



**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.pdcc.wa.gov

July 15, 2019

Delivered electronically to "iglitzin@workerlaw.com"

Subject: Complaint filed by Glen Morgan, PDC Case 21353

Dear Hilary Franz:

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

As noted in the letter to Glen Morgan, the PDC has dismissed this matter in accordance with RCW 42.17A.755(1) and will not conduct a more formal investigation into these allegations or take further enforcement action in this matter.

PDC staff is reminding you about the importance of providing a more detailed breakdown for expenditures made to reimburse individuals or payments made to consultants or vendors, including the number of items printed for political advertising, and to pay only the actual cost of goods or services for any events sponsored by other candidates or political committees in the future. In addition, please be aware of the changes to the disclosure of debt and other reporting requirements as part of the passage of ESHB 2938 (2018).

If you have questions, you may contact Fox Blackhorn at 1-360-753-1980 toll-free at 1-877-601-2828, or by email at pdcc@pdcc.wa.gov.

Sincerely,

Endorsed by,

/s

Fox Blackhorn
Compliance Coordinator 2

/s

Barbara Sandahl
Deputy Director
For Peter Lavalley
Executive Director



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July 15, 2019

Delivered electronically to “glen@wethegoverned.com”

Subject: Complaint regarding Hilary Franz, PDC Case 21353

Dear Glen Morgan:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on June 25, 2017. The complaint alleged that Hilary Franz, a 2016 candidate for the office of Washington State Commissioner of Public Lands, may have violated Chapter 42.17A RCW as detailed below.

PDC staff reviewed the allegations; the applicable statutes, rules, and reporting requirements; the responses provided by Dmitri Iglitzin, an attorney with Barnard, Iglitzin, Lavitt, LLP, on behalf of the Hilary Franz Campaign; queried the Respondent’s data in the PDC contribution and expenditure database; and reviewed the Candidate Registrations (C-1 reports), Monetary Contributions reports (C-3 reports), and Summary Full Campaign Contribution and Expenditure reports (C-4 reports) filed by the 2016 Friends of Hilary Franz (Campaign) to determine whether the record supports a finding of one or more violations.

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

- On April 27, 2016, Hilary Franz filed a C-1 report with the PDC declaring candidacy for election to the office of Washington State Commissioner of Public Lands in election year 2016, selecting the Full Reporting Option. The C-1 report listed Abbot Taylor as the ministerial-only Treasurer for the Campaign. Hilary Franz won in the General Election of November 8, 2016. M. Franz was previously a candidate for Bainbridge Island City Councilmember in 2007, was successfully elected to office and served one four-year term.
- On June 25, 2017, you filed a complaint with the PDC and a 45-Day Citizens Action Notice (CAN) with the Washington State Attorney General’s Office, alleging multiple violations of Chapter 42.17A RCW.
- On August 15, 2017, the Campaign Finance Unit (CFU) of the Attorney General’s Office notified you that they would not be taking any further action on the allegations made in your CAN.
- For the 2016 election, the Campaign disclosed \$530,137 in total monetary and in-kind contributions received, \$526,046 in expenditures made, with a \$4,091 cash on hand balance.

- The Campaign timely filed the January, February, March, April, and May 2016 C-4 reports, the 7-Day and 21-Day Pre-Primary Election C-4 reports, the Post-Primary Election C-4 report, the 21-Day and 7-Day Pre-General Election C-4 reports and the Post-General Election C-4 report.
- In addition, the Campaign timely filed its C-3 reports monthly through May 31, 2016, and then weekly beginning June 1 through November 7, 2016, in accordance with the statute, rules and reporting requirements, except for the initial C-3 reports due on the date the C-1 report was filed as noted below. Staff's review indicated that the Campaign filed many of the C-3 reports early, within one to two days of the contributions having been received.

Allegations: Failure to timely disclose contribution and expenditure information, on C-3 and C-4 reports due the date of Registration.

The complaint alleged violations of RCW 42.17A.235 by failing to timely disclose contribution and your complaint included a \$250 candidate contribution made on April 22, 2016, which should have been disclosed on a C-3 report no later than April 27, 2016.

- The Campaign acknowledged that the C-3 report was not timely filed and took responsibility for failing to timely its initial C-3 report until May 10, 2016, which was 10 days late.

Allegations: Failure to timely disclose contribution and expenditure information on C-3 and C-4 reports

The complaint alleged violations of RCW 42.17A.235 by failing to timely disclose contribution and expenditure activities undertaken by the Campaign on C-3 and C-4 reports.

- Of the ten C-3 and C-4 reports that you alleged were filed late, all those reports were amendments to previously timely filed original C-3 or C-4 reports, that had been submitted on or before the statutory deadlines, disclosing additional information as that information became available to the Campaign.
- The changes on the amended reports filed by the Campaign were minor in nature and included filing amended C-3 reports to reattribute contributions from marital properties to individual spouses (WAC 390-16-310) and amended C-4 reports disclosing in-kind contributions received and Campaign event related expenses.

Allegation: Failure to timely disclose debts and obligations

The complaint alleged seven violations of RCW 42.17A.240 by failing to timely disclose debts, and outstanding obligations incurred by the Campaign on C-4 reports. You provided as evidence, a \$3,258 Campaign expenditure made on December 16, 2016, to Kristina Brown for a "bonus" which you allege should have been disclosed as a debt on every C-4 report filed dating back to August of 2016, until December 2016.

- M. Iglitzin stated that the Campaigns contract with Kristina Brown did not contain a provision to pay a bonus in the event of M. Franz winning the 2016 general election. He stated that the bonus was "not a contractual contingent liability, but instead was a post-election victory bonus, which "did not need to be reported as a "debt" or contingent liability; it needed only to be reported at the time it was paid, which it was."

- The remaining six allegations concerned unreported debts for expenditures that had in fact been disclosed as debts on C-4 reports filed after the time the order had been placed by the Campaign but prior to the expenditure being made. Each of the six debts were disclosed by the Campaign on amended C-4 report prior to your complaint being filed, in a good-faith effort to comply with the reporting requirement by taking corrective action once they became aware of the errors.

Allegations: Failure to provide a breakdown of sub-vendors and/or detailed description of services provided

The complaint alleged violations of RCW 42.17A.235 and .240, WAC 390-16-037 and WAC 390-16-205 for failing to timely provide the required expenditure detail including sub-vendor breakdowns for Campaign-related work contracted out to a third party, reimbursements made to individuals, including the candidate, for out-of-pocket expenditures, expenditure descriptions for services provided by vendors, including number of political advertisements printed or mailed; and the run dates for broadcast political advertising.

Staff reviewed the allegations, which included 127 separate debts, expenditures, and in-kind contributions disclosed by the Campaign on C-4 reports as follows:

- 36 debts and expenditures were disclosed as having been made to Katherine Bobman Consulting totaling \$41,703 for Event Supplies, Political Advertising, and Fundraising, and included the names of any applicable sub-vendors.
- 24 debts and expenditures were disclosed as having been made to, or in-kind contributions received from, NWP Consulting totaling \$32,812 for Polling, Campaign Consulting, and Political Advertising, and included the names of any applicable sub-vendors.
- 18 debts and expenditures were disclosed as having been made to Kristina Brown totaling \$14,724 for Travel Expenses, Event Tickets, and Campaign Management, and included the names of any applicable sub-vendors.
- 14 expenditures were disclosed as having been made to Kristin Elia totaling \$13,105 for Campaign Management, Travel Expenses, Political Advertising, and Event Tickets, and included the names of any applicable sub-vendors.
- 14 debts and expenditures were disclosed as having been made to Abbot Taylor totaling \$9,479 for Treasury Services.
- Three debts and expenditures were disclosed as having been made to Boruck Printing & Silkscreen totaling \$5,699 for Yard Signs.
- Four expenditures were disclosed as having been made to, or in-kind contributions received from, Hilary Franz, totaling \$4,239 for Travel Expenses, Event Supplies, and the Candidate Filing Fee.
- The remaining fourteen debts, expenditures, and in-kind contributions totaled \$5,652 for Travel Expenses, Event Supplies, Research, Data Services, Photos, T-Shirts, and Robocalls.

As noted above, several the allegations listed in your complaint concerned information disclosed on amended C-3 and C-4 reports filed by the Campaign. Staff's review of the initial and amended C-3 and C-4 reports filed by the Campaign confirmed the Campaign made a good faith effort to comply with the statutes, rules and reporting requirements for the 2016 election. The

Campaign filed 11 amended C-3 reports and 15 amended C-4 reports during the 2016 election cycle, demonstrating a good faith effort to provide additional and/or updated disclosure information as the Campaign became aware of it.

Staff found there were expenditures made by the Campaign, either as reimbursements to individuals or volunteers, or payments made to a consultant or vendor for which it appears a more detailed description and/or a sub-vendor breakdown likely should have been disclosed. Staff also identified expenditures made by the Campaign where the run dates for political advertisements and the number of brochures or letters printed should have been disclosed.

At the request of PDC staff, the Campaign amended their reports to provide additional detailed disclosures and bring the 2016 Campaign into compliance, which included filing amended C-4 reports disclosing the run dates and the number of items printed for political advertising expenditures. Staff would classify these issues as reporting discrepancies which are minor or technical in nature, and do not believe the violations rise to the level of any enforcement action.

Allegations: Failure to disclose Committee Officers and individuals that are authorized to make expenditures, and to timely amend Candidate Registration (C-1 report)

The complaint alleged violations of RCW 42.17A.205 by failing to disclose on the C-1 report committee officers, individuals authorized by the Campaign to make expenditures and to process and deposit contributions, and for failing to timely amend the C-1 report within two weeks of any material changes to the campaign.

- The complaint identified expenditures made to Kristin Elia for Campaign Management, expenditures made to Kristina Brown for Campaign Management and a “Victory Bonus”, and expenditures made to Northwest Passage Consulting and Katherine Bobman Consulting, as evidence that these persons should have been disclosed as officers or principal decision makers on the C-1 report.
- M. Iglitzin indicated in the response M. Elia, M. Brown, M. Bobman, Northwest Passages Consulting, Moxie Media and Madeleine Foutch were not authorized to make, direct, or authorize contribution, expenditure, strategic, or policy decisions on behalf of the Campaign. He stated those individuals were Campaign Management, consultants and vendors that were not required to have been disclosed on the C-1 report, and only M. Franz as the candidate, and M. Taylor as Treasurer were the only Officers.

Allegations: Failure to disclose Board Positions on Personal Statement of Financial Affairs (F-1 report)

The complaint alleged violations of RCW 42.17A.710 by failing to disclose M. Franz’s position as a Director or Officer on the Puget Sound Partnership Salmon Recovery Council and the Partnership Ecosystem Recovery Board (Ecosystem Coordination Board), on the Personal Financial Affairs Statement (F-1 report) she filed on April 19, 2017, certifying financial activities in calendar year 2016.

- Staff’s review determined that the Puget Sound Salmon Recovery Council, and the Ecosystem Coordination Board are advisory councils to the Puget Sound Partnership, a Washington State agency, and they provide advice and analysis to the Puget Sound Partnership Leadership Council.

- M. Franz is not an Officer or Director for the Puget Sound Partnership, and she does not serve on the Puget Sound Partnership Leadership Council. Thus, M. Franz is not required to disclose her membership on the Puget Sound Salmon Recovery Council or the Ecosystem Coordination Board on the F-1 Supplement report in accordance with RCW 42.17A.710.

Allegations: Unauthorized Transfer of Candidate's Campaign Funds to Other Political Committees

RCW 42.17A.430(8) states that a candidate is prohibited from transferring campaign funds to another candidate or other political committee. The complaint alleged the Campaign made prohibited expenditures in the form of contributions to bona fide political party committees using active Campaign funds. The complaint identified two expenditures made by the Campaign to two bona fide political party committees during the 2016 election for event tickets, and alleged that the amount paid likely exceeded the fair market value or actual cost of goods or services for each event, thus making a portion of the two expenditures made, contributions to the political party committees in violation of the statute.

- On July 25, 2016, the Campaign made a \$61.52 expenditure to Kristin Elia, reimbursing her for expenditures she made to purchase event tickets to attend activities for the Whatcom County Democratic Party, and the Jefferson County Democratic Party which were alleged to have been in excess of the actual cost of goods or services for the event.
- The Campaign confirmed that a portion of the reimbursement made to M. Elia, \$16.52, was paid to the Whatcom County Democratic Party and represented the fair market value of the food and drinks provided at the event. Thus, no contribution was made in that instance.
- The Campaign confirmed that the remaining \$45 of the reimbursement made to M. Elia for the expenditure she made to the Jefferson County Democratic Party, exceeded the actual cost of goods and services for the event.
- On October 24, 2016, the Campaign made a \$200 expenditure to Kristina Brown, reimbursing her for an expenditure made to the Snohomish County Democratic Party for an event, which was alleged to have been in excess of the actual cost of goods or services for the event.
- The Campaign confirmed that the \$200 expenditure paid to M. Brown for the Snohomish County Democratic Party event, exceeded the actual cost of goods and services for the event.
- On June 4, 2019, at the request of staff, the Campaign sought and received a \$150 refund from the Snohomish County Democratic Party, and a \$33.75 refund from the Jefferson County Democratic Party, representing 75% of the full amount paid, which exceeded the actual cost of goods and services for attending these two events.

Staff would note that the Campaign took corrective action once they were notified and became aware of this issue. The two expenditures are minor in proportion to the overall contribution and expenditure activities undertaken by the Campaign and the two political party committees during the 2016 election and did not materially impact the public interest.

The issues above are mitigated by the fact that the Campaign: (1) was in frequent contact with PDC staff throughout the 2016 election in order to comply with the reporting requirements; (2) timely filed the overwhelming majority of the initially filed C-3 and C-4 reports, including the 21-Day and 7-Day Pre-Primary and General Election C-4 reports; and (3) disclosed receiving

more than \$530,000 in contributions received and expenditures made for a statewide elected office.

PDC staff found no evidence of a violation that would require conducting a more formal investigation into the complaint or pursuing enforcement action in this instance. However, staff has reminded the Campaign to provide a more detailed breakdown for expenditures made to reimburse individuals or payments made to consultants or vendors, including the number of items printed for political advertising, and to pay only the actual cost of goods or services for any events sponsored by other candidates or political committees in the future. In addition, please be aware of the changes to the disclosure of debt and other reporting requirements as part of the passage of ESHB 2938 (2018).

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 Fox Blackhorn at 1-360-753-1980 toll-free at 1-877-601-2828, or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

/s

Fox Blackhorn
Compliance Coordinator 2

Endorsed by,

/s

Barbara Sandahl
Deputy Director
For Peter Lavalley
Executive Director

cc: Hilary Franz Campaign