



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908

(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcca.wa.gov

March 5, 2021

Sent electronically to info@freedomfoundation.com

Subject: Complaint filed by Peter Starzynski, PDC Case 82523

Dear Freedom Foundation:

Enclosed is a copy of an electronic letter sent to Peter Starzynski concerning a complaint filed December 11, 2020 with the Public Disclosure Commission (PDC) alleging violations of RCW 42.17A.205, .235, .240 and .320 for failing to timely register as a committee, failing to report contributions and expenditures, and failing to disclose complete sponsor identification.

As noted in the letter below, the PDC has dismissed this matter in accordance with RCW 42.17A.755(1) and will not be conducting a more formal investigation into these allegations or taking further enforcement action in this matter.

PDC staff is reminding you about the importance of timely and accurately reporting electioneering communications and PDC staff expects in the future you will timely file accurate and complete reports, in accordance with PDC laws and rules.

If you have questions, contact Alice Fiman toll-free at 1-877-601-2828, or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

/s

Alice Fiman
Compliance Officer

Endorsed by,

/s

Barbara Sandahl
Deputy Director
For Peter Lavallee
Executive Director



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March 5, 2021

Sent electronically to peterstarzynski@gmail.com

Subject: Complaint regarding Freedom Foundation, PDC Case 82523

Dear Peter Starzynski:

The Public Disclosure Commission (PDC) completed its review of the complaint you filed December 11, 2020. Your complaint alleged the Freedom Foundation violated RCW 42.17A.205, .235, .240 and .320 by failing to timely register as a committee, failing to report contributions and expenditures, and failing to disclose complete sponsor identification.

PDC staff reviewed the allegations; the applicable statutes, rules, and reporting requirements, and the response from Maxford Nelson, Director of Labor Policy for the Freedom Foundation to determine whether the record supports a finding of one or more violations. Based on staff's review, we found the following:

- In response to allegations of failing to timely register as a committee, the Freedom Foundation (FF) stated "As a 501(c)(3) non-profit, the Foundation does not solicit donations for the purpose of electoral political activity, and donors to non-profits like the Foundation know that nothing will be spent for or against candidates on penalty of losing tax-exempt (and tax deductible) status."
- FF does not receive "contributions for the purposes of the FCPA" and that a political committee must receive contributions or make expenditures in "in support of, or opposition to, any candidate."
- PDC staff found no evidence to support the allegation that FF meets the definition of a political committee under the "receiver of contributions" prong in accordance with PDC Interpretation 07-04, or that FF failed to file a Committee Registration. Since FF is not a political committee, there are no filing requirements or contribution and expenditure activities to disclose under RCW 42.17A.235 and .240.
- RCW 42.17A.005(21)(a) defines "Electioneering communication" as any broadcast, cable, or satellite television, radio transmission, digital communication, United States postal service mailing, billboard, newspaper, or periodical that:
 - (i) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name.

- (ii) Is broadcast, transmitted electronically or by other means, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election: and
 - (iii) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value or cost of one thousand dollars or more.”
- Concerning the lack of the required complete sponsor identification on the September 2020 FF fundraising letter, Nelson stated the “letter was part of the Freedom Foundation’s ongoing direct mail fundraising program and was not timed to coincide with any election.” He stated that the individuals who received the letter had previously contributed to the FF, so FF “already had their contact information on file; no list was purchased for the purposes of this mailing.”
- Nelson added that FF “donors receive about 10 direct mail solicitations per calendar year, of which this was one.” He stated that there were several different versions of the letter mailed to FF “supporters in various states around the country, but all were part of the same mailing/invoice.” He stated that the pro-rata share of the costs to print and mail the letter to only Washington State residents was \$2,049.66, with an additional \$738.20 in FF staff time and equipment to compose and prepare the letter.
- In accordance with PDC statutes, rules and reporting requirements, sponsors of Electioneering Communications are required to file C-6 reports electronically disclosing within 24 hours of when the ad is presented to the public. Once PDC staff notified the FF concerning the requirement to file a C-6 report for the letter disclosing an electioneering communication report, FF responded by stating “the PDC’s electronic C-6 filing system requires the person filing the report to indicate the candidate identified in the electioneering communication and whether the communication was in support of or opposition to their candidacy.”
- Nelson stated that under federal tax law governing 501(c)(3) organizations, the FF is prohibited “from supporting or opposing candidates for elected office. The Foundation cannot indicate on a C-6 report that its September 2020 fundraising letter supported or opposed Jay Inslee’s candidacy for governor, because it did not.” He stated that if there is a work around or mechanism for FF to “otherwise complete the remaining elements of the C-6 report. Submitting a paper report, for instance, would allow us to simply refrain from checking either the “support” or “oppose” boxes, but the online reporting system makes no allowance for this.”
- On February 24, 2021, the Freedom Foundation submitted on paper to the PDC a C-6 report, selecting box #3 on the form for an Electioneering Communication. The C-6 report disclosed \$2,787.26 in expenditures made by FF for “Printing and postage” for the September 2020 FF fundraising letter that incidentally made reference to Jay Inslee costing \$2,049.66, \$700 in FF staff and overhead costs to draft and compose the letter, with a \$38.20 non-itemized expenditure. The C-6 report listed Jay Inslee as the candidate identified in the electioneering communication, however the section of the form to indicate support or opposition to the candidate was left blank.

- PDC staff is currently entering the data into its database so the expenditure available for public review.

Based on these findings, staff has determined, in this instance, the failure to disclose complete sponsor identification does not amount a violation warranting further investigation. PDC staff is reminding the Freedom Foundation about the importance of filing timely electioneering communications reports in accordance with PDC laws and rules.

Based on this information, the PDC finds that no further action is warranted and has dismissed this matter in accordance with RCW 42.17A.755(1). If you have questions, contact Alice Fiman toll-free at 1-877-601-2828 or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

/s

Alice Fiman
Compliance Officer

Endorsed by,

/s

Barbara Sandahl
Deputy Director
For Peter Lavalley
Executive Director