

Schwerin Campbell Barnard Iglitzin & Lavitt LLP

ATTORNEYS AT LAW

Of Counsel Lawrence Schwerin

DMITRI IGLITZIN
iglitzin@workerlaw.com

Sent via email to pdc@pdc.wa.gov

July 27, 2018

Micaiah Titus Ragins
Compliance Coordinator
Public Disclosure Commission

RE: AFT WA Committee on Political Education —Alleged Violations of RCW
42.17A
SCBIL File No. 2698-053; PDC Complaint #37140

Dear Mr. Ragins:

On behalf of the American Federation of Teachers Washington Committee on Political Education (“the PAC”), we are hereby responding to the allegations raised by Glen Morgan in the above-referenced matter. Specifically, on July 12, the PDC provided a corrected spreadsheet showing the forms that Mr. Morgan was alleging were late-filed. We now supplement our July 3 response to respond to these specific allegations.

Mr. Morgan has filed a complaint asserting that the PAC has untimely filed C3s and C4s. Mr. Morgan’s claims are inaccurate. Each item he outlines is either no violation at all or at most a technical correction. Setting all rhetoric aside, there is no item cited in Mr. Morgan’s complaint requiring further inquiry or action from the PDC.

The intent of RCW 42.17A “is not to trap or embarrass people when they make honest remediable errors.” There is nothing beyond a remedial error that occurred here, and each error or issue was immediately corrected upon its discovery. And at all times material to the facts of this case, the PAC worked with the PDC to update and correct its filings. Therefore, all of Mr. Morgan’s allegations should be dismissed.

We hereby address Mr. Morgan’s complaint (“Failure to file accurate, timely C3 and C4 reports”) by year, in turn, as follows:

2015

Mr. Morgan’s allegations about 2015 reports are overstated. He has identified two reports which he alleges are late filed – one day and six days late respectively. While it is true that there were some filings inadvertently submitted late during 2015, the delay at issue is so trivial as to

hardly qualify as a violation.¹ In both cases, the forms were immediately filed when the PAC realized it had inadvertently delayed filing.

2016

Despite Mr. Morgan's allegation that "many of these reports were during the critical 30 day window of the 2016 and 2017 primary and general campaign elections," he did not provide evidence of any late filed form within 30 days of the March 2016 primary, nor the 2016 general election. The **only** alleged late-filed form in 2016 was filed **one day late**, on February 11, 2016. (Report 100678632). That C-4 reflects only a single \$25 payment in the form of bank fees. This single, one day late form cannot be said to have "materially impact[ed] the public interest" in any way. RCW 42.17A.005(51).

2017

Mr. Morgan has identified four allegedly late-filed forms in 2017. Of the forms Mr. Morgan identifies, none is more than seven days late. Furthermore, the forms themselves do not actually impact transparency in elections. For example, Report 100799247, did not include any additional receipts or expenditures, and merely reflected the totals from the previous C-4. This is a remedial violation at most.

Two of the forms are merely technical corrections, and are each only one day late. The two forms, both filed on October 18, 2017, are Report 100794351, and the form it amends, Report 100794340. Report 100794340 itself amends Report 100794074, which was timely filed on October 17, 2017 – one day before the two amendments. These two amendments amount to "technical corrections" at most. They each reflect a minor correction of a previously **timely-filed** report. And each correction reflects minor or ministerial error that does not materially impact the public interest and simply needed to be corrected for the report to be in full compliance with the requirements of this chapter. RCW 42.17A.005(51).

¹ If the PDC disagrees, these cannot be viewed to be more than remedial violations, as they involved amounts totaling no more than the contribution limits set out under RCW 42.17A.405(2) per election; did not constitute material violations because they were inadvertent and minor or otherwise has been cured and, after consideration of all the circumstances, further proceedings would not serve the purposes of this chapter; they did not materially affect the public interest; and they involved a PAC that substantially met the filing deadline for all other required reports within the immediately preceding twelve-month period. RCW 42.17A.005(45).

		Report #	100794351	100794340	100794074
		Amends	→	→	
		Due Date	-	-	10/17/2017
		Date Submitted	10/18/2017	10/18/2017	10/17/2017
Receipts		C4 Line			
Previous cash	1		\$18,874.52	\$18,874.52	\$18,874.52
Cash received	2		\$4,583.92	\$4,583.92	\$4,583.92
Total contributions	4		\$4,583.92	\$4,583.92	\$4,583.92
Total cash	8		\$23,458.44	\$23,458.44	\$23,458.44
Expenditures		C4 Line			
Previous cash	10		\$4,740.00	\$4,740.00	\$4,740.00
Total cash expenditures	11		\$2,625.00	\$225.00	\$25.00
Change from previous			\$2,400.00	\$200.00	

In other words, the PAC's actions here show a clear intent to comply with "maximum transparency to the public and voters so they may know who is funding political campaigns and how those campaigns spend their money." 2018 c 304 § 1. In addition, each candidate committee receiving contributions from the PAC also reports the receipt of each contribution, creating a built-in failsafe to ensure timely transparency of funds. The PAC's actions have not "materially impact[ed] the public interest" in any way. RCW 42.17A.005(51). These are clear examples of technical corrections, especially given that both amendments were filed *a single day after the deadline*, and they do not warrant further investigation or inquiry by the PDC.

2018

Turning to the 2018 forms, there are a number of corrections the PAC would like to offer to Mr. Morgan's allegations. First, Report 100825959 merely amends Report 100825963 – both were filed on April 16, 2018. These two forms should not be double-counted as two separate violations, as Mr. Morgan has done. The PAC worked to ensure that a fully corrected form was filed. Additionally, Mr. Morgan asserts on his spreadsheet that Report 100825963 references a deposit made 22 days late. The basis of this allegation is unclear, as both Report 100825959 and 100825963 demonstrate that the deposit itself was timely made.

Each of the 2018 Reports Mr. Morgan identified were filed on a single date – April 16, 2018. In late 2017, the PAC's designated filer was out of the office due to a serious personal medical emergency. Once the PAC realized that these reports had not been filed (in mid-April), the situation was immediately remedied, and all reports were filed. The subsequent filing pattern for the PAC, as well as the filings from previous years, shows that this situation was the exception and not the norm.

The PAC addressed the issue, and these particular filings did not have any impact on the public's ability to know the nature of the PAC's activities. None were within 30 days of an election. These forms involved amounts totaling no more than the contribution limits set out under RCW 42.17A.405(2) per election. Under these circumstances, it cannot be said that further proceedings would serve the purposes of this chapter. Therefore, these allegations should likewise be dismissed.

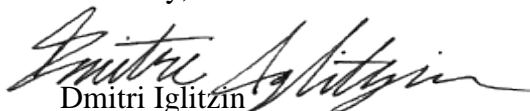
Conclusion

The PAC wishes that it be known that it has taken steps since April 16, 2018 to ensure that all subsequent filings are timely and comport with the requirements of the law. The facts clearly demonstrate this effort, and clearly indicate that the 2018 forms were a temporary aberration following a serious medical emergency. Ultimately, none of the reports cited by Mr. Morgan in his complaint materially affected the public interest in transparency in elections. Further proceedings would simply not serve the purposes of this chapter.

With respect to Mr. Morgan's utterly unfounded claim that any of the above actions, if found to be violations of the law, were done with malice as contemplated by RCW 42.17A.750(2)(c): there has been absolutely no malicious action undertaken by the PAC. Alleging the mere "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.

We look forward to working with the PDC to resolve this matter. Please let us know if we can be of any further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dmitri Iglitzin".

Dmitri Iglitzin

Sarah Derry

Counsel for the AFT WA Committee on Political Education