

- Expedite
- No hearing set
- Hearing is set

Date:

Time:

Judge/Calendar:

**SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THURSTON COUNTY**

FREEDOM FOUNDATION, a Washington
nonprofit organization,

Petitioner,

v.

WASHINGTON STATE PUBLIC DISCLOSURE
COMMISSION, a State of Washington
government agency, and SERVICE EMPLOYEES
INTERNATIONAL UNION POLITICAL
EDUCATION & ACTION FUND, an IRS 527
political committee,

Respondents.

No.

**PETITION FOR REVIEW PURSUANT
TO THE ADMINISTRATIVE
PROCEDURES ACT, RCW 34.05.510, *et
seq.***

I. INTRODUCTION.

1. This is an Administrative Procedures Act (“APA”) petition to review the staff decision of the Washington State Public Disclosure Commission (“PDC”), resolving the Freedom Foundation’s complaint and finding that the SERVICE EMPLOYEES INTERNATIONAL UNION, POLITICAL EDUCATION & FUND (the “SEIU PEAFF”) did not commit any violation of Washington campaign finance law worthy of further enforcement proceedings by the PDC.

1 2. In brief, the SEIU PEAFF has violated the Fair Campaign Practices Act (“FCPA”), RCW
2 42.17A.250, in numerous respects including, but not limited to, failing to disclose its purpose on
3 required Forms C5, filing such forms late thereby delaying the disclosure of its contributions and
4 expenditures, and failing to disclose millions of dollars in political contributions received from
5 persons residing outside Washington State.

6 3. As set forth in more detail below, the PDC erred by issuing a staff determination, which
7 purported to resolve an administrative complaint filed by the Freedom Foundation by claiming the
8 alleged violations of the FCPA were not “actual violations warranting further investigation” and
9 issuing a mere warning letter to SEIU PEAFF. The PDC further erred by categorizing these
10 violations as “minor violations,” which is contrary to the permitted classifications the legislature
11 authorized in enacting FCPA amendments in 2018.

12 II. PARTIES.

13 4. Petitioner, the FREEDOM FOUNDATION (“Petitioner” or the “Foundation”), is a
14 Washington nonprofit organization.

15 5. Respondent, the WASHINGTON STATE PUBLIC DISCLOSURE COMMISSION
16 (“PDC” or the “Commission”), is a government agency of the State of Washington, organized
17 pursuant to RCW 42.17A.100, *et seq.*

18 6. Respondent, SEIU PEAFF, is a “political organization” under 26 USC § 527 for the purposes
19 of federal tax law.

20 7. SEIU PEAFF received \$12.3 million in contributions in 2018.

21 8. SEIU PEAFF is operated by the professional staff of the SEIU national headquarters in
22 Washington, D.C. SEIU is one of the largest labor unions in the county.

23 9. The national SEIU had total annual receipts of over \$340 million in 2018 and a paid staff
24

1 of nearly five hundred (500) individuals, according to its LM-2 filed with the U.S. Department of
2 Labor for the calendar year 2018.

3 **III. JURISDICTION AND VENUE.**

4 10. This Court has jurisdiction pursuant to RCW 34.05.510.

5 11. Venue is proper under the APA, pursuant to RCW 34.05.514(1).

6 12. Venue is proper in this Court pursuant to RCW 4.12.020, because some part of the cause
7 of action arose in Thurston County.

8 **IV. STATEMENT OF FACTS.**

9 13. The Foundation notified the PDC of the SEIU PEAFF's numerous violations of the FCPA
10 in great detail, by way of an administrative complaint dated February 18, 2019. The complaint was
11 assigned Case No. 47303.

12 14. The violations described in the Foundation's complaint were ongoing and systematic in
13 nature, and involved millions of dollars that SEIU PEAFF either disclosed late or simply failed to
14 disclose at all (until after the Foundation's aforementioned complaint to the PDC was filed in
15 February, 2019).

16 15. The Defendant, SEIU PEAFF, did not even dispute many of the Foundation's allegations of
17 its FCPA violations, instead merely characterizing them as "trivial." Indeed, it admitted many of
18 the factual allegations asserted by the Foundation.

19 16. SEIU PEAFF admits that on at least four (4) occasions, it failed to disclose funds that were
20 received by SEIU PEAFF for political activity due to an "inadvertent error."¹

21 _____
22 ¹ In its response to the PDC, SEIU PEAFF describes four (4) contributions that it received and deposited into accounts
23 other than the one it uses for political activity in Washington (its proffered explanation for the "inadvertent error"). It
24 implied that, in all four (4) cases, these contributions were not disclosed to the PDC. However, its amended forms C5
only disclosed three (3) additional contributions, Plaintiff's comparison of SEIU PEAFF's forms 8872 and forms C5
only came up with three (3) contributions not reported to the PDC. That suggests that either (i) the reference to "four"
contributions in SEIU PEAFF's response is in error, or (ii) one of the four (4) contributions deposited in non-WA
accounts *was* reported to the PDC, thus undermining SEIU PEAFF's stated explanation for its lack of disclosure.

1 17. SEIU PEAFF suggested the error resulted because “these funds were not deposited into the
2 particular bank account that SEIU PEAFF uses for its Washington State expenditures.”

3 18. SEIU PEAFF admitted that these contributions “should have been reported by SEIU PEAFF
4 on its C-5 filings.”

5 19. Nearly a month *after* the administrative complaint was submitted, SEIU PEAFF filed
6 amended C-5 forms with the PDC disclosing the contributions. SEIU PEAFF did not file any
7 amended reports prior to the date of the administrative complaint.

8 20. SEIU PEAFF also admitted that it does not state its purpose on its Forms C5.

9 21. SEIU PEAFF claims that this failure was not “meaningful” because the purpose of the entity
10 was apparent from the face of the Form C5 itself.

11 22. SEIU PEAFF stated that although it checked the “yes” box on item 10 of its February 2018,
12 Form C5, and stated under penalty of perjury that this information was correct, that the “no” box
13 should have been checked.

14 23. SEIU PEAFF claims that this was the result of a scrivener’s error, which it categorizes as
15 “equally insignificant” to the other violations discussed herein.

16 24. SEIU PEAFF admitted that its Form C5 covering May 2018, was filed seven (7) days late,
17 thus delaying disclosure of contributions of over \$3.5 million received from SEIU International.

18 25. SEIU PEAFF claims that this violation was “regrettable, but essentially trivial” for the stated
19 reason that it did not occur near the timeframe of an election.

20 26. SEIU PEAFF admitted that its Form C5 for May 2018, contained a “mathematical mistake”
21 of Ten Dollars (\$10.00).

22 27. SEIU PEAFF stated, however, that this error was “regrettable, but de minimis.”

23 28. SEIU PEAFF admitted that its Form C5 covering July 2018, was filed three (3) days late.
24

1 29. SEIU PEAFF stated, however, that this was a “trivial administrative error” on the part of
2 SEIU PEAFF’s compliance team.

3 30. SEIU PEAFF admitted that its Form C5 for June 2018, was filed one (1) day late.

4 31. SEIU PEAFF claims that this was a “trivial administrative error” on the part of SEIU PEAFF’s
5 compliance team.

6 32. On March 20, 2019, the Foundation submitted supplemental correspondence reminding the
7 PDC that it had previously issued a warning letter to SEIU PEAFF with respect to its failure to
8 timely report information contained within its Forms C3 and C4, for the year 2016, in response to
9 a complaint not filed by the Foundation.

10 33. The Foundation also filed a citizen’s action complaint against SEIU PEAFF in April 2018,
11 concerning some of the same practices that were raised to the PDC in Case No. 47303.

12 34. Notwithstanding each of these instances of being advised that its actions violated the law,
13 SEIU PEAFF did not go back and amend its forms, did not correct its reporting errors and therefore
14 continued to violate the FCPA, until after the administrative complaint forming the basis of this
15 appeal was submitted to the PDC.

16 35. SEIU PEAFF’s failure to timely file its 2018 PDC reports occurred over the course of a
17 major election year, and as a result, the public was deprived of timely and accurate information
18 concerning the financing of state elections.

19 36. The amended Form C5 reports, which the SEIU PEAFF filed on March 12, 2019 (the day
20 prior to its response to the PDC), disclosed a total of \$2,770,463 in additional political
21 contributions that the SEIU PEAFF received from the national SEIU in Washington, D.C., which
22 were not initially disclosed.

23 37. Of the contributions received by the SEIU PEAFF, a total of \$747,983 was expended in
24

1 Washington State through contributions to other SEIU political committees within the State of
2 Washington.

3 38. In dismissing the Foundation’s administrative complaint, the PDC misstated the amount of
4 the contributions that the SEIU PEAFF failed to disclose prior to the Foundation’s complaint, stating
5 it to be only \$1,534,947.00 instead of \$2,575,503.91. *See* correspondence dated May 7, 2019, a
6 true and correct copy of which is attached hereto as **Exhibit A**.

7 39. The PDC acknowledged, however, that even the lesser amount was a “significant” amount
8 to fail to report. *See Ex. A*.

9 40. The PDC inexplicably determined, however, that the facts alleged by the Foundation (and
10 admitted by SEIU PEAFF) did “...not amount to a finding of an actual violation warranting further
11 investigation.” *Id.*

12 41. As such, the PDC resolved the administrative complaint without any further proceedings,
13 investigation or enforcement action.

14 42. The PDC also issued another formal warning letter to SEIU PEAFF concerning the
15 importance of timely and accurately complying with the FCPA.

16 43. SEIU PEAFF can demonstrate no mitigating circumstances to explain its consistent and
17 significant non-compliance with disclosure obligations under the FCPA.

18 44. SEIU PEAFF’s violations did not stem from a good-faith misunderstanding of the relevant
19 FCPA provisions.

20 45. On May 15, 2019, the Foundation submitted a request to the PDC to re-open Case No.
21 47303, detailing the myriad failings with the initial determination by the PDC, as set forth above,
22 and its resolution of that case. That correspondence expressly advised the PDC that its
23 determination was “inconsistent with the Fair Campaign Practices Act and/or PDC regulations.”
24

1 46. On May 20, 2019, the PDC responded to the Foundation’s request, clarifying that Case
2 No. 47303 had been dismissed with a warning to SEIU PEAFF, pursuant to WAC 390-37-
3 060(1)(d).² See electronic correspondence dated May 20, 2019, attached hereto as **Exhibit B**.

4 47. PDC staff did not further articulate its reasoning in support of its determination, however,
5 stating only that “[t]he PDC exercises discretion in the deployment of finite resources.” *Id.*

6 V. CLAIM.

7 Petition for Review Pursuant to RCW 34.05.570

8 48. The Foundation hereby incorporates the allegations in paragraphs 1-47 above, as if
9 fully set forth herein.

10 49. SEIU PEAFF’s violations as set forth above are “actual” FCPA violations, *i.e.*, they
11 are neither “remedial violations” nor “technical corrections” created by the 2018 FCPA
12 amendments. See RCW 42.17A.755.

13 50. Indeed, the PDC’s correspondence of May 20, 2019, clarified that the PDC had *not*
14 dismissed the Foundation’s complaint pursuant to WAC 390-37-060(1)(b), the regulation
15 applicable to “technical corrections.”

16 51. As it exists today, the FCPA requires the PDC to take one of several actions when
17 it receives a complaint. It “must”: (1) “Dismiss the complaint or otherwise resolve the matter” as
18 a “complaint[] of remedial violations or request[] for technical corrections”; (2) “Initiate an
19 investigation to determine whether an actual violation has occurred, conduct hearings, and issue
20 and enforce an appropriate order...”; or (3) “Refer the matter to the attorney general...” See RCW
21 42.17A.755(1). Under the FCPA as it exists today, the enforcement protocol is that, upon receiving
22 a complaint, the PDC must conduct a preliminary review to determine (i) whether the alleged

23 _____
24 ² The PDC claimed that its initial staff determination had erroneously cited WAC 390-37-060(1)(b) as the basis for
the dismissal.

1 violations are an “actual violation” of the “FCPA,” or (ii) whether the complaint seeks merely a
2 “technical correction” or alleges a “remedial violation.” *See id.*

3 52. If the latter, then the PDC has the authority to “dismiss the complaint or otherwise
4 resolve the matter in accordance with subsection (2),” which grants the PDC’s executive director
5 discretion in resolving “technical corrections” and “remedial violations,” provided that “the
6 executive director consistently applies such authority.” *See* RCW 42.17A.755(2).

7 53. If an alleged violation is an “actual violation,” however, the PDC must then either
8 “[i]nitiate an investigation to determine whether an actual violation occurred, conduct hearings,
9 and issue and enforce an appropriate order ... or ... [r]efer the matter to the attorney general, in
10 accordance with subsection (4)...”. *See* RCW 42.17A.755(1)(b), (1)(c).

11 54. Section 755, as it exists after the 2018 amendments, provides no discretion for the
12 PDC to merely resolve a complaint by issuing a warning letter, particularly when all parties agree
13 “actual violations” of the FCPA took place.

14 55. Yet the PDC staff summarily dismissed the Foundation’s complaint upon a finding
15 that the alleged violations constituted “minor violations,” as defined by PDC regulations. *See*
16 WAC 390-37-061(2).

17 56. The Rule upon which the PDC relied in so doing, WAC 390-37-060, predated the
18 2018 amendments to the FCPA. Any former ability the PDC may have had to categorize alleged
19 violations as “minor violations” – rather than “actual violations,” “remedial violations,” or
20 “technical corrections” – and resolve them via a warning letter did not survive those legislative
21 amendments.

22 57. Although the FCPA defines both “remedial violations” and “technical corrections,”
23 it does not define or otherwise recognize a category for “minor violations.” *See* RCW
24

1 42.17A.755(46), (52).

2 58. The PDC’s reliance on its former procedure was therefore contrary to the plain
3 language of the FCPA, RCW 42.17A.755, and not procedurally authorized, because the 2018
4 amendments to the FCPA removed any ability to categorize an alleged violation as a “minor
5 violation” resolvable via a warning letter (assuming, *arguendo*, that the PDC’s regulation under
6 WAC 390-37-060 had properly effectuated the FCPA, prior to the 2018 amendments).

7 59. The Freedom Foundation petitions this court for review of a decision by the staff
8 of the PDC pursuant to the APA, to determine whether the PDC erred in its application of the
9 amended enforcement provisions of the FCPA, *see* RCW 42.17A.755.

10 a. Name and mailing address of the petitioner: The Freedom Foundation’s
11 principal place of business is 2403 Pacific Ave. SE, Olympia, WA 98501, and
12 its mailing address is P.O. Box 552, Olympia, WA 98507.

13 b. Name and address of petitioner’s attorneys: The Foundation is represented by
14 Eric Stahlfeld and Robert A. Bouvatte, Jr., c/o Freedom Foundation, P.O. Box
15 552, Olympia, WA, 98501.

16 c. Name and mailing address of the agency whose action is at issue: Review is
17 being sought from a decision by staff of the Public Disclosure Commission of
18 the State of Washington, 711 Capitol Way, Room 206, P.O. Box 40908,
19 Olympia, WA, 98504-0908.

20 d. Agency action at issue, together with a duplicate copy: At issue is the
21 determination in PDC Case No. 47303, dated May 7, 2019, made in response
22 to the Foundation’s complaint against the SEIU PEAFF, delivered electronically
23 on February 18, 2019 (a copy is at **Exhibit A**); also at issue is the PDC’s refusal
24

1 to re-open Case No. 47303, dated May 20, 2019, in response to the Foundation’s
2 request, delivered electronically on May 15, 2019 (a copy is at **Exhibit B**).

3 e. Identification of persons who were parties to the PDC Decision: The parties to
4 the PDC proceeding were the Foundation, which filed the complaint and is
5 Petitioner herein, and the SEIU PEAFF, which submitted a response to the
6 Foundation’s complaint on March 13, 2019.

7 f. Facts demonstrating the Foundation is entitled to obtain judicial review: Facts
8 demonstrating that the Foundation has standing to be entitled to obtain judicial
9 review are the PDC decision, which prejudices the Foundation in that it permits
10 the national SEIU and its political committee, SEIU PEAFF, to conceal its
11 political activities and to unduly influence the election of friendly officials
12 throughout the State of Washington; that the Foundation was a party to the PDC
13 proceeding below, and the PDC was required to consider its interests in
14 reaching a decision; and that the Court’s ruling that the PDC’s decision is in
15 error would eliminate and redress the prejudice caused by PDC’s decision.

16 g. Reasons relief should be granted: The PDC erred below to the extent it
17 concluded that: (i) it had the discretion to categorize alleged “actual violations”
18 of the FCPA as “minor violations,” and to resolve such complaints with only a
19 warning; and (ii) the SEIU PEAFF’s alleged violations were “minor violations,”
20 which could be addressed in this manner. The PDC erroneously interpreted or
21 applied the law; the order is outside the PDC’s statutory authority/jurisdiction
22 under the FCPA; the PDC decision is not supported by substantial evidence, to
23 the extent there are findings, or, to the extent findings, if any, merely recite what
24

1 SEIU PEAFF's counsel wrote the PDC, the decision is not supported by
2 sufficient findings and is arbitrary and capricious; the PDC has not decided all
3 issues requiring its resolution; the PDC has engaged in an unlawful procedure
4 and/or decision-making process, and the PDC failed to follow a prescribed
5 procedure. *See* RCW 34.05.570(3)(b)-(f), (i); *see also* RCW 34.05.570(04)
6 (providing for judicial review of other agency action).

7 **VII. REQUESTED RELIEF.**

8 **WHEREFORE**, Plaintiff requests the following forms of relief:

9 1. An order, as authorized by RCW 34.05.574:

10 a. for declaratory judgment that the PDC was incorrect in concluding that it had the
11 discretion to categorize alleged violations of the FCPA as "minor violations," and to resolve
12 such complaints with only a warning, and in concluding that the SEIU PEAFF's alleged
13 violations were "minor violations," which could be addressed in this manner;

14 b. setting aside the PDC's decision resolving Case No. 47303 with only a warning
15 letter to the SEIU PEAFF;

16 c. if the Court will not impose remedies directly on the SEIU PEAFF as requested
17 below, remanding this matter to the PDC and ordering the PDC to impose penalties on SEIU
18 PEAFF for its FCPA violations;

19 2. An order reversing the PDC decision below and ruling that the SEIU PEAFF is liable for its
20 violations of the FCPA, as detailed herein;

21 3. Preliminary and permanent injunctive relief against SEIU PEAFF, prohibiting it from further
22 violating the FCPA, as detailed herein;

23 4. For such remedies against the SEIU PEAFF as the Court deems appropriate under RCW
24

1 34.05.574(3) and RCW 42.17A.750, including:


- 2 a. a Ten Thousand Dollar (\$10,000.00) penalty pursuant to RCW 42.17A.750(1)(c)
3 for each of the SEIU PEAFF's violations of RCW 42.17A.250, in an amount to be
4 determined at trial;
- 5 b. a penalty equivalent to the amount of contributions SEIU PEAFF failed to report to
6 the PDC as required by RCW 42.17A.250, pursuant to RCW 42.17A.750(1)(g);
- 7 c. a Ten Dollar (\$10.00) penalty for each day SEIU PEAFF failed to file forms C5
8 within the time required by RCW 42.17A.250, pursuant to RCW 42.17A.750(1)(e);
- 9 d. a finding that the SEIU PEAFF's violations were intentional and trebling the amount
10 of judgment, which for this purpose shall include costs, as authorized by RCW
11 42.17A.780; and
- 12 e. any other penalty the Court deems appropriate under RCW 42.17A.750.

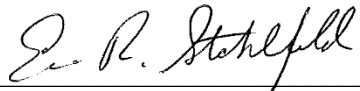
13 5. All costs of investigation and trial, including reasonable attorneys' fees, as authorized by
14 RCW 42.17A.775(5).

15 6. All such other relief the Court deems appropriate.

16 Dated this 5th day of June, 2019.

17 FREEDOM FOUNDATION

18
19 By: 
20 Robert A. Bouvatte, Jr., WSBA #50220
21 PO Box 552, Olympia, WA 98507
22 PH: 360.956.3482 | F: 360.352.1874
RBouvatte@freedomfoundation.com


19 By: 
20 Eric R. Stahlfeld, WSBA #22002
21 PO Box 552, Olympia, WA 98507
22 PH: 360.956.3482 | F: 360.352.1874
ESTahlfeld@freedomfoundation.com

1 **DECLARATION OF SERVICE**

2 I, Jennifer Matheson, hereby declare under penalty of perjury under the laws of the State
3 of Washington that on June 5, 2019, I caused the foregoing Freedom Foundation's Petition for
4 Review Pursuant to the Administrative Procedures Act, RCW 34.05.510 *et seq.*, to be filed with
5 the clerk, and caused a true and correct copy of the same to be delivered via legal messenger to the
6 following:

7 Peter Lavalley, Executive Director
8 Washington State Public Disclosure Commission
9 711 Capitol Way, Rm. 206,
Olympia, WA 98501

10 Dated: June 5, 2019.

11
12 By: 
13 Jennifer Matheson

Freedom Foundation

v

SEIU PEAF (APA)

Exhibit A



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: pdcc@pdcc.wa.gov • Website: www.pdca.wa.gov

May 7, 2019

Delivered electronically to Maxford Nelson with the Freedom Foundation

Subject: Complaint regarding the Service Employees International Union Political Education & Action Fund PAC, PDC Case 47303

Dear Mr. Nelson:

The Public Disclosure Commission (PDC) has completed its initial review of the complaint you filed against the Service Employees International Union Political Education & Action Fund (SEIU PEAFF) on February 18, 2019. The complaint alleged that the SEIU PEAFF, a federal political committee, may have violated: (1) RCW 42.17A.250 by failing to timely and accurately file Out-of-State Political Committee reports (C-5 reports) as an out-of-state committee; (2) RCW 42.17.405 by failing to receive \$10 from ten registered voters in Washington State prior to making contributions to candidates; and (3) RCW 42.17A.442 by failing to received \$10 from ten registered voters in Washington State prior to making contributions to another political committee.

PDC staff reviewed the allegations listed in the complaint you filed, the statutes, rules and reporting requirements for an out-of-state committee, queried the PDC contribution and expenditure database for SEIU PEAFF activities, reviewed the Out-of-State Political Committee reports (C-5 reports) and amended C-5 reports filed by the SEIU PEAFF, and the response and attached exhibits provided by Dmitri Iglitzin, an attorney with Schwerin Campbell Barnard Iglitzin & Lavitt LLP on behalf of his client SEIU PEAFF. As a result of staff's review, we found the following:

- SEIU PEAFF PAC has been filing C-5 reports with the PDC dating back to August of 2004.
- For 2018 SEIU PEAFF filed five C-5 reports disclosing contribution and expenditure activities undertaken in Washington State in 2018. The C-5 reports listed a Washington DC mailing address, included a statement on line #3 SEIU PEAFF "is the IRS Section 527 account connected to the Service Employees International Union, identified Mary Kay Henry as Chairperson and Gerald Hudson, as Treasurer, and stated that the committee was registered as a PAC in California, Nevada, New York and Ohio
- The C-5 reports disclosed that SEIU PEAFF made \$747,983 in total expenditures in Washington state during calendar year 2018 for contributions to Washington State political committees registered with the PDC. In addition, the C-5 reports disclosed that SEIU PEAFF received a total of \$6,593,275 in contributions from SEIU, and included the following:

February 2018: On March 7, 2018, the SEIU PEAFF timely filed a C-5 report for February of 2018 disclosing a \$139,849.02 contribution was made to SEIU 775 Quality Care Committee, and the receipt of three contributions from SEIU in Washington, DC, totaling \$247,315.

May 2018: On June 18, 2018, the SEIU PEAFF filed a C-5 report for May of 2018 disclosing a \$206,562 contribution was made to SEIU 775 Quality Care Committee, and the receipt of eight contributions from SEIU in Washington, DC, totaling \$1,864,835.

June 2018: On July 11, 2018, the SEIU PEAFF filed a C-5 report for June of 2018 disclosing a \$148,073 contribution was made to SEIU 775 Quality Care Committee, and the receipt of two contributions from SEIU in Washington, DC, totaling \$328,073.

July 2018: On August 13, 2018, the SEIU PEAFF filed a C-5 report for July of 2018 disclosing a \$203,499 contribution was made to SEIU Local 925 Public Service PAC, and the receipt of one contribution from SEIU in Washington, DC, totaling \$203,499.

September 2018: On October 10, 2018, the SEIU PEAFF timely filed a C-5 report for September of 2018 disclosing a \$50,000 contribution was made to New Directions PAC, and the receipt of nine contributions from SEIU in Washington, DC, totaling \$2,534,249

- Mr. Iglitzin acknowledged that there were discrepancies between SEIU PEAFF's "Form 8872's that were filed with Internal Revenue Service and the C-5 reports filed by SEIU PEAFF with the PDC." He stated that there were four instances in which SEIU PEAFF received contributions from SEIU's general fund account that were designated for political activities in other states for the 2018 election cycle.
- Mr. Iglitzin stated that due to an inadvertent error, SEIU funds were not "deposited into the particular bank account that SEIU PEAFF uses for its Washington State expenditures." He stated the SEIU PEAFF compliance staff did not include those contributions on the C-5 reports "either as amounts received from SEIU International on a particular date or as part of the aggregate YTD [year-to-date] amount received from that source."
- Mr. Iglitzin stated that none of the SEIU contributions were spent on "electoral political activity in Washington State" but noted that "it is correct that both the receipt of this money, and the expenditures from the non-Washington State bank accounts, should have been reported by SEIU PEAFF on its C-5 filings. SEIU PEAFF has already filed amended C-5 reports that correct this mistake."
- On March 12, 2019, the SEIU PEAFF filed five amended C-5 reports, disclosing the same \$747,983 in total expenditures made in Washington state in 2018 for contributions to SEIU Washington state political committees. However, the amended C-5 reports disclosed that SEIU PEAFF received an additional \$1,534,947 in contributions received from SEIU in Washington, DC during 2018 for an aggregate total of \$8,128,222.
- Of the \$8,128,222 in total contributions received in 2018 by SEIU PEAFF from SEIU in Washington, DC, only \$747,983 was spent in Washington state as contributions to other SEIU political committees which represented only 9.2 percent of the committee's total political activities. The remaining \$7,380,239 in contributions received by SEIU PEAFF from SEIU in Washington, DC in 2018, were used for contributions made to political committees registered in other states, or for candidate activities in other states and at the federal level.

- Mr. Iglitzin stated that the allegations concerning violations of RCW 42.17A.405 and RCW 42.17A.442 by SEIU PEAFF for failing to receive \$10 from 10 registered voters in Washington state is not accurate since the C-5 report does not require contributions of \$25 or less to be itemized on the report, “that SEIU PEAFF has, in fact, received \$10 from 10 Washington voters.” In addition, he noted that RCW 42.17A.442 was found unconstitutional by Judge Schaller based on a Thurston County Superior Court case involving the State of Washington vs. Grocery Manufacturers Association.

As noted above, SEIU PEAFF failed to timely report \$1,534,947 in contributions received from SEIU in Washington, DC for the 2018 elections, and that information was not disclosed until March 12, 2019 when the amended C-5 reports were filed. While the amount of late reported contributions was significant, there were several mitigating factors considered by staff that included SEIU PEAFF: (1) disclosed no additional expenditures as having been made in 2018 on the amended C-5 reports; (2) timely disclosed the \$747,983 in expenditures made as contributions to political committees in Washington state and registered with the PDC on the initial C-5 reports; (3) did not spend any of the \$1,534,947 in late reported contributions received from SEIU in Washington state; and (4) received a total of \$8,128,222 in aggregate contributions from SEIU in Washington, DC, so the \$747,983 spent in Washington state in 2018 by SEIU PEAFF, represented 9.2% of total expenditure activities.

Based on the findings and the information listed above, PDC staff has determined that the facts in this instance do not amount to a finding of an actual violation warranting further investigation. However, pursuant to WAC 390-37-060(1)(b), PDC staff will be formally warning SEIU PEAFF concerning the importance of timely and accurately filing C-5 reports disclosing contribution and expenditure activities undertaken by an out-of-state political committee as required by PDC laws and rules.

This formal written warning conveys staff’s expectation that SEIU PEAFF will fully comply with the C-5 reporting requirements in the future, should the committee make additional contributions to candidates or political committees registered with the PDC in Washington State. The Commission will consider this formal written warning if there are any future PDC law or rule violations by SEIU PEAFF.

Based on this information, PDC staff is dismissing the remaining allegations in this matter against the Service Employees International Union Political Education & Action Fund PAC in accordance with RCW 42.17A.755(1). If you have questions, you may contact me at (360) 664-8854, toll-free at 1-877-601-2828, or by e-mail at kurt.young@pdc.wa.gov.

Sincerely,

Endorsed by:

s/ _____
Kurt Young, Compliance Officer

s/ _____
Peter Lavalley, Executive Director

cc: Dmitri Iglitzin, on behalf of SEIU PEAFF PAC

Freedom Foundation

v

SEIU PEAF (APA)

Exhibit B

From: [Peter Lavallee](#)
To: [Maxford Nelsen](#)
Subject: RE: Request to re-open PDC Case No. 47303
Date: Monday, May 20, 2019 3:17:09 PM

Dear Max,

Thanks again for reaching out with your thoughts on PDC Case 47303 regarding SEIU PEAFF. In general, PDC case resolutions of this nature are not subject to “appeal” to the Executive Director or Commission. I did, however, review the matter, and I can provide the following additional information.

The matter was dismissed with a warning pursuant to WAC 390-37-060(1)(d). Our correspondence resolving the case inadvertently cited WAC 390-37-060(1)(b), which had contained the warning provision of that rule prior to the latest revisions, effective 12/31/2018. I appreciate this opportunity to clarify that authority with you.

With that clarification, my review affirmed that this matter was resolved properly on the evidence and applicable law.

The PDC exercises discretion in the deployment of finite resources across the several hundred cases it considers each year. Respectfully, following the agency’s careful review, assessment and investigation of such matters, the agency cannot re-review each one upon request, although I am happy to provide this courtesy reply in the present instance.

Regards,

Peter

--

Peter Lavallee
Executive Director
Public Disclosure Commission
peter.lavallee@pdc.wa.gov
360-664-2735

From: Peter Lavallee
Sent: Wednesday, May 15, 2019 4:55 PM
To: 'Maxford Nelsen' <MNelsen@freedomfoundation.com>
Subject: RE: Request to re-open PDC Case No. 47303

Hi Max,

Thanks for your note. As you know, dismissals of complaints by the Executive Director of the PDC are final decisions under WAC 390-37 (subject to the outcome of pending litigation, of course, of which I know you are aware).

That said, as I courtesy, I will review your letter in detail and get back to you with further thoughts.

Because this involves an enforcement matter—albeit one that has been resolved, but which nevertheless, under the terms of your request, could theoretically come before the Commission in some form—I have left the Commissioners off this correspondence, so as to maintain their independence from the PDC staff side of a potential enforcement matter. I did, however, let them know that I would be responding to you directly, so that they know I closed the loop.

Thanks for reaching out, and I appreciate your continued willingness to work cooperatively and professionally with the PDC on our shared interest in campaign-finance transparency.

I look forward to seeing you again soon.

Kind regards,

Peter

--

Peter Lavallee
Executive Director
Public Disclosure Commission
peter.lavallee@pdc.wa.gov
360-664-2735

From: Maxford Nelsen <MNelsen@freedomfoundation.com>

Sent: Wednesday, May 15, 2019 1:21 PM

To: Peter Lavallee <peter.lavallee@pdc.wa.gov>

Cc: Anne Levinson <anne.levinson@pdc.wa.gov>; David Ammons <david.ammons@pdc.wa.gov>; Bill Downing <bill.downing@pdc.wa.gov>; Russell Lehman <russell.lehman@pdc.wa.gov>; Fred Jarrett <fred.jarrett@pdc.wa.gov>

Subject: Request to re-open PDC Case No. 47303

Mr. Lavallee,

Please see the attached letter regarding the PDC's recent resolution of [Case No. 47303](#) involving a complaint submitted by the Freedom Foundation against the Service Employees International Union's Political Education and Action Fund.

After a thorough review, I believe the PDC's handling and resolution of the complaint to be inconsistent with the Fair Campaign Practices Act and/or PDC regulations. Accordingly, after reviewing the attached, I would respectfully request that the PDC either provide further explanation for its actions in writing or re-open Case No. 47303 for appropriate processing and resolution.

I realize this request may be somewhat out of the ordinary and am open to the possibility that I may

be missing some important factor or element that would justify the PDC's actions in this case. Nonetheless, I thought it important to bring these concerns to the Commission's attention.

Please do not hesitate to contact me with any questions you may have or to clarify any of the concerns outlined in the attached. I look forward to hearing from you.

Sincerely,

Maxford Nelsen

Director of Labor Policy | Freedom Foundation

MNelsen@FreedomFoundation.com

360.956.3482 | PO Box 552 Olympia, WA 98507

FreedomFoundation.com