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AUG 24 2012

Public Disclosure Commission

45 Day Letter Formal Complaint to the Washington State Public Disclosure Commission,
Attorney General Rob McKenna and King County Prosecutor Dan Satterberg
Relating to a Candidate for Public Office pursuant to RCW 42.17A.765(A)

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the facts set forth in this attached complaint are true and correct to the best of my knowledge.

Name of Candidate: **Jay Inslee**

Address of Candidate: P.O. Box 21067

Candidate's City: Seattle State: Washington Zip Code: 98111

Candidate's Telephone: (206) 533-0575

Candidate's E-mail Address: info@jayinslee.com

Your Signature: _____



Your printed name: Randy Pepple

Street address: PO Box 52866

City, state, and zip code: Bellevue, WA 98015

Telephone number: 425-449-8244

Date signed: August 14, 2012

Place Signed (City and County): Bellevue, Washington

Complaint:

It has come to my attention that the Inslee for Governor Campaign may have violated RCW 42.17A.405 (3) (12) & (14), and RCW 42.17A.205 which state in relevant part:

“(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, a city official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, city official, or public official in a special purpose district during a recall campaign that in the aggregate exceed nine hundred dollars if for a legislative office, county office, or city office, or one thousand eight hundred dollars if for a special purpose district office or a state office other than a legislative office.”

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a state office

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candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

“(14) No person may accept contributions that exceed the contribution limitations provided in this section.”

RCW 42.17A.205 Statement of organization by political committees.

(1) Every political committee shall file a statement of organization with the commission. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier.

RCW 42.17A.005(20) ... "Expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign.

RCW 42.17A.490 Prohibition on use of contributions for a different office.

(1) Except as provided in subsection (2) of this section, a candidate for public office or the candidate's authorized committee may not use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate or the candidate's authorized committee to further the candidacy of the individual for an office other than the office designated on the statement of organization. A contribution solicited for or received on behalf of the candidate is considered solicited or received for the candidacy for which the individual is then a candidate if the contribution is solicited or received before the general election for which the candidate is a nominee or is unopposed.

(2) With the written approval of the contributor, a candidate or the candidate's authorized committee may use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate or the candidate's authorized committee from that contributor to further the candidacy of the individual for an office other than the office designated on the statement of organization. If the contributor does not approve the use of his or her contribution to further the candidacy of the individual for an office other than the office designated on the statement of organization at the time of the contribution, the contribution must be considered surplus funds and disposed of in accordance with RCW 42.17A.430.

BACKGROUND

According to records available for review in July, 2012, the Inslee for Governor (“IFG”) campaign has accepted hundreds of thousands of dollars in “transfers” from the Inslee for Congress campaign account (“IFC”).

Such transfers of campaign contributions from a federal account to a state account is permissible **only** with a.), the consent of the donors and; b.), provided that the donors may legally contribute to a Washington state office candidate campaign.

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In correspondence dated July 29, 2011, the Interim Executive Director of the Public Disclosure Commission ("PDC") wrote to the IFG campaign and informed them that transfers from the IFC campaign would be governed by RCW 42.17, that all such transfers must be attributable to an individual donor who has given permission in writing, and that all such contributions would be subject to limit under RCW 42.17.640. The Director went on to write that "lump sum transfer" would be impermissible. (See Exhibit A attached).

This direction from the PDC is important because it demonstrates that the PDC understands (and has conveyed in writing to the IFG campaign) that each individual contribution being transferred from IFC must meet the requirements of state law, both in terms of the permission, the amount contributed and the eligibility of the individual or entity making the contribution.

While the IFG campaign has allegedly internally identified the donors whose funds were transferred, and for a time permitted the McKenna campaign to examine original transfer authorizations, the IFG campaign refused to permit further inspection of these records during the pre-primary public records viewing period after it was pointed out that there were an inadequate number of authorizations for the contributions listed. (See Exhibit B attached)

Transfers of funds in both federal and state elections are counted in the "FIFO" or "First in First Out" standard. (See WAC 390-17-302(6) and 11 CFR 110.3(c)(4)). (See Exhibit C attached).

For example, this means that if ten donors gave \$10 each to IFC, and \$50 had been spent by IFC, the remaining \$50 would be eligible for transfer to IFG only if the last five donors were eligible to contribute, gave written permission, and each individual transfer would not exceed limits for that donor under Washington state law.

It is clear that for at least eight contributors the transfers made to the IFG from IFC were impermissible under the FIFO standard because the monies contributed to IFC had already been expended and were not available for transfer because they had been made in previous years. (See Exhibit D attached). It is impossible to determine the exact number of potentially illegal contributions, due to a lack of itemization of all donations in the IFC treasury, so these eight are provided as examples that may lead to other transfers not allowed under the FIFO standard.

It is also clear that Congressman Inslee expended funds from the IFC campaign account in furtherance of the IFG campaign as much as six months before the filing of his C1 declaration of candidacy on June 24, 2011.

The IFG campaign appears to have begun at least in January of 2011 when the IFC campaign spent \$25,570 on "Research Consulting" with the Feldman Group. The Feldman Group is the Washington DC based polling firm currently used by the IFG campaign (and the apparent cost of statewide polling in Washington state from the Feldman Group is in the neighborhood of \$25-35 thousand dollars, see IFG C4 PDC report for "polling" from Feldman Group expense of \$30,800.67 on 1/10/12).

Because Congressman Inslee could not know what the contours of his Congressional District would be in January of 2011, as redistricting would not be completed for another year, it seems improbable that IFC would spend over \$25,000 for a Congressional re-election poll (indeed the 1st Congressional District changed dramatically with redistricting). IFC went on to spend an additional \$12,301 with the Feldman Group on March 18, 2011, presumably for additional polling work related to the IFG campaign.

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Additionally, IFC spent \$34,609 with New Partners Consulting on April 7, 2011. New Partners Consulting is a well-known "opposition research" firm that has been making numerous public records requests of the Attorney General's Office dating back to 2009. The IFG campaign did not have an opponent in April of 2011 and as such had no need to spend almost \$35,000 on opposition research unless it was in furtherance of a campaign for Governor. The fact that New Partners Consulting has made multiple public records requests of the Attorney General's Office seeking information on the activities of Congressman Inslee's ultimate opponent in the governor's race, Rob McKenna, over a period of three years adds further circumstantial evidence that these expenses were clearly for the purpose of assisting and benefiting the unannounced IFG campaign.

Interestingly a single expenditure appears for New Partners Consulting from the IFG campaign on November 17, 2011 for \$148.00 as "Mileage Reimbursement". There is no listing of any debt or promise to pay for reimbursement for mileage with New Partners Consulting in any of the IFG filings so it is unclear what contractual relationship the IFG campaign has with New Partners Consulting. It is clear that New Partners Consulting has been conducting opposition research against Mr. Inslee's general election opponent since 2009 and received \$35,000 from the Congressional campaign account to do that in April of 2011, over two and half months before Mr. Inslee declared his candidacy. The Washington State Democratic Central Committee has paid tens of thousands of dollars to New Partners Consulting over the past two years for "research" related to the IFG campaign. This pattern suggests a desire on the part of the IFG campaign to conceal from the voters of Washington State its role in early, illegal funding and cooperation with a Washington DC opposition research firm that has been paid to investigate the general election opponent of Mr. Inslee and further the IFG campaign for many years.

If these expenditures were in fact made from the IFC campaign for the purpose of advancing the IFG campaign this would be a violation of multiple provisions of Washington campaign finance laws. In addition to the failure to file a C1 form as required by RCW 42.17A.205 the campaign would have failed to file disclosure forms detailing the expenditures and could have used federal account money illegal to accept under 42.17A.405(12).

COMPLAINT

1. The IFG campaign appears to be transferring funds from IFC that were made starting in 2009, under the FIFO standard discussed above and codified in state and federal law such funds would not be eligible for transfer as they had already been spent.
2. It appears that the IFG failed to timely report authorizations to transfer contributions that were received in the month of July of 2011. The IFG campaign reported no transfers at all for the month but inspection of authorizations indicate that hundreds of such authorizations were received in the month of July. On August 2, 2012, the IFG campaign refused to allow inspection of records of written permission to transfer contributions so we are unable to confirm the accuracy of the IFG campaign reporting of authorizations to transfer. It is possible that the IFG campaign has transferred monies from the IFC without the written permission required by RCW 42.17A.490(2) and/or failed to timely report transferred contributions made in the month of July.
3. The IFG campaign appears to have begun in January of 2011 when the IFC campaign spent \$25,570 on "Research Consulting" with the Feldman Group. The IFG campaign

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- failed to timely file declaration of candidacy and financial disclosure reports required under RCW 42.17A.205. These expenditures may have included funds from the IFC campaign account that would be illegal under RCW 42.17A.405(12) law and the IFC campaign had no consent from its donors to use the funds in furtherance of another office, a violation of RCW 42.17A.490(2).
4. IFC spent \$34,609 with New Partners Consulting on April 7, 2011 apparently in furtherance of the IFG campaign and again failed to file the reports required by RCW 42.17A.205. This expenditure may have included funds from the IFC campaign account that would be illegal under RCW 42.17A.405(12) and the IFC campaign had no consent from its donors to use the funds in furtherance of another office, a violation of RCW 42.17A.490(2).

This complaint is a "45 day Letter" being concurrently filed with the Attorney General and King County Prosecutor pursuant to RCW 42.17A.765(4).