

July 15th, 2019

Public Disclosure Commission  
711 Capitol Way #206  
P.O. Box 40908  
Olympia, WA 98504-0908

To Whom It May Concern:

The One Washington Equality Campaign, hereinafter OWEC, has fully complied with all of the legal requirements of the Washington State Public Disclosure Commission (PDC), since is its initial PDC filing on August 13, 2018. From August, 2018 to July, 2019, OWEC has timely and properly reported all known expenditures made by OWEC during those reporting periods.

**OWEC RESPONSE**

OWEC is happy to respond to Mr. Glen Morgan's Complaint filed June 21, 2019 which alleges that OWEC violated the following two sections of the Revised Code of Washington:

1) **RCW 42.17A.240 (6)**, which states:

*"Each report required under RCW 42.17A.235 (1) and (2) must be certified as correct by the treasurer and the candidate and shall disclose the following:*

*(6) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, the amount, date, and purpose of each expenditure, and the total sum of all expenditures."*

**and:**

2) **RCW 42.17A.255(2)**, which states:

*"(2) Within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission an initial report of all independent expenditures made during the campaign prior to and including such date."*

**RCW 42.17A.240 (6)**

The Complainant, Mr. Glen Morgan alleges that OWEC violated RCW 42.17A.240 (6) by failing to report expenditures for legal services provided by Foster Pepper, LLC. However, there are two (2) reasons these legal services do not violate RCW 42.17A.240 (6):

1) These legal services do not qualify as OWEC expenditures because OWEC did not expend any funds to pay for these legal services. Foster Pepper, LLC provided 100% of their legal representation on a voluntary Pro Bono basis, without any compensation whatsoever;

2) Because Foster Pepper, LLC provided their services on a voluntary Pro Bono basis, they did not submit invoices or any other documentation of their legal services to OWEC. Therefore, OWEC had no knowledge of any costs associated with Foster' Pepper, LLC's voluntary Pro Bono legal services.

However, OWEC is dedicated to continuing our consistent record of full compliance with the PDC requirements. In that vein, OWEC has recently obtained Foster Pepper, LLC's legal services report and filed that information in our June 2019 C-4 report, currently on record with the PDC. OWEC will continue to include voluntary Pro Bono legal services on all future reports.

**RCW 42.17A.255(2)**

The second state law Mr. Morgan alleges OWEC violated is RCW 42.17A.255(2), which states:

“(2) Within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission an initial report of all independent expenditures made during the campaign prior to and including such date.”

RCW 42.17A.255(2) is not applicable to OWEC for three (3) basic reasons:

- 1) RCW 42.17A.255(2) defines "independent expenditure" as any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17A.220, 42.17A.235, and 42.17A.240;
- 2) RCW 42.17A.255(2) specifically states, "...the person who made the independent expenditure (*emphasis added*) shall file with the commission an initial report of all independent expenditures made during the campaign prior to and including such date.”
- 3) OWEC has not made any independent expenditures in support of or in opposition to a candidate of ballot proposition. Therefore, OWEC is not required to file any report of independent expenditures with the PDC.
- 4) Assuming arguendo, that Foster Pepper, LLC’s voluntary Pro Bono legal services can be classified as an independent expenditure, RCW 42.17A.255(2) requires that the entity making these expenditures, not the recipient of these expenditures, report these expenditures on the PDC’s C-6 Independent Expenditures Form. It is highly possible Foster Pepper, LLC was not aware of this requirement.

**STATE OF WASHINGTON vs. EVERGREEN FREEDOM FOUNDATION**

Finally, Complainant Mr. Morgan cites State of Washington vs. Evergreen Freedom Foundation, Wa.State Supreme Ct. En Banc (January 10, 2019) (Hereafter, Evergreen) as legal authority for holding OWEC in violation of RCW 42.17A.255(2).

However, in Evergreen the Washington State Supreme Court ruled that under RCW 42.17A.255, Evergreen Freedom Foundation (EFF), the entity providing voluntary Pro Bono legal services to a local Ballot Proposition, was the entity responsible for reporting the voluntary Pro Bono legal services to the PDC.

Applying the Washington State Supreme Court’s Evergreen ruling to this Complaint, RCW 42.17A.255(2) clearly requires the provider of Pro Bono legal services, not OWEC to file the C-6 report of Independent Expenditures during the campaign. OWEC will certainly notify Foster Pepper, LLC of the C-6 reporting requirement.

In conclusion, contrary to the allegations filed in Mr. Morgan’s complaint, OWEC has not violated either RCW 42.17A.240 (6) or RCW 42.17A.255(2).

Therefore, OWEC respectfully requests that Mr. Morgan’s complaint be dismissed.

Respectfully Submitted,

One Washington Equality Campaign (OWEC)