



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In RE COMPLIANCE WITH
RCW 42.17

Concerned Citizens of Kirkland,
Kenneth Albinger, and Arielle
Albinger

Respondents.

PDC Case No. 12-154

Report of Investigation

I.

Background and Allegations

- 1.1 On August 16, 2011, Concerned Citizens of Kirkland (CCK) filed a Committee Registration (C-1pc report) registering for the first time as a political committee that was organized to oppose Bob Sternoff, an incumbent Kirkland City Councilmember who was running for re-election in 2011. CCK selected the Mini Reporting option, and listed Michael Beaton as the campaign manager, and Kenneth Albinger as the campaign treasurer. **See Exhibit 1.**
- 1.2 On November 7, 2011, Toby Nixon filed a complaint with the Public Disclosure Commission (PDC) alleging that CCK violated the state's campaign disclosure and contribution laws and rules by exceeding the limits of the Mini Reporting option when it accepted monetary and in-kind contributions totaling \$1,124 in the aggregate from one contributor (Kenneth Albinger), an amount in excess of the \$500 contribution limit for one contributor giving to a committee under the Mini Reporting option. **See Exhibit 2.**
- 1.3 The complaint also alleged that CCK and Arielle Albinger violated RCW 42.17.740 by accepting contributions of \$300 and \$200 in cash (currency) from Arielle Albinger, daughter of Kenneth Albinger, and improperly accepted cash contributions without adequate receipts or recordkeeping.
- 1.4 Finally, the complaint alleged that Kenneth Albinger and his daughter, Arielle Albinger, may have violated RCW 42.17.120 by concealing the actual source of the \$300 and \$200 cash contributions, suggesting that either Mr. Albinger acted as an intermediary without proper disclosure (RCW 42.17.730) or was, in fact, the true source of Ms. Albinger's contributions (RCW 42.17.120).

II. Findings

Complaint against Concerned Citizens of Kirkland

- 2.1 As a Mini-Reporting committee, CCK is relieved from the basic filing requirements imposed by RCW 42.17.080 and .090 to file frequent, detailed reports of contribution and expenditure activities only so long as its total contributions and expenditures do not exceed \$5,000, and no contribution or contributions from any one person exceed \$500.
- 2.2 CCK raised a total of \$3,349 in monetary and in-kind contributions during the period July 22, 2011, through November 1, 2011, and spent less than \$3,400. These totals remained under the \$5,000 total contributions and expenditures limitations of the Mini Reporting option.
- 2.3 Kenneth Albinger, CCK campaign treasurer, made several out-of-pocket expenditures that, when totaled, exceeded the \$500 contribution limit for one person under the Mini Reporting option. Mr. Albinger's out-of-pocket expenditures were coordinated with and benefited the committee as follows:
 - On July 22, 2011, Mr. Albinger made a \$150 expenditure on behalf of CCK, to pay the application fee for the committee's Federal Employer Identification Number (\$150 in-kind contribution);
 - On July 28, 2011, Mr. Albinger made a \$79 expenditure on behalf of CCK, to pay the U.S. Postal Service for a post office box rental (\$79 in-kind contribution; \$229 aggregate total);
 - On August 12, 2011, Mr. Albinger made a \$220 monetary contribution to CCK, when he made a start-up bank deposit to establish the committee's bank account (\$220 monetary contribution; \$449 aggregate total); and
 - On November, 1, 2011, Mr. Albinger made a \$675 expenditure on behalf of CCK in the form of an in-kind loan, to pay for CCK political advertising in the form of two advertisements that ran in the local Kirkland Reporter. (\$675 in-kind contribution/loan; \$1,124 aggregate total)
- 2.4 When the November 1, 2011 political advertising costs paid for by Mr. Albinger are aggregated with previous in-kind contributions, his total in-kind contributions to CCK are \$1,124. This amount exceeded the \$500 Mini Reporting option limit by \$624.
- 2.5 On February 28, 2012, Mr. Albinger submitted a response letter to Mr. Nixon's complaint. **See Exhibit 3.** Mr. Albinger stated that he clearly kept the contributions received by CCK below \$500 from any one contribution prior to November 1, 2011.
- 2.6 Mr. Albinger said he made a \$675 out-of-pocket expenditure on behalf of CCK on November 1, 2011, in the form of a loan to pay for political advertisements. He stated that he made the loan to CCK after asking some of the previous contributors who were

under the \$500 Mini Reporting option limit, to make additional contributions. He said he felt confident he could raise additional funds to re-pay the \$675 loan he had made, but was unable to obtain contributions from the donors who had pledged additional funds after the November 8, 2011 general election.

- 2.7 CCK was required to change from the Mini Reporting option to the Full Reporting option prior to Mr. Albinger making the \$675 in-kind contribution/loan on November 1, 2011.

Complaint against Kenneth Albinger and Arielle Albinger

- 2.8 In his complaint Mr. Nixon alleges that Mr. Albinger and Arielle Albinger may have violated RCW 42.17.120 by concealing the source of contributions received by CCK, and questioned the source of the \$300 and \$200 cash contributions attributed to Ms. Albinger. No evidence was provided by Mr. Nixon that the contributions were from someone other than Ms. Albinger.
- 2.9 In his response letter, Mr. Albinger stated that the allegation that CCK accepted cash contributions of \$200 and \$300 was true. He stated, as the treasurer for CCK, that he accepted the cash contributions from his daughter, Arielle, without preparing a receipt signed by the contributor and committee treasurer or deputy treasurer as required in RCW 42.17.060(5).
- 2.10 Mr. Albinger stated that CCK was established in the summer of 2011, and that as a treasurer for a new committee, he was not aware of the limitations on cash contributions. He said he will abide by these limits on contributions in the future.
- 2.11 Mr. Albinger stated that Mr. Nixon's allegation concerning the source of his daughter's contributions was false. He included with his response letter a signed statement from Arielle Albinger, dated February 28, 2012, which stated the following: "It was questioned whether I made a cash contribution of \$200 and \$300 to Concerned Citizens of Kirkland. I did make these contributions on my own free will totaling \$500."
- 2.12 On July 31, 2012, Ms. Albinger submitted an additional response after an inquiry from PDC staff. **See Exhibit 4.**
- 2.13 Ms. Albinger re-stated that she made an initial cash contribution of \$200, and later an additional cash contribution of \$300 from her own account and of her own free will. She stated she was not reimbursed for her two contributions, and that she has a stable, well paying job. She stated she wanted to make the contributions because she felt it was important to her community.
- 2.14 Ms. Albinger said she was not aware that cash contributions above a certain amount needed to be made by written instrument.

III. **Scope**

- 3.1 PDC staff reviewed the complaint filed against Concern Citizens of Kirkland, Kenneth Albinger, and Arielle Albinger.
- 3.2 PDC staff spoke with Kenneth Albinger and Arielle Albinger by telephone.
- 3.3 Staff reviewed the Kenneth Albinger's response letter, which included a letter from Arielle Albinger.
- 3.4 PDC staff reviewed Ms. Albinger's follow-up response letter to additional PDC staff questions.

IV. Laws & Regulations

- 4.1 **RCW 42.17.020(15)(a)** states, "Contribution" includes: 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
- 4.2 **RCW 42.17.040** states that every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission.
- 4.3 **RCW 42.17.060(5)** states that a contribution of more than fifty dollars in currency may not be accepted unless a receipt, signed by the contributor and by the candidate, treasurer, or deputy treasurer, is prepared and made a part of the campaign's or political committee's financial records.
- 4.4 **RCW 42.17.080 and 090** require candidates under the full reporting option to file timely, accurate reports of contributions and expenditures.
- 4.5 **WAC 390-05-210(6)** states in part, 6) *Consulting with other political committees*. An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee is a contribution to such political committee.
- 4.6 **RCW 42.17.730(2)** states , An individual may not make a contribution on behalf of another person or entity, or while acting as the intermediary or agent of another person or entity, without disclosing to the recipient of the contribution both his or her full name, street address, occupation, name of employer, if any, or place of business if self-employed, and the same information for each contributor for whom the individual serves as intermediary or agent.

- 4.7 **WAC 390-16-105** states that a candidate shall not be required to comply with the provisions of RCW 42.17.065 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures exceed the amount of the candidate's filing fee provided by law plus a sum not to exceed \$5,000 and no contribution or contributions from any person other than the candidate within such aggregate exceed \$500.
- 4.8 **WAC 390-16-125** states that a candidate or political committee shall apply in writing to the commission for authorization to change reporting options before the limitations specified in WAC 390-16-105 are exceeded. Exceeding the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 without complying with the provisions of this section shall constitute one or more violations of chapter 42.17A RCW or 390-17 WAC.

Respectfully submitted this 21st day of September 2012.


Kurt Young
PDC Compliance Officer

List of Exhibits

- Exhibit 1** On August 16, 2011, Concerned Citizens of Kirkland filed a C-1pc.
- Exhibit 2** Complaint filed against Concerned Citizens of Kirkland, Kenneth Albinger, and Arielle Albinger by Toby Nixon on November 7, 2011.
- Exhibit 3** Response letter from Kenneth Albinger on behalf of CCK and himself, and an attached memorandum from Arielle Albinger.
- Exhibit 4** Additional handwritten response letter from Arielle Albinger.