



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

February 26, 2021

Delivered electronically to Maxford Nelsen, Freedom Foundation, at
mnelsen@freedomfoundation.com

Subject: Temp-Control Mechanical Corp. (3), PDC Case 55700

Dear Mr. Nelsen:

Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received July 26, 2019, alleging Temp-Control Mechanical Corp. (TCM Corp.) violated RCW 42.17A.495 and WAC 390-17-100 by deducting 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 compliant with RCW 42.17A.495 and WAC 390-17-100. The complaint alleged, from March-May 2019, TCM Corp. withheld at least \$5,694.74 from nearly two dozen of its employees' wages for Local 598 PAC, with all deductions made in violation of RCW 42.17A.495(3) and WAC 390-17-100.

Your complaint also alleged the otherwise compliant Version Three dispatch/authorization form created by Local 598 PAC for Temp-Control Mechanical Corp. violates WAC 390-17-100 by failing to allow the employee to designate the dollar amount of the contribution to be withheld from the employee's wages. The complaint alleged the authorization form impermissibly restricts the employee's ability to choose how much to contribute to the PAC by providing a pre-determined contribution of 0.7 percent of wages, even though the template form in WAC 390-17-100 permits the employee to designate a specific dollar amount for a contribution.

The complaint also alleged Temp-Control Mechanical Corp. may have violated RCW 42.17A.495 and WAC 390-17-100 by collecting vastly more than the amount authorized from the wages of at least some employees.

RCW 42.17A.495 and WAC 390-17-100 provide, 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. The written request form must also inform the employee of the right to revoke the written request at any time. Employers are also required to maintain open for public inspection documents and books of account verifying wages withheld through payroll deductions for political contributions.

WAC 390-17-110 requires employers to provide an annual notification of the nondiscriminatory provisions of RCW 42.17A.495(2) and language stating the employee authorization for withholding wages or salary for political contributions may be revoked at any time.

PDC staff reviewed your complaint, responses from Temp-Control Mechanical Corp., and the relevant law and rules. As a result of the investigation, staff found the following:

Alleged Failure to Use Authorization Forms with Nondiscrimination and Right to Revoke at Any Time Language - On June 6, 2019, the Freedom Foundation requested to inspect the PAC deduction authorization forms for TCM Corp. employees listed as contributors to Local 598's PAC in March, April, and/or May 2019. The letter asked to view the authorizations on or prior to June 28, 2019. After follow-up correspondence was exchanged on July 8, July 11, and July 15, Mr. Nelsen was able to review the requested records on July 24, 2019. From March-May 2019, TCM Corp. withheld at least \$5,694.74 from nearly two dozen of its employees' wages for Local 598 PAC.

On August 28, 2019, Scott Osborne and Meredith Smith, Attorneys, responded on behalf of TCM-Corp. According to Mr. Osborne and Ms. Smith, although TCM Corp. is responsible for ensuring authorization forms are compliant with state law and regulation, Local 598 has prepared several versions of the authorization that TCM Corp. has accepted as compliant.

In March 2019, Local 598 modified its Dispatch/Authorization Form to address the issues raised by PDC staff in its February 14, 2019 warning letter. TCM stated its new Dispatch/Authorization Form is compliant with RCW 42.17A.495 and WAC 390-17-100. Mr. Osborne and Ms. Smith stated TCM Corp. uses both an Annual Authorization and Annual Notification form to ensure its employees receive proper notice and submit written requests for withholding.

Mr. Osborne and Ms. Smith stated no withholdings are currently being made for any Local 598 member who has not requested the withholding on a compliant form. According to Mr. Osborne and Ms. Smith, as of August 28, 2019, and thereafter, TCM Corp. has maintained compliant authorization forms signed by all employees from whom funds are being withheld for contributions to Local 598 PAC.

Alleged Failure to Allow Employees to Designate a Specific Dollar Amount of Deduction - Staff's investigation found an employee is not prohibited by RCW 42.17A.495 and WAC 390-17-100 from requesting a payroll deduction for political contributions based on a percentage of the employee's 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 to be deducted as a percentage of wages or salary.

Alleged Collection of Contributions Exceeding Amounts Authorized - TCM Corp. denied withholding and sending to Local 598 PAC more than 0.7 percent of wages from Donald Williams, Philip Kronberg, or Shawn Schneirla. TCM stated the withholdings for these three employees shown on C-3 reports for March and May 2019 equate to the authorized 0.7 percent of wages. TCM Corp. provided a summary derived from its accounting system showing that

monthly PAC withholdings for these employees did not exceed the amount authorized by the employees.

Donald Williams – According to your complaint, Local 598 PAC reported receiving three contributions from “Don Williams” on March 8, 2019, totaling \$372.96, and two contributions on May 8, 2019, totaling \$270.28. TCM’s summary from its accounting system showed wages for Mr. Williams for November 2018, December 2018, and January 2019, totaling \$53,279.56. Withholding at the rate of 0.7 percent for these three months totals \$372.96, which equals the total of \$372.56 for the three contributions reported as received on 3/8/19 on a C-3 report filed by Local 598 PAC on 3/11/19. In addition, the accounting summary showed wages for January and February 2019 totaling \$38,611.09. Withholding at 0.7 percent is \$270.28, which matches the total of the two contributions reported as received from Mr. Williams on 5/8/19, on a C-3 reported filed 5/17/19.

Philip Kronberg – According to your complaint, Local 598 PAC reported receiving three contributions from “Philip Victor Kronberg” on March 8, 2019, totaling \$267.40, and two contributions on May 8, 2019, totaling \$166.14. TCM’s summary from its accounting system showed wages for Mr. Kronberg for November 2018, December 2018, and January 2019, totaling \$38,197.76. Withholding at the rate of 0.7 percent equals \$267.38, and the three contributions attributed to Mr. Kronberg on 3/8/19 total \$267.40. The summary showed wages for January and February 2019 totaling \$23,734.80. Withholding at 0.7 percent is \$166.14, which matches the two contributions attributed to Mr. Kronberg on 5/8/19.

Shawn Schneirla - Local 598 PAC reported receiving three contributions from “Shawn Schneirla” on March 8, 2019, totaling \$309.59, and two contributions on May 8, 2019, totaling \$218.78. TCM’s summary from its accounting system showed wages for Mr. Schneirla for November 2018, December 2018, and January 2019, totaling \$44,225.48. Withholding at the rate of 0.7 percent equals \$309.58, and the three contributions attributed to Mr. Schneirla on 3/8/19 total \$309.59. The accounting summary showed wages for February and March 2019 totaling \$31,254.54. Withholding at 0.7 percent is \$218.78, which matches the two contributions attributed to Mr. Schneirla on 5/8/19.

After a careful review of the alleged violations and relevant facts, PDC staff has concluded its investigation, and has resolved the complaint against Temp-Control Mechanical Corp. The complaint has been resolved through a Statement of Understanding and dismissal, as described below.

Temp-Control Mechanical Corp. completed a Statement of Understanding (SOU) in accordance with WAC 390-37-142. Temp-Control Mechanical Corp.: (1) acknowledged a violation of RCW 42.17A.495 and WAC 390-17-100 by deducting employees’ wages for political contributions to Plumbers & Steamfitters Local 598 PAC (Local 598 PAC), the political committee operated by United Association of Plumbers and Pipefitters Local 598 (Local 598), without first obtaining authorizations that comply with RCW 42.17A.495 and WAC 390-17-100; (2) expressed an understanding that the Commission will not hold an adjudicative hearing in connection with the violation; and (3) paid a \$500 civil penalty. The \$500 penalty resolves this allegation. Staff believes this is the appropriate resolution considering all the facts and circumstances, including Temp-Control Mechanical Corp.’s good-faith efforts to come into compliance after receiving the PDC’s February 14, 2019 warning letter.

Because staff's investigation found an employee is not prohibited by RCW 42.17A.495 and WAC 390-17-100 from requesting a payroll deduction for political contributions based on a percentage of the employee's wages or salary, meaning that a requested deduction based on a percentage of the employee's salary is permissible, I am dismissing that portion of the complaint in accordance with WAC 390-37-070.

Because staff's investigation found the amounts withheld for Donald Williams, Philip Kronberg, and Shawn Schneirla for contributions to Local 598 PAC matched 0.7 percent of their wages, I am dismissing that portion of the complaint in accordance with WAC 390-37-070.

If you have questions, you may contact Phil Stutzman, Compliance Officer, at 360-753-1111; toll-free at 877-601-2828; or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

Electronically Signed Peter Frey Lavallee

Peter Frey Lavallee
Executive Director

cc: Scott W. Osborne and Meredith A. Smith, Jackson Lewis P.C.