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Via U.S. Mail
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June 6, 2019

Kurt Young
Compliance Officer
Public Disclosure Commission
711 Capitol Way S. #206
P.O. Box 40908
Olympia, WA 98504-0908

Re: Complaint from the Freedom Foundation
PDC Case No. 51086
BIL Case File No. 3406-003

Dear Mr. Young:

We write to you on behalf of our client, the Washington State Council of County and City Employees/American Federation of State, County and Municipal Employees Council 2 Political Committee (the Committee),¹ in response to the Freedom Foundation's May 3, 2019, complaint against the Committee. Freedom Foundation alleges the Committee failed to disclose in-kind contributions it provided to its political committee and failed to timely file C-3 and C-4 forms disclosing the Committee's contributions, receipts and expenditures.

I. Failure to timely file C-3 and C-4 reports

Freedom Foundation's complaint greatly exaggerates and misrepresents the extent to which some of the Committee's C-3 or C-4 reports may have been submitted late.

First, many of the examples cited in the complaint are designed to make the number of allegedly late reports appear far greater than what actually exists. For instance, in several instances, the Foundation refers to a single C-3 as constituting several violations—one for each *contribution*.² However, RCW 42.17A.230(3) and RCW 42.17A.235(3) require a report to be filed only for each

¹ Despite Freedom Foundation's complaint conflating the two, WSCCCE and the WSCCCE Political Committee are separate entities. This response is on behalf of the Political Committee, which Freedom Foundation appears to have intended to target in its complaint.

² For example, on August 8, 2016, C-3 forms were due to reflect contributions to the Committee by WSCCCE, Friends of Dylan Carlson, and Jay Inslee for Governor. The same grouped reporting of contributions in a single bank deposit occurs on September 21, 2015, July 6, 2015, and May 11, 2015.

deposit, not each contribution. By separately breaking out each individual *contribution* on its table purporting to show late C-3 reports, the Foundation has greatly embellished the number of late reports.

Second, some of the reports alleged to have been filed several months late were not in fact late. For instance, the Foundation alleges that the Committee filed C-3 report number 100629885 precisely 365 days late. In fact, the report was filed on exactly the day it was due—March 10, 2015. Due to a typographical error, the report indicated that it reported a contribution and deposit from February 27, **2014**, when in fact, the contribution and deposit were made on February 27, **2015**. This example, which at first glance to be a report filed a year late, was in fact not late at all. In another example, the C-3 dated January 27, 2015 reported a deposit for a contribution dated October 31, 2014 — 85 days late. Ms. Corcoran reports that, while completing her regular bank reconciliation as treasurer for the Committee, she discovered a \$100 difference between what had already been reported to the PDC and the relevant Committee account. In order to rectify that discrepancy, she immediately filed a C-3 report.

In other examples, the Committee filed C-3 reports later than required based on its mistaken understanding that the reporting deadlines for C-3 reports corresponded with that for C-4 reports. In fact, the vast majority of the allegedly late C-3 reports were filed less than a month late (and in most cases far less than that), due to the fact that they were filed on or before the date monthly C-4 reports would have been due. The Committee respectfully requests that the Commission take this misunderstanding into account and consider the fact that the Committee made a good faith effort to comply with reporting and disclosure requirements.

Further, WSCCCE staff has consistently made inquiries to PDC staff when they had questions about how to comply with the Fair Campaign Practices Act, further demonstrating the Committee's good faith intent to fully comply with the law and utilization of best efforts. No deadlines were violated in bad faith, and efforts were made to file timely forms in all cases; in fact, in several instances the Committee's late filing was made in an effort to more accurately reflect its financial circumstances. Ms. Corcoran has made significant efforts to ensure the Committee's reporting is accurate, and has communicated extensively with Commission members to ensure filings are correctly and timely filed. Ms. Corcoran has also worked to ensure that any errors or late reports were corrected quickly to ensure the Committee's reporting is as accurate as possible. The Committee respectfully requests that the Commission also consider those good faith efforts to comply, as evidenced by consultations and cooperation with PDC staff both before and after the Freedom Foundation's complaint was filed. RCW 42.17A.750(1)(d)(xii).

In addition, each of the allegedly late reports noted in the Freedom Foundation's complaint was filed well before any election, limiting the impact of any late report on voters and public transparency. In no instance was a report filed after an election when it should have been filed before the election. Accordingly, the Committee requests that the Commission takes into account the low impact any late reports had on the public and the fact that noncompliance did not deprive voters of timely or accurate information during a time-sensitive election cycle. RCW 42.17A.750(d)(ii).

Further, the Committee respectfully requests that the PDC also takes into account the fact that the Committee has had no prior complaints filed against it for failing to properly file C-3 or C-4 reports, nor does it have any prior history of enforcement cases with the PDC. The Committee has no history of violating the FCPA. As noted above, it has a documented history of consulting with PDC staff as it

believed necessary to ensure it fully complied with the FCPA. And, while some reports may not have been filed by the date the FCPA required, as a whole, even the alleged examples of late filings represent a relatively small number of mistakes over the course of five years of reporting. The Committee requests that, before imposing any penalty, the Commission considers its compliance history. RCW 42.17A.750(1)(d)(i).

II. Failure to disclose in-kind contributions provided by WSCCCE

The Committee is currently investigating the allegation that the Committee failed to disclose in-kind contributions received from WSCCCE. The Committee expects its investigation to reveal that any WSCCCE staff time used to support the Committee will be minimal, but is utilizing due diligence to make that determination and provide the PDC with more information. The Committee fully intends to make any necessary corrections to its reporting if necessary to ensure that any in-kind contributions are properly reported.

If you have any questions or concerns please feel free to contact me at 206-257-6047 or via e-mail at franco@workerlaw.com.

Sincerely,



Danielle Franco-Malone
Counsel for WSCCCE PAC