



**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

December 16, 2019

Delivered electronically to “pwhidbee@perkinscoie.com”

Subject: Complaint filed by Glen Morgan, PDC Case 59437

Dear Paige L. Whidbee, Perkins Coie LLP, representing Washington Fairness Coalition

Below is a copy of an electronic letter sent to Glen Morgan concerning a complaint filed with the Public Disclosure Commission (PDC).

As noted in the letter to Glen Morgan, the PDC has dismissed this matter in accordance with RCW 42.17A.755(1) and will not be conducting a more formal investigation into these allegations or taking further enforcement action in this matter.

If you have questions, contact Alice Fiman toll-free at 1-877-601-2828 or by e-mail at pdcc@pdcc.wa.gov

Sincerely,

/s _____
Alice Fiman
Compliance Officer

Endorsed by,
/s _____
Barbara Sandahl
Deputy Director
For Peter Lavallee
Executive Director



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December 16, 2019

Delivered electronically to glen@wethegoverned.com

Subject: Complaint regarding Washington Fairness Coalition, PDC Case 59437

Dear Glen Morgan:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed October 21, 2019. Your complaint alleged Washington Fairness Coalition, a 2019 Ballot Proposition Committee supporting Referendum 88, may have violated RCW 42.17A.320 by failing to disclose the “Top Three Donors to PAC Contributors” in political advertising.

To determine whether the record supports a finding of one or more violations, PDC staff reviewed: the allegations; the applicable statutes, rules, and reporting requirements; the attachments you provided; and the response from Paige L. Whidbee of Perkins Coie LLP, counsel for Washington Fairness Coalition. Based on staff’s review, we found the following:

- Washington Fairness Coalition (Committee) filed a Committee Registration with the PDC as a Ballot Proposition Committee on August 8, 2019.
- RCW 42.17A.320 requires that, unless otherwise exempt, all written political advertisements shall include the sponsor’s name and address, and if the political advertisement is undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party, the advertisement must also include the statement “No candidate authorized this ad. It is paid for by (name, address, city, state).” In addition, if the sponsor is a political committee, the ad must also include the statement “Top Five Contributors,” followed by the names of the five persons making the largest contributions to the committee.
- As of July 28, 2019, a new law (HB 1379) requires additional sponsor identification if the Top 5 list includes political committees. In those cases, the sponsor must determine the Top 3 Donors to the political committees listed among the Top 5 Contributors, and include the statement “Top Three Donors to PAC Contributors” followed by the names of the Top 3 non-PAC donors to the PAC’s Top 5 Contributors.
- In response to the complaint, Whidbee stated, “First, WFC properly disclosed its top five contributors at the end of the Video, as required by law. Second, none of WFC’s top

contributors are political committees, so they are not subject to the additional disclosure rules Mr. Morgan cites. ACLU of Washington is a 501(c)(3) nonprofit organization, and Group Health Community Foundation is a 501(c)(4) nonprofit organization. WFC's other top contributors are also nonprofit organizations, not political committees. Third, even Mr. Morgan does not allege any of WFC's top contributors are political committees. Instead, Mr. Morgan argues WFC needed to make additional disclosures because ACLU of Washington and Group Health Community Foundation are "incidental committees." Under RCW 42.17A.005(27), incidental committees are defined as "any nonprofit organization not otherwise defined as a political committee, but that may incidentally make a contribution or expenditure in excess of the reporting threshold in RCW 42.17A.235."

- Because incidental committees are not political committees, they may be listed as a Top 5 Contributor without further disclosure concerning the incidental committee. You also alleged WFC needed to disclose the Top 3 Donors to the Seattle Foundation. However, the Seattle Foundation is not listed as one of WFC's Top 5 Contributors, and even if it was listed as a Top 5 Contributor, it is not a political committee.
- None of the Top 5 Contributors to WFC are political committees, and as such, the requirement to list the Top 3 non-PAC donors to the Top 5 Contributors is not applicable.

Based on these findings, staff has determined that, in this instance, the alleged failure to disclose the Top 3 Donors to a PAC's Top 5 Contributors is not a violation that warrants further investigation.

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).

If you have questions, contact Alice Fiman toll-free at 1-877-601-2828 or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

/s _____
Alice Fiman
Compliance Officer

Endorsed by,

/s _____
Barbara Sandahl
Deputy Director
For Peter Lavalley
Executive Director