

To: Tony Perkins, Investigator, Campaign Finance Unit, WA AGO
Connie Chapman, Legal Assistant, Campaign Finance Unit, WA AGO
From: Rep. Gerry Pollet
Date: Feb. 13, 2018
RE: Formal Complaint filed by Glen Morgan against Rep. Gerry Pollet

Mr. Morgan has accused me of “habitually” committing frequent violations of the PDC rules and codes, while he also acknowledges I am not likely to have committed these ‘violations’ maliciously, and notes that I have been a “tireless champion” for openness and disclosure. In that spirit, I note that there is nothing to indicate “habitual” or deliberate violations. Rather, many of the allegations of violations are made erroneously. I acknowledge that a small number of reports were filed late due to a simple misunderstanding of the rule for filing when there are no expenses in a report period, or not detailing the specific breakout of reimbursement purchases for volunteer bought food or party supplies. These have been corrected.

We have undertaken a detailed response to each allegation utilizing Mr. Morgan’s spreadsheet format in order for you and he to easily track our responses. We have prepared this cover memo to discuss overarching issues and issues by the categorization utilized by Mr. Morgan, e.g., failure to report debt.

I hope that you and Mr. Morgan will see in our detailed response notes that Mr. Morgan has simply made some erroneous allegations, and that of these allegations should have been more carefully vetted, e.g.:

- (a) reporting twice about reports which were amended;
- (b) twice complaining that debts were not reported on 21 day pre-primary reports when another one of Mr. Morgan’s complaint spreadsheets shows the date incurred as *after* the due date of the 21 day pre-primary report; and,
- (c) miscalculating when reports of debt are due, wrongly alleging that debts should have been reported on the report filed during the month when the debt first became due (although the report is for the prior month);
- (d) erroneously complaining that an advertisement in a publication was a walking piece and did not have sub vendors reported;
- (e) alleging that sub vendors were not reported for a purchase made at Office Depot.

We believe that Mr. Morgan is simply wrong about the rules in some instances. PDC forms, in some cases, show that the PDC has not expected candidates to make the disclosures which Mr. Morgan complains of.

Responding to numerous allegations that are made without the attention which is normally expected for a legal complaint creates a burden for volunteers and candidates, and likely leads some respondents to not fully respond or realize that their allegations may be contradicted by details in the numerous reports which were filed or even contradicted in details of other allegations made by Mr. Morgan.

1. Improper notice: complaint failed to properly identify the candidate or committee (“Garry Pollet”)
2. RE: Exhibit B, Reporting Debt:
 - a. A C-4 due, for example, on May 10 would cover any debt incurred and owing for the reporting period, which is the month of April.

State law makes debt reportable 30 days after final incurred debt, per Morgan's own complaint.

A monthly treasurer's debt only becomes due AFTER the end of the month because services are being rendered until midnight of the month, e.g., debt becomes due on May 1 for April.

The May C-4 is for the April reporting period. Thus, the debt would be timely reported on the June C-4. This is what is reflected on each of Glen Morgan's allegations regarding debt reporting for Treasurer services. Additionally, many treasurers bill clients quarterly.

Furthermore, debt over \$50 is required to be reported 30 days after due, which is June 1. **The campaign reported April Treasurer fees owing on the June C-4, which was timely reported.**

The statute, cited below, clearly states that the reporting requirement is for debt, obligation, etc. over \$250 or such debts "outstanding for over thirty days." RCW 42.17A.240.

Debts for work performed in a month cannot be due until after the month ends. That was when the debt becomes due, and, if billed, would be when it would be billed for. Thus, treasurer's fees for April are not due or become a debt until May 1. That would be reported on the June C-4, not the May C-4.

Further, in actual practice, a treasurer's work for a month is not done until the report is filed in the following month. Thus, Mr. Morgan simply did not understand what normal billing cycles would be for treasurer's services.

Thus, allegations that debt in the form of Treasurer's fees were not properly reported per allegations #1, 2, 5, 10, 11 on Appendix B are all incorrect.

The same logic and legal definition of when a debt is incurred applies to other allegations.

RCW 42.17A.240: (8) The name and address of any person and the amount owed for any debt, obligation, note, unpaid loan, or other liability in the amount of more than two hundred fifty dollars or in the amount of more than fifty dollars that has been outstanding for over thirty days;

- b. Debts are never incurred unless there is an agreement and certainty. Provision of a service which may not be charged for at all, or for which the amount is entirely subject to negotiation is NOT a debt, until there is an agreement to pay. Frequently, work by consultants incur no debt whatsoever, because they are later agreed to have been part of already compensated services or will have fees subject to negotiation. Until there is an invoice, there is no incurrence of a debt. If a candidate objects to an invoice, there also may not be a debt. But, **it is reasonable that the date the debt incurs in such transactions is the date of the invoice** – absent objection.

Morgan's complaint fails to recognize this basic element of contract law. A debt cannot be incurred without agreement. Normal purchases are different than consultant services for which bundling of costs or having the service provided without specific charge is commonplace (as part of services for which a retainer has been paid or for which the consultant will be receiving a commission if the work relates to placing of advertising or printing).

This principle applies to all allegations in Appendix B for consultant services or treasurer fees.

3. Re: Exhibit A, timeliness of reports

- a. Debts are not required to be reported if there were no expenditures unless the debt is an expenditure: 42.17A.235(2)(c) "On the tenth day of each month in which no other reports are required to be filed under this section only if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars."

Thus, Mr. Morgan's allegations that debt reporting was not timely were in error for the months in which there was no expenditure over \$200 or received contributions.

4. Re: Exhibit C: Failure to Breakdown and report expenditures:

- a. Alleged Violation 1 for 46th Democrats' walk piece: This is for an ad, not for printing walk pieces by the candidate. It is impossible for a candidate to know the number of pieces that an advertisement placer will produce. The law does not require reporting of the number of pieces that the advertisement will appear in when the entity does not even know in advance how many units it will be ordering, nor who the subvendor is.
- b. Item 4: Order was with Office Depot. There is no subvendor.
- c. Winpower Strategies, Items 5 and 6: Morgan's complaint would create a new obligation of candidates to know in advance who a consultant may use for printing or placement of ads (often done with a third party). If the invoice does not disclose who the subvendor is, the campaign should not be held responsible for reporting a subvendor. The receipts are always available for inspection, so the public is not prevented from learning of this. The important element for disclosure is the disclosure of the printing job, which was properly disclosed.
- d. Items 2 and 3 relate to a volunteer being reimbursed for incidental hospitality expenses. The C-4 anticipates that the name and information of the person being reimbursed will be reported. The fact that the C-4 does not even provide space for such detail as each store at which the volunteer buys food or paper plates, etc. ... shows that this has never been expected to be reported. It would burden campaigns and volunteers for campaigns to have to report each and every store at which snacks or food was purchased. Again, scrutiny is preserved because the campaign must preserve the receipts for inspection. See screen shots of Orca entries in these two cases.