WSRP, when combined with the incorrectly filed LMC reports, contributed to the lack of transparency for the public when reviewing the WSRP reports to determine the most recent contribution and expenditure activities.

WSRP Exempt Funds Account:

- 3.18 On October 27, 2010, the WSRP filed a C-3 report for its exempt funds account, disclosing the receipt of six contributions totaling \$107,500. **See Exhibit 5.** The six contributions were received during the period October 4 through 10, 2010, and were deposited into the WSRP exempt funds account on October 8, 2010. The C-3 report was required to be filed by October 11, 2010, and the contributions were disclosed to the public 16 days late on October 27, 2010.
- 3.19 On October 27, 2010, the WSRP filed an amended C-3 report for its exempt funds account disclosing the receipt of two contributions totaling \$20,000. **See Exhibit 6.** The C-3 disclosed a \$10,000 contribution from Kemper Holdings, LLC, and a \$10,000 contribution from Charles P. Burnett III. Both contributions were reported as being received and deposited on October 11, 2010. The C-3 reports were required to be filed by October 18, 2010, and the contributions were disclosed to the public nine days late on October 27, 2010.
- 3.20 PDC staff's review of the WSRP Exempt funds account and bank records supplied in the WSRP response dated June 21, 2011, showed that the WSRP exempt account failed to timely disclose the receipt of seven contributions of \$10,000 or more, totaling \$117,500. All seven of the contributions had been received by the WSRP within 22 to 36 days of the 2010 general election, and were reported between seven and 21 days late. The chart below summarizes the seven contributions that were disclosed late by the WSRP just prior to the 2010 general election.

Date Contribution Received	Date Deposited	Date C-3 Report Due	Date Filed	Contributor	Amount	Days Late
9/27/2010	9/28/2010	10/4/2010	10/25/2010	Premera Blue Cross	\$10,000	21
9/29/2010	10/4/2010	10/11/2010	10/27/2010	The Leadership Council	\$42,500	16
10/6/2010	10/6/2010	10/11/2010	10/25/2010	Microsoft	\$25,000	14
10/11/2010	10/12/2010	10/18/2010	10/27/2010	Kemper Holdings, LLC	\$10,000	9
10/12/2010	10/12/2010	10/18/2010	10/25/2010	Charles P. Burnett, III	\$10,000	7
10/12/2010	10/14/2010	10/18/2010	10/25/2010	Patricia Lumry	\$10,000	7

10/12/2010	10/14/2010	10/18/2010	10/25/2010	Rufus Lumry	\$10,000	7
				Total	\$117,500	

- 3.21 Seven of the eight contributions listed were incorrectly disclosed on a C-3 report on October 25, 2010, along with 16 other contributions totaling \$72,770. The C-3 report listed the date the WSRP received the contributions as October 22 through 24, 2010.
- 3.22 On October 25, 2010, the WSRP filed three LMC reports for its exempt funds account, incorrectly disclosing that five of the contributions had been received on October 22 and 23, 2010. **See Exhibit 7.** The seven contributions listed in the chart above were finally correctly disclosed on two amended C-3 reports filed on October 27, 2010. The final amendment indicated that all eight contributions were received by the WSRP Exempt Funds account more than 21-days before the general election period and prior to the LMC reporting period.

WSRP Late-Filed Expenditures for contributions to candidates: (RCW 42.17.080/.090):

WSRP Non exempt Account

- 3.23 The WSRP non-exempt funds account initially filed its 21-day pre-general C-4 report on October 11, 2010, the day before the C-4 report was due, but the period covered by the report was September 1-30, 2010, rather than the required period of September 1 through October 11, 2010. **See Exhibit 8.** The WSRP filed an amended C-4 report on October 13, 2010, covering the appropriate period of September 1 through October 11, 2010, disclosing that \$53,700 in contributions had been received during the reporting period and \$5,050 in expenditures made.
- 3.24 The WSRP 21-day pre-general C-4 report was amended four times during the period of October 13, 2010, through October 27, 2010. The amended C-4 report filed on October 27, 2010, finally corrected the contribution and expenditure information, disclosing \$442,200 in contributions received during the period and \$65,050 in expenditures made.
- 3.25 The final amended version disclosed that an additional \$60,000 expenditure reported had been made by the WSRP non-exempt account. **See Exhibit 9.** The \$60,000 was for an expenditure made on October 8, 2010, in the form of a monetary contribution to Steve Litzow, a candidate for State Senator for the 41st Legislative District. The WSRP disclosed the contribution 15 days late, and six days before the November 2, 2010 general election.
- 3.26 The Litzow campaign reported receiving and depositing the \$60,000 contribution from the WSRP on October 11, 2010. The campaign timely filed a C-3 report on October 12, 2010.

WSRP Response

- 3.27 Dan Brady, Executive Director of the WSRP during 2010, responded by letter on December 8, 2010. **See Exhibit 10.** Mr. Brady stated the \$120,000 contribution from HROC had been received by the WSRP on October 11, 2010. He said the donation was

incorrectly entered by Aristotle International staff, the firm hired by the WSRP to file PDC reports, as being received on October 22, 2010.

- 3.28 The WSRP provided a copy of the HROC contribution check to verify that the receipt date was prior to the 21-day pre-general election period.
- 3.29 On October 28, 2010, John Mannion, of Aristotle, International, responded by e-mail to previous correspondence from PDC staff member Tony Perkins about the C-3 report and large contributions. Mr. Mannion explained the WSRP received the three contributions and deposited them into the non-exempt account, and that the contributions had been received prior to October 12, 2010, the date when the \$5,000 prohibition began.
- 3.30 Mr. Mannion stated the WSRP received the \$175,000 contribution from SRCC on October 8, 2010, and deposited the contribution into the non-exempt funds account that same day. He stated that the WSRP received the \$120,000 contribution from HROC, and an additional \$83,500 contribution from the SRCC on October 11, 2010, and deposited both contributions into the non-exempt funds account on October 12, 2010. Mr. Mannion provided copies of the checks and subsequent bank deposit records by e-mail. See **Exhibit # 11**. Mr. Mannion stated the following about the contributions:

“Aristotle International, which handles the WSRP PDC reporting, failed to properly disclose these transactions on the C-3 reports due October 11, 2010, and October 18, 2010. Although these transactions were received by the WSRP committee prior to the October 12, 2010 deadline, Aristotle International failed to update the committee’s donor database prior to the filings due October 11, 2010, and October 18, 2010.”

- 3.31 On June 21, 2011, the PDC received a two-page letter from Peter Graves, the WSRP’s new Executive Director, along with two pages of WSRP bank statements for the WSRP exempt funds account. See **Exhibit # 12**. The letter and documentation were in response to an additional PDC inquiry made on June 3, 2011.
- 3.32 Mr. Graves stated that during the 2010 elections, WSRP staff entered contribution and expenditure information into the WSRP bookkeeping software and then into campaign finance compliance software. He stated that Aristotle International was hired by the WSRP as a contractor to review contribution and expenditure data, and then prepare campaign finance reports and transmit those reports to the PDC. He went on to state the following:

“...the high volume of activity in the fall of an election year, changes in personnel, and failure to follow procedures led to several errors in reporting. In some cases data entry was incomplete at the time reports were due and errors were discovered and addressed and amendments filed during subsequent account reviews.”

- 3.33 Concerning the C-3 reporting discrepancies, Mr. Graves stated that the date the contributions were received and the date the contributions were deposited were not the same in the WSRP database. He said the C-3 reports were “*pulled using the deposit date, and not the received date.*” He said the WSRP has taken steps to correct the reporting

discrepancies, including hiring a new Controller, retraining WSRP staff, and re-emphasizing the necessity to follow established procedures throughout the financial management and reporting processes.

IV. Scope

- 4.1 Staff reviewed two complaints filed against the WSRP: (1) a November 12, 2010 complaint filed by Sam Hunt; and (2) a September 8, 2010 complaint filed by Alvin Brown.
- 4.2 Staff reviewed C-3 and C-4 reports filed by the WSRP Non-exempt and Exempt Funds accounts for the period October 1 through November 2, 2010, and LMC reports filed for the 2010 general election.
- 4.3 Staff reviewed the October 28, 2010 e-mail response from Jon Mannion of Aristotle International.
- 4.4 Staff reviewed the response from Dan Brady, 2010 WSRP Executive Director, received December 8, 2010.
- 4.5 Staff spoke to Colleen Morse, WSRP Treasurer.
- 4.6 Staff reviewed the response from Peter Graves, 2011 WSRP Executive Director, received June 21, 2011.

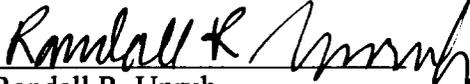
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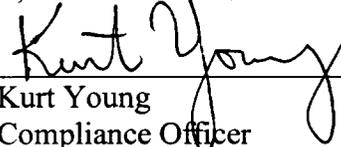
- 5.1 **RCW 42.17.080 and 090** require candidates and political committees to file timely, accurate reports of contributions and expenditures, including in-kind contributions. Under the full reporting option, until five months before the general election, C-4 reports are required monthly when contributions or expenditures exceed \$200 since the last report. C-4 reports are also required 21 and 7 days before each election, and in the month following the election, regardless of the level of activity. Contribution deposits made during this same time period must be disclosed on the Monday following the date of deposit. Reports must include the name and address of each person to whom an expenditure was made in the aggregate of more than \$50, and must include the amount, date, and purpose of each such expenditure, including the name of the candidate benefitted when such expenditure is an in-kind contribution to a candidate.
- 5.2 **RCW 42.17.105** states, in part, (1) Campaign treasurers shall prepare and deliver to the commission a special report regarding any contribution or aggregate of contributions which: Is one thousand dollars or more; is from a single person or entity; and is received during a special reporting period.
Any political committee making a contribution or an aggregate of contributions to a single entity which is one thousand dollars or more shall also prepare and deliver to the commission the special report if the contribution or aggregate of contributions is made during a special reporting period.

(a) Each of the following intervals is a special reporting period: (i) The interval beginning after the period covered by the last report required by RCW 42.17.080 and 42.17.090 to be filed before a primary and concluding on the end of the day before that primary; and (ii) the interval composed of the twenty-one days preceding a general election.

(8) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.

Respectfully submitted this 11th day of August, 2011.


Randall R. Unruh
Senior Political Finance Specialist


Kurt Young
Compliance Officer

List of Exhibits

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| Exhibit 1 | Complaint filed against the WSRP by Alvin Brown on September 8, 2010 |
| Exhibit 2 | Complaint filed against the WSRP by Representative Sam Hunt, on November 12, 2010 |
| Exhibit 3 | C-3 report for a deposit on October 22, 2010, into WSRP non-exempt account |
| Exhibit 4 | Amended C-3 reports for a deposit on October 22, 2010, into WSRP non-exempt account |
| Exhibit 5 | C-3 report for a deposit on October 8, 2010, into WSRP non-exempt account |
| Exhibit 6 | C-3 report for a deposit on October 11, into WSRP exempt account |
| Exhibit 7 | LMC reports filed October 25, 2010, by WSRP exempt account |
| Exhibit 8 | Original C-4 report for period September 1, 2010, through September 30, 2010 for the WSRP non-exempt account |
| Exhibit 9 | Amended C-4 report for the period of September 1, 2010, through October 11, 2010 for the WSRP non-exempt account |

- Exhibit 10** Response letter from Dan Brady, 2010 WSRP Executive Director,
received December 6, 2010

- Exhibit 11** Response e-mail from John Mannon, Aristotle International, dated
October 28, 2010

- Exhibit 12** Response letter from Peter Graves, 2011 WSRP Executive Director, dated
June 21, 2011