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December 10, 2024

Alice Fiman  
Compliance Office  
Washington Public Disclosure Commission  
711 Capitol Way S. #206  
P.O. Box 40908  
Olympia, WA 98504-0908

Re: PDC Case No. 161097  
BIL No.: 2500-093

Dear Ms. Fiman,

I am writing on behalf of the UNITE HERE Local 8 Political Action Committee (UNITE HERE Local 8 PAC or Committee) to respond to Conner Edwards' September 27, 2024, complaint alleging certain violations of the Fair Campaign Practices Act (FCPA), RCW chapter 42.17A. For the reasons set forth below, the Committee requests that this complaint be resolved through a reminder letter.

### **Background**

On September 27, 2024, Mr. Edwards filed a complaint with the Public Disclosure Commission (PDC) alleging that the UNITE HERE Local 8 PAC violated the FCPA by failing to timely file required C-4 reports in 2023 and 2024, failing to timely file a C-3 report in 2024, and failing to identify candidates supported by certain independent expenditures also made in 2023. Mr. Edwards does not allege that these violations by the Committee had any material impact on the public. Instead, Mr. Edwards' complaint seeks to call attention to his dissatisfaction with the PDC's current enforcement approach.

The UNITE HERE Local 8 PAC is sponsored by a labor union, UNITE HERE Local 8. In the years at issue in this complaint, the Committee has been wholly funded by UNITE HERE Local 8 and has made a total of fifteen expenditures in support of state and local candidates and committees in Washington and Oregon.

### **Analysis of Allegations**

#### **I. Failure to file timely file reports as required under RCW 42.17A.235 and .240**

Under the FCPA, political committees must file reports of contributions and expenditures made as well as bank deposits on prescribed schedules. RCW 42.17A.235. Specifically, a committee must file C-

4 reports on the twenty-first day and seventh day immediately preceding an election as well as on the tenth of the first full month after an election. RCW 42.17A.235(2)(a)-(b). This requirement applies to any election in which the political committee “participates,” RCW 42.17A.235(2), including by making monetary or in-kind contributions or independent expenditures. *See* RCW 42.17A.005(38). A political committee must file additional C-4 reports on the tenth of each month if, in the prior month, the committee has received a contribution or made an expenditure and the total contributions received or expenditures made since the previous filed report exceed \$750. RCW 42.17A.235(3)(a); *see* WAC 390-05-400 (adjusting reporting threshold due to changes in economic conditions). Beginning the fifth month before a general election, a political committee must also file weekly C-3 reports each Monday reflecting any bank deposits made in the previous calendar week. RCW 42.17A.235(5).

Over the course of 2023, the UNITE HERE Local 8 PAC made just five contributions to four candidates: Sam Cho (Position 2) and Fred Felleman (Position 5) for Port of Seattle Commission; and Girmay Zahilay (District 2) and Teresa Mosqueda (District 8) for King County Council.<sup>1</sup> Of these candidate contributions, the Committee exceeded the general election contribution limit only for Teresa Mosqueda, making a \$1,200 contribution attributable to the primary election on August 1, 2023 (the date of the primary), and a \$1,200 contribution attributable to the general election on October 27, 2023. Also on October 27, 2023, the UNITE HERE Local 8 PAC filed a C-4 report reflecting the totality of the Committee’s activities that year.<sup>2</sup> Following receipt of Mr. Edwards’ complaint, the Committee filed two additional reports showing that it received no contributions and made no expenditures in November and December of 2023.<sup>3</sup>

As a continuing committee, the options to file twenty-one- and seven-day pre-primary reports were not readily available to the UNITE HERE Local 8 PAC in ORCA. Moreover, the Committee made no contributions in excess of the single-election contribution limit until the date of the primary itself, and it is unclear the extent to which the Committee was participating in the primary election prior to this date. Were these reports to be filed, they would merely show a \$250 expenditure made in February (the Zahilay contribution), along with two contributions amounting to \$428.81 received from UNITE HERE Local 8 in the first two months of the year—a minor volume of activity occurring long before the primary and below the monthly reporting threshold. Following the Committee’s August 1 contribution to Mosqueda, the Committee did not file a post-primary report due on September 11. However, information pertaining to the Committee’s August 1 contributions to Mosqueda, Cho, and Felleman were fully reported on the C-4 report filed on October 27.

In 2024, the UNITE HERE Local 8 PAC made just one Washington candidate contribution—a combined primary and general contribution to Bob Ferguson on August 1. The Committee also made contributions to other Washington political committees on October 10 and 11. The Committee filed C-4

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<sup>1</sup> As discussed in greater detail below, the PAC also made independent expenditures in support of six Seattle City Council candidates, representing the vast majority of the PAC’s 2023 expenditures.

<sup>2</sup> PDC Report No. 110183889 (amended by Report No. 110262234).

<sup>3</sup> *See* PDC Report No. 110261985, 110261986.

reports on September 24 for the period January 1 through September 30<sup>4</sup> and for the months of October<sup>5</sup> and November<sup>6</sup> that capture the totality of its activities in 2024 to date.

Again, because the Committee made no contributions until six days before the August primary, it is unclear what obligation it had to file twenty-one- and seven-day pre-primary reports. Moreover, as the Committee had no activity until August 1, these reports would merely show that it had received no contributions and made no expenditures. Following the Committee's participation in the primary through its August 1 contribution to Ferguson, it did not file a post-primary report on September 10. Instead, the Committee filed a report on September 24, two weeks after this deadline. The Committee also filed reports covering its pre-general election activity on October 11 (amended October 15). This report contained all of the information required to be disclosed on the twenty-one-day pre-general election C-4. The Committee had no further activity before or after the general election.

The UNITE HERE Local 8 PAC also received two contributions, both from the Committee's sponsor UNITE HERE Local 8, on August 1 and on October 10, 2024. The first of these contributions, in the amount of \$3,750, was not reported on a C-3 report until September 24,<sup>7</sup> while the second was timely reported on the same date it was received.<sup>8</sup> The Committee's regular receipt of contributions from UNITE HERE Local 8 is well established through its name and ongoing reporting.

## **II. Failure to identify the candidates supported by independent expenditures as required under RCW 42.17A.240(7) and WAC 390-16-037(1)**

Under the FCPA, political committees must report the purpose of each expenditure greater than \$200. RCW 42.17A.240(7); *see* WAC 390-05-400 (adjusting reporting threshold due to changes in economic conditions). Political committees making independent expenditures must similarly report the purpose of these expenditures. RCW 42.17A.255(5)(b). The purpose must in turn identify any candidate(s) supported or opposed by the expenditure, unless, under the language in effect at the time, "such candidate(s) . . . have been previously identified in a statement of organization." WAC 390-16-037 (former).<sup>9</sup> Political committees making independent expenditures in support or opposition to City of Seattle candidates or ballot issues must also report to the Seattle Ethics and Elections Commission. *See* SMC 2.04.

On October 13, 2023, the UNITE HERE Local 8 PAC made independent expenditures to four vendors in support of six candidates for Seattle City Council: Maren Costa, Tammy Morales, Joy Hollingsworth, Ron Davis, Cathy Moore, and Dan Strauss. On October 16, 2023, the Committee updated its statement of organization to indicate its support for these named candidates.<sup>10</sup> In its reporting to the Seattle Ethics and Elections Commission, the Committee also indicated its support for these six named

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<sup>4</sup> PDC Report No. 110247300.

<sup>5</sup> PDC Report No. 110251077 (amended by Report No. 110253144).

<sup>6</sup> PDC Report No. 110259532.

<sup>7</sup> PDC Report No. 110247299.

<sup>8</sup> PDC Report No. 110250695.

<sup>9</sup> *See* WSR 20-02-062, amended by WSR 24-12-019, effective June 12, 2024. *See also* Final Order, PDC Case No. 140213, at 9 (October 9, 2024) (finding that Respondent reasonably relied on a plain reading of this prior language when it failed to identify its support for multiple ballot propositions that had been previously identified in a statement of organization).

<sup>10</sup> *See* [https://apollo.pdc.wa.gov/public/registrations/registration?registration\\_id=54734](https://apollo.pdc.wa.gov/public/registrations/registration?registration_id=54734).

candidates.<sup>11</sup> In light of Mr. Edwards' complaint, the UNITE HERE Local 8 PAC further amended its 2023 reporting to list the six Seattle City Council candidates supported by each of its independent expenditures and the dollar amount attributable to each candidate.<sup>12</sup>

### III. Appropriateness of an alternative response to noncompliance

The PDC's enforcement procedures recognize that the potential harm to the public of a political committee's late reporting depends on the nature of the information being reported. Thus, a committee's failure to timely file accurate reports is a minor violation "[w]hen required information is not timely disclosed, but the public is not deprived of critical information" or "[w]hen incomplete information is disclosed, but a good faith effort to comply with disclosure is made, and the public is not deprived of critical information." WAC 390-37-061. Additionally, the Director may consider the specific context in which late reporting occurs in determining whether an alternative response to alleged noncompliance is appropriate. Specific factors weighing in favor of an alternative response include:

- 1) The impact of the noncompliance on the public was minimal;
- 2) There is no evidence that any person, including any entity or organization, benefited politically or economically from the noncompliance;
- 3) The total expenditures by the respondent in the campaign or statement period were relatively modest;
- 4) The noncompliance resulted from the respondent's demonstrated good-faith uncertainty concerning staff guidance or instructions, a lack of clarity in the rule or statute, or uncertainty concerning the valid application of the Commission's rules;
- 5) The respondent quickly took corrective action or initiated other remedial measures prior to any complaint, or when noncompliance was brought to the respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or over limit contributions); and
- 6) The respondent made a good-faith effort to comply, including by consulting with PDC staff following a complaint and cooperating during any preliminary investigation, or demonstrated a wish to acknowledge and take responsibility for the violation.

WAC 390-37-061. The PDC may also consider other circumstances that mitigate or explain late reporting or other noncompliance. *See id.*

Here, UNITE HERE Local 8 PAC's acknowledged failure to adhere to the pre- and post-election reporting periods and filing deadlines in 2023 and 2024 has had minimal impact on the public. The Committee disclosed all contributions received and expenditures made for the relevant time periods, and there is no evidence that any information was withheld from the public or that any entity benefitted from

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<sup>11</sup> <https://web6.seattle.gov/ethics/filings/popfiling.aspx?prguid=57E6843A-B709-4D23-8F4E-C215AED0359A>.

<sup>12</sup> PDC Report No. 110262234.

the timing of the PAC's reporting. Moreover, the PAC's contributions to candidates and other political committees were also directly reported by the recipients. The UNITE HERE Local 8 PAC made very few expenditures in both 2023 and 2024, and the amounts at issue in this complaint are small. Though the required information has been reported in full, the PAC is willing to amend its 2023 and 2024 reporting to reflect the required reporting periods if requested by the PDC.<sup>13</sup>

As to the allegation that the UNITE HERE Local 8 PAC failed to identify the candidates supported by certain 2023 independent expenditures, the impact on the public is similarly minimal. The Committee's reporting put the public on notice that these expenditures involved support for Seattle City Council candidates, and the Committee further reported the names of supported candidates both on its statement of organization and through its reporting to the Seattle Ethics and Elections Commission. Moreover, as the PDC recently acknowledged, the language of WAC 390-16-037 in effect throughout 2023 did not provide adequate notice that additional disclosure beyond the statement of organization was required. Despite this, the UNITE HERE Local 8 PAC took action in response to Mr. Edwards' complaint to amend its reporting and provide the information required under the law as recently amended. Thus, this issue has already been fully addressed and remedied by the Committee.

### **Conclusion**

In light of the above factors, the issues raised by Mr. Edwards' complaint should be addressed through an alternative resolution. The UNITE HERE Local 8 PAC requests that this case be closed with a reminder letter.

Please contact me with any questions or concerns at (206) 644-6002.

Sincerely,



Abby Lawlor  
*Counsel for UNITE HERE Local 8 PAC*

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<sup>13</sup> The PAC may require further technical assistance from PDC staff to ensure that the correct reporting periods are available in ORCA to file these reports.