



**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: pdcc@pdc.wa.gov • Website: www.pdc.wa.gov

September 7, 2018

Delivered electronically to "kathryn.leathers@gov.wa.gov"

Subject: PDC Case 37105

Dear Kathryn Leathers:

Below is a copy of an electronic letter sent to Maxford Nelsen concerning a complaint filed with the Public Disclosure Commission (PDC).

As noted below to Maxford Nelsen, the PDC will not be conducting a more formal investigation into these allegations or taking further enforcement action in this matter.

If you have questions, you may contact Phil Stutzman at 1-360-664-8853 toll-free at 1-877-601-2828, or by e-mail at phil.stutzman@pdc.wa.gov.

Sincerely,

/s_____
Phil Stutzman
Sr. Compliance Officer

Endorsed by,

/s_____
Barbara Sandahl
Deputy Director
For Peter Lavalley
Executive Director



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September 7, 2018

Delivered electronically to “mnelsen@freedomfoundation.com”

Subject: Complaint regarding Jay Inslee, Governor, PDC Case 37105 and Department of Social and Health Services, PDC Case 37205

Dear Maxford Nelsen:

The Public Disclosure Commission (PDC) has completed its initial review of the complaint you filed on June 18, 2018. Your complaint alleged that Jay Inslee, as Governor, and the Department of Social and Health Services (DSHS or Department), as employer, may have violated RCW 42.17A.495(3) by withholding financial contributions to political committees from the wage payments made to individual provider home care aides (Individual Providers) without first obtaining the written authorization of the Individual Providers.

PDC staff reviewed your allegations, and as a result of staff's initial review, we found the following:

- As Governor of the State of Washington, Jay Inslee is considered the “public employer” of Individual Providers solely for the purpose of collective bargaining. The Governor does not actually employ Individual Providers nor is he responsible for the disbursement of Individual Providers' wages.
- DSHS is the payer of wages to Individual Providers who contract with the Department. According to DSHS, the Governor and SEIU 775 have entered into a collective bargaining agreement that contains a union security provision under RCW 41.56.113(1)(b)(i), under which funds are withheld as union dues which requires authorization of the Individual Providers for that purpose.
- RCW 42.17A.495(3) states, in part, “no employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee.”

- WAC 390-17-100(1)(a) clarifies that RCW 42.17A.495(3) applies when the withheld funds are for the purpose of making contributions to any political committee required to report pursuant to RCW 42.17A.205, .215, .225, .235, .or .240, and WAC 390-17-100(1)(b) clarifies that RCW 42.17A.495(3) applies when the withheld funds are specifically designated by the contributing employee for political contributions to candidates for state or local office. The Washington State Supreme Court affirmed this construction in *State ex rel. Evergreen Freedom Foundation v. Washington Education Association* (2000). The Supreme Court found WAC 390-17-100 properly clarifies that an annual written authorization is required only for funds withheld or diverted from an employee's wages for contributions to a political committee. Here, the funds were withheld for SEIU 775, which is not a registered political committee. Consequently, no authorization was necessary.
- The allegations in the Freedom Foundation's complaint against DSHS were previously rejected in 2017 by the Thurston County Superior Court in *Freedom Foundation v. Jay Inslee, et. al.* No evidence was found that the allegations raised in Freedom Foundation's June 18, 2018 complaint to the PDC are materially different from those raised in that lawsuit.

Based on these initial findings, staff has determined that in this instance, there does not appear to be evidence supporting a finding of a violation warranting further investigation concerning the allegation that Governor Jay Inslee and DSHS have violated RCW 42.17A.495(3) by withholding financial contributions to political committees from the wage payments made to Individual Providers without first obtaining the written authorization of the Individual Providers.

The PDC has closed the matter, and will not be conducting a more formal investigation into your complaint or pursuing further enforcement action in this case.

If you have questions, you may contact Phil Stutzman at 1-360-664-8853, toll-free at 1-877-601-2828, or by e-mail at phil.stutzman@pdc.wa.gov.

Sincerely,

/s_____

Phil Stutzman

Sr. Compliance Officer

Endorsed by,

/s_____

Barbara Sandahl

Deputy Director

For Peter Lavallee

Executive Director

cc: Governor Jay Inslee and the Department of Social and Health Services