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September 14, 2023

Jennifer Hansen
Compliance Officer
Public Disclosure Commission
711 Capitol Way S #206
Olympia, WA 98504

Re: Complaint No. 141601
BIL File No. 2813-941

Dear Ms. Hansen:

We are writing on behalf of the Washington State Machinists Council PAC (WSMC PAC or Committee) to respond to the August 19, 2023, complaint filed by Glen Morgan. Mr. Morgan's complaint alleges violations of RCW 42.17A.420(1) for acceptance of overlimit contributions and RCW 42.17A.235 and .240 for failure to timely and accurately report contributions. Per your August 31 email to the Committee, we understand the PDC's current assessment of facts to be focused on Mr. Morgan's overlimit contribution allegations. However, we will also briefly respond to his second allegation of untimely reports.

RCW 42.17A.420(1) prohibits political committees from accepting reportable contributions greater than \$5,000 within 21 days of a general election.¹ Mr. Morgan alleges that the WSMC PAC accepted overlimit contributions within the 21-day pre-election period on three occasions: 11/1/2022, 10/14/2020, and 10/29/2019.² These contributions ranged from \$11,464.98 to \$14,395.47.

In or around October of each year, the WSMC PAC receives a routine contribution from the Machinists Nonpartisan Political League (MNPL). In 2022, 2020, and 2019, this contribution happened to arrive during the 21-day pre-election period. In 2018, the contribution arrived more than 21 days before the general election. In 2021, the contribution arrived after the general election. As the Committee was unaware of the pre-election contribution limit, in each instance it deposited the contribution upon receipt and filed a corresponding C-3 report.

The WSMC PAC's acceptance of overlimit contributions from MNPL has had minimal impact on public transparency. The MNPL contributions were not intended to fund pre-election expenditures.

¹ This limit was raised to \$7,500 in 2023. WAC 390-05-400.

² The 2019 contribution was in fact reported as received on 10/25/2019.

Rather, these were routine annual contributions that happened to arrive within 21 days of a general election. The overlimit contributions had no impact whatsoever on the Committee's pre-election spending in 2022 and 2019.

- In 2022, the Committee had \$8,140.07 cash-on-hand prior to its acceptance of the MNPL contribution and incurred no expenditures during the pre-election period.³
- In 2019, the Committee had \$4,899.92 cash-on-hand prior to its acceptance of the MNPL contribution and incurred \$433.32 in expenditures during the pre-election period.⁴

While the Committee did spend MNPL funds during the pre-election period in 2020, this spending was inadvertent and amounted to just \$1,671.01 over what the Committee would have been able to spend had it observed the \$5,000 contribution limit.⁵ Moreover, the MNPL contribution arrived exactly 21 days before the general election, just inside the pre-election period.

As the Committee is now aware of the requirements of RCW 42.17A.420(1), it will take care in the future to avoid accepting overlimit contributions from MNPL or other contributors. Because the WSMC PAC's acceptance of overlimit contributions was an innocent mistake and did not contribute to significant pre-election spending, we ask that Mr. Morgan's complaint be dismissed with no more than a reminder letter. This outcome would be consistent with the PDC's approach in other overlimit contribution cases.⁶ Dismissal is also appropriate in light of the dubious constitutionality of RCW 42.17A.420 as applied to political committees in the wake of *Family PAC v. McKenna*, 685 F.3d 800 (9th Cir. 2012).⁷

Mr. Morgan's allegations of untimely reports similarly do not warrant further investigation and should also be dismissed with a reminder letter. Many of the reports flagged by Mr. Morgan were not in fact untimely, either because they consisted of an amendment to a timely filed report or because they involved contributions or expenditures below the monthly reporting threshold. If the PDC chooses to further investigate these allegations, we request the opportunity to furnish an additional response.

Please contact us with any questions or concerns at (206) 644-6002.

Sincerely,



Abby Lawlor
Danielle Franco-Malone
*Counsel for Washington State Machinists Council
PAC*

³ See C-4 Report No. 110133111; C-4 Report No. 110133110.

⁴ See C-4 Report No. 100942044; C-4 Report No. 100948672.

⁵ See C-4 Report No. 101006317; C-4 Report No. 101011834; C-4 Report No. 110007400.

⁶ See Case No. 59238 (dismissing with reminder letter where political committee accepted a \$25,000 contribution within nine days of the general election); Case No. 59212 (dismissing with reminder letter where political committee accepted a \$50,000 contribution within 21 days of the general election).

⁷ See UA Local 32 Pipe PAC Response in Case No. 59212 (Nov. 7, 2019).