

<b>Respondent Name</b>	
	Peter Swant
<b>Complainant Name</b>	
	Glen Morgan
<b>Complaint Description</b>	
<p><u>Glen Morgan</u> reported via the portal Thur, 21 Nov 2019 at 5:59PM</p> <p>To whom it may concern,</p> <p>It has come to my attention that Peter Swant, who ran for the Walla Walla Port Commission this year has committed numerous violations of Washington State’s campaign finance laws (<b>RCW 42.17A</b>).</p> <p>For reference, and in an effort to put these violations into context, this candidate has an epic rap sheet of violations with the PDC. Swant appears to be a very impressive serial violator of this state’s campaign finance laws. Just a quick rundown of the most recent violations:</p> <ul style="list-style-type: none"> <li>· PDC Enforcement Case #23275 – Fined \$1200 by Commission</li> <li>· PDC Enforcement Case #18104 – Fined \$1200 by Commission</li> <li>· PDC Enforcement Case #10096 – Fined \$1000, reduced to \$500 by Commission</li> <li>· PDC Enforcement Case #16-064 – Fined \$100</li> <li>· PDC Enforcement Case #14-110 – Fined \$100</li> <li>· PDC Enforcement Case #13-150 – Fined \$200</li> </ul> <p>The frequent flyer aspect of this politician’s experience with violating the state’s campaign finance laws and interacting with the PDC is partly why these violations are a bit mystifying to me. After pretty much violating the law every year since 2013, it would seem possible for this guy to eventually get it right once. However, that wasn’t this year. Maybe next time.</p> <p><b>1) Failure to accurately describe expense. (Violation of RCW 42.17A.240(6) &amp; WAC 390-16-037, RCW 42.17A.235)</b></p> <p>Swant’s campaign has failed to follow Washington State’s Campaign Finance laws as they apply to the reporting of expenditures. C4s this campaign has filed contain violations of the statute and the rules written by the Public Disclosure Commission which support the statute.</p> <p>Here are some examples that need to be corrected by Swant’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 <b>RCW 42.17A.240(6)</b> and <b>WAC 390-16-037</b> (see <b>example B</b> provided at <b>WAC 390-16-037(3)</b>):</p> <p>This is a total failure to comply with the statute. There is no excuse for a failure to be fully transparent or compliant with the statute.</p>	

**2) Failure to file timely C1 (Violation of RCW 42.17A.205, .210, .215). See also WAC 390-05-200**

It appears that the Swant campaign was substantially late in filing the C1 for this campaign. Although, at least one was filed this year, which seems to be an improvement over past experience.

It appears this campaign had already set up their bank account and taken other steps to organize this political campaign including registering their campaign with the Auditor's office, yet the C1 wasn't filed with the PDC until June 26, 2019, which is substantially later than it should have been filed with the PDC (See **WAC 39-05-200**). At a minimum this was over 15 days late.

**3) 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 well-known requirement of candidates for office to pay a filing fee, and the information provided by the Clallam County Auditor's office, the payment of this filing fee (which should be around \$90.00) was willfully concealed from the public and remains unreported in the documents filed by this campaign with the PDC for the 2019 campaign.

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 campaign needs to be more transparent about these and possibly other expenditures concealed from the public.

The PDC should conduct a thorough review of this campaign to identify other violations which certainly have been committed.

While these violations are serious and significant, they are not as serious as other violations I have documented and provided to the PDC about other PACs and candidates. However, there is a moral hazard problem created here when candidates like this can just ignore the campaign finance laws, run contested campaigns and apparently not change their ways over half a decade. While this candidate lost his re-election this year, in light of his serial violations in the past, these additional violations should be considered seriously.

It isn't necessary to do the Tim Eyman - style scorched earth campaign of personal destruction against this candidate. However, they should face some token wrist-slap, penalty for failing to comply with the state's campaign finance laws.

Otherwise, of course, the PDC is only encouraging worse violations next time.  
Please don't hesitate to contact me if you need any additional information.

Best Regards,

Glen Morgan

AGO opinion on reportability of filing fees.pdf  
377.9 KB

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

Even serial campaign finance violators like this politician should still try to follow the law at least a little bit.

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

AGO opinion attached, PDC reports referenced within the body of the complaint

**List of potential witnesses with contact information to reach them**

The candidate is probably adequate

**Certification (Complainant)**

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.

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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.<sup>1/</sup>

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."