



# Smith & Dietrich Law Offices

## South Sound Community Lawyers

Smith & Dietrich  
Law Offices PLLC

September 1, 2017

Via Electronic Delivery

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Re: *Citizen Action Notice Against State Representative Mary Dye*

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

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 Mary Newberg and the Committee to Elect Mary Dye, 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 nine or more apparent violations of various provisions of Washington's campaign finance law by the Respondents, which took place during their campaign to elect Ms. Dye to the Washington House of Representatives for the 9<sup>th</sup> Legislative District in 2016. The cumulative lateness for the untimely reporting summarized below is 1,504 days late 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 (2 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). On October 14, 2016, the House Republican Organizational Committee reported receiving a contribution of \$24,000 from Respondent Committee to Elect Mary Dye's surplus funds. However, Respondent did not

report making a transfer from surplus funds to HROC. If indeed the Committee transferred funds directly from its campaign moneys to the HROC, then it would appear this was a violation of the prohibition on personal use of campaign funds, and an unlawful transfer to another committee.

**B. Failure to register and report expenditures for surplus funds account (2 violations)**

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 \$24,000 from Respondent Committee to Elect Mary Dye’s surplus funds. Respondents’ PDC filings do not reveal a registration or reporting for a surplus funds account to date.

If Respondents established a surplus funds account, they were required for file form C-1 and report the account’s expenditures on form C-4. At a minimum, it appears that Respondents should have registered and reported within two weeks of making a transfer to surplus from the Committee to Elect Mary Dye on 8/6/16 in the amount of \$24,000. Reporting of the statement of organization for the surplus funds account would be due by 8/20/16 (and is currently 377 days late), and the form C-4 for the transfer would be due by 9/10/16 (and is 356 days late), but apparently no surplus funds reporting was filed.

**C. Failure to timely file and/or amend Public Disclosure Commission form C-3 and C-4 reports ("Summary, Full Report Receipts and Expenditures" and "Cash Receipts Monetary Contributions") (7 Apparent Violations)**

The Respondents filed a significant volume of late reporting of their contributions and expenditures on forms C-3 and C-4 between 2015 and 2017. The attached spreadsheet identifies seven apparent violations of the law requiring timely reporting of contributions and expenditures during this period. RCW 42.17A.235, .240. The apparent violations break down as follows:

<b>TOTAL DAYS LATE / REPORTS (2016)</b>	600
<b>TOTAL DOLLAR VALUE LATE (2016)</b>	\$5,358.42

<b>TOTAL DAYS LATE / REPORTS (2017)</b>	171
<b>TOTAL DOLLAR VALUE LATE (2017)</b>	\$7,255.17

<b>GRAND TOTAL DAYS LATE (2016-17)</b>	771
<b>GRAND TOTAL DOLLAR VALUE LATE (2016-17)</b>	\$12,613.59
<b>NUMBER OF LATE REPORTS</b>	7

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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,

A handwritten signature in blue ink, appearing to read "Walter M. Smith". The signature is fluid and cursive, with a prominent "W" and "S".

Walter M. Smith

Enclosure: Microsoft Excel spreadsheet summarizing late filings

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

Number	Report Type	Date Filed	Amd.	Report due	Report days late	(C3's: Deposit date)	(C3's: Deposit due)	C3's: Deposit Late	Amount reported (total contributions for C3 / expenditures for C4)
100695567	C3	5/16/2016	N	1/10/2016	127				3900.00
100695568	C4	5/16/2016	N	1/10/2016	127				41.80
100695569	C4	5/16/2016	N	2/10/2016	96				777.62
100695570	C4	5/16/2016	N	3/10/2016	67				62.00
100695571	C4	5/16/2016	N	4/10/2016	36				27.00
100698533	C3	6/5/2016	N	1/10/2016	147				550.00

<b>TOTAL DAYS LATE / REPORTS (2016)</b>	600.00
<b>TOTAL DOLLAR VALUE LATE (2016)</b>	5358.42