

January 22, 2018

Tony Perkins  
Office of Attorney General Bob Ferguson  
1125 Washington St SE  
Olympia, WA 98504



RE: Alleged violations of Chapter 42.17A RCW by Fuse Votes and Fuse Washington

Dear Mr. Perkins,

Thank you for the opportunity to respond to these allegations. We're proud that Washington state has some of the most robust campaign finance, transparency, and disclosure rules in the country and we have long advocated for laws that strengthen the public's trust in our elections and democracy.

Unfortunately, the right-wing activist Glen Morgan is engaged in a politically motivated campaign to weaponize our state's campaign finance laws against progressive and Democratic organizations. Morgan has spent years wasting the time and resources of our already overburdened Public Disclosure Commission and Attorney General's office with baseless claims and partisan attacks. Moreover, Morgan seems to have little knowledge of actual PDC rules or is willfully misrepresenting them in a failed attempt to concoct violations where none exist.

Fuse staff and contractors spend hundreds of hours each year ensuring full and complete compliance with state and local laws. In addition, we are in near constant communication with PDC staff to answer questions and identify the best way to comply with the letter and spirit of the law when complexities arise.

The violations alleged by Mr. Morgan are either completely without merit or involve *de minimis* and technical violations that do not warrant judicial enforcement. As discussed in more detail below, we believe the Attorney General should dismiss this complaint or refer this matter to the PDC if any enforcement is necessary.

We wish to address Morgan's frivolous allegations in more detail here:

**1. Allegation: Failure to accurately, timely file C3 and C4 reports.**

Morgan makes dozens of allegations that C3 and C4 reports were not filed in a timely fashion. In fact, the original reports were filed on time and we later made modest and appropriate amendments, consistent with both the Fair Practices Campaign Act and PDC guidance. Morgan seeks to conflate an amendment with a late filing, which has no basis in law or reason.

In a separate instance, Fuse Votes filed its 2017 primary 21-day C4 report three days late because the PDC incorrectly listed the primary election date as August 8 on compliance materials. The incorrect primary date in their filing system in turn generated an incorrect due date for the 21 day report. As such, Fuse filed this C4 on 7/14 because the PDC listed 7/18 as the due date on published documents as well as in the ORCA filing software itself.

**2. Allegation: Failure to report debt**

Morgan offers no evidence to support his specious claim because none exists.

Fuse Votes pays few vendors other than Fuse Washington, which provides staff time to Fuse Votes in exchange for monetary compensation, an expenditure that is regularly and timely reported. Fuse Votes generally pays for the goods and services that it acquires upon delivery or production. We do not believe that it has ever, within the time period relevant to this complaint, failed to pay for goods or services on the date payment was requested or due; thus, Fuse Votes has had no debt to report and therefore obviously did not fail to report such. *See, e.g., Caplan v. Sullivan*, 37 Wn. App. 289, 292–93, 679 P.2d 949 (1984) (“debt” refers to an obligation arising from contract or a sum of money owed which is fixed and certain).

**3. Allegation: Failure to properly break down, describe expenses. Failure to report in kind contributions as part of C4**

Fuse Votes carefully details its ~~the~~ expenses and in-kind contributions. In some cases, we run into the technical limitations of the PDC’s ORCA software. For instance, per PDC instruction, Fuse Votes regularly emails the PDC a detailed list of any in-kind expenses we make during the c4 reporting period because PDC software does not have an option to report in-kind expenses made, only contributions received. In other cases, there is not enough space provided by the PDC software to fully document the nature of each and every expense.

**4. Allegation: Failure to list committee officers**

Fuse Votes lists Aaron Ostrom and Erin Louis on our C1PC because these are the only officers of the PAC. There are no other people who “alone or in conjunction with other persons” make, direct, or authorize contribution, expenditure, strategic or policy decisions on behalf of Fuse Votes. There is neither any reason nor any requirement for Fuse Votes to list the Board members of Fuse Washington on its registration form.

**5. Allegation: Illegal unauthorized expenditure of funds by an individual not listed as an officer on form C1PC**

As just noted, no one not listed on the C1PC makes any decisions about Fuse Votes expenditures. I am the only person who signs checks for the PAC and Treasurer Erin Louis is the only person who initiates electronic transfers, which she does only after receiving my authorization. Morgan offers no evidence to back up his baseless assertion.

**6. Allegation: Failure to timely update C1PC**

The Fuse Votes C1PC is accurate and up to date. Morgan offers no specific allegations nor evidence for his claim.

**7. Allegation: Failure to maintain records for 5 years**

Morgan seems to be basing this allegation purely on “belief” or hope of an infraction. Fuse Votes maintains records for at least 5 years, as required by law.

**8. Allegation: Failure to list top 5 contributors**

Morgan fails to offer a single example of when he believes Fuse Votes failed to list its top 5 contributors in a political advertisement, as required by RCW 42.17A.320. No such example exists. Fuse Votes fully complies with PDC laws with regard to disclosing our top 5 contributors.

## **9. Allegation: Failure to include sponsor ID**

Again, Morgan offers neither an example nor evidence to back up his claim. It is worth noting that the PDC does have an exemption for *“Small online ads with limited characters: Display sponsor ID in an automatic display such as a mouse tip/rollover or nonblockable pop-up that remains visible for at least 4 seconds OR on a webpage that is conspicuously linked to the small ad and reached with one mouse click.”* <https://www.pdc.wa.gov/learn/publications/candidate-instructions/political-advertising/sponsor-identification>. See also WAC 390-18-030(3). Some of Fuse Votes’ Facebook ads fall into this category and include full disclosure on the webpage linked directly from the ad.

## **10. Allegation: Failure to timely file c6 forms for independent expenditures**

Morgan lists a series of supposedly late filings that were, in fact, submitted properly pursuant to PDC direction and recommendations.

For example, some reports that were due on a Saturday or Sunday were filed the following Monday. This was done based on guidance provided by PDC staff and is clearly compliant with the law.

Fuse Votes has also worked closely with PDC staff over the years to establish a process for reporting expenditures for the Progressive Voters Guide that is both accurate and practical. This spending is unique because it happens largely in the final hours of the election, is unpredictable because it’s based on clicks, rather than a pre-set ad buy, and must be allocated across hundreds of candidates and ballot measures. Based on PDC staff recommendations, Fuse Votes reports the breakdown of the ad expenditures by candidate and committee on the first report after the election, when it is first feasible to determine the allocation. See also WAC 390-16-063(1).

In sum, Fuse Votes goes to great lengths to comply with all campaign finance laws and consults regularly with the PDC to ensure full compliance. The violations alleged by Mr. Morgan are either unmeritorious or involve *de minimis* and technical violations that are best handled by the PDC and clearly do not merit judicial enforcement.

Please do not hesitate to ask if you have additional questions.

Sincerely,

Aaron Ostrom  
Executive Director, Fuse Washington  
Officer, Fuse Votes

cc Fox Blackhorn, Washington State Public Disclosure Commission