



**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: [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov) • Website: [www.pdc.wa.gov](http://www.pdc.wa.gov)**

December 11, 2023

Delivered electronically to Smith-Barbieri Progressive Fund at [lerria@smith-barbieri.com](mailto:lerria@smith-barbieri.com) and [info@smith-barbieri.com](mailto:info@smith-barbieri.com)

Subject: Complaint filed by John Estey, PDC Case 142714

Dear Smith-Barbieri Progressive Fund:

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

As noted in the letter to John Estey, 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.

If you have questions, you may contact Tabatha Blacksmith at 1-360-586-8929, toll-free at 1-877-601-2828 or by e-mail at [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov)

Sincerely,

*Electronically signed Tabatha Blacksmith*  
Tabatha Blacksmith  
Compliance Officer

Endorsed by,

*Electronically signed Kim Bradford*  
Kim Bradford  
Deputy Director  
For Peter Frey Lavalley  
Executive Director



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December 11, 2023

Delivered electronically to John Estey at [johnestey97@gmail.com](mailto:johnestey97@gmail.com)

Subject: Complaint regarding Smith-Barbieri Progressive Fund, PDC Case 142714

Dear John Estey:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on September 21, 2023. The complaint alleged that Smith-Barbieri Progressive Fund, a tax-exempt 501(c)(3) non-profit organization, may have violated RCW 42.17A.205 by failing to timely register as a political committee or .225 by failing to register as a continuing political committee. The other statutes cited in the complaint concern 1) policies and legal definitions that cannot be violated (.001 and .005); and 2) requirements for which there is no evidence of a violation because the activities that trigger them have not occurred (.055, .145 and .435).

PDC staff reviewed the allegations and evidence you submitted; the applicable statutes, rules, and reporting requirements; the response provided by Smith-Barbieri Progressive Fund (the "Respondent"); the applicable PDC reports filed by the Respondent; and other relevant information to determine whether the record supports a finding of one or more violations.

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

- [RCW 42.17A.205](#) requires every political committee to register with the PDC by filing a C-1pc report within two weeks of organizing; or first having the expectation of receiving contributions or making expenditures in an election campaign, whichever is earlier. If a committee does not indicate that it qualifies for the Mini-Reporting option on its C-1pc report, it is a Full-Reporter by default and therefore required to report contributions and expenditures to the PDC on C-3 and C-4 reports pursuant to [RCW 42.17A.235](#) & [RCW 42.17A.240](#).
- [RCW 42.17A.005\(41\)](#) defines a "political committee" as "any person<sup>1</sup> (except a candidate or an individual dealing with the candidate's or individual's 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."

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<sup>1</sup> "Person" includes "an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized." RCW 42.17A.005(39)

- [RCW 42.17A.225](#) concerns requirements specific to continuing political committees<sup>2</sup>, which are a type of political committee. This statute addresses the timing of required reports, public inspection of books of account prior to elections, and the preservation of records for continuing committees.
- [PDC Interpretation No. 07-02](#) sets forth guidelines, based on previous court decisions, to aid in determining the activities that could trigger the requirement to register as a political committee for an entity or individual that is not primarily engaged in campaign activities. This two-pronged test addresses both the receipt of contributions and the making of expenditures.
  - The contribution prong is met when an entity or individual solicits or expects to receive contributions to support or oppose an election campaign, regardless of spending activity.
  - Courts have developed a “primary purpose test” to determine the threshold of spending activity that meets the expenditure prong. Under this test, an organization becomes a political committee only if it is determined that affecting governmental decision-making by supporting or opposing candidates or ballot propositions is a primary purpose of the organization.
    - Factors to be considered include, but are not limited to, the percentage of its budget or resources an organization spends on election campaigns. Spending over 30% is an initial indication that election activity may be a primary purpose; however, this percentage is intended as a guide and should not be considered an exclusive factor or threshold.
    - Other factors include 1) the stated goals and mission of the organization; 2) whether election spending furthered those goals and mission; 3) the extent to which a favorable outcome in an upcoming election would substantially achieve those goals and mission; and 4) the other means the organization uses to achieve its goals and mission.
- The Respondent is a tax-exempt 501(c)(3) non-profit organization whose mission appears to include acting as a fiscal sponsor for other non-profits and projects, making grants to non-profit organizations, advocacy, and activism. The Respondent’s mission, as stated on its website, does not include supporting election-related activities.
- According to its published [financial history](#) and IRS Form 990-PF federal informational returns for 2020 and 2021<sup>3</sup>, the Respondent’s average total yearly expenses for the last two years were approximately \$1.1 million dollars, about 90% of which was spent on “contributions, gifts, grants paid” to non-profits and projects.

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<sup>2</sup> Per RCW 42.17A.005(14), "continuing political committee" means a political committee that is an organization of continuing existence not limited to participation in any particular election campaign or election cycle.”

<sup>3</sup> The Form 990-PF covering 2022 activity was due to the IRS November 15, 2023 and is not yet posted online.

- On August 1, 2023, the Respondent contributed \$10,000 to Spokane Community Against Racism (SCAR) PAC, a registered continuing committee. SCAR PAC's C-1pc report (*Committee Registration*) indicates that it opposed City of Spokane's Proposition 1 in 2023. This \$10,000 contribution to SCAR PAC represents less than 1% of the Respondent's total spending and is well below the 30% guide used to determine if the expenditure prong has been met.
- The complaint alleged the Respondent "made several political contributions throughout the years." However, our records show the Respondent made a total of three other contributions, between 2013-2015, all of which fall outside the 5-year statute of limitations for commencing an enforcement action as set forth in [RCW 42.17A.770](#). Subsequently, these prior contributions are not addressed our findings.
- In its October 3, 2023 response to the complaint, the Respondent stated it has been a non-profit foundation for over 20 years and has only made four contributions to political action committees (PACs) during this time. They said the limited number of PAC donations and the length of time between those donations clearly shows that are not themselves a PAC. The Respondent indicated it concentrates on its mission of helping marginalized communities rise out of poverty, which rarely involves making a PAC donation, and does not collect contributions specifically to support ballot measures or political campaigns. Finally, the Respondent confirmed that it does not meet the criteria to register as an Incidental Committee and is not required to report its contribution to SCAR PAC pursuant to RCW 42.17A.630 because the amount was less than \$20,000.
- In a November 6, 2023 email, the Respondent indicated that the contribution it made to SCAR PAC was specifically for the City of Spokane's Proposition 1.
- Proposition 1 appeared on the November 7, 2023 General Election ballot and was passed by voters.
- A review of the [Donate page](#) on the Respondent's website shows that it collects donations for about ten non-profit organizations and/or projects. The Respondent confirmed that the organizations featured on its website are fiscally sponsored by Smith-Barbieri Progressive Fund and working on obtaining their own 501(c)(3) tax exempt status. The Respondent confirmed that it has never collected donations for any PAC, including SCAR PAC.
- The Respondent does not have previous warnings/violations of PDC requirements.

Absent evidence to the contrary, it appears that the Respondent does not receive or collect contributions for the purpose of supporting or opposing an election campaign, and does not make more than infrequent, incidental expenditures for electoral political activity.

Based on our findings, staff has determined that, in this instance, no evidence supports a finding of 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, you may contact Tabatha Blacksmith at 1-360-586-8929, toll-free at 1-877-601-2828 or by e-mail at [pdcc@pdcc.wa.gov](mailto:pdcc@pdcc.wa.gov)

Sincerely,

*Electronically signed Tabatha Blacksmith*

Tabatha Blacksmith  
Compliance Officer

Endorsed by,

*Electronically signed Kim Bradford*

Kim Bradford  
Deputy Director  
For Peter Frey Lavalley  
Executive Director

cc: Smith-Barbieri Progressive Fund