

**Executive Summary and Staff Analysis**  
PDC Case No. 13-004  
**Friends of Rob McKenna (McKenna for Governor) Campaign**

This summary highlights staff's findings, conclusions, and recommendations regarding the allegations contained in PDC Case No. 13-004, a complaint filed by Kelly Wicker, Deputy Campaign Manager for the Jay Inslee for Washington (Inslee for Governor) campaign, and received on August 9, 2012.

**Allegations**

The complaint alleges violations of RCW 42.17.080, 42.17.090, 42.17A.235, and 42.17A.240<sup>1</sup> by the 2012 Friends of Rob McKenna (McKenna for Governor) campaign as follows:

1. ***Failure to report Debts, Liabilities, and Obligations.*** The complaint alleged that the McKenna for Governor campaign failed to report:
  - \$33,000 in liabilities on its November and December 2011 C-4 reports for a November 8, 2011 fundraising event held at the Meydenbauer Center;
  - A \$12,120 debt on its May 2012 C-4 for a fundraiser held May 24, 2012 at St. Martin's University;
  - \$911 in liabilities on its September 2011 C-4 for a September 2011 fundraiser held at Foster Pepper law firm; and
  - \$38,759 in liabilities to FLS Connect on its November 2011 C-4 for telemarketing expenses that were paid in December 2011.
  
2. ***Failure to report Payments or Reimbursements to AG McKenna Re-Election Campaign.*** The complaint alleged that the McKenna for Governor campaign made payments or reimbursements totaling \$21,505 to the Re-elect AG Rob McKenna Campaign, and failed to timely report those payments.
  
3. ***Inaccurate Reporting of Expenses.*** The complaint alleged that the McKenna for Governor campaign inaccurately reported a \$1,477 expenditure made June 3, 2011 to Island Security Systems, when the expenditure was allegedly paid by the AG McKenna Re-Election campaign, and similarly, reported a \$1,320 expenditure made June 2, 2011 to USPS Bellevue, when that expenditure was allegedly made from AG re-election funds.
  
4. ***Failure to Pay for Items and Services Used by Gubernatorial Campaign.*** The complaint alleged that the McKenna for Governor campaign failed to make

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<sup>1</sup> In part, Ms. Wicker's complaint concerned violations that allegedly occurred in 2011. At that time, the statutes governing the alleged violations were RCW 42.17.080 and RCW 42.17.090. Effective January 1, 2012, those sections were recodified as RCW 42.17A.235 and RCW 42.17A.240, respectively.

payments to the AG McKenna Re-Election campaign for items and staff services sponsored by the re-election campaign in May and June 2011, when those items and services allegedly benefitted the McKenna for Governor campaign.

### **Investigative Findings**

**First Allegation:** In responding to the first allegation, Tom Perry, Finance Administrator for the McKenna for Governor Campaign, stated that the campaign's practice was to pay expenses as they were incurred, so that generally speaking, there would be no debts to report. He stated that in the four cases highlighted by Ms. Wicker, the campaign was not in a position to know whether there was any amount owed, or to estimate that amount.

In the case of the campaign's \$33,000 debt to the Meydenbauer Center, and its \$12,120 debt to Saint Martin's University, the campaign had previously paid a deposit to each vendor. (The deposits were \$9,976 and \$932, respectively.) It appears that that the campaign could reasonably have anticipated that the final amount owed would greatly exceed the amount of the deposits but staff found no evidence that the campaign had received estimates from the facilities. Additionally, all expenditures connected with the two events were timely reported on C-4 reports filed in February and July of 2012, upon payment of the outstanding balances, respectively, between four and nine months before the November 6, 2012 general election.

In the case of the remaining debts—expenses for a fundraiser at the offices of the law firm Foster Pepper, and fundraising prospecting costs to FLS Connect—staff found that the campaign required some information from the vendor to know whether any amount was owed. As soon as the necessary information was provided, the campaign paid the two expenses and timely reported the payments.

**Second and Third Allegations:** Staff found that \$11,635 in expenses in June of 2011 that Ms. Wicker alleged the McKenna for Governor campaign failed to report were recurring fees initially paid through a debit card number provided to vendors by the AG McKenna Re-Election campaign. These expenses, including the expenditures to USPS Bellevue and Island Security Systems that were highlighted in the complaint, were reimbursed by the McKenna for Governor campaign to the AG McKenna Re-Election campaign in June of 2011 and timely reported by the McKenna for Governor campaign in a C-4 report filed on July 11, 2011. However, in the report, the McKenna for Governor campaign listed the original vendor for the expense as the recipient of the reimbursement, rather than the AG McKenna Re-Election campaign.

Similarly, on May 22, 2012, the McKenna for Governor campaign made payments totaling \$9,870 to the AG McKenna Re-Election campaign, reimbursing that campaign for services and tangible items that the campaign stated had been used for General McKenna's

gubernatorial campaign. The reimbursements were timely reported in a C-4 report filed on June 7, 2012, but with the original vendor listed as the recipient of the payment.

On August 24, 2012, the McKenna for Governor campaign filed amended C-4 reports fully describing the June 2011 and May 2012 reimbursements, and correctly listing the AG McKenna Re-Election campaign as the recipient of the payments.

**Fourth Allegation:** General McKenna stated that in the days and weeks leading up to his June 2011 decision to switch offices, the activities undertaken by his staff were necessary for a statewide bid for re-election as AG. General McKenna's Finance Administrator stated that payroll expenses paid by the AG McKenna Re-Election campaign on May 27, 2011 and June 3, 2011, the dates identified in Ms. Wicker's complaint, were for pay periods ending on or before May 31, 2011. He stated that beginning on June 1, 2011, the staff members were on the payroll of the McKenna for Governor campaign. Staff found no evidence that during May 2011, the period of time identified in Ms. Wicker's complaint, General McKenna's staff had knowledge of his decision to switch offices or were otherwise knowingly promoting a campaign for governor.

To the extent that any tangible good or service purchased by the AG McKenna Re-Election campaign was subsequently used by the McKenna for Governor campaign (e.g., computers and compliance and voter lists software), the McKenna for Governor campaign valued those items at 5% to the AG campaign and 95% to the campaign for governor, and made reimbursements to the AG McKenna Re-Election campaign for the 95% portion of the expense.

#### **Conclusion and Recommendation:**

The McKenna for Governor campaign failed to disclose estimated debts or obligations associated with two campaign events, and failed to correctly identify the AG McKenna Re-Election campaign as the recipient of other expenses. However, all cash outlays by the campaign were timely reported, and the campaign took the necessary actions to correct its reports well before the November 6, 2012 general election. The public was not deprived of important information at a crucial point in the election campaign.

No evidence was presented or found that General McKenna's staff expenses during May of 2011 were inappropriately paid with AG McKenna Re-Election campaign funds, or that General McKenna became a candidate for governor prior to June 1, 2011.

For these reasons, PDC staff recommends that the Commission dismiss the allegations in Kelly Wicker's complaint against the Rob McKenna for Governor campaign, received on August 9, 2012.