

Executive Summary and Staff Analysis

PDC Case No. 12-168

Family PAC and Joseph Backholm, Treasurer

This summary highlights staff's findings, conclusions, and recommendations regarding the allegations contained in PDC Case No. 12-168, a PDC staff-generated complaint filed on May 15, 2012 by Andrea McNamara Doyle.

Allegations

The complaint alleges that Family PAC failed to disclose over \$140,000 in contribution and expenditure activity connected with legal services rendered to the committee. The complaint alleges that these contributions and expenditures were required to be disclosed in PDC filings accessible to the public as early as September 30, 2009, and have not been disclosed.

Investigative Findings

Family PAC registered with the PDC by filing a Political Committee Registration (form C-1pc) on October 21, 2009. Family PAC's corporate parent is FPIW Action, a 501(c)(4) tax exempt organization. Family PAC shares a street address, attorney, and email address with FPIW Action and the Family Policy Institute of Washington, a connected 501(c)(3) tax exempt organization. Family PAC's officers include eight of the nine members of the Family Policy Institute of Washington's board of directors.

On the C-1pc, Family PAC's treasurer, Joseph Backholm, chose the Full Reporting option, certifying that the committee would file frequent, detailed campaign reports as mandated by law.

Through Mr. Backholm, Family PAC acknowledged the committee's reporting obligations through its testimony in federal court that: (1) The committee had the expectation of receiving contributions and making expenditures in opposition to a ballot proposition; (2) "Contribution" was defined in RCW 42.17.020 to include legal and professional services; (3) Family PAC was required by RCW 42.17.080 and RCW 42.17.090 to disclose the names and addresses of contributors, together with the date and value of their contributions; and (4) If these requirements were not enjoined by the courts, Family PAC would disclose as required. The court did not invalidate or enjoin the contribution disclosure requirements.

Staff's investigation found that from September 2009 through May 2012, Family PAC received contributions in the form of legal services provided by the employees and associates of The Bopp Law Firm. The value of legal services and other expenses provided to the committee through May 11, 2012 was at least \$148,987.62, and may have been as much as \$940,408.87. From June 2012 forward, the committee has been provided legal services by ActRight Legal Foundation.

Staff's findings demonstrate that Family PAC was required to file reports of contribution and expenditure activity during 22 of the 32 months between September 2009 and May 2012. Following its October 21, 2009 registration, Family PAC filed no reports with the PDC showing any contributions or expenditures, or any debts, obligations, pledges, loans, or other information. Despite Mr. Backholm's testimony in federal court, during the course of staff's investigation, Family PAC has more recently stated that it will not disclose its contributions or expenditures to the PDC.

PDC staff has been unable to ascertain whether the legal services and litigation expenses were contributed to Family PAC by: (1) The Bopp Law Firm or its lawyers (Family PAC's prior legal counsel) under any arrangement with Family PAC, including whether the legal services fees and all or just some litigation expenses were advanced to Family PAC by The Bopp Law Firm or its lawyers with an expectation of later payment; (2) The James Madison Center for Free Speech or its funders; (3) The ActRight Legal Foundation or its lawyers, or the law firm of Gourley, Bristol Hembree (Family PAC's current legal counsel); or, (4) Any other person or firm.

Staff has been unable to ascertain the source of funds for Family PAC's attorneys' fees or litigation expenses, including whether they were provided or pledged by any person or organization, such as the organizations referenced in the form C-1pc or in the pleadings and documents submitted in the federal court litigation, which included: (1) The Family Policy Institute; (2) FPIW Action; (3) "FPC"; (4) Focus on the Family Action, Inc.; (5) Focus Action; (6) CitizenLink; (7) The James Madison Center for Free Speech, and/or the center's funders; (8) The National Organization for Marriage; (9) Washington Values Alliance; or, (10) Protect Marriage Washington.

Conclusion and Recommendation

PDC staff recommends that the Commission find that Family PAC and its treasurer committed multiple apparent violations of RCW 42.17 and RCW 42.17A as noted above¹, and that the Commission refer the matter to the Attorney General to initiate appropriate legal action against the Respondents.

¹ For activity occurring on or after January 1, 2012, Family PAC was required to report under the provisions of RCW 42.17A.