



Smith & Dietrich Law Offices

South Sound Community Lawyers

Smith & Dietrich
Law Offices PLLC

September 25, 2017

Via Electronic Delivery

Members
Walter Smith
Steve Dietrich

Micaiah Ragins, Compliance Coordinator
Public Disclosure Commission

Address
400 Union Ave. SE
Suite 200
Olympia, WA 98501

711 Capitol Way, Suite 206
Olympia, WA 98504-0908
pdcc@pdcc.wa.gov

Telephone
(360) 918-7230

Re: *Response of Laurie Dolan and Friends of Laurie Dolan to Public Disclosure
Commission Complaint No. 25123*

Dear Micaiah,

I write to respond on behalf of my clients, Laurie Dolan and Friends of Laurie Dolan, to the complaint submitted to the Public Disclosure Commission by Glen Morgan on or around September 17, 2017, which is assigned ticket number 25123.

Allegations concerning late reporting

My clients admit that, in a small number of instances, they have filed or amended certain reports after the applicable deadline for filing a complete report. In some cases, Mr. Morgan is insisting that the mere act of amending a report is a violation of the law—which is nonsense at best, as the deposits and expenses were originally reported on C-3s and C-4s that were timely filed. To penalize campaigns for correcting minor, unintentional errors in their filings is contrary to the purpose of the campaign finance law. At any rate, the scope of my clients' late reporting is so narrow, and the information reported late is so minor in significance, I hope you will agree that scheduling this matter for a brief adjudicative hearing would be the most appropriate resolution of this matter.

For example, the complaint mentions a form C-4 amended on December 23, 2016 (for the March 2016 reporting period). This amendment corrects the amount of expenditures to *lower* the reported expenditures for March 2016 from what was originally, timely reported. No expenditure is untimely reported for the first time in this amended document. The discrepancy is because in the original form C-4, the campaign reported an in-kind contribution from the candidate's personal funds to cover the cost of attending a fundraising dinner for the Thurston County Democratic Central Committee; the campaign later backed out this transaction as it was not truly campaign related, and was only reported in an abundance of caution. As a result, no violation exists.

The complaint cites the amended form C-4 filed December 3, 2016 (for the September 2016 / 3-week pre-general reporting period). This amendment disclosed \$1,097.04 in

expenditures that were due to be reported by October 18. The discrepancy is due to one payment to a consultant which was unintentionally omitted from the original filing, and small in-kind contributions by Ms. Dolan to her campaign totaling \$97.04 which were unintentionally identified to the treasurer after the report was due.

My clients admit that they filed the remaining seven C-3 reports between one and seven days late as alleged, and that they filed a single C-4 report 21 days late in October 2015. These allegations concern brief delays in filing, and one form C-4 due and filed well before the November 2016 general election.

Allegations concerning reporting of orders placed, debts, and obligations

By law, a campaign must report “[t]he 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.” RCW 42.17A.240(8).

The complaint contains a spreadsheet of various expenditures which it flatly asserts should have been reported during an earlier period or periods as orders placed, debts, or obligations. These allegations are unsubstantiated; there is no suggestion as to any reason why my clients knew or should have known the amount that these expenditures would have totaled in time for the prior reporting period, which was simply not the case. These expenditures were otherwise timely reported as soon as the amounts were known. This allegation is without merit.

Nevertheless, in the spirit of full disclosure and total compliance, my clients have made a good faith estimate as to the dates when certain orders were placed and will be filing Schedules B accordingly.

Allegations concerning description of expenditures in reporting

The complaint wrongly asserts that the level of detail in various campaign expenditures reported by my clients violates WAC 390-16-037 or -205. On review, the campaign’s reporting approach was not inconsistent with the requirements of the law stated at RCW 42.17A.240(6);¹ the parties to whom expenditures were paid, and the dollar value and purpose of the expenditures were identified. There is simply no significant issue with this manner of reporting.

Nevertheless, in the spirit of full disclosure and total compliance, my clients have amended their reporting (on September 20, 2017) to disclose that certain of the reimbursements at issue were for purchases from sub-vendors Office Depot, Costco, and the Capitol City Press. It would hardly be possible to fill in greater detail concerning these transactions, as the available box on ORCA would not permit lengthy description of the purpose of these transactions.

¹ The statute requires disclosure of “[t]he name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, the amount, date, and purpose of each expenditure, and the total sum of all expenditures.”

Remaining allegations

The complaint wrongly suggests that malicious or willful violations of the campaign finance law have occurred, without providing any basis for the claim. At all times, my clients have made a good faith effort to comply with Washington's campaign finance laws. These baseless contentions should be dismissed without further use of investigative resources.

Setting this complaint for a brief enforcement hearing would be the most efficient resolution

I encourage you to set the relatively routine and minor reporting allegations in this complaint for resolution at a brief enforcement hearing. The regulations concerning brief enforcement hearings would allow the presiding officer to consider factors such as the following:

- “The impact on the public, including whether the noncompliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public,” WAC 390-37-143(2)(d);
- “Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period,” WAC 390-37-143(2)(f);
- “Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention,” WAC 390-37-143(2)(g); and
- “Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action, and a demonstrated wish to acknowledge and take responsibility for the violation,” WAC 390-37-143(2)(g).

At a brief enforcement hearing, Ms. Dolan and her committee would be able to show that they have cooperated with PDC staff and taken responsibility for appropriately filing and reporting their campaign activity, including by filing appropriate amendments as soon as they were aware of the need to do so. Additionally, they would be able to show that any violations are relatively minor; corrective actions have already been completed, including amending relevant reports on September 20, 2017; and the alleged violations had no significant or material impact on the public. Scheduling this matter for a brief adjudicative hearing would allow the presiding officer to set a penalty amount which would resolve this minor complaint.

There may be no need to *hold* a brief enforcement hearing after one is scheduled to resolve this complaint, however. My clients are willing to provide a signed statement of understanding, any missing required reports, and a penalty payment appropriate to the limited allegations, as provided by WAC 390-37-142(3), to resolve the allegations in this complaint. Only if you believe that a brief enforcement hearing would not be possible to resolve these allegations, my clients would ask that you please set this matter for an adjudicative hearing before the full Commission.

I thank you for your time and attention to this letter, and look forward to discussing the resolution of this complaint with you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Walter M. Smith". The signature is fluid and cursive, with the first name "Walter" being the most prominent.

Walter M. Smith

cc: Tony Perkins, Investigator (Attorney General's Office)