

Complaint Description

Glen Morgan (Thu, 26 Sep 2019 at 6:19 PM)

To whom it may concern,

It has come to my attention that Seth Fleetwood, running for Bellingham City Mayor, has committed numerous violations of Washington State's campaign finance laws (**RCW 42.17A**).

1) Failure to accurately describe expense. (Violation of RCW 42.17A.240(6) & WAC 390-16037, RCW 42.17A.235)

Fleetwood's campaign has regularly failed to follow Washington State's Campaign Finance laws as they apply to the reporting of expenditures. Some C4s this campaign has filed contains violations of the statute and the rules written by the Public Disclosure Commission which support the statute.

Here are some examples that need to be corrected by Fleetwood's campaign to at least go through the motions of complying with the statute: Examples of a failure to provide sufficient detail of expenditures (unambiguous violations of **RCW 42.17A.240(6)** and **WAC 390-16-037** (see **example B** provided at **WAC 390-16-037(3)**):

For example, the expenditures reported on **PDC Report # 100921193** failed to report how many mailers were printed and purchased from Copy Source for \$6,491.52 on 7/16/2019. On the same report, this campaign failed to legally disclose how many "slim Jims" were purchased for \$183.70 from the same vendor, nor did they identify how many additional mailers were purchased from this same vendor on 7/22/2019 on 7/22/2019 for \$3,486.07. This is a clear violations of **WAC 390-16-037(3) example B** provided. There is no excuse for this failure to be fully transparent or compliant with the statute. Particularly considering how well funded this campaign has been.

Additional examples of wholesale violation of this statute can be found on **PDC Report # 100909114**, when the campaign spent \$3,064.27 for "Kick off flyers" from "Copy Source." On **PDC Report # 100918121** this campaign continues to violate the law by failing to disclose how many "Slim Jims" were purchased on 6/28/2019 from "Copy Source" for \$1,204.49 or how many yard signs were purchased from "Signs by Tomorrow" on four separate occasions for over \$2,000. The signs may be for tomorrow, but the law clearly requires the quantity of signs to have been disclosed yesterday – or more specifically when each of these C4s were filed with the PDC.

2) Concealment of campaign expenses from the public (Violation of RCW 42.17A.240)

This campaign appears to be concealing campaign expenditures from the public, for example, despite the information provided very publicly by the Whatcom County Auditor's office about the requirement of candidates for office to pay a filing fee, and the information provided by the Whatcom County Auditor's office, the payment of this filing fee (which should be around

\$1,656.00) continues to be hidden from the public and remains unreported in the documents filed by this campaign with the PDC.

It has been crystal clear to all candidates running for office in Washington State that this information must be reported to the PDC. Please see the attached AGO opinion on this very issue from 1974 and signed by Attorney General Slade Gorton, which further reiterated this fact.

This is a very well-funded campaign with a variety of professional support staff paid to ensure compliance with the law, yet there is still clear and overt violations of the statute.

The PDC should be encouraged to look closer at this campaign to uncover the additional violations that have most likely been committed and not caught in the first quick glance by this complaint.

If you need further information, please feel free to contact me.

Best Regards,

Glen Morgan

What impact does the alleged violation(s) have on the public?

The public has a right to know how this candidate is spending the campaign dollars he receives. The candidate has no right to conceal the truth or the details from the public.

List of attached evidence or contact information where evidence may be found.

All PDC documents are referenced by tracking number within the complaint, and the AGO opinion is attached.

List of potential witnesses with contact information to reach them.

the candidate, the treasurer, and the campaign committee.

Complaint Certification:

I certify (or declare) under penalty of perjury under the laws of the State of Washington that information provided with this complaint is true and correct to the best of my knowledge and belief.



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Attorney General Slade Gorton

ELECTIONS -- INITIATIVE NO. 276 -- FILING FEES AS REPORTABLE EXPENDITURES
UNDER INITIATIVE NO. 276

A candidate for elective office who is required to pay a filing fee under RCW 29.18.050 must treat that fee as an expenditure under the campaign expenditure reporting requirements of Initiative No. 276.

July 29, 1974

Honorable Kenneth Kennedy
Chairman, Washington Public
Disclosure Commission
Insurance Building
Olympia, Washington 98504

Cite as: AGO 1974 No. 16

Dear Sir:

By letter previously acknowledged the commission has requested our opinion on a question which we paraphrase as follows:

Must a candidate for elective office who is required to pay a filing fee under RCW 29.18.050 treat that fee as an expenditure under the campaign expenditure reporting requirements of Initiative No. 276?

We answer this question in the affirmative for the reasons set forth in our analysis.

ANALYSIS

Your question involves the campaign financing provisions of Initiative No. 276 (now codified as chapter 42.17 RCW), insofar as they relate to expenditures by candidates or [[Orig. Op. Page 2]] political committees.1/

This new disclosure law, which was approved by the voters at the November, 1972, state general election, contains several provisions relating to the reporting of political campaign

expenditures. First, § 8 (now codified as RCW 42.17.080) provides that when a campaign treasurer is designated by a candidate or political committee there must be filed a "report of all contributions received and expenditures made in the election campaign prior to that date." (Emphasis supplied.) Then, RCW 42.17.090 (codifying § 9) sets out the general requirements for the reporting of such expenditures. Among the items of information that must be reported pursuant to this section are "the name and address of each person to whom an expenditure was made in the aggregate amount of \$25.00 or more, and the amount, date and purpose of each such expenditure." (RCW 42.17.090(1)(f).) Further, subsection (1)(g) of RCW 42.17.090 requires the continual reporting of the total sum of a candidate's campaign expenditures.

The term "expenditure" itself is defined in § 2 of the act (RCW 42.17.020(12)) as meaning:

" . . . a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, [[Orig. Op. Page 3]] whether or not legally enforceable, to make an expenditure. The term 'expenditure' also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities or anything of value for the purpose of assisting, benefiting or honoring any public official or candidate, or assisting in furthering or opposing any election campaign."

In other words, an expenditure, for the purposes of the act, includes any transfer or payment of anything of value which is made for the purpose of assisting a public official or candidate in furthering his election campaign. This leads us to your present question; i.e., whether the statutory filing fee provided for in RCW 29.18.050 constitutes such an "expenditure."

Insofar as is here material, this statute provides as follows:

"A fee of one dollar must accompany each declaration of candidacy for a precinct office without salary; a fee of ten dollars for any office with a compensation attached of one thousand dollars per annum or less; a fee equal to one percent of the annual compensation for any office with a compensation attached of more than one thousand dollars per annum."

The significance of this filing fee will readily be seen when the foregoing statute is read in conjunction with RCW 29.18.030, which provides that:

"The name of no candidate shall be printed upon the official ballot used at a state primary, unless not earlier than the last Monday of July nor later than the next succeeding Friday, a declaration of candidacy is filed in the form hereinafter set forth . . ."

Although situated in a chapter of the election code dealing with partisan primaries and elections, these two statutes (RCW 29.18.030 and 29.18.050) apply not only to elections for partisan offices but, as well, to elections for nonpartisan offices under chapter 29.21 RCW. See, RCW 29.21.020. In [[Orig. Op. Page 4]] AGO 1974 No. 12 [[to A. Ludlow Kramer, Secretary of State on June 28, 1974]], copy enclosed, however, we recently advised that the filing fee requirement of RCW 29.18.050 is no longer constitutionally enforceable, in view of a recent United States Supreme Court decision, in the case of indigent persons who are financially unable to pay the fee required for the particular office they are seeking.

With this exception, however, it is readily to be seen that for the purposes of the election law, a person seeking election to a particular office for which a filing fee is prescribed may not become an official candidate unless he has paid the required filing fee in conjunction with the filing of his

declaration of candidacy. From this it follows, in our opinion, that the filing fee does constitute an "expenditure," for the purposes of Initiative No. 276, in view of the definition contained in § 2 (RCW 42.17.020(12)),supra.

In simplest terms, this payment (in those cases in which it is required) is a necessary part of the candidate's financial outlay if he is to have his name appear on the ballot and, in that manner, become eligible to be elected to the office he is seeking. Moreover, the payment is very clearly a transfer of something of value and it cannot be doubted that it is for the purpose of assisting the candidate and furthering his election campaign. Payment of the filing fee is thus precisely within the broad definition of "expenditure" as set forth above. We must therefore answer your question, as above paraphrased, in the affirmative.

We trust the foregoing will be of assistance to you.

Very truly yours,

SLADE GORTON
Attorney General

JAMES VACHE
Assistant Attorney General

***** FOOTNOTES *****

1/The terms "candidate" and "political committee" are defined in RCW 42.17.020(5) and (22), respectively, as follows:

"(5) 'Candidate' means any individual who seeks election to public office. An individual shall be deemed to seek election when he first:

"(a) Receives contribution or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or

"(b) Announces publicly or files for office.

". . .

"(22) 'Political committee' means any person (except a candidate or an individual dealing with his own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition."