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Linda Dalton
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1125 Washington Street SE
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Re: RCW 42.17A.765(4) Notice Filed By Glen Morgan (31st District Democrats)
SCBIL File No. 6552-006

Dear Ms. Dalton:

We write to you today on behalf of our client, the 31st District Democrats (“the Committee”), in response to the allegations in the complaint submitted by Glen Morgan on August 2, 2017. The complaint alleges that both the Exempt and Non-Exempt accounts of the Committee committed numerous violations of RCW 42.17A.

As further explained herein, many claims made by Mr. Morgan are incorrect or are simply not violations of Washington campaign finance law. In some cases, Mr. Morgan is insisting that the mere act of amending a C3 and/or C4 report is a violation of the law—a nonsensical allegation at best, as the deposits and expenses were originally reported on C3s and C4s that were largely filed on a timely basis. In addition, some deposits and/or expenses from 2016 were reported to the wrong account—but reported nonetheless—and the Committee worked closely with the PDC to re-file them en masse in the correct account.

Overall, the complaints highlight simple errors that were either immediately addressed or rectified in as timely a manner as possible. Mistakes may have been made, but nothing was done with malicious intent as alleged. The Committee ultimately wishes to do whatever it takes to rectify the situation.

The Allegations

“1) Failure to timely file accurate, timely C3 and C4 reports. (Violation of RCW 42.17A.235)”

Mr. Morgan alleges that the Committee “failed on numerous occasions” to file “frequent, accurate, and timely reports of contributions, expenditures, in-kind contributions, and debt.” He adds that the Committee “*may*” have “failed to timely deposit contributions within 5 business days.”

These allegations evidence a flawed premise—that Washington law on campaign finance disclosure requires penalizing those who file amendments and updates to their disclosures. Mr. Morgan’s apparent take on the statute is that the very act of filing “frequent” and “accurate” reports—including making amendments to bring reporting up-to-date and to make it more accurate—are in and of themselves sanctionable actions. This premise adds an inaccurate number to the “days late” component of his allegations.

With respect to the allegations concerning late reporting of contributions:

1. Some deposits were initially reported as deposited to the non-exempt account. After working with the PDC, the Committee filed a corrected C3 on September 5, 2016, to reflect the correct (exempt) account.
2. Mr. Morgan’s allegations tend to use the date of an amended filing as the end date for calculations of days late for reports (e.g., a report filed on April 15, 2016, was amended on June 16, 2016; Mr. Morgan relies on the latter date for his calculations).
3. On March 11, 2016, the Committee switched from “mini” reporting to full reporting due to anticipated caucus receipts. In accordance with PDC requirements, deposits from January and February of 2016 were duly reported in March and April of 2016.

With respect to the allegations concerning late reporting of expenditures:

1. Some expenditures were initially reported as disbursed from the non-exempt account. After working with the PDC, the Committee filed a corrected C4 on September 5, 2016, to reflect the correct (exempt) account.
2. Some of these allegations use the date of an amended filing as the end date for calculations of days late for reports (e.g., a report filed on February 5, 2017, was amended on March 4, 2017; Mr. Morgan relies on the latter date for his calculations).

In short, many of Mr. Morgan’s assertions about the number of days late and the overall nature of the Committee’s filing efforts are incorrect.

“2) Failure to accurately, timely report debt. (Violation of RCW 42.17A.240 (8), see WAC 390-05-295)”

Mr. Morgan claims that the Committee “illegally failed to report the following debts (totaling [sic] over \$4,583)” that he outlines in his Exhibit C.

RCW 42.17A.240(8) requires a committee to 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.” WAC 390-05-295 defines “promise or promise to pay as including “any oral or written order placed, debt or obligation to purchase goods or services or anything of value, or any offer to purchase advertising space, broadcast time or other advertising related product or service.”

However, Mr. Morgan attempts to impose an element of psychic ability to the law. His claims against the Committee are unsubstantiated: he offers no proof that the Committee knew or could have known the amount that these expenditures would have totaled in time for the prior reporting period, because that is simply not the case. These expenditures were otherwise reported in a timely manner as soon as the amounts were known. This allegation is without merit.

“3) Failure to properly break down expenses. (Violation of RCW 42.17A.235, see WAC 390-16-205)”

Mr. Morgan claims that the Committee “illegally failed to break down the following expenses” that he outlines in his Exhibit D.

Mr. Morgan’s main quibble with the list of instances he alleges were violations of RCW 42.17A.235 and WAC 390-16-205 appears to be the level of detail provided for each expenditure. It is important to note that this entire allegation may come from Mr. Morgan’s apparent lack of familiarity with the ORCA reporting interface. The memo field is too small to hold much information, and the campaign’s reporting approach was not inconsistent with the requirements of the statute. Overall, the Committee reported as much information as it was able to fit within the limited space available. There is simply no major issue with the Committee’s reporting here.

“4) Failure to list committee officers. (Violation of RCW 42.17A.205 (2)(c), see WAC 390-05-245.”

Here, Mr. Morgan alleges that each and every delegate, *subcommittee* chair, and other individual affiliated with the Committee should have been named an officer.

This allegation comes from a fundamentally flawed reading of the statute. In WAC 390-05-245, “officer of a political committee” is defined to include the following persons: “[a]ny person designated by the committee as an officer on the C-1 or C-1pc registration statement and any person who *alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee.*”

Mr. Morgan provides no rationale for his allegation that the individuals he lists should have been named on the C1-pc as officers of the Committee. Perhaps this is because there is simply no support for such an assertion. Committees routinely enlist the services of numerous individuals to assist with the goings-on of a campaign. The individuals listed by Mr. Morgan did not “make[], direct[], or authorize[]” any contributions, expenditures, or strategic or policy decisions on behalf of the Committee. The Chair, the Vice Chairs and the Treasurer, who were

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listed on the C1-pc for the Committee, are the only ones authorized to do so. Mr. Morgan's assertion is simply unfounded.

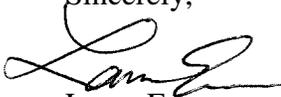
“5) Illegal unauthorized expenditure of funds by an individual not listed as an officer on C-1 form. (Violation of RCW 42.17A.425)”

Assuming Mr. Morgan intended to cite the C1-pc form (as a C-1 form is for candidate committees only), this assertion merely builds off of the previous allegation's faulty premise involving the individuals in Mr. Morgan's list. This allegation is unsubstantiated and without merit.

Conclusion

With respect to Mr. Morgan's utterly unfounded claim that any of the above actions, if found to be violations of the law—which we again assert is *not* the case—were done with malice as contemplated by RCW 42.17A.750(2)(c): there has been absolutely no malicious action undertaken by the Committee. Alleging “the possibility” that violations have been committed—with the serious multiplier of allegations of malice—does not amount to sufficient grounds for the criminal prosecution that Mr. Morgan is seeking.

If you have any questions, or if there is anything we can do to be of assistance to you, please do not hesitate to contact us.

Sincerely,

Laura Ewan

Cc: Brian Gunn (*via email*)
PDC (*via email*)
Fox Blackhorn (*via email*)
Tony Perkins (*via email*)