

November 5, 2021 response to PDC complaint # 96486

Per an e-mail with Jennifer Hansen on October 18, 2021, the two paragraphs below are the allegations from the Rich Irwin complaint that need to be addressed.

First, Councilmember Anderl's 2019 campaign impermissibly accepted contributions from Mercer Islanders for Sustainable suspending totaling more than the \$1,000 limit for contributions from a political committee to an individual municipal candidate. Councilmember Anderl's 2019 campaign listed Mike Cero as her Treasurer on its official C1 report, qualifying him as an officer for the campaign under WAC 390-04-245. Mr. Cero also was also listed as the treasurer of MISS on its C1 form in 2019 and acts as an agent of that committee in his capacity as the PAC's main official. *See* WAC 390-05-190. He did not fall within the standards to meet the administrative or ministerial exception in WAC 390-05-243 because he did not act in a purely ministerial role for at least two campaigns in 2019. Accordingly, MISS could not possibly make an independent expenditure on behalf of Councilmember Anderl because the person making decisions as an agent for MISS was also an officer and agent for her campaign, making any expenditure by MISS in support of Councilmember Anderl a coordinated contribution. *See* WAC 390-05-210(3).

The shift from contributions reported to actual contributions is a significant one in light of MISS's spending on Councilmember Anderl's behalf. On its November 20, 2019 C6 filing, MISS reported spending \$2,346.98 in total over the course of the 2019 election advocating for either Councilmember Anderl's election or her opponent's defeat. Though she reported receiving \$12,403.99 in contributions in total, that additional funding increased her receipts by 19% in a race she won by approximately 1100 votes.

Lisa Anderl Response to Allegations:

First, thank you for the opportunity to respond to these allegations. I have broken out Mr. Irwin's various allegations below, and will respond to each one. As a general statement, and for context, I would like to provide the following information.

2019 was my first election campaign, and I did not have a thorough grasp of the ins and outs of running a campaign – I was pretty much learning as I went. In fact, I actually never thought I would be running for office – when I was appointed to an unexpired term in 2018, I thought that I got the entire three years, and only realized in March or April that I had to run in 2019 for the remaining two years.

There was simply no coordination between MISS and myself or my 2019 campaign. Mike Cero was a friend who volunteered to do my PDC filings and act as my treasurer. He performed only ministerial functions for my campaign. He did not make, direct, or authorize contributions, expenditures, strategic or policy decisions on behalf of my campaign. He filed PDC reports and handled bank deposits.

Mike did not manage my campaign, nor did he have any insight into campaign expenditures or strategy. I and other volunteers selected my vendors for mailings and advertisements, created the

content, and decided on the timing. I and other volunteers made strategy decisions regarding campaign activities such as attendance at debates, etc. Mike was not involved in those activities. He had no decision-making authority on any of those items and did not have authority to spend money on behalf of my campaign.

I was not involved in nor was I privy to any decisions or strategy that MISS had in the election. In fact, I felt some of MISS's products and positions were counter-productive to my campaign, but I had absolutely zero influence on how MISS approached the election or on how that organization expended money for or against any candidate.

The specific allegations from the complaint are addressed below.

Allegation: First, Councilmember Anderl's 2019 campaign impermissibly accepted contributions from Mercer Islanders for Sustainable suspending totaling more than the \$1,000 limit for contributions from a political committee to an individual municipal candidate.

Response: I deny accepting any impermissible or over-limit contributions from MISS in 2019. I did not accept any contributions from MISS. MISS did not coordinate with me or my campaign, and acted independently, with no direction or control from me. MISS made and reported independent expenditures that were not campaign contributions. I did not collaborate with MISS for the purposes of making any expenditures supporting my campaign.

Allegation: Councilmember Anderl's 2019 campaign listed Mike Cero as her Treasurer on its official C1 report, qualifying him as an officer for the campaign under WAC 390-04-245. Mr. Cero also was also listed as the treasurer of MISS on its C1 form in 2019 and acts as an agent of that committee in his capacity as the PAC's main official. *See* WAC 390-05-190. He did not fall within the standards to meet the administrative or ministerial exception in WAC 390-05-243 because he did not act in a purely ministerial role for at least two campaigns in 2019.

Response: We have amended the C-1 to show Mike Cero as a ministerial treasurer for my campaign, which reflects his actual role. He acted only in a ministerial role, occasionally making bank deposits, filing reports, and otherwise performing administrative functions. Under RCW 42.17A.005(37) ministerial function means "an act or duty carried out as part of the duties of an administrative office without exercise of personal judgment or discretion." He made no discretionary decisions regarding my campaign and did not have authority to do so.

Allegation: Accordingly, MISS could not possibly make an independent expenditure on behalf of Councilmember Anderl because the person making decisions as an agent for MISS was also an officer and agent for her campaign, making any expenditure by MISS in support of Councilmember Anderl a coordinated contribution. *See* WAC 390-05-210(3).

Response: The MISS expenditures met the definition for "independent expenditures," were reported with the C6 and did not constitute "contributions" as defined in RCW 42.17A.005. Mike Cero's role with my campaign was ministerial only.

Contribution

A “contribution” is defined under RCW 42.17A.005 (in relevant part) as:

(15)(a) "Contribution" includes:

- (i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds, or anything of value, including personal and professional services for less than full consideration;
- (ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political or incidental committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents;
- (iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, digital, or other form of political advertising or electioneering communication prepared by a candidate, a political or incidental committee, or its authorized agent;

No Contribution was Made. It is clear that MISS did not make a contribution under RCW 42.17A.005(15)(a) (i) or (iii). No direct funds were provided under (i) and I (the candidate) had no involvement in the MISS communications, so (iii) is inapplicable as well.

The issue then is whether the expenditures constituted contributions under subsection (ii). As I noted above, none of the expenses incurred by MISS was in “cooperation, consultation, or concert with, or at the request or suggestion of a candidate, a political or incidental committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents.” I was not consulted on the expenditures, and did not cooperate, coordinate, or otherwise act in concert with MISS. Mike Cero remained completely independent of my campaign when acting for MISS, and Mike did not have insight into or any authority to direct expenditures on behalf of my campaign, nor did he ever do so.

Independent Expenditure

An “independent expenditure” is defined as:

(30)(a) "Independent expenditure" means an expenditure that has each of the following elements:

- (i) It is made in support of or in opposition to a candidate for office by a person who is not:
 - (A) A candidate for that office;
 - (B) An authorized committee of that candidate for that office; and
 - (C) A person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;
- (ii) It is made in support of or in opposition to a candidate for office by a person with whom the candidate has not collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

- (iii) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and
- (iv) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of one thousand dollars or more. A series of expenditures, each of which is under one thousand dollars, constitutes one independent expenditure if their cumulative value is one thousand dollars or more.

MISS Made Independent Expenditures. It is equally clear that the expenditures by MISS were independent expenditures. These expenditures were not made by me, so the requirement under (A) is met; they were not made by a committee of mine, so the requirement under (B) is met; and, they were made without any encouragement or approval of mine, so the requirement under (C) is also met. As I noted above, with my lack of experience in election campaigns, I did initially attempt to talk to Mike about the MISS communications, but he rebuffed all of those conversations, stating unequivocally that I was not a part of the decision-making for MISS, and that MISS would independently decide how and when to make expenditures, and what the content of any communication would be. Thus, under the provisions of (C)(ii) there was absolutely no collaboration between me and MISS.

Allegation: The shift from contributions reported to actual contributions is a significant one in light of MISS's spending on Councilmember Anderl's behalf. On its November 20, 2019 C6 filing, MISS reported spending \$2,346.98 in total over the course of the 2019 election advocating for either Councilmember Anderl's election or her opponent's defeat. Though she reported receiving \$12,403.99 in contributions in total, that additional funding increased her receipts by 19% in a race she won by approximately 1100 votes.

Response: I am not sure this allegation requires a response. Again, I do not agree that the expenditures were contributions to me. I had no knowledge and no say in how or when the expenditures were made. I would not have spent that money in the same way that MISS did. Further, to the extent that this allegation suggests that the expenditure somehow influenced the outcome of the election, I would simply note that there is nothing to substantiate that. MISS supported four candidates in 2019. Two candidates won and two lost, with very different margins of victory in each race.