



Smith & Dietrich Law Offices

South Sound Community Lawyers

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September 1, 2017

Via Electronic Delivery

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Re: *Citizen Action Notice Against State Representative Norman Johnson*

Dear Attorney General Ferguson and County Prosecuting Attorneys Tunheim and Brusica,

I write to notify you that there is good reason to believe violations of chapter 42.17A RCW, Washington State's campaign finance law, have been committed by State Representative Norman Johnson and Norm Johnson for State Representative, a candidate authorized committee (the "Respondents"), between 2015 and the present. Please note that, as provided by RCW 42.17A.765(4), if you do not initiate an action against the Respondents within the applicable statutory notice periods for this Citizen Action Notice, I intend to satisfy any applicable notice requirements and proceed with an action in the name of the State. This message is being sent to each of you at the e-mail address you have provided to the Washington State Bar Association to ensure you receive notification of these allegations as required by RCW 42.17A.765(4).

This notice details six or more apparent violations of various provisions of Washington's campaign finance law by the Respondents, which took place during their campaign to elect Mr. Johnson to the Washington House of Representatives for the 14th Legislative District in 2016. The cumulative days late for the apparently untimely reporting summarized below is 755 days as of today. The Respondents have apparently violated chapter 42.17A RCW as follows:

A. Personal use of candidate's authorized committee funds and unauthorized transfer to political committee (4 violations)

By law, a candidate may not make personal use of funds raised for campaign purposes except under certain narrow circumstances. RCW 42.17A.445. Contributions to political committees are not permitted from authorized committee funds although they may be made using surplus funds. RCW 42.17A.430(8). Donations to charity are permitted from surplus funds but not from campaign funds. RCW 42.17.430(4). On October 14, 2016, the House Republican Organizational Committee reported receiving a contribution of \$3,000 from Respondent Norm Johnson for State Representative's surplus funds. However, Respondents did not report making such a transfer from surplus funds. If the Committee

transferred funds directly from its campaign moneys to the HROC, that was a reportable personal use of campaign funds, and an unlawful transfer to another committee.

In a similar incident, on 8/21/16, Respondents reported an expenditure of Committee funds in the amount of \$1,038.55 to the West Valley Fair for "Donation to Fair." This apparently was not a permissible campaign expenditure because it used campaign funds to make a donation, thus violating the prohibitions on personal use of campaign funds and gifts to charity from the active campaign's account.

B. Failure to report expenditure for surplus funds account (1 violation)

A candidate may use surplus funds for certain qualifying purposes provided he or she registers and reports the activity as provided by law. RCW 42.17A.430, WAC 390-16-236. On October 14, 2016, the House Republican Organizational Committee reported receiving a contribution of \$3,000 from Respondent Norm Johnson for State Representative's surplus funds. Respondents' PDC filings do not reveal reporting for this surplus funds transfer to date.

If Respondents transferred these surplus funds, they were required to report the account's expenditures on form C-4. Reporting of the form C-4 for the transfer would be due by 11/10/16 (and is 295 days late), but apparently no surplus funds reporting was filed to date.

C. Failure to timely report orders, debts, and obligations in Public Disclosure Commission form C-4 reports and Schedule B ("In Kind Contributions, Pledges, Orders, Debts, Obligations") (At least one apparent violation)

Respondents apparently filed no Schedule B reporting of debts, obligations, or orders from 2015 to the present. This would be appropriate if no orders, debts, or obligations exceeding \$250 in value (or over \$50 in value and outstanding for over 30 days) were incurred in any given reporting period, but paid in full at a later time. RCW 42.17A.235, .240. It appears, however, that unreported activity occurred, and that at least one report of debts, orders, and obligations remains outstanding to date.

An expenditure was reported of \$36,655.77 to Smith Phillips Dipietro for "Advertising, Campaign Mailer, Newspaper and Raido [sic] Advertising" (dated 11/10/16). The disclosure was dated after the 2016 general election. It appears that at least one reportable order, obligation, or debt related to these services was likely reportable by November 1, 2016, as it is unlikely that over \$30 thousand worth of services were ordered and performed in the 9 days prior to this disclosed payment. If the services were ordered (or debts or obligations were incurred) prior to October, they would also be reportable on Schedule B at an earlier time, but were not disclosed. At least one required report of a debt on Schedule B would be due no later than November 1, 2016, and would be at least 304 days late as of today, and still outstanding—thus constituting an ongoing violation.

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D. Failure to timely file Public Disclosure Commission form C-4 reports ("Summary, Full Report Receipts and Expenditures") (2 Apparent Violations)

The Respondents filed \$1,674.33 worth of late reporting of their expenditures on forms C-4 in 2016. The below table identifies two apparent violations of the law requiring timely reporting of contributions and expenditures during this period. RCW 42.17A.235, .240. The total filing delinquency is 156 days late.

The apparent violations break down as follows:

<u>Number</u>	<u>Report Type</u>	<u>Date Filed</u>	<u>Report due</u>	<u>Report days late</u>	<u>Amount late</u>
100707558	C4	7/12/2016	6/10/2016	32	960.73
100707548	C4	7/12/2016	3/10/2016	124	713.60

I await your position as to whether there is reasonable cause for a civil enforcement action based on these allegations, and whether you will file such an action in the name of the State.

Sincerely,



Walter M. Smith

cc: Linda A. Dalton, Senior Counsel, Attorney General's Office (via e-mail)
Public Disclosure Commission staff (via e-mail)