



# 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 John Koster*

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

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 John Koster and Elect John Koster, a political 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 or your employer to ensure you receive notification of these allegations as required by RCW 42.17A.765(4).

This notice details fifteen apparent violations of various provisions of Washington's campaign finance law by the Respondents, which took place during their campaign to elect Mr. Koster to the Washington House of Representatives for the 39<sup>th</sup> Legislative District in 2016. The cumulative lateness of the untimely reports summarized below is 1,791 days late as of today. The Respondents have apparently violated chapter 42.17A RCW as follows:

### **A. Personal use and unlawful transfer of candidate's authorized committee funds (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 December 9, 2016, the House Republican Organizational Committee reported receiving a contribution of \$10,000 from Respondent Committee to Elect John Koster's surplus funds. However, in its own reporting, the Respondent Committee stated that it gave a donation of *campaign funds*

directly to HROC on 12/1/16 in the amount of \$10,000. 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 timely report orders, debts, and obligations in Public Disclosure Commission form C-4 reports and Schedule B ("In Kind Contributions, Pledges, Orders, Debts, Obligations") (3 violations)**

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 \$8,504.57 to Minnick & Minnick, Inc. for "Mailings" (dated 10/19/16). The transaction falls on the second day of the reporting period. It appears that at least one reportable order, obligation, or debt related to these services was likely reportable by October 18, 2016, as an order was most likely placed for this general election mailer to be printed and distributed on or before October 17, 2016. At least one required report of a debt on Schedule B would be due no later than October 18, 2016, and would be at least 318 days late as of today, and still outstanding—thus constituting an ongoing violation.

An expenditure was reported of \$454.74 to the Washington Secretary of State for the candidate's filing fee (dated 7/29/16). The deadline for candidate registration with the Secretary of State was in May. It appears that a reportable order, obligation, or debt related to the registration fee was reportable by June 10, 2016, and in each subsequent period until the debt was fully paid. Required reports of this debt on Schedule B would be due no later than June 10, 2016 (448 days late as of today), and July 12, 2016 (416 days late as of today), both of which are still outstanding—thus constituting ongoing violations.

**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") (10 violations)**

The Respondents filed a significant volume of late reporting of their contributions and expenditures on forms C-3 and C-4 during 2016. The attached spreadsheet identifies ten apparent violations of the law requiring timely reporting of contributions and expenditures during this period. RCW 42.17A.235, .240. Notably, two reports due prior to the August 2016 primary election were not corrected with amended disclosures until after it was over.

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The apparent violations break down as follows:

<b>TOTAL DAYS LATE / REPORTS (2016)</b>	546
<b>TOTAL DAYS LATE / DEPOSITS (2016)</b>	63
<b>TOTAL DOLLAR VALUE LATE (2016)</b>	\$3,538.19
<b>NUMBER OF LATE REPORTS (2016)</b>	10

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

Enclosure: Microsoft Excel spreadsheet summarizing untimely reporting

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)
100691922	C3	4/27/2016	N	5/10/2016	0	4/27/2016	3/2/2016	56	1000.00
100741522	C3	1/10/2017	Y	12/10/2016	31				100.00
100710821	C3	7/25/2016	Y	7/12/2016	13				415.00
100718466	C3	9/5/2016	Y	5/10/2016	118	4/27/2016	4/20/2016	7	100.00
100702506	C4	6/16/2016	Y	4/10/2016	67				456.21
100709524	C4	7/19/2016	Y	5/10/2016	70				797.43
100713619	C4	8/1/2016	Y	4/10/2016	113				42.92
100713621	C4	8/1/2016	Y	6/10/2016	52				22.57
100718467	C3	9/5/2016	Y	7/5/2016	62				125.00
100713622	C4	8/1/2016	Y	7/12/2016	20				479.06
<b>TOTAL DAYS LATE / REPORTS (2016)</b>								546.00	
<b>TOTAL DAYS LATE / DEPOSITS (2016)</b>								63.00	
<b>TOTAL DOLLAR VALUE LATE (2016)</b>								3538.19	