



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

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In RE COMPLIANCE WITH
RCW 42.17A

Intermech, Inc. (3)

Respondent.

PDC Case 54818

Report of Investigation

I. BACKGROUND

First Complaint

- 1.1 United Association of Plumbers and Pipefitters Local 598 (UA Local 598) operates Plumbers & Steamfitters Local 598 PAC (Local 598 PAC or UA 598 PAC), a political committee funded by voluntary payroll deductions of employees who are members of the union. Since 2014, over \$1.6 million has been withheld from the wages of employees of several employers, and contributed to Local 598 PAC.
- 1.2 On November 19, 2018, Maxford Nelsen, Director of Labor Policy, Freedom Foundation, filed a complaint with the Public Disclosure Commission (PDC) alleging 37 named respondents may have violated RCW 42.17A.495, WAC 390-17-100, and WAC 390-17-110 by: (1) failing to obtain a proper written request from employees before withholding wages or salaries for contributions to Plumbers & Steamfitters Local 598 PAC; and (2) failing to provide an annual notification to employees who have requested payroll deductions for political contributions of their right to withdraw their request at any time, and of the prohibition against discrimination for not contributing.
- 1.3 Two of the 37 respondents named in the complaint were United Association of Plumbers and Pipefitters Local 598, PDC Case 43672, and Plumbers & Steamfitters Local 598 PAC, PDC Case 43673. However, the statute and rules primarily apply to employers/contractors who withhold wages or salaries as payroll deductions for political contributions. The statute and rules apply to the union by prohibiting the union from discriminating against a member who does not make political contributions.
- 1.4 The remaining 35 respondents were employers/contractors whose employees made political contributions to the union's PAC through payroll deductions. The complaint alleged that two versions of the work dispatch forms in use at the time did not comply with the withholding authorization requirements of RCW 42.17A.495 and WAC 390-17-100.

- 1.5 The withholding authorization accepted by the employers/contractors was developed by the union, even though the employers/contractors have been, and continue to be, responsible when there are deficiencies in the authorization, and when the annual notification is deficient or not sent as required by statute and rule, informing the employee of their right to revoke their authorization at any time, and of the employee's protection against discrimination by both the union and the employer/contractor for not contributing to the union's PAC.
- 1.6 One of the 35 employers/contractors was Intermech, Inc. (Intermech), PDC Case 43689.
- 1.7 Staff's review of the November 19, 2018 complaint found the authorization form being accepted by the 35 employers/contractors did not conform to the requirements in RCW 42.17A.495 and WAC 390-17-100. Staff also found many of the employers/contractors had not been sending out the required annual notification to employees who have funds withheld for PAC contributions, as required by WAC 390-17-110.
- 1.8 In a letter sent February 14, 2019, PDC staff dismissed the complaint against the 35 employers/contractors even though staff found "the current authorization form being accepted by the 35 employers/contractors does not conform to the requirements in RCW 42.17A.495 and WAC 390-17-100." The dismissal letter included a formal written warning, and made it clear to the 35 employers/contractors, including Intermech, Inc., that in the future, they must: (1) receive proper "Political Contribution Withholding Authorization" forms before withholding wages or salaries for political contributions; (2) send out, or authorize the union to send out on its behalf, a proper annual notification to employees making PAC contributions through payroll deductions; and (3) maintain all required documents pertaining to political contribution withholding authorization forms, open for public inspection, for a period of three years after the last disbursement of wages or salaries, and maintain a copy of the annual notification and a listing of employees notified for a period of no less than five years. The February 14, 2019 letter made it clear that any revised authorization forms intended to correct the current deficiencies must have the following characteristics:
 - o The "Political Contribution Withholding Authorization" as it is described in WAC 390-17-100 should be a stand-alone form with its own signature. If the authorization is to be incorporated with additional information, it needs to have a separate section that clearly identifies it as a "Political Contribution Withholding Authorization." The authorization must be an "opt-in" system where the employee affirmatively requests to have wages or salaries withheld for political contributions. This means the authorization may not require the employee to "opt-out" in order to avoid making a political contribution.
 - o The authorization must either follow the suggested format provided in WAC 390-17-100, or include all of the required elements in WAC 390-17-

100(2)(a) through (h), including a statement that the authorization may be revoked at any time, and a statement informing the employee of the prohibition against employer and labor organization discrimination, including each element described in RCW 42.17A.495.

- 1.9 Staff informed the respondents, if the authorization form is different from the sample provided in WAC 390-17-100, it must include the language in WAC 390-17-100(2)(f) or an acceptable alternative statement. Staff stated, the language being suggested on behalf of the respondents of, *"I understand I have a right to refuse to so contribute without any reprisal"* is not an adequate substitute statement. Staff informed the respondents, the authorization must state, the prohibition against discrimination for failing to contribute to the union's PAC applies to both the employers/contractors and the union, and the authorization must describe or reference the three discrimination prohibitions found in RCW 42.17A.495(2) and WAC 390-17-100(2)(f).
- 1.10 Staff informed the respondents, WAC 390-17-110 states, "the written notification shall identify where the employee can submit the revocation, which shall be the name and address of the employer's contact, or the name and address of the person or entity responsible for the disbursement of funds in payment of wages or salaries." Staff also reminded the respondents of the "Written notification" distribution requirements in WAC 390-17-110(3) and the requirement in subsection (4) for the employer to maintain a copy of the annual notification and a listing of employees notified for a period of no less than five years.
- 1.11 Staff reminded the employers/contractors, including Intermech, Inc., they need to understand and comply with their responsibility to: (1) receive a proper authorization before withholding wages or salaries for a PAC contribution; (2) provide a proper annual notification to employees making political contributions through payroll deductions; and (3) maintain the required records related to the written authorizations and annual notifications.
- 1.12 The respondents stated they would ensure staff's suggested changes were incorporated into the written authorization form, and a proper annual notification would be sent to employees making PAC contributions through payroll deductions. United Association of Plumbers and Pipefitters Local 598 stated they would make staff's suggested changes to the written authorization form, would send the annual notification on behalf of the employers/contractors, and would provide a copy of the annual notifications sent, to the respective employers.
- 1.13 Based on its findings, staff determined, for the complaint filed in the instance described above, no evidence supported a finding of an actual violation warranting further investigation concerning the alleged failure of United Association of Plumbers and Pipefitters Local 598, PDC Case 43672, and Plumbers & Steamfitters

Local 598 PAC, PDC Case 43673, to comply with RCW 42.17A.495, WAC 390-17-100, and WAC 390-17-110.

- 1.14 Based on its findings, staff determined, for the complaint filed November 19, 2018, the failure of the 35 employers/contractors to: (1) receive a proper authorization before withholding wages or salaries for a PAC contribution; and (2) provide a proper annual notification to employees making political contributions through payroll deductions did not amount to an actual violation warranting further investigation.
- 1.15 On February 14, 2019, pursuant to WAC 390-37-060(1)(b), the 35 employers/contractors, including Intermech, Inc., received a formal written warning concerning: (1) their failure to obtain a proper written request from employees before withholding wages or salaries for contributions to Plumbers & Steamfitters Local 598 PAC; and (2) their failure to provide an annual notification to employees who have requested payroll deductions for political contributions, of their right to withdraw their request at any time, and of the prohibition against discrimination by the employer and the union for not contributing. The formal written warning included staff's expectation that the 35 employers/contractors would fully comply with RCW 42.17A.495, WAC 390-17-100, and WAC 390-17-110 in the future. Staff stated the Commission would consider the formal written warning in deciding on further Commission action if there were future violations of PDC laws or rules. Based on this information, the PDC found no further action was warranted and dismissed the matter in accordance with RCW 42.17A.755(1).

Second Complaint

- 1.16 According to Maxford Nelsen, based on C-3 reports filed with the PDC, in January 2019, Plumbers & Steamfitters Local 598 PAC reported receiving \$39,916.45 from about 600 individuals. In February, the PAC received \$39,571.99 in contributions from about 650 individuals. In March, the first full month after the PDC issued its February 14, 2019 warning letter, the PAC reported receiving \$49,593.69 in contributions from about 730 individuals. In April 2019, UA 598's PAC disclosed receiving \$43,098.41 in contributions from about 780 individuals.
- 1.17 According to Mr. Nelsen, based on this information, the Freedom Foundation asked UA 598 to provide it an opportunity to inspect the "deduction authorization/'dispatch form' for every person listed on the form C3 filed by UA 598's political committee on April 5, 2019 with the Public Disclosure Commission," in accordance with RCW 42.17A.495(4). He said the Foundation was permitted to inspect records at the union's headquarters in Pasco on May 8, 2019.

- 1.18 Mr. Nelsen said the Freedom Foundation's inspection revealed the union possessed only 13 legally valid dispatch forms and continued to receive contributions to its PAC from hundreds of employees based on invalid authorizations.
- 1.19 On May 21, 2019, based on this information, Mr. Nelsen filed a second complaint, alleging 19 employers, including Intermech, Inc., had continued to violate RCW 42.17A.495 and WAC 390-17-100, after receiving the February 14, 2019 dismissal and warning letter from the PDC by deducting contributions to UA 598 PAC from employees' wages, without proper authorization.
- 1.20 On June 3, 2019, the PDC dismissed these cases, including the complaint against Intermech, Inc., Case 51811, pursuant to RCW 42.17A.755(1). In a case closure letter to Apollo Mechanical Contractors, the PDC noted:
- "The PDC's action was taken because Freedom Foundation did not submit evidence of violations based on direct contact with individual employers/contractors."
 - "The responsibility to use proper authorization forms and maintain the required records for public inspection is not a responsibility of the union or its political committee, and these responsibilities cannot be delegated to the union or political committee on behalf of the employers/contractors... [E]mployers/contractors remain responsible for direct compliance with the law and rules even if the union or its political committee provides records to a requester."
 - "PDC staff recommends you consult with your legal counsel to ensure you are fully compliant with RCW 42.17A.495, WAC 390-17-100, and WAC 390-17-110. The PDC's action does not preclude Freedom Foundation from contacting individual employers/contractors and refiling a complaint based on evidence obtained from individual employers/contractors."

II. ALLEGATIONS IN COMPLAINT

Current Compliant

- 2.1 On July 15, 2019, Maxford Nelsen, Director of Labor Policy, Freedom Foundation, filed a complaint with the Public Disclosure Commission, alleging Intermech, Inc. was in violation of RCW 42.17A.495 and WAC 390-17-100 by continuing to deduct employees' wages for political contributions to Plumbers & Steamfitters Local 598 PAC, the political action committee operated by United Association of Plumbers and Pipefitters Local 598, without first obtaining authorizations that comply with RCW 42.17A.495 and WAC 390-17-100. **(Exhibit 1)**
- 2.2 The complaint states, despite receiving a warning letter from the PDC on February 14, 2019 informing the firm none of the existing employee authorizations were compliant, and receiving a *second* letter from the PDC on June 3, 2019 encouraging it to "consult with your

legal counsel to ensure you are fully compliant with RCW 42.17A.495,” Intermech has continued to deduct political contributions to UA 598’s PAC from hundreds of its employees without first obtaining authorizations that comply with RCW 42.17A.495(3) and WAC 390-17-100. The complaint alleged that for the March-May 2019 period, nearly one hundred employees made 199 contributions to Local 598 PAC, and for those 199 contributions, Intermech was able to produce two Version 3 Authorization forms, not previously found by PDC staff to be invalid.

- 2.3 The complaint also alleged the Version 3 dispatch/authorization form created by Local 598 PAC for Intermech, violates WAC 390-17-100 by failing to permit the employee to designate the amount of the contribution to be withheld from their wages. The complaint alleged the authorization forms impermissibly restrict employees’ ability to choose how much to contribute to the PAC by requiring employees to agree to have 0.7 percent of their wages deducted for PAC contributions, even though the template form set forth in WAC 390-17-100 permits the employee to designate the specific dollar amount they wish to contribute.

II. FINDINGS

Alleged failure to obtain written authorizations from employees, before withholding wages or salaries, during the period March, April, and May 2019, that fully comply with RCW 42.17A.495 and WAC 390-17-100. Also, an alleged failure to allow the employee to designate the total dollar amount per pay period (or per week, month or year) to be deducted for contributions to Plumbers & Steamfitters Local 598 PAC, the political committee of United Association of Plumbers and Pipefitters Local 598, by precluding employees from designating an amount other than the suggested PAC contribution of 0.70% (0.0070) of wages.

Findings Based on Freedom Foundation Compliant

- 3.1 On June 6, 2019, the Freedom Foundation sent a letter to Intermech requesting an opportunity to inspect, in accordance with RCW 42.17A.495(4), the PAC deduction authorization forms of those Intermech employees listed as contributors to Local 598 PAC in March, April and/or May 2019 on the PAC’s C-3 forms. The letter requested such an opportunity on or prior to June 28, 2019. An appointment for July 10, 2019 was made to review the records.
- 3.2 The documents reviewed by the Freedom Foundation on July 10, 2019 consisted mostly of dispatch/PAC deduction authorization forms, but also included several signed statements by various Intermech employees acknowledging receipt of an annual notification of their right to cease contributing to Local 598 PAC through a payroll deduction. A review of the documents provided revealed:
- From March-May 2019, Intermech withheld at least \$9,764.82 from its employees’ wages for Local 598 PAC;

- Local 598 PAC reported receiving 199 contributions from Intermech employees during this period, typically, 1–4 contributions from each employee ;
- For the 199 contributions, Intermech produced 192 dispatch/authorization forms, but produced no dispatch/authorization forms for the remaining 7 contributions;
- Of the 192 contributions for which Intermech produced dispatch/authorization forms, two came from an employee whose dispatch/authorization form was not signed or dated;
- Nine contributions came from employees whose dispatch/authorization forms were signed but not dated;
- 97 contributions came from employees whose dispatch/authorization forms were invalid Version 1 Authorizations;
- 71 contributions came from employees whose dispatch/authorization forms were invalid Version 2 Authorizations;
- Two contributions came from employees whose dispatch/authorization forms were valid Version 3 Authorizations; and
- Six contributions came from employees whose dispatch/authorization forms included both invalid Version 1 and invalid Version 4 Authorizations.
- The complainant provided no details concerning the five remaining contributions for which Intermech allegedly did not produce valid authorization forms.

Findings Based on Response Provided by Jeremy Wood on Behalf of Intermech, Inc.

3.3 On July 31, 2019, Jeremy F. Wood, legal counsel for Intermech, Inc. responded to the complaint, stating Intermech has consistently complied with the Fair Campaign Practices Act ("FCPA") and any guidance the PDC has provided. He said Intermech has demonstrated repeatedly it will comply with the PDC's guidance, and believes it has already complied with the law, but remains ready to work with PDC. **(Exhibit 2)**

Background Provided in Response

3.4 The Intermech employees at issue are members of the United Association of Plumbers and Pipefitters Local 598 (UA 598). UA 598 operates a union hall that assigns members to various employers and/or contractors. In taking an assignment, employees receive and/or sign "dispatch forms."

3.5 UA 598 also operates a political action committee named Plumbers & Steamfitters Local 598 PAC (the PAC). The dispatch forms each member signs include a form which allows

members to voluntarily authorize their assigned employer or contractor to deduct a portion of their wages for contributions to the PAC (the authorization forms). The authorization forms have changed over the years, as follows:

Version Four Authorization (2013)

3.6 In 2013, UA 598 used a deduction Authorization (designated Version Four) which authorized the named employer, and any employer signatory to Local Union 598 Agreements for whom the employee works, to deduct 0.7 percent each week from wages for transfer to the Local 598 Political Action Committee.

Version One Authorization (2018)

3.7 Before 2018, UA 598 used a deduction Authorization (designated Version One) which authorized the named employer to withhold 0.7% of wages for contributions to the union's PAC. The authorization was valid for one-year and was automatically renewed for successive one-year periods. The authorization was subject to cancellation by written notice to the Employer and Local 598 if given within the 60-day period preceding an automatic renewal date.

Version Two Authorization (October 2018 and March 2019)

3.8 Between October 2018 and March 2019, UA 598 used an Authorization (designated Version Two) which authorized the named employer and any signatory to the Collective Bargaining Agreement for whom the employee works, to withhold 0.7% of wages for contributions to the union's PAC. The Authorization informed the employee they had a right to refuse to contribute to the PAC without any reprisal, and the Authorization was subject to cancellation by written notice to the Employer and Local 598, given within the 60-day period preceding an automatic renewal date.

Version Three Authorization (Beginning March 2019)

3.9 Beginning in March 2019, UA 598 began using its current version of the form (designated Version Three) which authorized the named employer and any signatory to the Collective Bargaining Agreement for whom the employee works, to withhold 0.7 percent of wages for contributions to the union's PAC. It leaves space for the employee's name/signature and the date signed. The authorization informed the employee of their right to refuse to contribute to the PAC without any reprisal. The authorization also included the non-discrimination language in RCW 42.17A.495(2) and WAC 390-17-100(1)(f), and stated the authorization may be revoked at any time in writing.

2019 Supplementation Issued to Intermech Employees

3.10 In early 2019, Intermech issued employees assigned to it a supplementation form regarding their deductions. It consisted of the annual notification required by WAC 390-17-

110, and affirmed that neither UA Local 598, nor any signatory contractor, may or will discriminate against the employee in the terms or conditions of the employee's employment for: (1) failing to contribute to the PAC; (2) failing to support (or oppose) the PAC; or (3) in any way supporting or opposing a candidate, ballot measure, political party or political committee. It also assured the employee they could rescind the authorization at any time.

Analysis by Respondent

- 3.11 Mr. Wood states the Freedom Foundation (Foundation) argues Intermech has failed to comply with RCW 42.17A.495(3) and WAC 390-17-100 by deducting contributions to the PAC from employee wages based on authorization forms that do not include all information required by law. Mr. Wood said the Foundation has misconstrued both the statute and the regulation.
- 3.12 Mr. Wood said the PDC has offered employers two choices for compliance with the statute, the "suggested format" template in WAC 390-17-100(2), or, any other "[f]orms ... in a different format including an electronic format if it provides" the seven required pieces of information specified in WAC 390-17-100(2).
- 3.13 Mr. Wood stated an additional eighth requirement is triggered "If more than one political committee or candidate is specified" in the written request. WAC 390-17-100(2)(d). He said, then and only then, must the forms used designate "the total dollar amount per pay period (or per week, month or year) to be withheld for each committee or candidate."
- 3.14 Mr. Wood asserted, while the written request authorizing a political contribution through a payroll deduction must contain the information listed in WAC 390-17-100(2), this subsection explicitly contemplates, the employer may receive the information on multiple forms. He said, similarly, WAC 390-17-100(3) provides that any "form that satisfies subsection (2) of this section constitutes the written authorization of the individual authorizing the withholding or diversion." He said, this means the employee's request may consist of several documents, each with some other piece of required information.
- 3.15 Mr. Wood said the Foundation has alleged Intermech has unlawfully withheld wages from employees who signed the First, Second, and Fourth Version Authorization forms, which do not, on their own, include all information required under RCW 42.17A.495 and WAC 390-17-100. He said the Foundation has ignored the fact that UA 598 has since supplemented these forms, as the PDC directed, with information missing from earlier forms. Mr. Wood asserted, when read together with the 2019 supplementations, all three challenged versions are sufficient. He said the supplementation complements the earlier authorizations by indicating the employee may revoke his authorization at any time, and includes the specific anti-discrimination language required by WAC 390-17-100(2)(f). Mr. Wood noted the Foundation does not challenge Version Three of the Authorization Form on these same grounds as it includes the revocation and anti-discrimination language.

- 3.16 Mr. Wood emphasized, every version of the authorization form, as well as the 2019 supplementation, include the name of the employee, employer, and recipient of the contribution, and include space for the employee's signature and date. He said because the authorization forms authorize deductions to only one PAC, the requirement to specify the dollar amount withheld per pay period does not apply.
- 3.17 Mr. Wood said, together, these earlier authorization forms, coupled with the 2019 supplementation, satisfy RCW 42.17A.495 and WAC 390-17-100. He said, under WAC 390-17-100(2) and (3), any "forms" conveying the information required under WAC 390-17-100(2) whether characterized as an authorization, a supplementation, an annual notification, some combination of the above, or any other name, "constitutes the written authorization of the individual authorizing the withholding or diversion."
- 3.18 Mr. Wood said the Foundation also challenged the adequacy of the Version Three authorization form, contending Intermech cannot withhold wages pursuant to the form because it does not permit the employee to designate the amount of the contribution to be withheld from wages. He said the PDC previously addressed and dismissed this same allegation, and took no notice of the assertion the written request must allow the employee to designate the dollar amount of the contribution to be withheld.

Supplement to Complaint Based on Intermech's Response to Complaint:

- 3.19 On August 12, 2019, Maxford Nelsen supplemented the Freedom Foundation's complaint based on Intermech's response to the July 15, 2020 complaint. Mr. Nelson pointed out that Intermech's defense includes an assertion that the original complaint references contributions "from employees for whom *JH Kelly* was unable to produce a dispatch form," and affirms this reference to "JH Kelly" in the original complaint is an obvious typographical error, and the fact remains, Intermech deducted seven contributions to Local 598 PAC from employees for whom it failed to produce a dispatch form. **(Exhibit 3)**
- 3.20 Mr. Nelsen disputed Intermech's defense that sending annual notices required by RCW 42.17A.495 and WAC 390-17-110 satisfies its obligations under RCW 42.17A.495 and WAC 390-17-100 to obtain proper authorizations from employees before deducting political contributions from their wages. Mr. Nelsen also disputed Intermech's claim that the Version Three authorization forms do not violate WAC 390-17-100 by fixing employees' contributions at 0.7% of wages, and that the complaint should be dismissed as frivolous, or resolved with a warning letter.
- 3.21 Mr. Nelsen pointed out, while the annual notice correctly informs employees that PAC deduction authorizations can be rescinded "at any time," both the Version One and Version Two forms incorrectly state the deductions may only be cancelled "within the 60-day period preceding an automatic [annual] renewal date."

- 3.22 Mr. Nelsen states WAC 390-17-100(2) refers to plural “forms” because it contemplates multiple different versions of forms that all satisfy the listed criteria, not because it permits a single employer to distribute the information required by WAC 390-17-100(2) across multiple forms. He contended all required information and disclosures must be included on a single form voluntarily signed by the employee, though multiple versions of such a form can satisfy the requirements of the Fair Campaign Practices Act (FCPA).
- 3.23 Mr. Nelsen insisted, to comply with the law, Intermech must first obtain a single authorization from employees that complies with RCW 42.17A.495(3) and WAC 390-17-100 before deducting political contributions from the wages of its employees. He said Intermech must then provide authorizing employees with annual notices of their rights that comply with RCW 42.17A.495(2) and WAC 390-17-110. He said, although the two requirements act in concert to protect employees’ ability to make free and voluntarily decisions regarding political contributions, these are two distinct requirements, and Intermech cannot satisfy the former by merely complying with the latter.
- 3.24 Mr. Nelsen said the Freedom Foundation maintains, all dispatch forms developed by UA 598 and utilized by Intermech, including the otherwise compliant Version Three forms, inappropriately restrict employees’ ability to determine how much to contribute to the political committee, instead fixing the deduction rate at 0.7% of wages.
- 3.25 Mr. Nelsen acknowledged, the PDC has not yet specifically addressed whether the authorization forms may present employees with a take-it-or-leave it proposition to have 0.7% of their wages withheld or whether employees must be permitted to specify the dollar amount of their desired deduction. Mr. Nelsen asked the PDC to settle the matter and find the FCPA not only protects employees’ right to choose whether to make political contributions but protects their right to choose how much to contribute to political causes as well.
- 3.26 Mr. Nelsen contends, either percentage-based deductions are permissible in all circumstances, or in no circumstances. He states, the only proper way to understand WAC 390-17-100 is that employee authorizations must permit the designation of a specific dollar amount(s) to be withheld for any and all recipients.
- 3.27 Mr. Nelsen also contends the alleged violations have materially affected the public interest, and cannot be considered minor violations under WAC 390-37-061(2)(c).
- 3.28 Mr. Nelsen said, in conclusion, Intermech’s violations have been ongoing and extensive, despite warnings from the PDC. He said it appears Intermech has mistakenly understood the PDC’s leniency in resolving prior complaints as somehow endorsing its actions.

Response to Staff Questions

- 3.29 In a letter dated November 24, 2020, Jeremy Wood, on behalf of Intermech, answered questions sent by PDC staff on October 23, 2020. **(Exhibit 4)**

- 3.30 In both 2019 and 2020, Intermech provided identical Annual Notifications, required by WAC 390-17-110, to employees making contributions to Local 598 PAC through payroll deductions. The notifications informed recipients of the non-discrimination provisions and their right to revoke their contributions at any time. The notification for 2020 was sent on March 5, 2020.
- 3.31 Intermech has, in its possession, a copy of the Annual Notifications for 2019 and 2020 and a list of the employees who received the notifications. Intermech stated it will maintain this information for no less than five years.
- 3.32 Mr. Wood stated Intermech, out of respect for its relationship with Local 598, relies solely on the union's dispatch/authorization forms.
- 3.33 Mr. Wood stated Intermech appreciates the PDC's acknowledgement of its good faith commitment to comply with WAC 390-17-100 and other governing law, and by its letter reaffirmed its commitment to full compliance. Mr. Wood said Intermech has provided Local 598 a list of employees who may not have received the Version Three Authorization form. He said the union has offered to distribute the Version Three Authorization form and secure all necessary signatures. He said Intermech will update the PDC once it and Local 598 have ensured all employees have received the Version Three form.
- 3.34 Mr. Wood's response, Exhibit B, included a list of Intermech's employees who are members of Local 598 and made contributions to Local 598 PAC through payroll deductions, and who received the annual notification required by WAC 390-17-110.
- 3.35 Mr. Wood also stated he is leaving his law firm, and attorney Thomas Holt, also of the Littler Mendelson law firm, will be handling the case for Intermech.

Additional Response to Staff Questions

- 3.36 On December 3, 2020, Tom Holt provided an additional response to staff's questions. **(Exhibit 5)**
- 3.37 The response included Exhibit A, a list of Local 598 members who have been dispatched to Intermech since March 1, 2019, the date new, compliant language was added to the dispatch/authorization form. In addition, the response included signed, Version 3 Authorizations for each employee.
- 3.38 The response also included Exhibit B, a list of all current Local 598 employees who were dispatched to Intermech prior to March 1, 2019.
- 3.39 Mr. Holt stated Intermech has now obtained a signed version of the compliant Version 3 Authorization form for all current Local 598 employees. He said, going forward, all employees employed by Intermech will continue to be dispatched with the compliant Version 3 Authorization, as Intermech has done since March 1, 2019.

Alleged failure to allow employees to designate the total dollar amount for contributions to Local 598 PAC through payroll deductions by only providing the option of the suggested PAC contribution of 0.70% of wages

3.40 Staff reviewed the allegation that forms allowing an employee to designate a percentage of wages or salary to be deducted for political contributions, rather than a specific dollar amount, are prohibited by WAC 390-17-100. Staff reviewed the complainant's position that wording in WAC 390-17-100(2)(d), concerning what must be included in forms used for contributions to multiple recipients, applies equally to a contribution to one recipient, and the request for contributions must be expressed in dollars rather than in a percentage of wages or salary. The relevant language in WAC 390-17-100(2)(d), concerning deductions for contributions to more than one recipient, states, in part, that a form for payroll deduction must provide the following information: "... *If more than one political committee or candidate is specified, the total dollar amount per pay period (or per week, month or year) to be withheld for each committee or candidate...*". The complainant's position is also based on wording in the sample Political Contribution Withholding Authorization form displayed in WAC 390-17-100, which includes a space for indicating the dollar amount of a contribution for each recipient when an employee's deduction will be distributed to more than one recipient.

3.41 Staff found no evidence that the law prohibits employees from requesting a payroll deduction for political contributions based on a percentage of wages or salary. The sample form in WAC 390-17-100 includes a space for an employee to designate the dollar amount to be deducted per period/week/month/year, but neither the form nor the rule prohibits an employee from designating the dollar amount as a percentage of wages or salary.

Initial Hearing (Case Status Review)

3.42 On September 13, 2019, PDC staff held an Initial Hearing (Case Status Review) for Intermech, Inc. (3), Case 54818, and opened a formal investigation.

III. SCOPE

4.1 PDC staff reviewed the complaint, the response to the complaint, and a complaint supplement filed after the response was received. In addition, staff reviewed two previous complaints of a similar nature, dismissed by staff, one with a formal written warning, and one for a lack of evidence concerning the activities of the Respondent.

IV. LAW

RCW 42.17A.495, WAC 390-17-100 and WAC 390-17-110 state, No employer may withhold wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The written request must be on a form prescribed by the commission informing the employee of the prohibition against employer and

labor organization discrimination stating, "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee."

The employee may revoke the request at any time, and at least annually, by June 30 of each year, employees from whom funds are being withheld for contributions to a candidate or political committee shall be notified, in writing, of the nondiscriminatory provisions, and of each employee's right to revoke the authorization at any time.

In addition, employers and other persons who withhold or divert wages or salaries must: (1) maintain the completed forms for as long as the withholding or diversion continues; (2) keep the forms and other documents open for public inspection for three years after the last disbursement of wages or salaries; and (3) maintain a copy of the annual notification and a listing of employees notified for a period of no less than five years.

Respectfully submitted this 21st day of December 2020.

Electronically Signed Philip E. Stutzman

Philip E. Stutzman
Compliance Officer

EXHIBIT LIST

- | | |
|------------------|---|
| Exhibit 1 | Complaint filed July 8, 2019 |
| Exhibit 2 | Complaint Supplement filed August 9, 2019 |
| Exhibit 3 | Response to Complaint filed July 24, 2019 |
| Exhibit 4 | Response to Staff Questions Dated November 24, 2020 |
| Exhibit 5 | Additional Response to Staff Questions December 3, 2020 |

July 15, 2019

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

Public Disclosure Commission Staff,

Unfortunately, I write for the third time in less than a year to bring to your attention continued illegal political deductions from the wages of certain employees of Intermech, Inc. (“Intermech”)¹ represented by the United Association of Plumbers and Pipefitters Local 598 (“UA 598”).

In short, Intermech is violating RCW 42.17A.495 and WAC 390-17-100 by deducting political contributions from employees’ wages for the political action committee (“PAC”) operated by UA 598 without first receiving proper authorization.

Even though the Public Disclosure Commission (“PDC”) issued a warning letter to Intermech on February 14, 2019, informing the firm that none of the existing employee authorizations were valid, Intermech continues to divert employee wages to the PAC without legal authorization.

From March-May 2019, Intermech withheld at least \$9,764.62 from nearly one hundred of its employees’ wages for UA 598’s PAC. All of these deductions were made in violation of RCW 42.17A.495(3) and WAC 390-17-100 to varying degrees.

Intermech has no signed PAC deduction authorization forms for two of its employees. Moreover, the authorization forms Intermech has for the bulk of the employees have already been recognized by the PDC as legally invalid, and several were not signed and/or dated by the employee. Only two employees have provided Intermech with an authorization that has not already been recognized by the PDC as non-compliant. Lastly, even these two authorizations violated the FCPA by impermissibly restricting the employees’ ability to choose how much to contribute to the PAC.

¹ Respondent’s contact information: Intermech, Inc; 654 Truman Avenue, Richland, WA, 99352; ccook@intermechinc.com, mmalloy@intermechinc.com, dsaylor@bahnsen.com, jhutcherson@bahnsen.com. Legal counsel: Pamela Salgado; Littler Mendelson, PC; One Union Square, 600 University Street, Suite 3200, Seattle, WA, 98101; (206) 381-4928; psalgado@littler.com.

Background

1. The First Complaint

UA 598 maintains and operates a political committee, as defined by RCW 42.17A.005(40), called the Plumbers & Steamfitters Local 598 PAC. *See Appendix page 2*, the PAC's most recent form C1PC. The PAC is funded by contributions taken via payroll deduction from the wages of UA 598 members. Since 2014, over \$1.6 million has been withheld from employees' wages and contributed to the PAC.

UA 598 PAC Contributions	
Year	Amount
2014	\$235,749.56
2015	\$291,591.92
2016	\$296,377.64
2017	\$263,422.60
2018	\$281,129.98
2019	\$269,951.50
Total	\$1,638,223.20

Although it is not the employer, UA 598 develops the terms of "dispatch forms" that employers, including Intermech, use. The employees UA 598 represents must sign these "dispatch forms" before being assigned to work a particular job for a particular contractor.² The dispatch forms include authorization for the employer to deduct both union dues and PAC contributions.

UA 598 has utilized at least four versions of its dispatch forms during the five-year statute of limitations established by RCW 42.17A.770.

The terms of the **first version** of the dispatch form in use prior to October 2018 provided:

"I authorize the Employer to withhold and to pay working dues on my behalf at the current rate of 3%, IAP at 2.25%, and PAC at 0.7% of my gross pay to Local Union 598. This authorization shall be valid for the period of one year or the balance of the term of the current agreement, whichever is sooner, and shall automatically renew itself for successive one-year periods. This authorization is subject to cancellation by written notice to the Employer and Local 598 given within the 60-day period preceding an automatic renewal date."

From October 2018 through March 2019, UA 598 used a **second version** of its dispatch form

² The Public Disclosure Commission's notice of resolution in Case No. 43689 found that, "[t]he withholding authorization accepted by the employer/contractors was developed by the union (United Association of Plumbers and Pipefitters Local 598), even though the employer/contractors have been and continue to be responsible when there are deficiencies in the authorization..." *See App. 3-9*, the PDC's combined case closure letter.

that provided:

“I authorize the Employer to withhold and to pay working dues on my behalf at the current rate of 3% and IAP at 2.25% of gross pay to Local Union 598. So that the common interests of Local 598 members to secure jobs, fair wages, and safe working conditions can be heard by state and federal candidates for office, I voluntarily authorize and direct the above-named employer and any signatory to the Collective Bargaining Agreement for whom I work to deduct the suggested 0.70% (0.0070) as ratified by the Local 598 Membership, each week from my pay for transfer to the Local 598 Political Action Committee, where funds will be used for federal or state races as deemed necessary by PAC leadership. I understand that I have a right to refuse to so contribute without any reprisal. Furthermore, I recognize that the contribution guideline is just that, and that I may contribute any amount or not at all to the Political Action Committee – although only the suggested amount is supported by the paycheck deduction process. Contributing an alternative amount will require contacting the Local’s staff. Furthermore, I understand that to comply with the Federal law, the PAC must use its best efforts to obtain, maintain, and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 per calendar year. I understand that my contribution is not tax-deductible. This authorization shall be valid for the period of one year or the balance of the term of the current agreement, whichever is sooner, and shall automatically renew itself for successive one-year periods. This authorization is subject to cancellation by written notice to the Employer and Local 598 given within the 60-day period preceding an automatic renewal date.”

Around March 2019, UA 598 developed a **third version** of its dispatch form providing:

“So that the common interest of Local 598 members to secure jobs, fair wages, and safe working conditions can be heard by state and federal candidates for office, I voluntarily authorize and direct the above-named employer and any signatory to the Collective Bargaining Agreement for whom I work to deduct the suggested 0.70% (0.0070) as ratified by the Local 598 Membership, each week from my pay for transfer to the Local 598 Political Action Committee, where funds will be used for federal and state races as deemed necessary by PAC leadership. I understand that I have a right to refuse to so contribute without reprisal. Furthermore, I recognize that the contribution guideline is just that, and that I may contribute any amount or not at all to the Political Action Committee – although only the suggested amount is supported by the paycheck deduction process. Contributing an alternative amount will require contacting the Local’s staff. Note: No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee. Furthermore, I understand that to comply with the Federal law, the PAC must use its best efforts to obtain, maintain, and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 per calendar year. I understand that my contribution is not tax-deductible. I understand that I may revoke my authorization at any time in writing.”

The Freedom Foundation also recently learned that UA 598 utilized a stand-alone PAC deduction authorization form in or around at least 2013, which shall be referred to as **version four**, providing:

“So that the common interests of U.A. Local 598 members to secure jobs, fair wages and safe working conditions can be heard by politicians, I voluntarily authorize and direct the above name employer and any employer signatory to Local Union 598 Agreements for whom I work to deduct seven tenths of one percent (.7%) each week from my pay for transfer to the Local 598 Political Action Committee.”

On November 19, 2018, the Freedom Foundation filed a complaint with the PDC against UA 598, its PAC and the 35 employers that had deducted PAC contributions from the wages of UA 598-represented employees in October 2018, including Intermech. The PDC assigned a unique case number to each of the 37 respondents.³

The complaint alleged, among other things, that the first and second versions of UA 598’s dispatch forms in use at the time did not comply with RCW 42.17A.495(3), which provides:

“No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee’s wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The employee may revoke the request at any time. At least annually, the employee shall be notified about the right to revoke the request.”

Similarly, the complaint alleged the forms were out of compliance with WAC 390-17-100, which states:

- “(1) Each employer or other person who withholds or otherwise diverts a portion of wages or salary of a Washington resident or a nonresident whose primary place of work is in the state of Washington shall have on file the individual’s written authorization before withholding or diverting the individual’s wages or salary for:
- (a) The purpose of making one or more contributions to any political committee required to report pursuant to RCW 42.17A.205, 42.17A.215, 42.17A.225, 42.17A.235 or 42.17A.240; or
 - (b) Use, specifically designated by the contributing employee, for political contributions to candidates for state or local office.
- (2) Forms used for payroll deduction may either conform to the suggested format below or be in a different format including an electronic format if it provides the following information:
- (a) The name of the individual authorizing the withholding or diversion;

³ PDC case numbers: 43672, 43673, 43675, 43676, 43677, 43678, 43679, 43680, 43681, 43682, 43683, 43684, 43685, 43686, 43687, 43688, **43689 (Intermech)**, 43690, 43691, 43692, 43693, 43694, 43695, 43696, 43697, 43698, 43699, 43700, 43701, 43702, 43703, 43704, 43705, 43706, 43707, 43708, and 43709.

- (b) The name of the individual's employer;
- (c) The name of each political committee or candidate for which contributions are to be withheld;
- (d) If more than one political committee or candidate is specified, the total dollar amount per pay period (or per week, month or year) to be withheld for each committee or candidate;
- (e) A statement specifying that the authorization may be revoked at any time and such revocation shall be in writing;
- (f) A statement that reads: 'No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee'; or a statement that informs the employee of the prohibition against employer and labor organization discrimination described in RCW 42.17A.495;
- (g) The individual's signature or other reliable and secure verification that the individual is authorizing the withholding or diversion; and
- (h) The date on which the form was completed."

In its notice of resolution issued February 14, 2019, the PDC found that, "the current authorization form being accepted by the 35 employer/contractors [first version above] does not conform to the requirements in RCW 42.17A.495 and WAC 390-17-100."

In a warning letter, the PDC,

"...reminded the employer/contractor respondents that they need to understand and comply with their responsibility to: (1) receive a proper authorization before withholding wages or salaries for a PAC contribution..." (Emphasis added)

Finally, the warning letter concluded that,

"...the current revised authorization [second version above] that includes a statement that the authorization is subject to cancellation by written notice to the Employer and Local 598 given within the 60-day period preceding an automatic renewal date is not acceptable, and [] the 'Political Contribution Withholding Authorization' form must inform the employee that their request may be revoked at any time." (Emphasis added)

See App. 3-9.

2. The Second Complaint

Nonetheless, in January 2019, the PAC reported receiving \$39,916.45 from about 600 individuals. In February, the PAC received \$39,571.99 in contributions from about 650 individuals. In March, the first full month after the PDC issued its warning letter, the PAC reported receiving \$49,593.69 in contributions from about 730 individuals. And in April 2019, UA 598's PAC disclosed receiving \$43,098.41 in contributions from about 780 individuals. *See App. 10-411*, the PAC's forms C3 filed in 2019.

In other words, the PDC's invalidation of UA 598's PAC deduction authorization forms had no discernable effect on the PAC's contribution rate, which is curious to say the least. Accordingly, the Freedom Foundation requested that UA 598 provide it an opportunity to inspect the "deduction authorization/'dispatch form' for every person listed on the form C3 filed by UA 598's political committee on April 5, 2019 with the Public Disclosure Commission," in accordance with RCW 42.17A.495(4). The Foundation was permitted to inspect records at the union's headquarters in Pasco on May 8, 2019.

The Freedom Foundation's inspection revealed the union possessed only 13 signed, version three dispatch forms that hadn't already been invalidated by the PDC yet continued to receive contributions to its PAC from hundreds of employees on the basis of invalid authorizations.

Consequently, in a second complaint filed with the PDC on May 21, 2019, the Freedom Foundation alleged that 19 employers, including Intermech, had violated RCW 42.17A.495 and WAC 390-17-100 by deducting contributions to UA 598's PAC from employees' wages without proper authorization. The PDC assigned a unique case number to 18 of the 19 respondents.⁴

On June 3, 2019, the PDC purported to dismiss the cases under RCW 42.17A.755(1). In a case closure letter to Intermech, the PDC noted:

- "The PDC's action was taken because Freedom Foundation did not submit evidence of violations based on direct contact with individual employers/contractors."
- "The responsibility to use proper authorization forms and maintain the required records for public inspection is not a responsibility of the union or its political committee, and these responsibilities cannot be delegated to the union or political committee on behalf of the employers/contractors... [E]mployers/contractors remain responsible for direct compliance with the law and rules even if the union or its political committee provides records to a requester."
- "PDC staff recommends you consult with your legal counsel to ensure you are fully compliant with RCW 42.17A.495, WAC 390-17-100, and WAC 390-17-110. The PDC's action does not preclude Freedom Foundation from contacting individual employers/contractors and refiling a complaint based on evidence obtained from individual employers/contractors."

See App. 412-417, the PDC's dismissal letter.

3. The Present Complaint

On June 6, 2019, the Freedom Foundation sent a letter to Intermech via email and USPS certified mail requesting an opportunity to inspect, in accordance with RCW 42.17A.495(4), the PAC deduction authorization forms of those Intermech employees listed as contributors to UA 598's PAC in March, April and/or May 2019 on the PAC's C3 forms. The letter requested to be provided such an opportunity on or prior to June 28, 2019. *See App. 418-422*, the Freedom

⁴ PDC case numbers: 51802, 51803, 51804, 51805, 51806, 51807, 51808, 51809, 51810, **51811 (Intermech)**, 51812, 51813, 51814, 51815, 51816, 51817, 51818, and 51819. No case number was assigned regarding the allegations against Critical Path Resources.

Foundation's letter to Intermech.

On June 28, the Freedom Foundation received via email a letter from Pamela Salgado of Littler Mendelson, Intermech's legal counsel. The letter stated:

"This office represents Intermech in responding to your letter dated June 6, 2019. We are able to make the records requested available for viewing during regular business hours at the offices of Littler Mendelson at 600 University Street, Suite 3200, Seattle, WA 98101. Please contact me or my assistant, Colette Pringle-Saunders, to arrange a time to review. Please note that we are only open Monday, Tuesday or Wednesday of next week."

See **App. 423**, Ms. Salgado's letter.

Later that day, I emailed a reply to Ms. Salgado and Ms. Pringle-Saunders requesting to inspect the forms on the morning of July 10. On July 1, Ms. Pringle-Saunders replied in the affirmative and we confirmed the appointment. See **App. 424-427**, the emails arranging the appointment.

At 9:00 a.m. on Wednesday, July 10, 2019 — 34 days after first requesting to inspect Intermech's PAC deduction authorization forms — my colleague Eric Stahlfeld and I arrived at Littler Mendelson's Seattle office. In a conference room under the supervision of Ms. Pringle-Saunders, we were permitted to inspect a folder of documents. The documents consisted largely of dispatch/PAC deduction authorization forms, though also included were several signed statements by various Intermech employees acknowledging they had been provided with an annual notice of their right to cease contributing to UA 598's PAC via payroll deduction. Such notices are required by RCW 42.17A.495(3) and by WAC 390-17-110.

Though we were not permitted to copy any of the documents, our review of the documents provided determined:

- From March-May 2019, Intermech withheld at least \$9,764.82 from its employees' wages for UA 598's PAC.
- UA 598's PAC reported receiving 199 contributions from Intermech employees. Typically, 1-4 contributions per person were recorded during this period.
- Of these, 192 contributions (96%) came from an employee for whom Intermech produced a dispatch form. The remaining 7 contributions (4%) came from employees for whom JH Kelly was unable to produce a dispatch form.⁵
- Of the 192 contributions from employees for whom Intermech produced a dispatch form:
 - 2 (1%) came from an employee whose dispatch form was not signed or dated;
 - 9 (5%) came from employees whose forms were signed but not dated;

⁵ No dispatch form was provided for Chamise Hartman, who is listed as a contributor to the PAC on its C3 forms. However, a signed, version one dispatch form was provided for a Chamise Moyer. For the purposes of calculating the number of employees from whose wages Intermech withheld PAC contributions without any kind of authorization, it is presumed that Ms. Hartman and Ms. Moyer are the same person. However, whether the contributions at issue came from a Ms. Hartman without any kind of authorization or from a Ms. Moyer pursuant to a version one dispatch form is immaterial, as in neither case would the deductions have complied with RCW 42.17A.495(3).

- 97 (51%) came from employees for whom Intermech produced a **version one** dispatch that the PDC has already concluded to be invalid;
- 71 (37%) came from employees for whom Intermech produced a **version two** dispatch form that the PDC has already concluded to be invalid;
- 2 (1%) came from employees for whom Intermech produced a **version three** dispatch form;
- 6 contributions (3%) were made by employees for whom Intermech produced both a **version one** and a **version four** form. Oddly, all of the version four forms were signed on May 28, 2013.

See **App. 428-430**, a summary of the dispatch forms provided by Intermech.

Allegations

1. Deduction of PAC contributions from employees' wages without legal authorization.

Despite receiving a warning letter from the PDC on February 14, 2019 and receiving a *second* letter from the PDC on June 3, 2019 encouraging it to “consult with your legal counsel to ensure you are fully compliant with RCW 42.17A.495,” Intermech has continued to deduct political contributions to UA 598’s PAC from dozens of its employees without first obtaining signed authorizations that comply with RCW 42.17A.495(3) and WAC 390-17-100. In some cases, Intermech has no authorization forms of any kind for the employees it is deducting PAC contributions from. In March-May 2019 alone, Intermech deducted at least \$9,764.82 in contributions to the union’s PAC from employee wages without legal authorization.

2. The version three dispatch forms generated by UA 598 and utilized by Intermech do not permit employees to choose the amount of their contribution(s).

UA 598’s version three dispatch forms in use by Intermech also violate WAC 390-17-100 by failing to permit the employee to designate the amount of the contribution to be withheld from their wages. Instead, the dispatch forms require employees to agree to have 0.7 percent of their wages deducted for PAC contributions. However, the template form set forth in WAC 390-17-100 permits the employee to designate the specific dollar amount he or she wishes to contribute.

3. The version four PAC deduction authorization forms generated by UA 598 and utilized by Intermech do not contain required disclosures.

RCW 42.17A.495(3) requires that PAC deduction authorization forms disclose to employees that, “No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.”

Further, WAC 390-17-100(2)(e) requires the authorization form to contain, “A statement specifying that the authorization may be revoked at any time and such revocation shall be in writing...”

The **version four** PAC deduction authorization forms signed by several Intermech employees contain no such disclosures and are, therefore, legally insufficient to authorize Intermech to withhold contributions to UA 598's PAC from employees' wages.

Enforcement Options

RCW 42.17A.755(1) provides that, when presented with a citizen complaint, the PDC "must" either: (1) dismiss it or otherwise resolve it as a remedial or technical violation; (2) initiate an investigation, conduct hearings and take enforcement action; or, (3) refer the complaint to the attorney general.

1. The PDC should not dismiss the complaint as the allegations are not "obviously unfounded or frivolous."

WAC 390-37-005(2)(a) and WAC 390-37-060 provide the PDC may dismiss a complaint if it is "obviously unfounded or frivolous, or outside of the PDC's jurisdiction."

There should be no disputing the PDC's jurisdiction over the present complaint against Intermech, as a matter of law. The PDC has already concluded that most of the deductions processed by Intermech were made without legal authorization and in violation of RCW 42.17A.495. The complaint is not "obviously unfounded or frivolous."

2. The allegations against Intermech involve "actual violations," not "remedial violations" or "requests for technical correction."

RCW 42.17A.005(2) defines an "actual violation" as one "that is not a remedial violation or technical correction." Thus, violations are considered "actual violations" by default unless they meet the criteria to be considered lesser "remedial" or "technical" violations. Since Intermech's deduction of PAC contributions from its employees' wages without legal authorization involves neither "remedial violations" nor "technical corrections," it involves, by definition, "actual violations."

a. Intermech's violations were not "remedial."

As defined by RCW 42.17A.005(45), a "remedial violation" is one that meets *all* the following criteria:

- “(a) Involved expenditures totaling no more than the contribution limits set out under RCW 42.17A.405(2) per election, or one thousand dollars if there is no statutory limit;
- (b) Occurred:
 - (i) More than thirty days before an election, where the commission entered into an agreement to resolve the matter; or
 - (ii) At any time where the violation did not constitute a material violation because it was inadvertent and minor or otherwise has been cured and, after consideration of all the circumstances, further proceedings would not serve

- the purposes of this chapter;
- (c) Does not materially affect the public interest, beyond the harm to the policy of this chapter inherent in any violation; and
 - (d) Involved:
 - (i) A person who:
 - (A) Took corrective action within five business days after the commission first notified the person of noncompliance, or where the commission did not provide notice and filed a required report within twenty-one days after the report was due to be filed; and
 - (B) Substantially met the filing deadline for all other required reports within the immediately preceding twelve-month period; or
 - (ii) A candidate who:
 - (A) Lost the election in question; and
 - (B) Did not receive contributions over one hundred times the contribution limit in aggregate per election during the campaign in question.”

Intermech’s violations did not involve making or disclosing political expenditures, so prong (a) above is inapplicable.

Intermech’s ongoing deduction of political contributions from employees’ wages without legal authorization has occurred for several years, including during periods within 30 days of an election. Further, Intermech’s actions directly contradict an FCPA statute. They result from Intermech’s standard practice and procedure. They are not “inadvertent” and, far from being “cured,” have continued unabated despite multiple warnings from the PDC. Prong (b) is not satisfied.

The illegal deduction of \$9,764.82 from employees’ wages by Intermech in March-May 2019 alone not only harms the affected employees, but also materially harms the public by allowing UA 598’s PAC to influence Washington elections using illegally-seized funds. Thus, prong (c) is not satisfied.

Lastly, Intermech has not ceased the illegal deductions despite receiving two formal notices from the PDC in 2019 about complying with RCW 42.17A.495, so prong (d)(i) is not satisfied. And because Intermech is not a candidate, prong (d)(ii) is inapplicable.

In short, Intermech’s violations meet none of the criteria necessary to be considered “remedial.”

b. Intermech’s violations did not involve “requests for technical corrections.”

RCW 42.17A.005(51) defines “technical correction” as:

“...a minor or ministerial error in a required report that does not materially impact the public interest and needs to be corrected for the report to be in full compliance with the requirements of this chapter.”

Intermech's violations do not fall under this definition, because the statute at issue, RCW 42.17A.495, does not pertain to disclosure of contributions or expenditures or require that Intermech file any reports with the PDC. Consequently, the definition of "technical correction" simply does not include Intermech's violations of the employee-authorization provisions of that statute.

3. The PDC cannot resolve the present complaint against Intermech with another written warning as involving "minor violations."

WAC 390-37-060(1)(d) purports to authorize the PDC to "resolve any complaint that alleges minor violations of chapter 42.17A by issuing a formal written warning."

WAC 390-37-061 provides:

- "(2) A minor violation is an actual violation that occurs:
- (a) When required information is not timely disclosed, but the public is not deprived of critical information; or
 - (b) When incomplete information is disclosed, but a good faith effort to comply with disclosure is made, and the public is not deprived of critical information.
 - (c) When any other violation of chapter 42.17A RCW has occurred that does not materially affect the public interest."

a. WAC 390-37-060(1)(d) and WAC 390-37-061 conflict with and are preempted by RCW 42.17A.755 and RCW 42.17A.001(1).

While the PDC has been granted authority to engage in rulemaking, any rules it adopts must "carry out the policies and purposes" of the FCPA,⁶ and otherwise be consistent with its textual commands.

As such, regulations governing "minor violations" may arguably have been valid at the time they were first adopted by the PDC in 2016, but passage of HB 2938 in 2018 rendered them a dead letter, as violative of the new statute.

Specifically, RCW 42.17A.755(1) now requires the PDC to take one of several actions after a complaint has been submitted. It "must" either: (1) dismiss the complaint; (2) resolve it as a remedial violation or request for technical correction; (3) initiate an investigation, conduct hearings and issue an enforce an appropriate order; or (4) refer the complaint to the Attorney General.

Neither RCW 42.17A.755 nor any other statute permits the PDC to designate some "actual violations" as merely "minor" and resolve them with a warning letter.

Accordingly, WAC 390-37-060(1)(d) and WAC 390-37-061 conflict with RCW 42.17A.755, do not "carry out the policies and purposes" of the FCPA established by RCW 42.17A.001(1), and are of no legal effect.

⁶ RCW 42.17A.110(1).

b. Intermech's violations were not "minor" for the purposes of WAC 390-37-061.

Even if the enforcement process for "minor violations" established by WAC 390-37-061 was valid and statutorily authorized, Intermech's violations still would not qualify as "minor" for purposes of the regulation.

WAC 390-37-061(2)(a) and (2)(b) apply to the disclosure of required information to the PDC and are inapplicable to violations of RCW 42.17A.495, much like the definition of "technical corrections."

Further, the illegal deduction of \$9,764.82 from employees' wages by Intermech in March-May 2019 alone harms the affected employees and materially harms the public by allowing UA 598's PAC to influence Washington elections using illegally-seized funds, so WAC 390-37-061(2)(c) is not satisfied.

Conclusion

Intermech continues to deduct contributions from dozens of employees on the basis of legally invalid authorizations, even after being warned multiple times that the authorizations are invalid. In the space of merely three months, Intermech has illegally deducted at least \$9,764.82 from its employees for political activity the employees may not support. Notably, the PDC's first warning letter explicitly stated that "[t]he Commission will consider this formal warning in deciding on further Commission action if there are future violations of PDC laws or rules." *See App. 3.*

This situation is somewhat unique in that the violations of the FCPA committed by Intermech may largely result from the actions of UA 598. Nonetheless, as the PDC has already observed, Intermech may not pass off its legal responsibility to comply with the FCPA to UA 598, and the law provides the employer must be held accountable for FCPA violations resulting from the union's behavior and policies.

Further, the contributions to the PAC illegally deducted from employees' wages have allowed UA 598 to significantly influence, through political contributions and expenditures, dozens of elections around the state.⁷ The extent of UA 598's undue influence on these elections is difficult to neatly quantify, but the sheer number of elections and the amount of money involved make the issue one of substantial public concern.

Indeed, influencing Washington elections with money illegally collected from employees' wages is a far more fundamental violation of the FCPA than more commonplace failures to properly disclose contributions and expenditures.

Given that these are "actual violations," as defined by RCW 42.17A.005(2), and have continued to occur even after formal warnings from the PDC, we respectfully request that the PDC resolve this complaint through an investigation and enforcement action pursuant to RCW 42.17A.755(1)(b) or, alternatively, that it refer the matter to the Attorney General pursuant to

⁷ PDC records indicate the PAC contributed to at least 12 candidates and two other PACs in 2018 alone. *See* https://www.pdc.wa.gov/reports/expenditures_download?filer_id=PLUMSF%20301&election_year=2018

RCW 42.17A.755(1)(c).


It is imperative that state authorities act decisively to put a stop to the ongoing illegal deductions from employees' wages to deter such behavior in the future. Please do not hesitate to contact me if the Freedom Foundation can be of any further assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Maxford Nelsen', with a stylized, sweeping flourish at the end.

Maxford Nelsen
Director of Labor Policy
Freedom Foundation
P.O. Box 552, Olympia, WA 98507
(360) 956-3482
mnelsen@freedomfoundation.com

PDC Complaint – Intermech – Appendix

PUBLIC DISCLOSURE COMMISSION  711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 Toll Free 1-877-601-2828		Political Committee Registration		C1_{PC} (1/12)	100711280 07-26-2016				
Committee Name (Include sponsor in committee name. See next page for definition of "sponsor." Show entire official name. Do not use abbreviations or acronyms in this box.) PLUMBERS & STEAMFITTERS LOCAL 598 PAC				Acronym:					
				Telephone: 509-545-1446					
Mailing Address 1328 N ROAD 28				Fax: 509-547-2139					
City PASCO		County FERRY		Zip + 4 99301					
				E-mail: JAMES@THETORRESFIRM.COM					
NEW OR AMENDED REGISTRATION? <input checked="" type="checkbox"/> NEW. Complete entire form. <input type="checkbox"/> AMENDS previous report. Complete entire form.			COMMITTEE STATUS <input checked="" type="checkbox"/> Continuing (On-going; not established in anticipation of any particular campaign election.) <input type="checkbox"/> _____ election year only. Date of general or special election: _____ (Year)						
1. What is the purpose or description of the committee? <input type="checkbox"/> Bona Fide Political Party Committee - official state or county central committee or legislative district committee. If you are not supporting the entire party ticket, attach a list of the names of the candidates you support.									
<input type="checkbox"/> Ballot Committee - Initiative, Bond, Levy, Recall, etc. Name or description of ballot measure:				Ballot Number FOR AGAINST <input type="checkbox"/> <input type="checkbox"/>					
<input checked="" type="checkbox"/> Other Political Committee - PAC, caucus committee, political club, etc. If committee is related or affiliated with a business, association, union or similar entity, specify name: PLUMBERS AND STEAMFITTERS LOCAL 598									
For single election-year only committees (not continuing committees): Is the committee supporting or opposing (a) one or more candidates? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach a list of each candidate's name, office sought and political party affiliation. (b) the entire ticket of a political party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the party:									
2. Related or affiliated committees. List name, address and relationship. <input type="checkbox"/> Continued on attached sheet.									
3. How much do you plan to spend during this entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. (If your committee status is continuing, estimate spending on a calendar year basis.) If no box is checked you are obligated to use Full Reporting. See instruction manuals for information about reports required and changing reporting options. <input type="checkbox"/> MINI REPORTING Mini Reporting is selected. No more than \$5,000 will be raised or spent <u>and</u> no more than \$500 in the aggregate will be accepted from any one contributor.									
				<input checked="" type="checkbox"/> FULL REPORTING Full Reporting is selected. The frequent, detailed campaign reports mandated by law will be filed as required.					
4. Campaign Manager's or Media Contact's Name and Address				Telephone Number:					
5. Treasurer's Name and Address. Does treasurer perform <u>only</u> ministerial functions? Yes ___ No <u>X</u> . See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet. RANDALL J WALLI 1328 N ROAD 28, PASCO WA 99301				Daytime Telephone Number: 509-545-1446					
6. Persons who perform only ministerial functions on behalf of this committee <u>and</u> on behalf of candidates or other political committees. List name, title, and address of these persons. See WAC 390-05-243 and next page for details. <input type="checkbox"/> Continued on attached sheet.									
7. Committee Officers and other persons who authorize expenditures or make decisions for committee. List name, title, and address. See next page for definition of "officer." <input type="checkbox"/> Continued on attached sheet. RANDALL WALLI, TREASURER, 1328 N ROAD 28, PASCO WA 99301-3933									
8. Campaign Bank or Depository US BANK		Branch 1840 W COURT ST		City PASCO					
9. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address. Street Address, Room Number, City where campaign books will be available for inspection 1328 N ROAD 28, PASCO In order to make an appointment, contact the campaign at (telephone, fax, e-mail): 602-626-8805 JAMES@THETORRESFIRM.COM									
10. Eligibility to Give to Political Committees and State Office Candidates: A committee must receive \$10 or more each from ten Washington State registered voters before contributing to a Washington State political committee. Additionally, during the six months prior to making a contribution to a state office candidate your committee must have received contributions of \$10 or more each from at least ten Washington State registered voters. <input checked="" type="checkbox"/> A check here indicates your awareness of and pledge to comply with these provisions. Absence of a check mark means your committee does not qualify to give to Washington State political committees and/or state office candidates.				11. Signature and Certification. I certify that this statement is true, complete and correct to the best of my knowledge. <table> <tr> <td>Committee Treasurer's Signature</td> <td>Date</td> </tr> <tr> <td>RANDALL J WALLI</td> <td>07-26-2016</td> </tr> </table>		Committee Treasurer's Signature	Date	RANDALL J WALLI	07-26-2016
Committee Treasurer's Signature	Date								
RANDALL J WALLI	07-26-2016								



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@pdc.wa.gov • Website: www.pdc.wa.gov

February 14, 2019

Delivered electronically to ccook@intermechinc.com

Intermech, Inc.
654 Truman Avenue
Richland, WA, 99352

Subject: Complaint filed by Maxford Nelsen (Freedom Foundation), PDC Case 43689

Dear Intermech, Inc.:

Below is a copy of an electronic letter sent to Maxford Nelsen (Freedom Foundation) concerning a complaint filed with the Public Disclosure Commission (PDC).

As noted in the letter to Maxford Nelsen (Freedom Foundation), 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.

However, pursuant to WAC 390-37-060(1)(b), this letter serves as a warning letter concerning your failure to fully comply with the requirements of RCW 42.17A.495, WAC 390-17-100, and WAC 390-17-110: (1) by failing to obtain a proper written request from employees before withholding wages or salaries for contributions to Plumbers & Steamfitters Local 598 PAC; and (2) by failing to provide an annual notification to employees who have requested payroll deductions for political contributions of their right to withdraw their request at any time, and of the prohibition against discrimination by their employer and their union if they withdraw their request to make political contributions through payroll deductions. Although not alleged in the complaint, please note that as an employer/contractor facilitating payroll deductions for political contributions, you are required to comply with the recordkeeping requirements detailed in RCW 42.17A.495(3) and WAC 390-17-100(4). Staff expects you to comply with the requirements referenced in this letter. The Commission will consider this formal written warning in deciding on further Commission action if there are future violations of PDC laws or rules.

If you have questions, you may contact Phil Stutzman at 360-664-8853, toll-free at 1-877-601-2828, or by email at pdc@pdc.wa.gov.

Sincerely,

/s/ 
Phil Stutzman
Compliance Officer

Endorsed by
/s/ 
Peter Lavalée
Executive Director

Enclosure: Letter to Maxford Nelsen (Freedom Foundation)



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

February 15, 2019

Sent by Email to: MNelsen@myfreedomfoundation.com

Maxford Nelsen
Director of Labor Policy
Freedom Foundation
P.O. Box 552
Olympia, WA 98507

Subject: Complaint regarding:

1. United Association of Plumbers and Pipefitters Local 598, PDC Case 43672
2. Plumbers & Steamfitters Local 598 PAC, PDC Case 43673
3. American Electric, Inc., PDC Case 43675
4. Apollo Mechanical Contractors (formerly known as Apollo Sheet Metal), PDC Case 43676
5. Applied Process Cooling, PDC Case 43677
6. BNB Mechanical, LLC, PDC Case 43678
7. Brothers Pipeline Corporation, PDC Case 43679
8. Callies Welding and Fabrication, LLC, PDC Case 43680
9. Central Washington Refrigeration, PDC Case 43681
10. Columbia River Electric Maintenance, PDC Case 43682
11. Day & Zimmermann NPS, PDC Case 43683
12. Doubl-Kold, PDC Case 43684
13. Fluid Controls and Components, Inc., PDC Case 43685
14. Indian Eyes, LLC, PDC Case 43686
15. Infrasource Services, LLC, PDC Case 43687
16. Integrated Systems, PDC Case 43688
17. Intermech, Inc., PDC Case 43689
18. Iron Mountain Management, PDC Case 43690
19. Joint Apprenticeship and Training Committee, PDC Case 43691
20. JH Kelly, LLC, PDC Case 43692
21. J.K. Johnson Mechanical Contractors, PDC Case 43693
22. Jordan Mechanical Group, PDC Case 43694
23. JR Merit, Inc., PDC Case 43695
24. MacDonald-Miller Facility Solutions, PDC Case 43696
25. McClintock and Turk, Inc., PDC Case 43697
26. McKinstry Company, LLC, PDC Case 43698

Maxford Nelsen, Freedom Foundation

Re: Complaint Against United Association of Plumbers and Pipefitters Local 598, et al.

Page 2

27. Michels Corporation, PDC Case 43699
28. Northwest Metal Fab & Pipe, Inc., PDC Case 43700
29. Perma Cold Engineering, Inc., PDC Case 43701
30. Snelson Companies, Inc., PDC Case 43702
31. Stirrett-Johnson, Inc., PDC Case 43703
32. TCM Corp., PDC Case 43704
33. Truetemp Northwest, Inc., PDC Case 43705
34. University Mechanical Contractors, PDC Case 43706
35. Waste Treatment Completion Company, LLC, PDC Case 43707
36. Washington Building Trades, PDC Case 43708
37. Williams Plant Services, PDC Case 43709

Dear Mr. Nelsen:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on November 19, 2018. Your complaint alleged that the 37 named respondents may have violated RCW 42.17A.495, WAC 390-17-100, and WAC 390-17-110: (1) by failing to obtain a proper written request from employees before withholding wages or salaries for contributions to Plumbers & Steamfitters Local 598 PAC; and (2) by failing to provide an annual notification to employees who have requested payroll deductions for political contributions of their right to withdraw their request at any time, and of the prohibition against discrimination for not contributing.

PDC staff reviewed your allegations; the applicable statutes and rules; the response received from Jim Barton on behalf of all respondents; and the response received from Meghan Chalk on behalf of Iron Mountain Management to determine whether the record supports a finding of one or more violations.

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

- Two of the 37 respondents named in your complaint are United Association of Plumbers and Pipefitters Local 598 (PDC Case 43672) and Plumbers & Steamfitters Local 598 PAC (PDC Case 43673). However, the statute and rules primarily apply to the employer/contractors who withhold wages or salaries as payroll deductions for political contributions. The statute and rules apply to the union by prohibiting the union from discriminating against a member who does not make political contributions.
- The remaining 35 respondents are employer/contractors whose employees make political contributions to the union's PAC through payroll deductions. The withholding authorization accepted by the employer/contractors was developed by the union (United Association of Plumbers and Pipefitters Local 598), even though the employer/contractors have been and continue to be responsible when there are deficiencies in the authorization, and when the annual notification is deficient or is not sent as required by statute and rule, informing the employee of their right to revoke their authorization at any time, and of the employee's protection against discrimination by both the union and the employer/contractor for not contributing to the union's PAC.
- Some of the employer/contractors demonstrated that they have a way for employees to revoke their written authorization. However, it appears that the current authorization

Maxford Nelsen, Freedom Foundation

Re: Complaint Against United Association of Plumbers and Pipefitters Local 598, et al.

Page 3

form being accepted by the 35 employer/contractors does not conform to the requirements in RCW 42.17A.495 and WAC 390-17-100. It also appears that many of the employer/contractors have not been sending out the required annual notification to employees who have funds withheld for PAC contributions, as required by WAC 390-17-110.

- PDC staff has made it clear to the employer/contractors that in the future, they must: (1) receive proper “Political Contribution Withholding Authorization” forms before withholding wages or salaries for political contributions; (2) send out, or authorize the union to send out on its behalf, a proper annual notification to employees making PAC contributions through payroll deductions; and (3) maintain all required documents pertaining to political contribution withholding authorization forms, open for public inspection, for a period of three years after the last disbursement of wages or salaries, and maintain a copy of the annual notification and a listing of employees notified for a period of no less than five years. Staff has made it clear that any revised authorization forms intended to correct the current deficiencies, must have the following characteristics:
 - The “Political Contribution Withholding Authorization” as it is described in WAC 390-17-100 should be a stand-alone form with its own signature. If the authorization is to be incorporated with additional information, it needs to have a separate section that clearly identifies it as a “Political Contribution Withholding Authorization.” The authorization must be an “opt-in” system where the employee affirmatively requests to have wages or salaries withheld for political contributions. This means the authorization may not require the employee to “opt-out” in order to avoid making a political contribution.
 - The authorization must either follow the suggested format provided in WAC 390-17-100, or include all of the required elements in WAC 390-17-100(2)(a) through (h), including a statement that the authorization may be revoked at any time, and a statement that informs the employee of the prohibition against employer and labor organization discrimination including each element described in RCW 42.17A.495.
- Staff informed the respondents that the current revised authorization (Exhibit D in Jim Barton’s January 4, 2019 letter) that includes a statement that the authorization is subject to cancellation by written notice to the Employer and Local 598 given within the 60-day period preceding an automatic renewal date is not acceptable, and that the “Political Contribution Withholding Authorization” form must inform the employee that their request may be revoked at any time.
- Staff informed the respondents that if the authorization form is different from the sample provided in WAC 390-17-100, it must include the language in WAC 390-17-100(2)(f) or an acceptable alternative statement. Staff stated that the current suggested language of, “I understand I have a right to refuse to so contribute without any reprisal” is not an adequate substitute statement. Staff informed the respondents that the authorization must state that the prohibition against discrimination for failing to contribute to the union’s PAC applies to both the employer/contractor and the union, and that the authorization must describe or reference the three discrimination prohibitions found in RCW 42.17A.495(2) and WAC 390-17-100(2)(f).

Maxford Nelsen, Freedom Foundation

Re: Complaint Against United Association of Plumbers and Pipefitters Local 598, et al.

Page 4

- Concerning the respondent's proposed "Annual Authorization Notice" included as Exhibit F in Mr. Barton's January 4, 2019 response, staff suggested changing the name to reflect that it is an annual notification rather than an annual authorization, using a title like "Annual Notification Concerning Withholding Funds for 598 PAC" to be more reflective of the purpose of the document. Staff informed the respondents that the notification language proposed in Mr. Barton's January 4, 2019 response tells the recipient they may rescind their authorization by contacting the PAC in writing, but that WAC 390-17-110 states, "the written notification shall identify where the employee can submit the revocation, which shall be the name and address of the employer's contact, or the name and address of the person or entity responsible for the disbursement of funds in payment of wages or salaries." Staff also reminded the respondents of the "Written notification" distribution requirements in WAC 390-17-110(3) and the requirement in subsection (4) for the employer to maintain a copy of the annual notification and a listing of employees notified for a period of no less than five years.
- Staff reminded the employer/contractor respondents that they need to understand and comply with their responsibility to: (1) receive a proper authorization before withholding wages or salaries for a PAC contribution; (2) provide a proper annual notification to employees making political contributions through payroll deductions; and (3) maintain the required records related to the written authorizations and annual notifications.
- The respondents have stated that they will ensure that staff's suggested changes are incorporated into the written authorization form, and that they will ensure that a proper annual notification is sent to employees making PAC contributions through payroll deductions. United Association of Plumbers and Pipefitters Local 598 has stated that they will make staff's suggested changes to the written authorization form, and that they will send the annual notifications on behalf of the employer/contractors, and will provide a copy of the annual notifications they send, to the respective employers.

Based on these findings staff has determined that, in this instance, no evidence supports a finding of an actual violation warranting further investigation concerning the alleged failure of United Association of Plumbers and Pipefitters Local 598, PDC Case 43672, and Plumbers & Steamfitters Local 598 PAC, PDC Case 43673, to comply with RCW 42.17A.495, WAC 390-17-100, and WAC 390-17-110.

Based on these findings staff has determined that, in this instance, the failure of the 35 employer/contractor respondents to: (1) receive a proper authorization before withholding wages or salaries for a PAC contribution; and (2) provide a proper annual notification to employees making political contributions through payroll deductions does not amount to an actual violation warranting further investigation.

However, pursuant to WAC 390-37-060(1)(b), the 35 employer/contractor respondents will receive a formal written warning concerning: (1) their failure to obtain a proper written request from employees before withholding wages or salaries for contributions to Plumbers & Steamfitters Local 598 PAC; and (2) their failure to provide an annual notification to employees who have requested payroll deductions for political contributions of their right to withdraw their request at any time, and of the prohibition against discrimination by the employer and the union for not contributing. The formal written warning will include staff's expectation that the 35 employer/contractor respondents will fully comply with RCW 42.17A.495, WAC 390-17-100,

Maxford Nelsen, Freedom Foundation

Re: Complaint Against United Association of Plumbers and Pipefitters Local 598, et al.

Page 5

and WAC 390-17-110 in the future. The Commission will consider the formal written warning in deciding on further Commission action if there are future violations of PDC laws or rules.

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). Thank you for bringing this matter to the Commission's attention.

If you have questions, you may contact Phil Stutzman at 1-360-664-8853, toll-free at 1-877-601-2828, or by e-mail at pdc@pdc.wa.gov.

Sincerely,



Phil Stutzman
Compliance Officer

Endorsed by.



Peter Lavalley
Executive Director

cc: 37 Respondents



Littler Mendelson, PC
One Union Square
600 University Street, Suite 3200
Seattle, WA 98101.3122

July 31, 2019

Jeremy F. Wood
206.381.4948 direct
206.623.3300 main
jfw@littler.com

Mx. Fox Blackhorn
Compliance Coordinator 2
360.753.1980
pdc@pdc.wa.gov

Re: The Freedom Foundation's July 15, 2019 Letter Complaint

Dear Mx. Blackhorn:

I write on behalf of Intermech, Inc. ("Intermech") in response to a complaint the Freedom Foundation ("the Foundation") submitted to the Public Disclosure Commission ("PDC") on July 15, 2019. For the third time in less than a year, the Foundation seeks to undermine the right of Intermech employees to voluntarily contribute to a political action committee ("PAC") of their choice. This time, the Foundation alleges that Intermech unlawfully withheld the employees' contributions based on authorization forms that lacked certain required information. But the Foundation cannot identify anything that was not disclosed to these employees.

The Foundation has raised similar allegations to the PDC twice in the last year. Each time the PDC has dismissed their complaint. The instant complaint repeats some of these failed arguments, supplemented by factual inaccuracies, groundless legal theories, and an unsupported attack on the PDC's own authority.

Contrary to the Foundation's allegations, Intermech has consistently complied with the Fair Campaign Practices Act ("FCPA") and any guidance the PDC has provided. While it honors employees' rights to participate in political financing, it ensures they have received all required information before withholding their wages. It ensures that employees receive a reminder each year that they may revoke their authorization at any time. Intermech has demonstrated repeatedly that it will comply with the PDC's guidance. Intermech believes it has already complied with the law but remains ready to work with PDC.

As the PDC has twice before, it should dismiss the Foundation's third complaint.

1. Background

The Intermech employees at issue are members of the United Association of Plumbers and Pipefitters Local 598 ("UA 598"). UA 598 operates a union hall that assigns members to various employers and/or contractors. In taking an assignment, employees receive and/or sign "dispatch forms."

UA 598 also operates a political action committee called the Plumbers & Steamfitters Local 598 PAC ("the PAC"). The dispatch forms each member signs include a form which allows members to voluntarily authorize their assigned employer or contractor to deduct a small portion of their wages for contribution to the PAC ("the authorization forms").

The authorization forms have changed over the years, and include the versions laid out below.

1.1 **Version Four Authorization Form**

In 2013, UA 598 used a version of the deduction authorization, which the Foundation has designated Version Four.¹ It provides:

So that the common interests of U.A. Local 598 members to secure jobs, fair wages and safe working conditions can be heard by politicians, I voluntarily authorize and direct the above name employer and any employer signatory to Local Union 598 Agreements for whom I work to deduct seven tenths of one percent (.7%) each week from my pay for transfer to the Local 598 Political Action Committee.

1.2 **Version One Authorization Form**

The next version, used before October 2018 (designated Version One), provided:

I authorize the Employer to withhold and to pay working dues on my behalf at the current rate of 3%, IAP at 2.2, and PAC at 0.7% of my gross pay to Local Union 598. This authorization shall be valid for the period of one year or the balance of the term of the current agreement, whichever is sooner, and shall automatically renew itself for successive one-year periods. This authorization is subject to cancellation by written notice to the Employer and Local 598 given within the 60-day period preceding an automatic renewal date.

1.3 **Version Two Authorization Form**

UA 598 replaced this version, and used another version between October 2018 and March 2019 (designated Version Two), that provided:

I authorize the Employer to withhold and to pay working dues on my behalf at the current rate of 3% and IAP at 2.25% of gross pay to Local Union 598. So that the common interests of Local 598 members to secure jobs, fair wages, and safe working conditions can be heard by state and federal candidates for office, I voluntarily authorize and direct the above-named employer and any signatory to the Collective Bargaining Agreement for whom I work to deduct the suggested

¹ The Foundation describes a "Version Four" authorization form used before "Version One." For consistency, Intermech adopts the Foundation's labelling.

0.70% (0.0070) as ratified by the Local 598 Membership, each week from my pay for transfer to the Local 598 Political Action Committee, where funds will be used for federal or state races as deemed necessary by PAC leadership. I understand that I have a right to refuse to so contribute without any reprisal. Furthermore, I recognize that the contribution guideline is just that, and that I may contribute any amount or not at all to the Political Action Committee – although only the suggested amount is supported by the paycheck deduction process. Contributing an alternative amount will require contacting the Local's staff. Furthermore, I understand that to comply with the Federal law, the PAC must use its best efforts to obtain, maintain, and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 per calendar year. I understand that my contribution is not tax-deductible. This authorization shall be valid for the period of one year or the balance of the term of the current agreement, whichever is sooner, and shall automatically renew itself for successive one-year periods. This authorization is subject to cancellation by written notice to the Employer and Local 598 given within the 60-day period preceding an automatic renewal date.

1.4 **Version Three Authorization Form**

Beginning in March 2019, UA 598 current version of the form (designated Version Three), identifies the employer, leaves space for the employee's name/signature and the date, and provides:

So that the common interest of Local 598 members to secure jobs, fair wages, and safe working conditions can be heard by state and federal candidates for office, I voluntarily authorize and direct the above-named employer and any signatory to the Collective Bargaining Agreement for whom I work to deduct the suggested 0.70% (0.0070) as ratified by the Local 598 Membership, each week from my pay for transfer to the Local 598 Political Action Committee, where funds will be used for federal and state races as deemed necessary by PAC leadership. I understand that I have a right to refuse to so contribute without reprisal. Furthermore, I recognize that the contribution guideline is just that, and that I may contribute any amount or not at all to the Political Action Committee – although only the suggested amount is supported by the paycheck deduction process. Contributing an alternative amount will require contacting the Local's staff. Note: No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee. Furthermore, I understand that to comply with the Federal law, the PAC must use its best efforts to obtain, maintain, and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 per calendar year. I

understand that my contribution is not tax-deductible. I understand that I may revoke my authorization at any time in writing.

1.5 The PDC Dismisses the Foundation's First Complaint

On November 19, 2018, the Foundation submitted a complaint to the PDC against UA 598, its PAC, Intermech, and over thirty other employers that had deducted PAC contributions from the wages of UA 598 members in October 2018, pursuant to various authorization forms. *Freedom Foundation v. Intermech Inc.*, Case #43689 (2018), available at <https://www.pdc.wa.gov/browse/cases/43689>. Amongst other arguments it alleged that the authorization forms used by UA 598 and Intermech unlawfully failed to permit employees to designate the specific amount of their contribution. Complaint at 11, *Freedom Foundation v. Intermech Inc.*, Case #43689 (2018), available at <https://pdc-case-tracking.s3-us-gov-west-1.amazonaws.com/2041/43689%20Intermech%2C%20Inc.%20Complaint.pdf>.

The PDC dismissed the Foundation's complaint against Intermech and declined to investigate further. It found that the "violations" the Foundation alleged were not "actual violation[s] warranting further investigation." *Id.* It took no notice of the Foundation's argument that Intermech had to allow employees to select the amount of their contribution.

Instead, it sent Intermech (and UA 598 amongst others) a formal written warning. It directed Intermech to remedy its "fail[ure] to obtain a proper written request from employees before withholding wages or salaries for contributions to Plumbers & Steamfitters Local 598 PAC." Combined Case Closure Letters at 1, *Foundation v. Intermech Inc.*, Case #43689 (2018), available at <https://pdc-case-tracking.s3-us-gov-west-1.amazonaws.com/2041/43689%20Combined%20Case%20Closure%20Letters.pdf>. It also directed Intermech to remedy its "fail[ure] to provide an annual notification to employees who have requested payroll deductions for political contributions of their right to withdraw their request at any time, and of the prohibition against discrimination by their employer and their union if they withdraw their request to make political contributions through payroll deductions." *Id.*

1.6 The 2019 Supplementation

In early 2019, and in compliance with the PDC's instructions, Intermech issued employees assigned to Intermech a supplementation form regarding their deductions. It read:

ANNUAL NOTIFICATION CONCERNING WITHHOLDING FUNDS FOR 598 PAC

As required by the State of Washington administrative code WAC 390-17-110 please be advised that neither UA Local 598, nor any signatory contractor, may or will discriminate against you in the terms or conditions of your employment for (1) failing to contribute to the PAC; (2) failing to support (or oppose) the PAC, or (3)

in any way supporting or opposing a candidate, ballot measure, political party or political committee.

If you have voluntarily authorized PAC contributions, you may rescind the authorization at any time. As you are aware, so that the common interests of Local 598 members to secure jobs, fair wages, and safe working conditions can be heard by state and federal candidates for office, you have previously voluntarily authorized your employer to deduct 0.70% (0.0070) of your weekly gross pay to be contributed to the PAC.

Should you wish to discontinue this voluntary contribution to the PAC via payroll deduction please contact your employer.

Appendix at 1 (executed and redacted exemplar supplementation form). The supplementation form then designated lines on which the employee prints his name, signs it, and dates it. *Id.* UA 598 members signed these supplementation forms, and Intermech has maintained them on file. The authorization forms and the supplementation forms were made available to the Foundation after their recent request to inspect them.

1.7 The PDC Dismisses the Foundation's Second Complaint

Undeterred, the PDC submitted a second complaint on May 21, 2019, similar to its first. Complaint, *Foundation v. Intermech Inc.*, Case #51811 (2019), available at <https://pdc-case-tracking.s3.us-gov-west-1.amazonaws.com/3047/51811%20Intermech%2C%20Inc.%20%282%29%20Complaint.pdf>. Amongst other allegations, the Foundation alleged that the dispatch forms at issue were out of compliance with WAC 390-17-100 because they did not "permit the employee to designate the amount of the contribution to be withheld from their wages." *Id.* at 10. Again, the PDC dismissed the complaint, on June 3, 2019, citing the Foundation's failure to support its allegations with evidence, and giving no credence to the Foundation's argument that the dispatch forms needed to permit employee to designate the amount of their contributions. *Foundation v. Intermech Inc.*, Case #51811 (2019), available at <https://www.pdc.wa.gov/browse/cases/51811>. Again, the PDC found no actual violation had occurred. *Id.* It paid no heed to the Foundation's argument concerning designation of the contribution amount.

1.8 The Foundation's Third Complaint

The Foundation did not stop. Instead they submitted the third complaint, the letter at issue. Much of this complaint is identical to the last complaint from the Foundation that the PDC dismissed. Amongst other errors, the Foundation included allegations irrelevant to Intermech. For example, it alleges that seven contributions "came from employees for whom JH Kelly was unable to produce a dispatch form." July 15, 2019 Complaint at 7. Intermech has no knowledge of whether JH Kelly employees received dispatch forms.

2. Analysis

2.1 Intermech Withholds PAC Contributions that its Employees Voluntarily Authorized After Receiving All Required Disclosures

The Foundation argues that Intermech has failed to comply with RCW 42.17A.495(3) and WAC 390-17-100 by deducting contributions to the PAC from employee wages based on authorization forms that do not include all information required by law. But the Foundation misconstrues both statute and regulation.

RCW 42.17A.495(3) provides that an employer can only deduct political contributions from employee wages upon the employee's written request. That statute tasked the PDC to prescribe what information the employee must receive prior to any deduction.

The PDC in turn offered employers two choices. They could use the PDC's "suggested format" template. WAC 390-17-100(2). Or they could use any other "[f]orms . . . in a different format including an electronic format if it provides" seven required pieces of information. *Id.* These include:

- The name of the individual authorizing the withholding or diversion;
- The name of the individual's employer;
- The name of each political committee or candidate for which contributions are to be withheld;
- A statement specifying that the authorization may be revoked at any time and such revocation shall be in writing;
- A statement that reads: "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee"; or a statement that informs the employee of the prohibition against employer and labor organization discrimination described in RCW 42.17A.495;
- The individual's signature or other reliable and secure verification that the individual is authorizing the withholding or diversion; and
- The date on which the form was completed.

An additional eighth requirement is triggered "If more than one political committee or candidate is specified" in the written request. WAC 390-17-100(2)(d). Then and only then, the forms used

must designate "the total dollar amount per pay period (or per week, month or year) to be withheld for each committee or candidate." *Id.*

While the written request must contain this information, WAC 390-17-100(2) explicitly contemplates that the employee may receive it on multiple "[f]orms." Similarly, WAC 390-17-100(3) provides that any "form that satisfies subsection (2) of this section constitutes the written authorization of the individual authorizing the withholding or diversion." Thus, the employee's request may consist several documents, each with some other piece of required information.

2.1.1 Version One, Two, and Four Authorization Forms, Together with the 2019 Supplementation, Satisfy RCW 42.17A.495 and WAC 390-17-100

The Foundation alleges that Intermech has unlawfully withheld wages from employees who signed the first, second, and fourth version authorization forms, which do not on their own include all information required under RCW 42.17A.495 and WAC 390-17-100.² But the Foundation entirely ignores that UA 598 has since supplemented these forms, as the PDC directed, with any information earlier missing. When read together with the 2019 supplementations, all three challenged versions are sufficient.

Every version of the authorization form, as well as the 2019 supplementation name the employee, employer, and the PAC. It includes space for signature and date. The authorization forms authorize deductions only to the PAC, and so the requirement to specify the dollar amount withheld per pay period does not apply.

The supplementation complements the earlier authorizations by indicating that the employee may revoke his authorization at any time. It includes the specific anti-discrimination language required under WAC 390-17-100(2)(f).

Together, these earlier authorization forms, coupled with the 2019 supplementation, satisfy RCW 42.17A.495 and WAC 390-17-100. Under WAC 390-17-100(2) and (3), any "forms" conveying the information required under WAC 390-17-100(2) whether characterized as an authorization, a supplementation, annual notification, some combination of the above, or any other name, "constitutes the written authorization of the individual authorizing the withholding or diversion."

2.1.2 Version Three Authorization Form Satisfies RCW 42.17A.495 and WAC 390-17-100, and the Foundation's Allegation Targeting Dispatch Form Version Three Lacks Any Basis in Law

The Foundation also challenges the adequacy of the Version Three authorization form. It contends that Intermech cannot withhold wages pursuant to the form because it does not permit the employee to designate the amount of the contribution to be withheld from their wages. The

² The Foundation does not challenge Version Three of the Authorization Form on these same grounds as it includes the revocation and anti-discrimination language.

Foundation cites WAC 390-17-100 for this requirement. But that regulation includes no such requirement.

The PDC has already addressed and dismissed this identical argument in the Foundation's first two complaints. There too, the Foundation contended that the dispatch forms at issue were noncompliant because they did not permit employees to designate their contribution amount. Again, the Foundation pointed to WAC 390-17-100. The PDC dismissed the Foundation's complaints and took no notice of the assertion that the written request must allow the employee to designate the amount of the contribution to be withheld from there.

Regardless of whether this issue was already raised and dismissed by the PDC, there is no basis for the Foundation's position. The Foundation apparently relies on a blank line in the template form set forth in WAC 390-17-100 in which the amount of wages withheld can be designated. But nothing in the regulation requires that the employer permit the employee to fill in that line as he chooses. From a literal blank line, the Foundation extrapolates a regulatory requirement the PDC never promulgated.

2.2 The PDC Should Dismiss the Foundation's Complaint in its Entirety

Under RCW 42.17A.755(1), the PDC, in responding to a citizen complaint, must (1) "dismiss the complaint; (2) "otherwise resolve it" as a remedial or technical violation; (3) initiate an investigation, conduct hearings and take enforcement action; or (4) refer the complaint to the attorney general.

As it has twice already, the PDC should dismiss the Foundation's complaint. The Foundation's allegation against Version Three is frivolous. The Foundation's allegations concerning Versions One, Two, and Four fail in light of the 2019 supplementation. Even if they show some violation of the FCPA, such violation is minor and the complaint should be dismissed with a formal warning.

2.2.1 The PDC Should Dismiss the Foundation's Challenge to Version Three as Frivolous

The Foundation's allegation concerning the Version Three authorization form is frivolous. When an action is frivolous, the PDC dismisses it without any further action. WAC 390-37-060(1)(a). "An action is frivolous if it cannot be supported by rational argument on the law or fact." *Hanna v. Margitan*, 193 Wn. App. 596, 612, 373 P.3d 300 (2016). Certain contentions in a complaint can be deemed frivolous even the complaint as a whole is not. *Hanna*, 193 Wn. App. at 612.

Here, no statute, regulation, or other authority required that the authorizations upon which Intermech relied permit employees to select the amount of their contribution. The Foundation invented this requirement out of whole cloth, and has unsuccessfully repeated it twice already. The PDC should dismiss it outright.

2.2.2 The PDC Should Dismiss the Foundation's Challenge to Versions One, Two and Four as Intermech has Complied, or, Even Were There a Violation, Such Violation Was Minor

As described above, with Versions One, Two and Four together with the 2019 supplementations, Intermech has provided all required information to employees. Even were the PDC to determine there is a violation, any such violation is minor. Accordingly, the PDC should dismiss.

A violation is minor "[w]hen incomplete information is disclosed, but a good faith effort to comply with disclosure is made, and the public is not deprived of critical information; or . . . [w]hen any other violation of chapter 42.17A RCW has occurred that does not materially affect the public interest." WAC 390-37-061(2)(b).

When a violation is minor, or other factors support alternative resolution, the executive director of the PDC may resolve the complaint by issuing the respondent a "formal written warning." WAC 390-37-060(1)(d).

In deciding how to resolve a complaint, "the PDC staff considers whether an investigation or adjudicative proceeding constitutes an efficient and effective use of public funds." WAC 390-37-061(1). Often "alternative response better meets the PDC's mission and public expectations by allowing the expedited resolution of minor violations, and the focusing on more specific violations of chapter 42.17A RCW and Title 390 WAC." *Id.*

WAC 390-37-061(4) sets out other factors the PDC considers in determining whether alternative response to a complaint constitutes a better use of public funds. For example, an alternative response is appropriate if "noncompliance resulted from a good-faith error, omission, or misunderstanding" as opposed to intentional and deceptive misconduct. WAC 390-37-061(4). Similarly, alternative resolution is appropriate where noncompliance "resulted from the respondent's demonstrated good-faith uncertainty concerning staff guidance or instructions." *Id.* Alternative resolution is appropriate where the respondent acknowledges its mistake. *Id.*

Here, even were there a violation, any such violation is minor. Based on the PDC's February 14, 2019 guidance, Intermech made a good-faith effort to ensure that all employees from whom wages were withheld received all information required under WAC 390-17-100. It did so by ensuring these employees received supplementation forms. The contents of these notifications, coupled with the various authorizations the employees already signed, provided all necessary information. If Intermech misinterpreted the PDC's instructions in its good-faith effort to comply, Intermech stands ready to make further changes, and the PDC should correct Intermech's misinterpretation by written warning.

The Foundation contends that the violations alleged were not minor for two reasons. First, it contends that the disclosure requirements described in WAC 290-37-061(2) "apply to the disclosure of required information **to the PDC** and are inapplicable to violations of RCW 42.17A.495." Complaint at 12 (emphasis added). But the regulation simply describes violations

as minor “[w]hen incomplete information is disclosed, but a good faith effort to comply with disclosure is made, and the public is not deprived of critical information.” It does not specify any particular recipient of those disclosures. If UA 598 disclosed incomplete information to Intermech employees, but had made a good faith effort with Intermech to correct any such issue, the regulation is no less applicable.

The Foundation also argues that Intermech’s deduction of \$9,764.82 from employee wages between March-May 2019 was not a minor violation because it materially impacted the public. But the deductions harmed no one. Affected employees received all necessary information and volunteered to contribute to their PAC. It was each employee’s individual right to participate so in the political process. In its conclusion, the Foundation decries UA 598’s supposedly “significant[] influence” on Washington politics, suggesting that their principal concern is less how contributions were withheld, and more where contributions went. July 15, 2019 Complaint at 12.

2.2.3 The Foundation Fails to Show that the PDC Exceeded its Authority by Passing WAC 390-37-060(1)(d) and WAC 390-37-061

Perhaps recognizing that any violations it alleges are minor, the Foundation argues that the PDC had no authority to promulgate WAC 390-37-060(1)(d) and WAC 390-37-061, and, in particular asserts that RCW 42.17A.755(1) does not specify that certain violations may warrant dismissal *as minor*.

In challenging the PDC’s regulation, the Foundation faces a heavy burden, which it entirely ignores. The PDC’s rules are presumptively valid. *Ma’ae v. Washington Dep’t of Labor & Indus.*, 8 Wn. App. 2d 189, 196, 438 P.3d 148 (2019). It must present “compelling reasons . . . sufficient to show the scheme is in conflict with the intent and purpose of the” FCPA. *Haines-Marchel v. Washington State Liquor & Cannabis Bd.*, 1 Wn. App. 2d 712, 744, 406 P.3d 1199 (2017), *review denied*, 191 Wn.2d 1001, 422 P.3d 913 (2018), *and cert. denied*, 139 S. Ct. 1383, 203 L. Ed. 2d 617 (2019) (internal citations omitted). And in doing so, it must overcome the “considerable weight” given to the PDC’s interpretation of the FCPA. *State v. Dodd*, 56 Wn. App. 257, 261, 783 P.2d 106, 108 (1989). It cannot do so.

As stated above, RCW 42.17A.755(1) authorizes the PDC to dismiss a citizen complaint *or* otherwise resolve it as remedial or technical violation. Based on the plain language of this provision, the PDC is empowered to dismiss complaints even if the PDC does not “otherwise resolve” the complaint as a remedial or technical violation.

In passing the FCPA, the legislature acknowledged that gaps like this would remain, and it thus expressly granted the PDC authority to promulgate “rules to carry out the policies and purposes of” 42.17A RCW. RCW 42.17A.110(1); *see also Haines-Marchel*, 1 Wn. App. 2d at 744 (holding that an agency can make rules where its authority to do so is “expressly granted by statute or necessarily implied therein.”). It left the PDC, in its expertise, to resolve when a particular violation might warrant alternative resolution, including dismissal.

Faced with such an open question, the PDC may “adopt rules which fill in the gaps if those rules are necessary for implementing a general statutory scheme.” *Marcum v. Dep’t of Soc. & Health Servs.*, 172 Wn. App. 546, 558, 290 P.3d 1045 (2012) (internal quotations omitted). Such regulations need only be “reasonably consistent” with the FCPA. *Ma’ae*, 8 Wn. App. 2d at 196.

The PDC has properly made rules within the scope of this authority. WAC 390-37-060(1)(d) and WAC 390-37-061 not only help answer the legislature’s open question, but also further the policies and purpose of the FCPA. The legislature passed the FCPA to “increase financial participation of individual contributors in political campaigns.” RCW 42.17A.001(7). It intended “[t]hat small contributions by individual contributors are to be encouraged, and that not requiring the reporting of small contributions may tend to encourage such contributions.” RCW 42.17A.001(9). By dismissing minor violations, the PDC promotes individual contributors’ participation in the political sphere, unstifled by draconian and formalistic restrictions.

In response, the Foundation simply states that RCW 42.17A.755 does not expressly permit the PDC to designate some violations minor. But that authority is implied in its power to make rules and dismiss complaints. The Foundation contends that the regulations it despises do not further the policies and purposes of the FCPA. But it fails to account for the actual policy aims stated in the FCPA. Its effort to invalidate WAC 390-37-060(1)(d) and WAC 390-37-061 lacks merit.

3. **Conclusion**

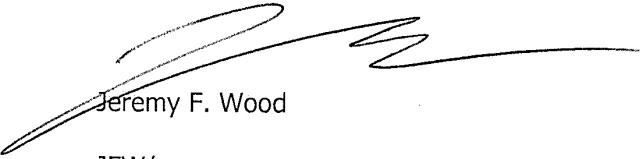
Twice already, the PDC has dismissed the Foundation’s complaints. Finding any relevant violations minor, it has issued written warnings. Based on these warnings, UA 598 supplemented its members’ authorization forms with the 2019 supplementation forms that together provide members all information required by the FCPA and PDC regulations. Intermech has inspected all these forms and only deducts wages where lawfully authorized. Dissatisfied, the Foundation continues its unfounded attack, seeking to undermine the voluntary decision of Intermech employees to participate in political financing.

The PDC should dismiss the Foundation’s attack. Its allegations range from incorrect to frivolous. Even if Intermech or UA 598 misinterpreted their specific legal obligations, their good-faith effort to comply is evident. Thus, if a violation occurred, it was minor, and warrants no more than dismissal and clarification.

Mx. Fox Blackhorn
July 31, 2019
Page 12

Please do not hesitate to reach out if we can answer further questions or concerns.

Sincerely,



Jeremy F. Wood

JFW/cps

APPENDIX

APPENDIX

ANNUAL NOTIFICATION CONCERNING WITHHOLDING FUNDS FOR 598 PAC

As required by the State of Washington administrative code WAC 390-17-110 please be advised that neither UA Local 598, nor any signatory contractor, may or will discriminate against you in the terms or conditions of your employment for (1) failing to contribute to the PAC, (2) failing to support (or oppose) the PAC, or (3) in any way supporting or opposing a candidate, ballot measure, political party or political committee.

If you have voluntarily authorized PAC contributions, you may rescind that authorization at any time. As you are aware, so that the common interests of Local 598 members to secure jobs, fair wages, and safe working conditions can be heard by state and federal candidates for office, you have previously voluntarily authorized your employer to deduct 0.70% (0.0070) of your weekly gross pay to be contributed to the PAC.

Should you wish to discontinue this voluntary contribution to the PAC via payroll deduction please contact your employer.

Attention: Payroll Department
Intermech, Inc.
654 Truman Avenue
Richland, WA 99352

Name

Printed Name

Signature

Signature

Date

Date

Note: A copy of this form shall be retained by Local 598 and your employer for at least five years.

August 12, 2019

Mx. Fox Blackhorn
Public Disclosure Commission
711 Capitol Way S. #206
P.O. Box 40908
Olympia, WA 98504

Re: PDC Case No. 54818, reply to Intermech's response to original complaint

Mx. Blackhorn,

This is a supplement to our complaint against Intermech, Inc., of July 15, 2019, addressing several issues raised by Intermech's response to our complaint. As requested in your email of July 17, 2019, I am providing the supplemental information within 30 days.

If obtuse bluster, hubris and deliberate unrepentance can absolve an entity of egregious campaign finance violations, then Intermech has little to worry about. If, on the other hand, fidelity to the law is what matters, Intermech should be quite worried, as nothing in its response to the Freedom Foundation's complaint justifies its continued illegal seizure of political contributions from the wages of its employees even after receiving two warnings from the Public Disclosure Commission (PDC).

Before addressing the legal arguments raised by Intermech in its defense, a few clarifications are needed.

First, in an attempt to shift the focus from its own illegal actions, Intermech defensively accuses the Freedom Foundation of "[seeking] to undermine the right of Intermech employees to voluntarily contribute to a political action committee..." That is nonsense. RCW 42.17A.495 is written to *protect* employees from being taken advantage of by unions and employers who might seek to pressure or coerce them into making political contributions against their will. It is ridiculous for an entity, such as Intermech, that has disregarded these employee protections to accuse those who seek to uphold them of undermining employees' rights.

Second, Intermech claims that the Foundation's original complaint "included allegations irrelevant to Intermech." This is not so. As evidence, Intermech cites a reference in the complaint to seven contributions "from employees for whom *JH Kelly* was unable to produce a dispatch form" (emphasis added). The reference to "JH Kelly" in the original complaint is an obvious typographical error, as the rest of the complaint correctly references Intermech.¹ The actual

¹ As the PDC is aware, multiple employers participate in the United Association of Plumbers and Pipefitters Local 598's (UA 598) scheme to illegally collect political contributions from employees' wages, and the Freedom Foundation has filed complaints against several, including JH Kelly.

allegation — that Intermech deducted seven contributions to UA 598’s PAC from employees for whom it failed to produce a dispatch form — was stated accurately and unaddressed by Intermech. The summary sheet provided on page 430 of the original complaint’s appendix clearly lists the seven employee contributions to UA 598’s PAC processed by Intermech without any kind of employee authorization. Rather than attempt to defend why it deducted political contributions from several employees’ wages without any kind of authorization, Intermech appears content to rest its position on a single, typographical error.

As for the more substantive matters, Intermech’s primary legal arguments are: (1) That its provision to employees of the annual notices required by RCW 42.17A.495(2) satisfies its obligations under RCW 42.17A.495(3) to get proper authorization from employees before deducting political contributions from their wages; (2) that the version three dispatch forms do not violate WAC 390-17-100 by fixing employees’ contributions at 0.7% of wages; and, (3) that the PDC should dismiss the complaint as frivolous and/or resolve it via another warning letter as pertaining to minor violations.

Each argument will be dealt with in turn.

1. Intermech has failed to satisfy RCW 42.17A.495(3) and WAC 390-17-100 by simply issuing, for the first time, the annual notices required by RCW 42.17A.495(2) and WAC 390-17-110.

The four subsections of RCW 42.17A.495 impose independent requirements; compliance with one subsection does not prove compliance with the other three subsections. For instance, complying with subsection (4) (maintaining records open for public inspection) does not prove compliance with subsection (1) (prohibiting salary increases intending the employee in turn use for political contributions).

Similarly, complying with subsection (2) and providing employees with an annual notice of their rights does not prove compliance with subsection (3)’s requirement that employers receive proper authorization *before* deducting political contributions from an employee’s wages.

Intermech cannot plausibly defend its continued political deductions from employees pursuant to the version one and version two dispatch forms, as the PDC has already recognized these forms are out of compliance with RCW 42.17A.495(3) and WAC 390-17-100.

Instead, Intermech contends that its issuance to employees, after the Freedom Foundation’s first complaint and the PDC’s first warning letter, of the annual notices required by RCW 42.17A.495(2) and WAC 390-17-110 absolves it from having to obtain authorization that complies with RCW 42.17A.495(3) and WAC 390-17-100 before deducting political contributions from employees’ wages. While acknowledging that the version one and version two forms lacked the required disclosures, Intermech contends the annual notices acted as “supplements” to the authorization forms that cured their obvious defects.

Intermech rests this strained argument on a fundamental misreading of WAC 390-17-100(2), which provides:

“Forms used for payroll deduction may either conform to the suggested format below or be in a different format including an electronic format if it provides the following information...” (emphasis added).

Relying solely on the fact that the regulation refers to plural “forms,” Intermech contends that an employee’s political contribution authorization “may consist [of] several documents, each with some other piece of required information.” This is nonsense. Under Intermech’s view of the law, an employer could satisfy its legal obligations by splitting the employee deduction authorization into multiple documents, each containing merely a piece of the information required by RCW 42.17A.495(3) and WAC 390-17-100(2). This clearly deprives employees of the protections these provisions are meant to provide.

In the present complaint, Intermech’s conduct is even worse than merely obscuring employees’ rights by distributing information across multiple notices. The annual notification Intermech provided to employees actually conflicts with the terms of the version one and version two forms. While the annual notice correctly informs employees that PAC deduction authorizations can be rescinded “at any time,”² both the version one and version two forms incorrectly state the deductions may only be cancelled “within the 60-day period preceding an automatic [annual] renewal date.”

Further, even the annual notice is internally inconsistent. While the notice informs employees of their protections against discrimination based on their decisions regarding political contributions, it is ambiguous about whether the employee is currently having deductions from their wages. The same notice contains both of the following statements: (1) *“If you have voluntarily authorized PAC contributions, you may rescind that authorization at any time”*; and, (2) *“...you have previously voluntarily authorized your employer to deduct 0.70% (0.0070) of your weekly gross pay to be contributed to the PAC”* (emphasis added). A reasonable employee reading this notice would be unsure as to whether they had, in fact, previously authorized such deductions.

Thankfully, the law does not permit such gamesmanship.

WAC 390-17-100(2) permits employers to either use the template form provided by the PDC or develop an alternate form. However, the regulation is quite clear that any alternate form must contain *all* of the listed components, including both: (1) “A statement specifying that the authorization may be revoked at any time and such revocation shall be in writing”; and, (2) “A statement that reads: ‘No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or

² See the appendix to Intermech’s response.

political committee’; or a statement that informs the employee of the prohibition against employer and labor organization discrimination described in RCW 42.17A.495...”

The regulation refers to plural “forms” because it contemplates multiple different versions of forms that all satisfy the listed criteria, not because it permits a single employer to distribute the information required by WAC 390-17-100(2) across multiple forms in an attempt to prevent employees from seeing required disclosures about their rights at the time they authorize the deductions.

This obvious conclusion is bolstered by the fact that WAC 390-17-100(2) notes payroll deduction forms may either conform to the PDC’s template “or be in a different format... if *it* provides the following information...” (emphasis added). This singular reference clearly signals that all required information and disclosures must be included on a single form voluntarily signed by the employee, though multiple versions of such a form can satisfy the FCPA’s requirements. The required information is specified in sections (a) through (g), *and* (h), again indicating that *all* the information must be included on a single form.

Thus, to comply with the law, Intermech must first obtain a single authorization from employees that complies with RCW 42.17A.495(3) and WAC 390-17-100 before deducting political contributions from their wages. It cannot simply put a band-aid on the defective authorizations and continue utilizing these invalid forms. As *reminders*, it must subsequently provide authorizing employees with annual notices of their rights that comply with RCW 42.17A.495(2) and WAC 390-17-110. Though they act in concert to protect employees’ ability to make free and voluntarily decisions regarding political contributions, these are two distinct requirements; Intermech cannot satisfy the former by complying merely with the latter.

2. WAC 390-17-100 requires forms authorizing political deductions to permit employees to designate the specific dollar amount to be withheld.

The Freedom Foundation maintains that all of the dispatch forms developed by UA 598 and utilized by Intermech, including the version three forms, inappropriately restrict employees’ ability to determine how much to contribute to the political committee, instead fixing the deduction rate at 0.7% of wages.

Intermech points out, correctly, that the PDC has not yet specifically addressed whether these forms may present employees with a take-it-or-leave-it proposition to have 0.7% of their wages withheld or whether the law requires that employees be permitted to specify the amount of the deduction. However, we submit that the PDC should settle the matter and find that the FCPA not only protects employees’ right to choose whether to make political contributions but protects their right to choose how much to contribute to political causes as well.

The template authorization form set forth in WAC 390-17-100 permits employees to designate the specific dollar amount they wish to contribute. WAC 390-17-100(2)(d)

further indicates that PAC deduction authorizations must allow employees to designate the dollar amount of the contribution by clarifying that, if the form authorizes contributions to multiple candidates or political committees, the form must specify “the *total dollar amount* per pay period (or per week, month or year) to be withheld *for each...*” (emphasis added).

Intermech contends that WAC 390-17-100(2)(d) only applies to situations in which the authorization involves contributions to two or more recipients and that a percentage-based deduction is permissible when only one recipient benefits from the deduction. But if the PDC permits deductions based on a percentage of wages when only one recipient is involved, it would make no sense to require deductions for multiple recipients to be designated in dollar amounts. In other words, if an employee can designate 0.7% of their wages be withheld for a single recipient, there is no reason an employee could not specify 0.5% of their wages be withheld for one recipient and 0.2% be withheld for another. Either percentage-based deductions are permissible in all circumstances, or they are permissible in none.

However, the only proper way to understand WAC 390-17-100 is that employee authorizations must permit the designation of a specific dollar amount(s) to be withheld for any and all recipients.

The default position, as indicated by the PDC’s template authorization form, is that the authorization must designate a specific dollar amount to be withheld, and WAC 390-17-100(2)(d) merely clarifies that, when multiple recipients benefits from the deductions, the employee’s authorization must designate the specific dollar amount to be withheld “for each,” which is also reflected in the template form. Deducting political contributions based on a percentage of employee wages simply is not envisioned or sanctioned by the FCPA and PDC regulations.

This requirement protects employees from being manipulated into contributing amounts larger than they otherwise would. UA 598’s dispatch forms, for example, intentionally attempt to make the deduction amount appear insignificant, describing it as “0.70% (0.0070).” In reality, the deductions often amount to \$100 or more per employee per month, hardly an insignificant sum and likely more than many employees would agree to contribute if they were permitted to designate the amount of the deduction.

3. Intermech’s violations of the FCPA cannot be dismissed as frivolous or resolved as minor violations.

Intermech contends any violations the PDC determines it has committed should be categorized as “minor violations,” which are defined by WAC 390-37-061 in the following way:

- “(2) A minor violation is an *actual violation* that occurs:
 - (a) When required information is not timely disclosed, but the public is not deprived of critical information; or

(b) When incomplete information is disclosed, but a good faith effort to comply with disclosure is made, and the public is not deprived of critical information.
(c) When any other violation of chapter 42.17A RCW has occurred that does not materially affect the public interest.” (emphasis added).

- a. However, the FCPA no longer recognizes “actual violation” as a category of violation. The definition of the term and references to it throughout the FCPA were repealed by HB 1195 in 2019. As such, WAC 390-37-061’s definition of “minor violation” as a type of “actual violation” no longer has statutory grounding.
- b. Further, RCW 42.17A.755(1) continues to require the PDC to take one of three actions when presented with a complaint:
 - “(a) Dismiss the complaint or otherwise resolve the matter in accordance with subsection (2) of this section, as appropriate under the circumstances after conducting a preliminary review;
 - (b) Initiate an investigation to determine whether a violation has occurred, conduct hearings, and issue and enforce an appropriate order, in accordance with chapter 34.05 RCW and subsection (3) of this section; or
 - (c) Refer the matter to the attorney general, in accordance with subsection (4) of this section.”

None of these options acknowledge “minor violations,” much less permit the PDC to dismiss complaints of undefined “minor violations” or resolve them with a warning letter.

- c. Intermech requests that the PDC dismiss the allegations involving versions one, two and four of UA 598’s dispatch form under RCW 42.17A.755(1)(a), but this is not possible. Actions taken under paragraph (a) must be “in accordance with subsection (2),” which governs only “complaints of remediable violations or requests for technical corrections.” The Freedom Foundation contends, and Intermech has not disputed, that the company’s violations do not meet the criteria to be considered remediable violations or technical corrections, so (a) is inapplicable to the present complaint.
- d. Even if, as Intermech contends, RCW 42.17A.755(1)(a) permits the PDC to dismiss certain complaints other than those involving remediable violations or requests for technical correction, PDC regulations do not permit the dismissal of the present complaint.

WAC 390-37-060(1)(a) only permits the PDC to dismiss a complaint if it “is obviously unfounded or frivolous, or outside of the PDC’s jurisdiction...”

Intermech contends that the challenge to the version three forms is “frivolous” and should be dismissed, but the invalidity of the version three forms has already been addressed above.

Further, the PDC clearly has jurisdiction over the present complaint, having already issued a warning letter to Intermech for similar violations earlier this year. Intermech's violations of a longstanding FCPA statute were well-documented in the complaint and the PDC itself has previously found that Intermech's political deductions from employees' wages were made without proper authorization. The present complaint — that Intermech continues to deduct contributions to UA 598's PAC from employees' lawfully earned wages pursuant to purported authorizations the PDC already has determined are insufficient — is neither unfounded nor frivolous.

- e. Even if the PDC may satisfy its obligations under RCW 42.17A.755(1) by resolving a complaint as pertaining to “minor violations,” PDC regulations dictate that actions other than dismissal, including the issuance of a formal warning or assessment of a penalty, be taken in such cases.

WAC 390-37-060(1)(d) permits the PDC to resolve complaints of minor violations “by issuing a formal written warning” — an action which the PDC has already taken and Intermech already ignored.

Further, if an alternative response to noncompliance is deemed appropriate, WAC 390-37-062 sets forth a penalty schedule for various types of violations “that may be agreed to by a respondent pursuant to a stipulation prior to an investigation...” While the penalty schedule includes “[failure] to maintain open for public inspection, during normal business hours, documents and books of accounts showing a copy of each employee's request for funds to be withheld for transfer to a political committee,” in violation of RCW 42.17A.495(4), it does not include withholding political contributions from employee wages in violation of RCW 42.17A.495(3).

WAC 390-37-062(2) *does* permit violations not listed in the penalty schedule to be resolved via stipulation, so long as the penalty amounts are in line with those in the penalty schedule.

- f. Even if the PDC may satisfy RCW 42.17A.755(1) by resolving complaints of minor violations via dismissal, warning letter, or stipulated penalty, Intermech's violations at issue in the present complaint are not “minor violations” eligible for resolution in this way.

Intermech's deduction of political contributions from employees' wages without proper authorization does not meet the first or second prongs of the definition of “minor violation” provided by WAC 390-37-061(2), as its violations do not relate to the disclosure of required information. Further, because Intermech's violations have materially affected the public interest, they cannot be considered minor violations under WAC 390-37-061(2)(c).

Intermech's defense to this argument is to state flatly that “the deductions harmed

no one.” But this is demonstrably untrue. In addition to harming employees by providing them with false information, depriving them of information about their rights, implying political deductions are mandatory, and preventing employees from choosing how much to contribute to UA 598’s PAC, which has been discussed above, Intermech’s illegal practices have an additional effect on the public at large.

What is now codified as RCW 42.17A.495 was first passed by 73 percent of Washington voters in 1992 as part of Initiative 134. The people’s intent, as expressed in the initiative, was to, in part, “Ensure that individuals and interest groups have fair and equal opportunity to influence elective and governmental processes.” RCW 42.17A.400(2)(a). Further, the FCPA’s provisions “are to be liberally construed to effectuate [its] policies and purposes...” RCW 42.17A.904.

When an interest group, such as UA 598, convinces a network of employers, including Intermech, to implement a scheme to deduct political contributions illegally from the wages of thousands of employees to enrich its political war chest, it gains an unfair ability to “influence elective and governmental processes” that other law-abiding interest groups do not equally share, in contradiction of the intent of the voters expressed in RCW 42.17A.400(2)(a).

Further, Intermech plays a far larger role in this scheme than most other employers. During the March-May 2019 period that is the subject of the complaint, UA 598’s political committee reported receiving 2,343 contributions transmitted by 27 different employers. Intermech was responsible for transmittal of 199 (8%) of these contributions, the fourth highest share among the 27 employers involved.

While elections and related expenditures are cyclical and (mercifully) not perpetual, Intermech’s illegal deductions occur every pay period, allowing UA 598’s political committee to aggregate funds that will necessarily be expended eventually on influencing Washington elections. As documented in the complaint, Intermech’s illegal deductions resulted in nearly \$10,000 in contributions to UA 598’s PAC from May-March 2019 alone.

The 2018 elections were cited in the complaint as the most recent examples available of how the illegal scheme in which Intermech participates on an ongoing basis permitted UA 598 to unfairly and improperly influence Washington elections. As there are relatively few elections on the ballot in 2019, UA 598 may not end up using most or all of the funds improperly collected by employers like Intermech until the 2020 elections.³ But that hardly means that the funds illegally collected now by Intermech are not still a matter of significant public concern.

³ UA 598’s political committee has made at least one political contribution since the March-May 2019 period in the complaint. On June 14, 2019, the committee made a \$2,000 contribution to James Millbauer’s campaign for Kennewick City Council. <https://web.pdc.wa.gov/rptimg/default.aspx?batchnumber=100915710>

In conclusion, Intermech's violations of the FCPA have been ongoing and extensive, despite warnings from the PDC. In fact, Intermech appears to have mistaken the leniency it has received from the PDC following previous complaints as somehow endorsing its illegal actions. In light of Intermech's cavalier approach to its legal obligations, we respectfully request that the PDC initiate enforcement proceedings sufficient (at minimum) to ensure future compliance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Maxford Nelsen', with a long horizontal flourish extending to the right.

Maxford Nelsen
Director of Labor Policy
Freedom Foundation
P.O. Box 552, Olympia, WA 98507
(360) 956-3482
mnelsen@freedomfoundation.com



Littler Mendelson, PC
One Union Square
600 University Street, Suite 3200
Seattle, WA 98101.3122

Jeremy F. Wood
206.381.4948 direct
206.623.3300 main
jfw@littler.com

November 24, 2020

Phil Stutzman
Compliance Officer, Public Disclosure Commission

**Re: Public Disclosure Commission Follow-up Questions Regarding Complaint Filed by Maxford
Nelsen, The Freedom Foundation**

Dear Mr. Stutzman

Intermech Inc. submits this letter in response to the follow-up questions you sent October 23, 2020. Intermech appreciates your acknowledgement of its good faith effort to comply with public disclosure laws and welcomes the guidance you have provided in doing so. Intermech also appreciates your conclusion that Version Three of the authorization form it has used, as well as its annual notification, each comply with Washington public disclosure law.

I write now for two purposes: first, to answer the follow-up questions you posed; and second, to explain the remedial measures Intermech is making to ensure full compliance with WAC 390-17-100 as interpreted by the PDC.

1. Answers to Follow-up Questions

1.1 Did Intermech, or Local 598 on behalf of Intermech, provide the required Annual Notification by June 30, 2020 to all employees making contributions to Local 598 PAC through payroll deduction?

Yes.

1.2 On what date was the Annual Notification provided in 2020?

A notification was sent on March 5, 2020

1.3 Was the 2020 Annual Notification identical to the 2019 Notification?

Yes, as shown in Exhibit A, attached hereto.

1.4 Does Intermech, or Local 598 on behalf of Intermech, if Local 598 provided the Annual Notifications on behalf of Intermech, have in its possession a copy of the Annual Notification and a list of employees notified?

Phil Stutzman
November 24, 2020
Page 2

Yes, attached hereto as Exhibits A and B.

1.5 Will that entity maintain this information for a period of no less than five years, in accordance with WAC 390-17-110(4)?

Intermech will maintain this information for no less than five years.

1.6 Does Intermech rely solely on the Local 598 Dispatch/Authorization form, or does Intermech have employees also sign its own Authorization form?

In respecting its relationship with Local 598, Intermech relies solely on that union's Dispatch/Authorization forms.

2. Intermech's Ongoing Efforts to Comply with WAC 390-17-100

As I noted above, Intermech appreciates the PDC's acknowledgement of its good faith commitment to compliance with WAC 390-17-100 and other governing law, and reaffirms that commitment here. To that end, Intermech has provided Local 598 a list of employees who may not have received the Version Three Authorization form. The union has offered to distribute that form and secure all necessary signatures. Intermech will update the PDC once it and Local 598 have ensured that all employees have received the Version Three form. Please do not hesitate to reach out if you have any further questions

Notice of Withdrawal and Substitution

Please also note that I am withdrawing as counsel for Intermech in this matter, as I am leaving Littler Mendelson PC for the public sector. By this letter, I am providing the PDC notice that Thomas P. Holt, a shareholder with my office, will be appearing as counsel for Intermech. Please direct future correspondence in this matter to his attention at:

tholt@littler.com
206-381-4926
One Union Square
600 University Street, Suite 3200
Seattle, WA 98101

Phil Stutzman
November 24, 2020
Page 3

Sincerely,

A handwritten signature in black ink, appearing to read 'JFW', with a long horizontal flourish extending to the right.

Jeremy F. Wood
Associate

JFW/jfw

4819-2400-7378.1 098630.1001

EXHIBIT A

EXHIBIT A



UNITED ASSOCIATION

of Journeymen and Apprentices of the
Plumbing and Pipe Fitting Industry of
the United States and Canada

Founded 1889

Letters should
be confined to
one subject

UA Local Union:

598 1328 Road 28, Pasco, Washington 99301

Subject:

LOCAL 598 PAC ANNUAL NOTIFICATION

Mark McManus
General President

Patrick H. Kellett
General Secretary-Treasurer

Michael A. Pleasant
Assistant General President

July 14, 2020

To All Signatory Contractors:

Signatory Contractor Actions Required:

Attachment #1 of this communication is the updated 2020 "Annual Notification Concerning Withholding Funds For 598 PAC". Pursuant to the requirements of the WA PDC, we ask that all signatory contractors distribute this form to all current employees dispatched by Local Union 598 and remit a copy of the signed form to the business office of Local 598 (contact below). We ask that this form be remitted by all employees regardless of their current voluntary 598 PAC contribution status. *Please return all forms by September 1, 2020. In the future we will collect these notices during the beginning of each year.*

Please send completed forms, along with any questions to my Government Affairs Director and/or Office Manager:

Nickolas A Bumpaous
Government Affairs Director
UA Plumbers & Steamfitters Local 598
Nick@UA598.org
(509) 539-7917

Alana Jones
Office Manager
UA Plumbers & Steamfitters Local 598
Alana@UA598.org
(509) 545-1446

Sincerely,

Randy Walli
Business Manager

RW/aj
opeiu #11
afl-cio



2020

ANNUAL NOTIFICATION CONCERNING
WITHHOLDING FUNDS FOR 598 PAC

As required by the State of Washington administrative code, WAC 390-17-110 please be advised that neither UA Local 598, nor any signatory contractor, may or will discriminate against you in the terms or conditions of your employment for (1) failing to contribute to the PAC, (2) failing to support (or oppose) the PAC, or (3) in any way supporting or opposing a candidate, ballot measure, political party or political committee.

If you have voluntarily authorized PAC contributions, you may rescind that authorization at this, or any, time. As you are aware, so that the common interests of Local 598 members to secure jobs, fair wages, and safe working conditions can be heard by state and federal candidates for office, you have previously voluntarily authorized your employer to deduct 0.70% (0.0070) of your weekly gross pay to be contributed to the PAC.

Should you wish to discontinue this voluntary contribution to the PAC via payroll deduction, at any time, you may contact your employer or, UA Local 598 in writing at 1328 Rd 28, Pasco, WA 99301.

I acknowledge receipt of the above notice to ensure my local union and employer are in compliance with Washington State law:

Printed Name

Signature

Date

Note: A copy of this form shall be retained by Local 598 and your employer for at least five years.

Employer Name: _____

EXHIBIT B

EXHIBIT B

Local 598 PAC Annual Notice - sent March 5, 2020

Employee Name	Job Title	Date Received back
Izak K Atwood	Pipefitter Journeyman	3.16.20
Trenton James Avery	Pipefitter Apprentice 65%	3.16.20
Ashley C Bautista-Peters	Pipefitter Journeyman	3.16.20
Aimee J Bell	Pipefitter Journeyman	3.16.20
David B. Boyd	Pipefitter Journeyman	3.16.20
Bryant M. Briggs	Pipefitter Journeyman	3.3.20
Matthew Charles Brown	Pipefitter Foreman 1	3.16.20
Sam I Califf	Pipefitter Journeyman	4.9.20
Michael Connell	Pipefitter Foreman 2	3.5.20
James W Connell	Pipefitter Journeyman	3.5.20
Samuel Ray Connell Jr	Pipefitter Apprentice 85%	3.5.20
Kayla L Connelly	Pipefitter Apprentice 85%	3.16.20
Danny K Eliason	Pipefitter Journeyman	3.16.20
Thomas J Emery	Pipefitter Apprentice 60%	4.1.20
Justin L Evans	Pipefitter Journeyman	4.3.20
Juaquin J Flores	Pipefitter Foreman 1	3.16.20
Rodney Scott Garrett	Pipefitter Foreman 1	3.5.20
Graham W Geeting	Pipefitter Apprentice 50%	11.16.20
Arnold H. Gerken	Pipefitter Foreman 2	3.16.20
Gorden W Gerken	Pipefitter Superintendent	3.5.20
Jorel M. Gregg	Pipefitter Foreman 1	3.17.20
Scott Gregory Hanson	Pipefitter General Foreman	3.5.20
Chamise T Hartman	Pipefitter Journeyman	3.16.20
Finbar Hippolyte	Pipefitter Journeyman	2.21.20
Derek M Hoffmann	Pipefitter Foreman 1	3.26.20
Justin J Hunt	Pipefitter Apprentice 50%	3.16.20
Adam Jones	Pipefitter Journeyman	3.16.20
Anthony Huntington	Pipefitter Journeyman	3.9.20
Keith A Kelly	Pipefitter Foreman 1	3.16.20
Elijah W Kelly	Pipefitter Journeyman	3.16.20
Tony L Kimball	Pipefitter Journeyman	3.17.20
Daniel W Klas	Pipefitter Journeyman	3.16.20
Joshua C Kramer	Pipefitter Journeyman	3.16.20
Aleksandr Kravtsov	Pipefitter Journeyman	Did not receive back
Bradley T Lagunas	Pipefitter Apprentice 55%	3.16.20
Ronald B Ledgerwood Jr.	Pipefitter Foreman 1	3.3.20
Anthony D Lewis	Pipefitter Journeyman	4.1.20
Angel Martinez	Pipefitter Journeyman	3.16.20
Russell S Matheny	Pipefitter General Foreman	3.5.20
Tyler J. Mayfield	Pipefitter Foreman 1	3.5.20
Michael S McCarthy	Pipefitter Journeyman	3.26.20
Charlotte A McDomic	Pipefitter Journeyman	3.18.20
Craig A Murray	Pipefitter Apprentice 85%	3.16.20
Marco Alexandro Nicacio	Pipefitter Journeyman	3.16.20

Darren E O`leary	Pipefitter Foreman 1	4.1.20
Noel J Ochoa	Pipefitter Journeyman	3.26.20
Jarred John Masga Ooka	Pipefitter Apprentice 70%	3.16.20
Robert Matthew Owsley	Pipefitter Apprentice 55%	7.16.20
Zach M Patton	Pipefitter Apprentice 85%	6.16.20
Chesley M. Phillips	Pipefitter General Foreman	3.16.20
Matthew H. Ransom	Pipefitter Foreman 1	3.16.20
Garett L Saltz	Pipefitter Journeyman	3.10.20
Kory Schneiter	Pipefitter Journeyman	3.18.20
Kevin A Silvey	Pipefitter Apprentice - 75%	4.2.20
Dave Skaggs	Field Work Supervisor	3.17.20
Kyle D Staats	Pipefitter Journeyman	3.3.20
Bryce K. Stredwick	Pipefitter General Foreman	3.5.20
Marcus Therson	Pipefitter Superintendent	3.5.20
Marty Wellenbrock	Pipefitter Foreman 2	3.3.20
Cary George Withers II	Pipefitter Journeyman	3.3.20



Littler Mendelson, P.C.
One Union Square
600 University Street, Suite 3200
Seattle, WA 98101.3122

December 3, 2020

Thomas P. Holt
206.381.4926 direct
206.623.3300 main
206.374.2216 fax
tholt@littler.com

VIA EMAIL ONLY TO PDC@PDC.WA.GOV

Phil Stutzman
Compliance Officer
Washington Public Disclosure Commission

Re: **Intermech, Inc.: Alleged Violations of RCW 42.17A.495 and WAC 390-17-100**

Dear Mr. Stutzman:

Thank you for clarifying that the Public Disclosure Commission is still awaiting materials related to the compliant (version 3) PAC authorization form from Intermech, Inc. ("Intermech"). I appreciate it, as I only very recently became involved in this matter following Mr. Wood's departure from our firm.

I am enclosing with this letter the additional materials that you have requested Intermech provide. The first enclosure, **Exhibit A**, contains the list of Local 598 members who have been dispatched to Intermech since March 1, 2019, the date the new PAC authorization (version 3) language was added, as well as signed version 3 authorizations for each employee.

The second enclosure, **Exhibit B**, contains a list of all current Local 598 employees who were dispatched to Intermech prior to March of 2019. As reflected in the enclosure, Intermech has now obtained a signed version of the compliant version 3 authorization for all current Local 598 employees. Going forward, all employees hired by Intermech will continue to be dispatched with the compliant version 3 authorization, as Intermech has done since March 1, 2019.

Intermech is eager to finally resolve this matter with the Commission. I look forward to working with you to do so. In the meantime, please do not hesitate to contact me with further questions.

Sincerely,

Thomas P. Holt
Shareholder

TPH/tph
Enclosures

Cc: Barbara Sandahl, Public Disclosure Commission (barbara.sandahl@pdc.wa.gov)
Chad Standifer, Attorney General's Office (chad.standifer@atg.wa.gov)

EXHIBIT A

EXHIBIT A

Current Employees as of 3-1-2019 dispatched after 3-1-2019

Employee	Last Name	First Name	Middle Name	Craft Descr.	Signed Dispatch w/ version 3 - PAC authorization language
601079	Anderson	Evan	L	Pipefitters Local 598	x
600915	Anderson	Jody	B	Pipefitters Local 598	x
600423	Anderson	Sean	M	Pipefitters Local 598	x
600389	Atwood	Izak	K	Pipefitters Local 599	x
601100	Atwood	Kevin	L	Pipefitters Local 598	x
600910	Avery	Trenton	James	Pipefitters Local 598	x
600982	Bautista-Peters	Ashley	C	Pipefitters Local 598	x
601109	Birrueta	Mario		Pipefitters Local 598	x
600907	Black Elk	Katrina	R	Pipefitters Local 598	x
600904	Bushey	David	J	Pipefitters Local 598	x
601110	Cahill	Vance	T	Pipefitters Local 598	x
601104	Coburn	Justin	Taylor	Pipefitters Local 598	x
600918	Coleman	Tanner	L	Pipefitters Local 598	x
601040	Connell	Michael		Pipefitters Local 598	x
600922	Connell	Samuel	Ray	Pipefitters Local 598	x
600911	Crane	Axel	Brandon	Pipefitters Local 598	x
601089	Esparza	Arthur		Pipefitters Local 598	x
601082	Flood	Steven	L	Pipefitters Local 598	x
600912	Garrett	Chad	Michael	Pipefitters Local 598	x
600980	Garrett	Rodney	Scott	Pipefitters Local 598	x
601097	Harley	Jamey	L	Pipefitters Local 598	x
601091	Harper	Vintley		Pipefitters Local 598	x
601099	Helleck	Patrick	E	Pipefitters Local 598	x
601093	Herman	Nathan	W	Pipefitters Local 598	x
601068	Hippolyte	Finbar		Pipefitters Local 598	x
601103	Huffman	Brandt		Pipefitters Local 598	x
601085	Huntington	Anthony	Scott	Pipefitters Local 598	x
601074	Jones	Adam	M	Pipefitters Local 598	x
600983	Kelly	Elijah	W	Pipefitters Local 598	x
600190	Kelly	Keith	A	Pipefitters Local 599	x
600981	Kimball	Tony	L	Pipefitters Local 598	x
601048	Klas	Daniel	W	Pipefitters Local 598	x
600913	Krom	Brian	Scott	Pipefitters Local 598	x
601106	Lambert	Chad		Pipefitters Local 598	x
600417	Lewis	Anthony	D	Pipefitters Local 598	x
601046	Martinez	Angel		Pipefitters Local 598	x
601080	Millbauer	Keenan	H	Pipefitters Local 598	x
601087	Miller	Donald	J	Pipefitters Local 598	x
601086	Olson	Jesse	M	Pipefitters Local 598	x
600914	Ooka	Jarred	John Masga	Pipefitters Local 598	x
601088	Phillips	Shannon	Buck	Pipefitters Local 598	x
601092	Pihl	Ty		Pipefitters Local 598	x
601108	Ramos	Antonio	R	Pipefitters Local 598	x
601101	Schumacher	Robert	J	Pipefitters Local 598	x
601107	Smith	MyRanda	R	Pipefitters Local 598	x
601095	Stuart	Walker	W	Pipefitters Local 598	x
601094	Valdez	Aczael		Pipefitters Local 598	x
601083	Valdez	Joe	R	Pipefitters Local 598	x
601084	Valdez	Ray		Pipefitters Local 598	x
601090	Ward	Larry	D	Pipefitters Local 598	x
601096	Wilson	Joe	L	Pipefitters Local 598	x