



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

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May 29, 2019

Delivered electronically to “walter@smithdietrich.com”

Subject: Complaint regarding John Koster, PDC Case 24624

Dear Walter Smith:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on September 1, 2017. Your complaint alleged that John Koster may have violated: (1) RCW 42.17A.445 by using active campaign funds from his 2016 campaign for State Representative in the 39th Legislative District to make a personal contribution to the House Republican Organizational Committee (HROC); (2) RCW 42.17A.235 and .240 by failing to report a campaign debt on Schedule B to the C-4 report for his 2016 filing fee; and RCW 42.17A.235 and .240 by failing to timely report contributions and expenditures on C-4 reports.

PDC staff reviewed your allegations; the applicable statutes, rules, and reporting requirements; responses from John Koster and his treasurer, Abby Burlingame; and the applicable PDC reports filed by the Respondent, to determine whether the record supports a finding of one or more violations.

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

- Since 1998, John Koster has served as either a state legislator or a member of the Snohomish County Council. In 2012, he ran for State Representative in the 39th Legislative District, and lost. In 2016, he ran again for State Representative in the 39th Legislative District, and was elected. In July 2017, Rep. Koster resigned as a state legislator to pursue other interests.

Alleged personal use of campaign funds

- On January 10, 2017, Rep. Koster’s treasurer, Abby Burlingame, filed the campaign’s December 2016 C-4 report, which included the campaign’s final expenditures, totaling \$3,597.02, and a \$10,000 transfer to the House Republican Organizational Committee

(HROC), the caucus committee for house republicans. Although the transfer was listed on the C-4 as a “Contribution to HROC” it was a transfer of surplus funds made at the close of the 2016 campaign, allowable under RCW 42.17A.430(3), and not a personal use of campaign contributions, which would be prohibited under RCW 42.17A.445.

Alleged failure to timely report orders, debts, and obligations

- The complaint alleged that the 7 day pre-general election C-4 report included an expenditure to Minnick & Minnick on October 19, 2016 for mailings, totaling \$8,504.57, and because the expenditure was made two days into the reporting period, it likely was required to be reported as an order-placed on the previous report, the 21 day pre-general election report. Rep. Koster said, “The expenditure for \$8,504.57 to Minnick & Minnick made on 10/19/16 and the missing required report of an "order placed" appears to be an inadvertent omission. The omission may have been the result of making a 'last minute decision' based on availability of funds. But given the fact that we ended the campaign with excess funds, and that my treasurer seemed to be unaware of that particular requirement, it was most likely an inadvertent mistake.”
- The complaint also alleged that the post primary C-4 report included an expenditure to the Washington Secretary of State on July 29, 2016 for candidate filing fees, totaling \$454.74, and that because the candidate filing fee must be paid in May during filing week, the campaign was likely required to report a loan to the campaign for the amount of the filing fee for reports covering May, June, and a portion of July. Rep. Koster stated, “The filing fee of \$454.74 reported as an expenditure on 7/29/16 listed to the Secretary of State as the recipient for filing fees, should have been listed as a reimbursement to me for the filing fee I paid at the time I filed to run for the office.” Rep. Koster should have reported the filing fee as an in-kind contribution and loan at the time he paid the filing fee.

Alleged failure to timely file C-3 and C-4 reports of contributions & expenditures

- The complaint alleged the 2016 Koster campaign filed “a significant volume of late reports of contributions and expenditures” identifying ten apparent violations of late reporting on a spreadsheet, five C-3 reports and five C-4 reports. Nine of the ten reports identified as late were amended reports. The original reports were timely filed, and the amended reports did not disclose material additional amounts or information. Rep. Koster explained that the reports needed to be amended because the campaign manager provided additional information to the treasurer after the original reports were timely filed.
- John Koster does not have previous warnings or violations.
- The 2016 campaign has had no activity since the December 2016 report. Rep. Koster said once this case is resolved, he will dispose of the remaining surplus funds.

No evidence was found that John Koster used campaign funds for a personal purpose when he transferred \$10,000 at the conclusion of his 2016 campaign to the House Republican Organizational Committee. It appears the campaign treasurer was unaware of the need to report

an order-placed for the \$8,504.57 expenditure to Minnick & Minnick on 10/19/16. Also, the failure to report the filing fee in May when it was paid, as an in-kind contribution, was an oversight on the part of the candidate and treasurer. It appears the original reports for the ten amended reports were timely filed, and the amended reports did not disclosure material new information. John Koster is no longer serving as a State Representative.

Based on these findings, staff has determined that in this instance, the reporting issues described above do not appear to be an actual violation warranting 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 Phil Stutzman, Compliance Officer, at 1-360-664-8853, toll-free at 1-877-601-2828, or by replying to the email to which this letter is attached.

Sincerely,

/s _____

Phil Stutzman
Compliance Officer

Endorsed by,

/s _____

Barbara Sandahl
Deputy Director
For Peter Lavallee
Executive Director

cc: John Koster