



**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.pdca.wa.gov

February 15, 2023

Delivered electronically to FairVote Washington at lisa.ayrault@fairvotewa.org and
jason@argo.us

Subject: Complaint filed by Bill Bangs, PDC Case #114356

Dear Lisa Ayrault and Jason Bennett:

Below is a copy of an electronic letter sent to Bill Bangs concerning a complaint filed with the Public Disclosure Commission (PDC).

PDC staff is in receipt of the Statement of Understanding (SOU), signed on behalf of FairVote Washington, and the payment of the \$150 civil penalty assessed in this matter, in accordance with WAC 390-37-143 (Brief Enforcement Penalty Schedule). This resolves the issue of failing to timely file a Political Committee Registration (C-1ic), failure to timely file Incidental Committee Payments and Political Expenditure (C-8) reports, and failing to file accurate expenditures covered by the first C-8 report filed.

As noted in the letter to Bill Bangs, because the SOU resolves this matter, the PDC has dismissed the matter in accordance with RCW 42.17A.755(1).

If you have questions, you may contact Tanya Mercier at 1-360-586-4746 toll-free at 1-877-601-2828, or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

/s/ Electronically signed

Tanya Mercier
Compliance Officer

Endorsed by,

/s/ Electronically signed

Peter Frey Lavalley
Executive Director



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February 15, 2023

Delivered electronically to Bill Bangs at wjbangs@gmail.com

Subject: Complaint regarding FairVote Washington, PDC Case #114356

Dear Bill Bangs:

The Public Disclosure Commission (PDC) has completed its review and assessment of the complaint you filed on November 17, 2022. The complaint alleged that FairVote Washington, an incidental committee, supporting the Ranked Choice for Clark County, Ranked Choice for San Juan County, and Ranked Choice Voting for Seattle political committees, may have violated RCW 42.17A.320 and RCW 42.17A.350 by failing to correctly identify the sponsor and top five contributors on their website as well as the webpages for the supported political committees.

PDC staff reviewed the allegation(s); the applicable statutes, rules, and reporting requirements; the response(s) provided by the Respondent and Complainant; the applicable PDC reports filed by the Respondent; the Respondent's data in the PDC contribution and expenditure database; and other relevant information, to determine whether the record supports a finding of one or more violations.

Based on staff's review, we found the following:

- PDC staff reviewed the allegations specific to each of the Ranked Choice Voting (RCV) webpages in separate cases #114357, #113965, and #114358. These cases have been resolved accordingly:
 - #114357, Ranked Choice Voting for Clark County dismissed as unfounded.
 - #113965, Ranked Choice Voting for San Juan County dismissed with a reminder.
 - #114358 Ranked Choice Voting for Seattle dismissed with a warning.
- On December 21, 2022, the FairVote Washington committee filed a new Incidental Committee Registration (C-1ic) with the PDC. FairVote Washington is also registered with the Washington Secretary of State as a 501(c)(4) organization.
- The C-1ic registration indicated support for political committees including, Ranked Choice Voting for Clark County, Ranked Choice Voting for San Juan County, and Ranked Choice Voting for Seattle. The committee is also affiliated to FairVote WA PAC.

- The Complainant reported “the respondent maintains a website (<https://fairvotewa.org/>) that supports three campaigns in Washington for the 2022 General Election. The campaigns are (1) Ranked Choice Voting for Seattle, (2) Ranked Choice Voting for Clark County, and (3) Ranked Choice Voting for San Juan County. The website contains webpages for each of these campaigns that lists the alleged Top Five Contributors to each campaign. In addition, the respondent is the contact identified on an advertising flyer mailed to the registered voters of San Juan County and which lists the alleged Top Five Contributors to the Rank Choice Voting for San Juan County campaign. The respondent has provided false and misleading advertising for the 2022 General Election in three different jurisdictions (City of Seattle, Clark County, and San Juan County) and is in violation of RCW 42.17A.320 and RCW 42.17A.350 that political advertising must provide information on the top five contributors.”
- Jason Bennett of Argo Strategies, the Ministerial Treasurer for the three RCV committees, responded to questions about the FairVote Washington website and the three RCV committee webpages. According to Mr. Bennett, each of the RCV webpages were created sometime in late August and the FairVote Washington website had been active for an unknown amount of time (an exact start date was not available), and the FairVote Washington website was not created specifically for the RCV campaigns. Mr. Bennett also clarified the relationship between FairVote Washington and the RCV campaigns indicating that FairVote Washington was “a donating organization who provided staff time (and then were reimbursed at later dates when money allowed) to the three ballot measure campaigns.” The RCV Seattle campaign’s webpage was designed by Higgins Design. The other two ballot measures did not have their own domains and were subpages of the FairVote Washington website. These webpages were created by FairVote Washington staff. “Blue Host was the hosting company for the Seattle campaign, FairVote WA and the extra pages added for the San Juan and Clark campaigns.” FairVote Washington staff “provided time updating the website.”
- As an Incidental Committee, and not a candidate or political committee, FairVote Washington was required, per RCW 42.17A.320, to provide sponsor identification on their website. In this instance, it was found that FairVote Washington did include “Paid for by FairVote Washington” on their website as required. There is not a requirement for an incidental committee to identify the top five contributors on their political advertising.
- Neither FairVote Washington nor the RCV committees were able to provide screenshots of the webpages at their creation or for any other time during the campaign. PDC staff was able to use a web archiving tool, <https://web.archive.org/>, to recreate some of the history for each of the webpages. The archived webpages show how a webpage appeared at a specific time and date but are not a comprehensive record of the webpage history.
- In the Ranked Choice Voting for Clark County case, #114357, the webpage was created in late August 2022, and it was determined the webpage correctly identified the top five contributors at the point in time of 10/12/22 and those contributors did meet the statutory definition of a top five contributor per WAC 390-18-025. These are the same contributors identified in Mr. Bang’s screenshot from November 15, 2022.

- In the Ranked Choice Voting for San Juan County case, #113965, the webpage was created in late August 2022, and it was determined the webpage did identify top five contributors at the point in time of 10/4/2022. FairVote Washington was included as a top five contributor because, as Mr. Bennett explained, “FairVote Washington will be inking some work on behalf of the committees so we thought it more transparent to include them in the Top 5 should the committees not raise enough money.” The contributors did meet the statutory definition of a top five contributor per WAC 390-18-025. These are the same contributors identified in Mr. Bang’s screenshot from November 15, 2022. As well, the political flyer that was mailed by the committee and received by Mr. Bangs on or about November 5, 2022, was also determined to have included correct top five contributors based on the point in time of 10/5/2022. This date is when the flyer cost was obligated to the publisher and therefore determined as submitted for publication.
- In the Ranked Choice Voting for Seattle case, #114358, the webpage was created on approximately August 20, 2022. Again, using the web archiving tool, PDC staff were able to recreate five instances of the webpage between August 19, 2022, to October 20, 2022. On 8/19/22 the webpage appeared to be in development and did not indicate a sponsor or any top five contributors. On dates 9/20/22, 9/26/22 and 10/7/22 the webpage indicated sponsorship as “Paid for by Ranked-Choice Voting for Seattle” but did not include any top five contributors. Then on 10/20/22 the first instance of top five contributors appears on the webpage. The top five contributors identified in this last instance of the webpage are the same contributors as provided in Mr. Bangs’ complaint screen shot from November 15, 2022. These contributors met the statutory definition of a top five contributor per WAC 390-18-025 but were not necessarily the contributors who donated the most based on a point-in-time as reported in the reports for Cash Receipts Monetary Contributions (C3).
 - Per Mr. Bangs’ complaint, PDC staff confirmed the following identified contributors did donate prior to the point in time of Mr. Bangs’ webpage screenshot:
 - On October 14, 2022, Frederik Schaffaltizky contributed \$25,000.
 - FairVote Action contributed on October 14th \$200,000 and on October 31st \$190,000.
 - FairVote Washington contributed \$50,000 on October 25th and \$30,000 on October 28, 2022.
 - The committee has expressed agreement the webpage was missing any indication of top five contributors between the period 8/19/22 – 10/7/22. During this period, based on C3 reports, the top five contributors who could have been identified depending on the date the webpage was published included:
 - Elaine Nonneman (\$5,000) or Shel Kaphan (\$5,000)
 - David Bangs (2 contributions of \$2,500)
 - Leigh Bangs (2 contributions of \$2,500)
 - Robert Poore (1 contribution of \$2,500, 1 contribution of \$10,000)
 - Sarah Poore (1 contribution of \$2,500, 1 contribution of \$10,000)
 - Without a comprehensive log of the webpage updates, an exact date cannot be pinpointed, but at some point, between 10/7/22 and 10/20/22 the webpage was

updated, and top five contributors were added. There are several possibilities for who could have been identified as a top five contributor during this period to include:

- 10/14/22 – Frederick Schaffaltizky \$25,000
 - 10/14/22 – FairVote Action \$200,000
 - 10/17/22 – Jabe Blumenthal \$7500 or Julie Esdforth \$7,500
- All the RCV committee webpages indicated the correct sponsor identification, per RCW 42.17A.320, at the point in time the webpage archive history was available.
- Neither the date a political flyer was received by the public nor the date a committee webpage was accessed is determinative of whether the identification of top donors was accurate in this case. WAC 390-18-025 identifies the “date on which the advertisement is published or otherwise presented to the public” is the point-in-time date which the top five contributors must be identified. As well, there is no statutory obligation to continually update a webpage or manually alter a flyer if larger contributions are received once the webpage or flyer are published.
- Respondent does not have previous warnings or violations of PDC requirements.

Pursuant to WAC 390-37-060(1)(f), however, FairVote Washington completed a Statement of Understanding (SOU) and paid a \$150 civil penalty in accordance with WAC 390-37-143 (Brief Enforcement Penalty Schedule), acknowledging violations of:

1. RCW 42.17A.207 for failing to file a Political Committee Registration (C-1ic) within three business days of having met the criteria outlined in statute in the last three weeks before an election.
2. RCW 42.17A.235 and RCW 42.17A.240 for: (1) failing to file the Incidental Committee Payments and Political Expenditures report (C-8) at the time the C-1ic was filed, and (2) by failing to file subsequent C-8 reports containing the information required by RCW 42.17A.240 and at the intervals outlined in RCW 42.17A.235(2).
3. RCW 42.17A.240 for failing to certify as correct by the treasurer expenditures made in the aggregate amount of more than fifty dollars during the period covered by the first C-8 report.

The \$150 penalty assessed resolves the violations listed above.

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, you may contact Tanya Mercier at 1-360-586-4746 toll-free at 1-877-601-2828, or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

/s/ Electronically signed

Tanya Mercier
Compliance Officer

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Peter Frey Lavalley
Executive Director

cc: FairVote Washington