

May 3, 2019

Public Disclosure Commission  
711 Capitol Way S. #206  
P.O. Box 40908  
Olympia, WA 98504

Public Disclosure Commission Staff,

In accordance with RCW 42.17A.775, I would like to bring to your attention a series of violations of the Fair Campaign Practices Act (FCPA), Chapter 42.17A RCW, by the Washington State Council of County and City Employees/American Federation of State, County and Municipal Employees Council 2 (WSCCCE).<sup>1</sup>

Based in Everett, WSCCCE is a labor union organized under 26 USC § 501(c)(5) for tax purposes. *See Appendix page 34*, a copy of WSCCCE's 2017 form 990 filed with the Internal Revenue Service. It also maintains a political committee registered with the Public Disclosure Commission (PDC) under the same name (hereinafter, "the Committee"). *See App. 2*, a copy of the Committee's most recent C1PC. The Committee is registered with the Internal Revenue Service (IRS) as a "political organization" under 26 USC § 527 for tax purposes. *See App. 3*, a copy of the Committee's most recent form 8871 filed with the IRS.

In brief, the Committee has violated the FCPA by failing to disclose in-kind contributions it has received from WSCCCE. It has also failed to timely disclose certain forms C3 and C4.

### **Allegation 1: Failure to disclose in-kind contributions provided by WSCCCE**

#### **Legal background**

RCW 42.17A.005(16) defines "contribution" in the following way:

“(a) ‘Contribution’ includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration...

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.”

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<sup>1</sup> Executive director: Chris Dugovich. P.O. Box 750, Everett, WA, 98206. c2everett@council2.com

WAC 390-05-210 further clarifies that “contribution”,

“...shall be deemed to include, among other things, furnishing services, property or rights on an unequal basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution is provided, it shall be reported at its fair market value per WAC 390-05-235 and, pursuant to RCW 42.17A.405 and 42.17A.410, the fair market value is the amount of the contribution to be allocated to the contributor in determining compliance with the contributor's contribution limit.”

RCW 42.17A.235 requires political committees to file reports with the PDC disclosing “all contributions received and expenditures made as a political committee” according to the timeline established by law.

WAC 390-16-207 provides:

“(1) An in-kind contribution must be reported on the C-4 report. An in-kind contribution, as that term is used in the act and these rules, occurs when a person provides goods, services or anything of value, other than money or its equivalent, to a candidate or political committee free-of-charge or for less than fair market value, unless the item or service given is not a contribution according to RCW 42.17A.005 or WAC 390-17-405...

(3) Valuing in-kind contributions.

(a) For purposes of determining the value of goods or services provided as in-kind contributions, refer to WAC 390-05-235 Definition—Fair market value.

(b) If an expenditure that constitutes an in-kind contribution is made, the value of the in-kind contribution to a particular candidate or political committee is the portion of the expense that benefits the candidate or political committee...

(5) Political committees that make in-kind contributions. Except as provided for in subsection (5) of this section, a political committee that makes in-kind contributions to a candidate or political committee totaling more than fifty dollars in the aggregate during a reporting period must identify the recipient and the amount of the contribution as part of its C-4 report covering that period...

(6) Reporting by recipients. Except as provided in subsection (5) of this section, in-kind contributions from one source are not reportable by the recipient candidate or political committee until the aggregate value of all in-kind contributions received from that source during a reporting period is more than fifty dollars. If this threshold is met, the in-kind contributions must be reported in part 1 of Schedule B to the C-4 report covering that reporting period.”

Finally, WAC 390-05-235 defines “fair market value” as “the amount of money which a purchaser willing, but not obliged, to buy would pay a seller willing, but not obligated, to sell, for property, goods or services.”

## Facts

There are two ways for services provided to a political committee to be reported. If a person or entity provides services to the political committee at no cost or below fair market value, the political committee must report receiving in-kind contributions from the person or entity. If the services are purchased by the political committee at their fair market value, then the political committee should disclose purchasing the services as an expenditure and list the vendor.

In this case, the Committee received substantial administrative services from WSCCCE. However, the Committee did not report receiving the services as in-kind contributions, nor did it report reimbursing WSCCCE for the fair market value of the services provided.

The Committee is managed by WSCCCE staff from WSCCCE premises. According to the Committee's C1PC:

- Its phone number is (425) 303-8818. WSCCCE has the same phone number. *See App. 6*, a copy of the contact page on WSCCCE's website.<sup>2</sup>
- Its fax number is (425) 303-8906. WSCCCE has the same fax number. *See App. 6*.
- Its email address is c2everett@council2.com. WSCCCE has the same general contact email address. *See App. 6*.
- Its mailing address is P.O. Box 750, Everett, WA, 98206. This is also WSCCCE's mailing address. *See App. 6*.
- Its street address is 3305 Oakes Ave, Everett, WA 98201. WSCCCE is located at the same address. *See App. 6*.
- Its campaign manager is J. Pat Thompson. Thompson is WSCCCE's deputy director. *See App. 6*.
- Its treasurer is Barbara Corcoran. Corcoran is WSCCCE's business manager. *See App. 6*.
- Its officers are president Chris Dugovich, vice president Ron Fredin, and secretary-treasurer Kathleen Etheredge. Dugovich is WSCCCE's executive director. *See App. 6*. Fredin is WSCCCE's vice president. *See App. 7*, a copy of the executive board page on WSCCCE's website.<sup>3</sup> Etheredge was likely also a WSCCCE employee at the time the committee's C1PC was filed in 2012 and may still be.

In short, management and administration of the Committee is done entirely by WSCCCE staff using union time, facilities and resources.

At minimum, in its annual 990 forms filed with the IRS, the Committee has disclosed that WSCCCE president Chris Dugovich spends an average of one hour per week throughout the year managing the Committee. *See App. 8-33*, copies of the Committee's 990 forms.<sup>4</sup> The forms 990 filed with the IRS annually by WSCCCE record Mr. Dugovich's annual salary, allowing for the value of his time spent administering the Committee to be estimated. *See App. 34-188*, copies of WSCCCE's 990 forms.<sup>5</sup>

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<sup>2</sup> Also available at: <https://www.council2.com/contact.html>

<sup>3</sup> Also available at: <https://www.council2.com/about/executive-board.html>

<sup>4</sup> See Part IV.

<sup>5</sup> See Part VII.

<b>Value of Chris Dugovich's Time Administering the Committee</b>			
	<b>Hours/Week</b>	<b>Salary</b>	<b>In-Kind</b>
2014	1	\$265,242	\$6,631.05
2015	1	\$277,967	\$6,949.18
2016	N/A	\$287,845	\$7,196.13
2017	1	\$295,542	\$7,388.55
2018	N/A	N/A	\$7,500.00
<b>Total</b>			<b>\$35,664.90</b>

The Freedom Foundation was unable to obtain a copy of the Committee’s form 990 for 2016 and its form for 2018 is not yet due. Nonetheless, it is reasonable to assume Mr. Dugovich continued to spend at least an average of one hour per week managing the Committee in these years.

The in-kind estimate for each year is calculated by dividing Mr. Dugovich’s annual salary by 40, the number of hours in a typical work week. Given the rate of increase in prior years, the value of Mr. Dugovich’s time in 2018 is estimated to be \$7,500.

In addition to the estimated \$35,665 worth of Mr. Dugovich’s time, there may well be additional administrative expenses involved in operating the Committee that should have been reported as in-kind contributions from WSCCCE.

Nevertheless, the committee has not disclosed receipt of any in-kind contributions on its forms C4 in 2014, 2015, 2016, 2017, 2018 or to-date in 2019. Neither the forms 990 filed with the IRS nor the forms C4 filed with the PDC indicate that WSCCCE was reimbursed by the Committee for its services and, if it was, it should have been disclosed.

**Allegation 2: Failure to timely file forms C3**

**Legal background**

RCW 42.17A.235 requires that forms C3 disclosing contributions received be filed by political committees every Monday “for the period beginning the first day of the fifth month before the date of the general election, and ending on the date of that... general election...” In all other months, forms C3 must be filed by the 10<sup>th</sup> day of the month. Although the statute has been amended, the relevant reporting schedule does not appear to have materially changed during the period of these allegations.

**Facts**

During the five-year statute of limitations specified by RCW 42.17A.770 (going back to May 2014), the Committee reported receiving at least 35 contributions totaling at least \$379,566 after the disclosure deadlines established by law, totaling at least 893 late days.

### WSCCCE C3 Reporting History

Contributor Name	State	Amount	Report	Contribution Date	Date C3 Filed	Date C3 Required	Days Late
Small Contributions	N/A	\$100	C3.1E	Unknown	12/10/2018	Unknown	Unknown
WA St Council of Co & City Employees	WA	\$20,000	C3	6/11/2018	7/6/2018	6/18/2018	18
Friends of Brian Sullivan	WA	\$1,000	C3	9/14/2017	10/17/2017	9/17/2017	30
WA St Council of Co & City Employees	WA	\$12,500	C3	8/31/2017	9/11/2017	9/4/2017	7
WA St Council of Co & City Employees	WA	\$25,000	C3	5/15/2017	6/13/2017	6/5/2017	8
WA St Council of Co & City Employees	WA	\$10,000	C3	10/17/2016	11/1/2016	10/24/2016	8
WA St Council of Co & City Employees	WA	\$10,000	C3	10/12/2016	10/18/2016	10/17/2016	1
WA St Council of Co & City Employees	WA	\$9,666	C3	9/14/2016	10/5/2016	9/19/2016	16
WA St Council of Co & City Employees	WA	\$10,000	C3	9/2/2016	9/6/2016	9/5/2016	1
WA St Council of Co & City Employees	WA	\$10,000	C3	8/5/2016	8/9/2016	8/8/2016	1
Friends of Dylan Carlson	WA	\$950	C3	8/2/2016	8/9/2016	8/8/2016	1
Jay Inslee for Governor	WA	\$250	C3	8/2/2016	8/9/2016	8/8/2016	1
WA St Council of Co & City Employees	WA	\$10,000	C3	7/12/2016	7/20/2016	7/18/2016	2
WA St Council of Co & City Employees	WA	\$10,000	C3	6/8/2016	7/7/2016	6/13/2016	24
WA St Council of Co & City Employees	WA	\$10,000	C3	5/18/2016	6/7/2016	6/6/2016	1
WA St Council of Co & City Employees	WA	\$10,000	C3	3/31/2016	4/12/2016	4/11/2016	1
AFSCME	DC	\$25,000	C3	12/9/2015	1/14/2016	12/10/2015	35
WA St Council of Co & City Employees	WA	\$9,000	C3	10/1/2015	10/13/2015	10/5/2015	8
AFSCME	DC	\$25,000	C3	9/17/2015	10/13/2015	9/21/2015	22
Friends for Joe McDermott	WA	\$50	C3	9/17/2015	10/13/2015	9/21/2015	22
WA St Council of Co & City Employees	WA	\$9,000	C3	9/17/2015	10/13/2015	9/21/2015	22
Washington Machinist Council	WA	\$5,000	C3	9/17/2015	10/13/2015	9/21/2015	22
WA St Council of Co & City Employees	WA	\$9,000	C3	8/27/2015	9/9/2015	8/31/2015	9
Citizens for Ben Stuckart	WA	\$950	C3	6/30/2015	7/14/2015	7/6/2015	8
WA St Council of Co & City Employees	WA	\$9,000	C3	6/30/2015	7/14/2015	7/6/2015	8
WA St Council of Co & City Employees	WA	\$9,000	C3	5/28/2015	6/9/2015	6/1/2015	8
Small Contributions	N/A	\$100	C3.1E	4/30/2015	5/12/2015	5/11/2015	1
WA St Council of Co & City Employees	WA	\$9,000	C3	4/30/2015	5/12/2015	5/11/2015	1
WA St Council of Co & City Employees	WA	\$8,000	C3	12/31/2014	1/27/2015	1/12/2015	15
WA St Council of Co & City Employees	WA	\$8,000	C3	12/1/2014	1/27/2015	12/10/2014	48
Small Contributions	N/A	\$100	C3.1E	10/31/2014	1/27/2015	11/3/2014	85
AFSCME	DC	\$45,000	C3	10/2/2014	10/13/2014	10/6/2014	7
WA St Council of Co & City Employees	WA	\$8,000	C3	9/30/2014	10/13/2014	10/6/2014	7
WA St Council of Co & City Employees	WA	\$8,000	C3	8/29/2014	9/12/2014	9/1/2014	11
WA St Council of Co & City Employees	WA	\$8,000	C3	7/31/2014	9/12/2014	8/4/2014	39
WA St Council of Co & City Employees	WA	\$8,000	C3	5/30/2014	7/2/2014	6/2/2014	30

WA St Council of Co & City Employees	WA	\$18,000	C3	2/27/2014	3/10/2015	3/10/2014	365
<b>Total</b>		<b>\$379,566</b>					<b>893</b>

**Allegation 3: Failure to timely file forms C4**

**Legal background**

RCW 42.17A.235 requires that forms C4 be filed by political committees seven and 21 days prior to each election and on the 10<sup>th</sup> day of each month during which no other reports are required. Although the statute has been amended, the relevant reporting schedule does not appear to have materially changed during the period of these allegations.

**Facts**

During the five-year statute of limitations specified by RCW 42.17A.770 (going back to May 2014), the Committee has filed at least 16 forms C4 after the disclosure deadlines established by law, totaling 79 late days and reflecting \$163,167.52 in expenditures.

<b>WSCCCE C4 Reporting History</b>				
<b>Period</b>	<b>Expenditures</b>	<b>Date C4 Filed</b>	<b>Date C4 Required</b>	<b>Days Late</b>
01/01/2019 - 01/31/2019	\$3,722.40	2/12/2019	2/11/2019	1
03/01/2018 - 03/31/2018	\$14,397.79	4/23/2018	4/10/2018	13
12/01/2017 - 12/31/2017	\$1,000.00	1/11/2018	1/10/2018	1
07/11/2017 - 07/24/2017	\$4,200.00	8/1/2017	7/25/2017	7
06/01/2017 - 07/10/2017	\$2,500.00	7/14/2017	7/11/2017	3
05/01/2017 - 05/31/2017	\$12,250.00	6/13/2017	6/12/2017	1
03/01/2016 - 03/31/2016	\$12,303.61	4/12/2016	4/11/2016	1
12/01/2015 - 12/31/2015	\$500.00	1/14/2016	1/11/2016	3
09/01/2015 - 10/12/2015	\$52,868.35	10/13/2015	10/12/2015	1
04/01/2015 - 04/30/2015	\$3,600.00	5/12/2015	5/11/2015	1
12/01/2014 - 12/31/2014	\$5,000.00	1/27/2015	1/12/2015	15
10/28/2014 - 11/30/2014	\$18,625.37	12/16/2014	12/10/2014	6
07/29/2014 - 08/31/2014	\$13,800.00	9/12/2014	9/10/2014	2
07/15/2014 - 07/28/2014	\$6,700.00	7/30/2014	7/29/2014	1
06/01/2014 - 07/14/2014	\$10,200.00	7/16/2014	7/15/2014	1
05/01/2014 - 05/31/2014	\$1,500.00	7/2/2014	6/10/2014	22
<b>Total</b>	<b>\$163,167.52</b>			<b>79</b>

**Enforcement factors to consider**

Many of the factors spelled out in RCW 42.17A.750(1)(d) for courts to consider when assessing civil penalties for violations of the FCPA work against WSCCCE and the Committee in this

instance.

<b>RCW 42.17A.750(1)(d)</b>	<b>Applicability to WSCCCE</b>
(i) The respondent's compliance history, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, resulted from a knowing or intentional effort to conceal, deceive or mislead, or from collusive behavior, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;	Far from being “isolated or limited” in nature, the Committee’s violations have spanned at least five years and three election cycles. The number and consistency of the violations over this period establishes that the Committee’s lack of compliance is “systematic” and “ongoing.” The consistency of the violations and the complete failure to disclose in-kind contributions suggests possible intentionality.
(ii) The impact on the public, including whether the noncompliance deprived the public of timely or accurate information during a time-sensitive period or otherwise had a significant or material impact on the public;	The Committee’s failure to timely file reports and complete failure to disclose certain contributions received occurred over the course of three major election cycles — 2014, 2016 and 2018 — consistently depriving the public of both timely and accurate information.
(iii) Experience with campaign finance law and procedures or the financing, staffing, or size of the respondent's campaign or organization;	The Committee is a Section 527 “political organization” under federal tax law. Its sole purpose is to engage in political activity at the state and local level. It is operated by the professional staff of a large and politically active labor union. WSCCCE’s 2017 990 form recorded revenue of \$9.8 million.
(iv) The amount of financial activity by the respondent during the statement period or election cycle;	The Committee reported receiving \$607,195.60 in contributions since 2014 and making \$610,576.33 in expenditures over the same period. This is a significant amount of money, placing the Committee among the ranks of the more politically active entities in the state. <sup>6</sup>
(v) Whether the late or unreported activity	Contributions limits are not directly at issue in

<sup>6</sup> These amounts were calculated by adding up the summary contribution and expenditure data on the PDC’s webpages for the Committee in 2014, 2015, 2016, 2017, 2018 and 2019, as summarized below.

<b>Year</b>	<b>Contributions</b>	<b>Expenditures</b>
2014	\$133,850.00	\$135,066.69
2015	\$171,200.00	\$148,071.88
2016	\$158,895.60	\$167,268.57
2017	\$52,300.00	\$62,803.91
2018	\$90,950.00	\$86,642.88
2019	\$0.00	\$10,722.40

was within three times the contribution limit per election, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;	the Committee's FCPA violations, but the amounts not reported and reported late easily exceed the highest contributions limits set in state law.
(vi) Whether the respondent or any person benefitted politically or economically from the noncompliance;	The Committee may have benefitted politically from the noncompliance by obscuring the extent of WSCCCE's support. It is not currently known whether it benefitted economically.
(vii) Whether there was a personal emergency or illness of the respondent or member of his or her immediate family;	Not a mitigating factor for the Committee in this instance.
(viii) Whether other emergencies such as fire, flood, or utility failure prevented filing;	Not a mitigating factor for the Committee in this instance.
(ix) Whether there was commission staff or equipment error, including technical problems at the commission that prevented or delayed electronic filing;	Not a mitigating factor for the Committee in this instance.
(x) The respondent's demonstrated good-faith uncertainty concerning commission staff guidance or instructions;	Likely not applicable to the Committee in this instance. The rules involved are longstanding and basic components of the FCPA.
(xi) Whether the respondent is a first-time filer;	Not applicable to the Committee, which has been registered with the PDC as a political committee since before 2001. <i>See App. 189</i> , a copy of the Committee's amended CIPC filed December 2001.
(xii) Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action and a demonstrated wish to acknowledge and take responsibility for the violation;	To be determined; unclear at this time.
(xiii) Penalties imposed in factually similar cases; and	In PDC Case No. 42719, the PDC imposed a \$40,000 penalty on UFCW Local 21's PAC for failing to report about \$250,000 in contributions and expenditures made over the course of 2017.  The Spokane County Democrats faced an \$83,000 penalty as a result of litigation brought by the Attorney General for failure to timely disclose \$104,190 in contributions and



	<p>\$110,554 in expenditures.<sup>7</sup></p> <p>The King County Democrats faced a \$36,797 penalty as a result of litigation brought by the Attorney General for failure to timely disclose \$65,442 in expenditures and \$74,261 in contributions in 2016.<sup>8</sup></p> <p>In the case at hand, the Committee completely failed to disclose at least \$35,000 in in-kind contributions received over the course of five years, failed to timely disclose \$379,566 in other contributions, and failed to timely disclose \$163,167.52 in expenditures.</p>
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Additionally, WAC 390-37-061 lists accompanying factors for the PDC to consider when determining whether to address violations through an investigation, adjudicative proceeding, or alternative response to noncompliance. These factors strongly suggest investigation and adjudication are appropriate in this case.

<b>An alternative response to noncompliance may be appropriate if ...</b>	<b>An investigation and possible adjudicative hearing may be appropriate if ...</b>	<b>Application to WSCCCE</b>
It appears that noncompliance resulted from a good-faith error, omission, or misunderstanding.	It appears that the noncompliance may have resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, or from collusive behavior.	Far from being “isolated or limited” in nature, the Committee’s violations have spanned at least five years and three election cycles. The number and consistency of the violations over this period establishes that the Committee’s lack of compliance is “systematic” and “ongoing.” The consistency of the violations and the complete failure to disclose in-kind contributions

<sup>7</sup> Washington State Office of the Attorney General. “Spokane County Democrats to pay nearly \$50,000 over campaign finance violations.” December 24, 2018. <https://www.atg.wa.gov/news/news-releases/spokane-county-democrats-pay-nearly-50000-over-campaign-finance-violations>

<sup>8</sup> Washington State Office of the Attorney General. “AGO files campaign finance complaint against King County Democratic Central Committee.” May 12, 2017. <https://www.atg.wa.gov/news/news-releases/ago-files-campaign-finance-complaint-against-king-county-democratic-central>

Washington State Office of the Attorney General. “Enforcement of Campaign Finance Laws.” <https://www.atg.wa.gov/enforcement-campaign-finance-laws>

		suggests possible intentionality.
The respondent is a first-time filer.	The respondent has experience in complying with the applicable requirements.	The Committee has been registered with the PDC as a political committee since before 2001 and has significant experience with the FCPA.
The respondent's compliance history indicates the noncompliance was isolated or limited in nature, and not indicative of systematic or ongoing problems.	The noncompliance is part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization.	The Committee's noncompliance has spanned at least five years and occurred dozens of times, clearly establishing a pattern of violations.
The impact of the noncompliance on the public was minimal.	The noncompliance deprived the public of timely or accurate information during a time-sensitive period in a campaign, legislative session, etc., or otherwise had a significant or material impact on the public.	The Committee's failure to timely file reports and complete failure to disclose certain contributions received occurred over the course of three major election cycles — 2014, 2016 and 2018 — consistently depriving the public of both timely and accurate information.
The respondent's organization or campaign was relatively unsophisticated or small.	The respondent or the respondent's organization or campaign demonstrated a relatively high level of sophistication, or was well financed and staffed.	The Committee is a Section 527 "political organization" under federal tax law. Its sole purpose is to engage in political activity at the state and local level. It is operated by the professional staff of a large and politically active labor union. WSCCCE's 2017 990 form recorded revenue of \$9.8 million.
The total expenditures by the respondent in the campaign or statement period were relatively modest.	The campaign or statement period involved significant expenditures by the respondent.	The Committee reported receiving \$607,195.60 in contributions since 2014 and making \$610,576.33 in expenditures over the same period. This is a significant amount of money, placing the Committee among the ranks

		of the more politically active entities in the state.
The amount of late-reported activity, or the duration of the untimely disclosure, was small in proportion to the amount of activity that was timely reported by the respondent.	The late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period.	The Committee correctly and timely reported more contributions and expenditures than it failed to report/reported late. Nonetheless, the activity not/not timely reported constituted a significant portion of the Committee's activity.
There is no evidence that any person, including an entity or organization, benefited politically or economically from the noncompliance.	It appears the respondent or anyone else benefited politically or economically from the noncompliance.	The Committee may have benefitted politically from the noncompliance by obscuring the extent of WSCCCE's support. It is not currently known whether it benefitted economically.
Personal emergency or illness of the respondent or member of his or her immediate family contributed to the noncompliance.	There are no circumstances that appear to mitigate or appropriately explain the late reporting or other noncompliance.	No known mitigating circumstances exist to explain the Committee's consistent and substantial noncompliance.
Other emergencies such as fire, flood, or utility failure prevented compliance.	There are no circumstances that appear to mitigate or appropriately explain the late reporting or other noncompliance.	No known mitigating circumstances exist to explain the Committee's consistent and substantial noncompliance.
PDC staff or equipment error, including technical problems at the agency prevented or delayed electronic filing.	PDC staff or equipment error did not appear to contribute to the noncompliance.	No known mitigating circumstances exist to explain the Committee's consistent and substantial noncompliance.
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.	It appears the respondent understood the application of staff's guidance or instructions, and did not dispute the valid application of the commission's rules.	There is no evidence that the Committee's noncompliance stemmed from a good-faith misunderstanding of the law. The statutory provisions at issue affect all political committees and have been in place for decades.

The respondent quickly took corrective action or initiated other remedial measures prior to any complaint, or when noncompliance was brought to respondent's attention ( <i>e.g.</i> , filing missing reports, amending incomplete or inaccurate reports, returning prohibited or over limit contributions).	The respondent appeared negligent or unwilling to address the noncompliance.	To be determined.
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 alleged violation.	The respondent failed to provide a timely or adequate response to the complaint, or was otherwise uncooperative.	To be determined.
The alleged violation was or is being addressed under an analogous local ordinance, regulation, or policy.	The commission has primary jurisdiction over the alleged violation.	The PDC has primary jurisdiction over the alleged violations by the Committee.
The alleged violation presents a new question or issue for the commission's interpretation.	The alleged violation does not present a case of first impression.	The allegations are clear and undisputed and do not present a case of first impression.

## **Conclusion**

The failure of WSCCCE’s political committee to comply with Washington state campaign finance laws has been consistent and extensive, covering the entirety of the five-year statute of limitations and harming election transparency.

On top of simply failing to report receipt of tens of thousands of in-kind contributions, the Committee filed dozens of reports late, totaling hundreds of days of delays in disclosing contributions and expenditures involving more than half a million dollars.

These actions directly contradict the FCPA’s intent that “political campaign and lobbying contributions and expenditures be fully disclosed to the public and that secrecy is to be avoided.”<sup>9</sup>

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<sup>9</sup> RCW 42.17A.001.

We respectfully request that the PDC undertake a thorough investigation into these allegations and initiate an enforcement action.

Please do not hesitate to let me know if I can be of any further assistance in this matter. Thank you for your attention to this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Maxford Nelsen". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Maxford Nelsen  
Director of Labor Policy  
Freedom Foundation  
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