



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 42.17A

Tacomans for Integrity in
Government

Respondent.

PDC Case No. 13-012

Report of Investigation

I.

Background

- 1.1 On June 25, 2012, Citizens for Integrity in Government (CIG) filed a Political Committee Registration report (C-1pc report) registering as a first-time political committee and selecting the full reporting option. The C-1pc disclosed CIG was organized as an “Other Political Committee” listing Kenneth Miller as Chair, Lonnie Johns-Brown as Vice-Chair, and John McCluskey as Treasurer (**Exhibit 1**).
- 1.2 After CIG filed its C-1pc, PDC staff notified the committee that it would need to change its name because the name Citizens for Integrity in Government was already in use by a local Olympia political committee.
- 1.3 On July 12, 2012, CIG officials filed a C-1pc for Tacomans for Integrity in Government (TIG), and checked the box for a new registration rather than the box for amending an existing registration. The C-1pc filed by TIG disclosed the same information as the C-1pc previously filed by CIG. For example, it listed the same committee officers and treasurer, the same bank and branch, and the same physical address and email contact information for reviewing campaign books during the records inspection period eight days before the election (**Exhibit 2**).
- 1.4 On August 3, 2012, TIG filed an amended C-1pc report, listing Nic Van Putten as the new committee treasurer (**Exhibit 3**).
- 1.5 Between July 30 and August 3, 2012, three complaints against TIG were filed with the PDC alleging several violations of the political committee registration and reporting requirements.

II. **Allegations**

- 2.1 On July 30, 2012, the PDC received a complaint from Virginia Douglas (Douglas complaint) alleging that TIG had violated RCW 42.17A.305 by failing to timely file an Electioneering Communication report (C-6 report) within 24 hours of distributing an electioneering communication about Jack Connelly, a candidate for the Washington State Senate in the 27th legislative District (**Exhibit 4**).
- 2.2 On August 1, 2012, the PDC received a complaint from James L. King, Jr. (First King Complaint) alleging that TIG violated RCW 42.17A as follows (**Exhibit 5**):
- a. RCW 42.17A.205 by failing to include a valid address for the committee on its C-1pc report;
 - b. RCW 42.17A.205 by failing to include the name, office sought, and party affiliation of the candidate the committee was opposing;
 - c. RCW 42.17A.220 by failing to deposit contributions within five business days of receipt;
 - d. RCW 42.17A.235 by failing to file Campaign Summary Receipts & Expenditures reports (C-4 reports) due 21 and 7 days before the August 7, 2012 Primary election;
 - e. RCW 42.17A.255 by failing to file an Independent Expenditures report (C-6 report) on the 21st day and the 7th day preceding the August 7, 2012 Primary election; and
 - f. RCW 42.17A.260 by failing to file an Independent Expenditure Ads report (C-6 report) for political advertising with a fair market value of \$1,000 or more, presented to the public within 21 days of an election.
- 2.3 On August 3, 2012, the PDC received an additional complaint from James L. King, Jr. (Second King Complaint) alleging that TIG violated RCW 42.17A.260 by failing to file a C-6 report for political advertising with a fair market value of \$1,000 or more, presented to the public within 21 days of an election (**Exhibit 6**).

III. **Findings**

- 3.1 Political committees selecting the Full Reporting option and participating in the August 7, 2012 Primary election were required to file Cash Receipts Monetary Contributions reports (C-3 reports) weekly beginning June 1, 2012, and C-4 reports as follows:
- Monthly C-4 reports by the 10th of every month if the committee received \$200 in contributions or made \$200 in expenditures since the last C-4 report was filed;

- A 21-day Pre-Primary election C-4 report on July 17, 2012, covering the period June 1 through July 16, 2012;
- A 7-day Pre-Primary election C-4 report on July 31, 2012, covering the period July 17 through July 30, 2012; and
- A Post-Primary election C-4 report by September 10, 2012, covering the period July 31 through August 31, 2012.

Response from Kenneth Miller, TIG Chair

3.2 On July 31, 2012, Kenneth Miller, TIG Chair, submitted an email response to the Douglas complaint addressing TIG's alleged lack of compliance with the PDC reporting requirements related to making independent expenditures (**Exhibit 7**). Mr. Miller acknowledged that TIG failed to file contribution and expenditure reports for activities undertaken by the committee in July of 2012.

3.3 Mr. Miller stated that rather than sending each monetary contribution check to TIG's treasurer when it was received, he mistakenly held on to the checks until he had accumulated several monetary contributions, and then he mailed the checks to the committee treasurer. He said this process resulted in additional delays in filing TIG's reports. He said his only defense is that the committee members were inexperienced and "amateurs." He went on to state the following:

"In no way did we intend to obscure the names of our contributors, the amounts of their contributions or the uses to which we put their funds. You'll note we listed top contributors on our mailing, in an effort to be transparent."

3.4 Mr. Miller stated that by listing on the advertisements the names of the contributors who donated funds to pay for the electioneering communication, he felt that TIG "...complied with possibly the single most important IE rule: disclosing contributors." He admitted that TIG made mistakes in filing the committee reports, and took responsibility himself when he stated the following:

"... after reading the "Resources for Filers" section of the PDC website, I came away with the impression we had two weeks from the time we first spent money before we were required to report. Obviously this is a badly mangled recollection of the rules; but it's what I thought was correct..."

Allegation #1: TIG failed to timely file C-6 reports (Douglas and King Complaints)

3.5 RCW 42.17A.305 requires all electioneering communications [defined in RCW 42.17A.005(19)(a)] valued at \$1,000 or more (per candidate supported or opposed) and appearing within 60 days of an election to be reported within 24 hours on a report of Independent Expenditures (C-6 report). The C-6 report is required to be filed on the first working day after the date the electioneering communication is either broadcast, transmitted, mailed, erected, distributed, or otherwise published.

- 3.6 RCW 42.17A.255 requires a person making an independent expenditure with a value of \$100 or more to file with the commission a report of independent expenditures within five days of making the reportable expenditure.
- 3.7 However, if the independent expenditure is a political advertisement made within 21 days of an election, and has a fair market value of \$1,000 or more, a C-6 report must be filed within 24 hours of presenting the political advertisement to the public (RCW 42.17A.260). While the Douglas complaint alleged that TIG violated RCW 42.17A.255, the independent expenditures undertaken by TIG were required to be reported within 24 hours, in accordance with RCW 42.17A.260. Thus, RCW 42.17A.255 was not applicable in this instance.
- 3.8 On August 3, 2012, TIG filed a C-6 report disclosing that the committee made a \$7,385 expenditure to Capital City Press on July 17, 2012 to produce and distribute an electioneering communication mailing in opposition to John Connelly, a candidate for State Senator in the 27th Legislative District (**Exhibit 8**). The C-6 disclosed that the mailing was presented to the public on July 20, 2012, and that the following four contributors provided the funds to pay for the mailing: (1) Ken Miller: \$5,260 contribution received on July 12th; (2) Sharon Coleman: \$1,000 contribution received on July 12th; (3) Marshall McClintock: \$1,000 contribution received on July 19th; and (4) a fourth individual was listed who contributed \$125, which is below the \$250 disclosure threshold.
- 3.9 Because the mailer was presented to the public within 21 days of an election, TIG was required to file a C-6 report within 24 hours of the mailer being presented to the public, or not later than July 21, 2012 (RCW 42.17A.260). TIG filed the C-6 report 12 days late and four days before the August 7, 2012 Primary election.
- 3.10 On August 3, 2012, TIG filed a C-6 report disclosing that the committee made a \$7,379 expenditure to Capital City Press on July 25, 2012 to produce and distribute an electioneering communication mailing in opposition to John Connelly. The C-6 report also disclosed a \$2,000 expenditure by TIG to John Engber and Associates on July 27, 2012 for consulting services (**Exhibit 9**).
- 3.11 The C-6 report disclosed that the mailing was presented to the public on August 1, 2012, and that the following contributors provided the funds to pay for the mailing: (1) Ken Miller: \$8,304 contribution received on July 12th; (2) Phyllis Izant: \$500 contribution received on July 19th; and (3) four additional individuals who made contributions of less than \$250 (the threshold for itemization): one \$200 contribution and three \$125 contributions.
- 3.12 Because the mailer was presented to the public within 21 days of an election, TIG was required to file a C-6 report within 24 hours of the mailer being presented to the public or not later than August 2, 2012. TIG filed the C-6 report one day late.

Allegation #2: TIG failed to timely deposit monetary contributions (James L. King, Jr.)

- 3.13 RCW 42.17A.220 requires a political committee's treasurer or deputy treasurer to deposit all monetary contributions in a campaign bank account within five business days of receipt of the contribution.
- 3.14 On August 3, 2012, TIG filed a C-3 report disclosing that the committee received eight contributions during the period July 12 through July 30, 2012, totaling \$16,764. The C-3 report disclosed that all eight contributions were deposited on July 30, 2012, and that TIG failed to timely deposit five of the eight contributions, as detailed in the chart below:

| Date Received | Contributor Name | Amount | Date required To be deposit | Date Deposited | Days Late |
|---------------|-------------------------------------------|----------|-----------------------------|----------------|-----------|
| 7/12/2012 | Ken Miller (reported as a committee loan) | \$13,564 | 7/19/2012 | 7/30/2012 | 13 |
| 7/12/2012 | Sharon Coleman | \$ 1,000 | 7/19/2012 | 7/30/2012 | 13 |
| 7/17/2012 | Kim Burkes | \$ 200 | 7/24/2012 | 7/30/2012 | 6 |
| 7/19/2012 | Marshall McClintock | \$ 1,000 | 7/26/2012 | 7/30/2012 | 4 |
| 7/19/2012 | Izant Phyllis | \$ 500 | 7/26/2012 | 7/30/2012 | 4 |

- 3.15 On August 3, 2012, TIG filed a C-3 report disclosing that it received three contributions totaling \$500 on July 30, 2012, that included: (1) A \$250 contribution from Richard Bartolatz; (2) A \$125 contribution from Michael Jarvis; and (3) A \$125 contribution from Craig Larson. All three contributions were timely deposited on July 30, 2012. TIG also timely deposited five additional monetary contributions that were received between August 11 and November 20, 2012.

Allegation #3: TIG failed to timely file C-4 reports (First King Complaint)

21-day Pre-Primary election C-4 report:

- 3.16 TIG failed to file the required 21-day Pre-Primary election C-4 report due July 17, 2012 covering the period June 25 through July 16, 2012¹. Even though TIG made no committee deposits or expenditures during the reporting period, the missing report should have disclosed a \$13,564 contribution loan from Ken Miller, received July 12, 2012. To date, TIG has not filed the 21-day Pre-Primary C-4 report.

7-day Pre-Primary election C-4 report:

- 3.17 On August 3, 2012, TIG filed its initial C-4 report covering the period July 17 through July 30, 2012 disclosing that it had received \$16,764 in monetary contributions and made \$16,764 in expenditures during the reporting period (Exhibit 10). The C-4 report included the \$13,564 loan contribution referenced above, received from Ken Miller on July 20, 2012. TIG filed its 7-day Pre-Primary C-4 report three days late and four days before the 2012 Primary election.

¹ The reporting period for the 21-day Pre-Primary C-4 report was June 1 through July 16, 2012. However, the first reportable activity occurred on June 25, 2012.

- 3.18 The 7-day pre-primary C-4 report disclosed that TIG made four expenditures to Capital City Press totaling \$14,764 for two electioneering communication mailings undertaken as follows: (1) A \$3,179 expenditure on July 17, 2012; (2) A \$4,206 expenditure on July 20, 2012; (3) A \$3,179 expenditure on July 25, 2012; and (4) A \$4,200 expenditure on July 30, 2012.
- 3.19 The C-4 report also disclosed a \$2,000 expenditure to John Engber and Associates on July 27, 2012 for consulting services. TIG disclosed \$13,564 in liabilities on line 19 of the C-4 report for the outstanding loan owed to Mr. Miller.

Timely filed C-4 reports by TIG:

- 3.20 Post-Primary election C-4 report: On September 10, 2012, TIG timely filed its 2012 Post-Primary election C-4 report covering the period July 31 through August 31, 2012. The C-4 report disclosed a \$350 contribution received and two expenditures totaling \$2,016, including a \$2,000 expenditure to John Engber and Associates on August 25, 2012 for consulting services. TIG again disclosed \$13,564 in liabilities on line 19 of the C-4 report for the outstanding loan owed to Mr. Miller.
- 3.21 21-day Pre-general election C-4 report: On October 16, 2012, TIG timely filed its 21-day Pre-general election C-4 report, covering the period September 1 through October 15, 2012. The C-4 report disclosed two contributions totaling \$550 received and two expenditures totaling \$516, including a \$500 expenditure to Progressive Strategies NW on September 7, 2012, for "treasury reporting." TIG again disclosed \$13,564 in liabilities on line 19 of the C-4 report for the outstanding loan owed to Mr. Miller.
- 3.22 Final C-4 report: On December 10, 2012, TIG timely filed a "Final" C-4 report covering the period October 30 through November 30, 2012. The C-4 report disclosed the receipt of an additional \$3,218 committee loan from Mr. Miller on November 20, 2012, and three expenditures totaling \$1,602, including: (1) A \$997 loan repayment to Mr. Miller; and (2) A \$500 expenditure to Progressive Strategies NW on November 14, 2012, for "treasury reporting."
- 3.23 The final C-4 report disclosed that on November 30, 2012, TIG forgave the two outstanding committee loans owed to Mr. Miller for \$13,564 and \$2,221.

Allegation #4: TIG failed to accurately complete the C1-pc report (First King Complaint)

- 3.24 Staff reviewed the C-1pc reports filed by TIG, and the C-1pc filed for CIG-Tacoma and found that the C-1pc reports filed by CIG and TIG failed to disclose the name, office sought, and party preference of the candidate the committee would be supporting or opposing. In all other respects, the C-1pc appeared to be complete and accurate.

Additional Findings re: TIG's C-3 reports (not alleged by complainants)

- 3.25 On August 3, 2012, TIG filed its initial C-3 report, disclosing \$16,764 in contributions received from July 12 through July 30, 2012 (Exhibit 11). Based on the dates of the activity disclosed in the report, it appears the contributions were required to be reported on three separate C-3 reports, on the following dates:

- July 23, 2012: On July 12, 2012, TIG received two contributions totaling \$14,564 that included: (1) A \$13,564 contribution loan from Kenneth Miller, Chair of TIG; and (2) A \$1,000 contribution from Sharon Coleman. The two contributions were required to be deposited by July 19, 2012, and a C-3 report was required to be filed on July 23, 2012. The contributions were disclosed 11 days late, and four days before the August 7, 2012 Primary election.
 - July 30, 2012: From July 17 to July 19, 2012, TIG received three contributions totaling \$1,700 that included: (1) A \$1,000 contribution from Marshall Clintock on July 19, 2012; (2) A \$500 contribution from Phyllis Izant on July 19, 2012; and (3) A \$200 contribution from Kim Burkes on July 17, 2012. The three contributions were required to be deposited by July 23, 2012, and a C-3 report was required to be filed on July 30, 2012. The contributions were disclosed four days late.
 - August 6, 2012: On July 30, 2012, TIG received three contributions totaling \$500. On August 3, 2012, TIG timely filed a C-3 report disclosing the contributions.
- 3.26 In addition to the August 6, 2012 C-3 report listed above, TIG timely filed five C-3 reports after the August 7, 2012 Primary election, disclosing the receipt of \$4,118 in new contributions.

IV. **Scope**

- 4.1 PDC staff reviewed the complaints filed against TIG by Virginia Douglas and James L. King, Jr.
- 4.2 PDC staff reviewed the C-1pc reports filed by CIG and TIG, and the C-3, C-4, and C-6 reports filed by TIG during the 2012 election cycle.
- 4.3 PDC staff reviewed a July 31, 2012 email from Ken Miller, Chair of TIG (prior to the date a formal investigation was started).

V. **Law**

- 5.1 **RCW 42.17A.205** requires every political committee to 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. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign. The statement of organization is required to include, but is not limited to, the name and address of the committee.

- 5.2 **RCW 42.17A.220** requires all monetary contributions received by a candidate or political committee to be deposited by the treasurer or deputy treasurer in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.
- 5.3 **RCW 42.17A.235 and .240** require 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. Contributions are reported weekly during this same time period, and must be disclosed on Monday for contributions deposited during the previous seven days.
- 5.4 **RCW 42.17A.255** states in part that within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission an initial report of all independent expenditures made during the campaign prior to and including such date.
- 5.5 **RCW 42.17A.260** requires the sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more to deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.
- 5.6 **RCW 42.17A.305** requires the sponsor of political advertising undertaken as an electioneering communication valued at more than one thousand dollars, within sixty days of an election, to file a C-6 report on the first working day after the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, or otherwise published.

Respectfully submitted this 10th day of May, 2013.



Kurt Young
PDC Compliance Officer

List of Exhibits

- Exhibit 1** Citizens for Integrity in Government June 25, 2012 Committee Registration
- Exhibit 2** Tacomans for Integrity in Government July 12, 2012 Committee Registration
- Exhibit 3** Tacomans for Integrity in Government August 3, 2012 Committee Registration
- Exhibit 4** Virginia Douglas complaint received July 30, 2012
- Exhibit 5** James L. King, Jr. complaint received August 1, 2012
- Exhibit 6** James L. King, Jr. complaint received August 3, 2012
- Exhibit 7** July 31, 2012, email submitted by Kenneth Miller, Chair of TIG, addressing the lack of compliance with the PDC reporting requirements.
- Exhibit 8** C-6 report filed by TIG on August 3, 2012, disclosing July 20, 2012, Electioneering Communication.
- Exhibit 9** C-6 report filed by TIG on August 3, 2012, disclosing August 1, 2012, Electioneering Communication.
- Exhibit 10** TIG initial C-4 report filed on August 3, 2012, and covering the period July 17 through July 30, 2012.
- Exhibit 11** Initial C-3 report filed by TIG on August 3, 2012.