City of Seattle

Ethics and Elections Commission

September 19, 2011

Christal Wood, Treasurer
Elect Dian Ferguson
Po Box 22867
Seattle, WA 98122

Dear Ms. Wood:

The Elect Dian Ferguson committee (the "Committee") overstated its balance by almost $20,000 in the last C-4 filed before voters received their ballots in the mail, and its 7-day C-4 filed one week before the election was amended four times, showing balances as high as approximately $17,000 and as low as nearly $9,000 in the red. I am imposing a $150 penalty.

FACTS

Committees are required to file C-4s both three weeks and one week before the election, providing an up-to-date and accurate account of all of their funds raised and spent. For the 2011 primary election, those reports were due on July 26 and August 9, 2011.

On July 27, 2011, the Committee filed its 21-day C-4, showing almost $17,000 in cash on hand, and a balance, after accounting for liabilities, of more than $12,000.

Two weeks later, on August 9, 2011, the Committee amended its May C-4 and its 21-day C-4, showing $14,000 in expenditures that had not been timely reported, as well as $3,000 in in-kind contributions that had not been timely reported. The Committee's cash on hand when voting began fell to less than $3,000 and, with liabilities taken into account, the committee showed a deficit of almost $2,500. Finally, on August 23, the Committee filed another amendment to the 21-day C-4, this one showing a negative balance of approximately $7,000. (A table illustrating the progression is appended to this letter.)

The Committee's 7-day C-4 also failed to provide voters with an accurate account of the Committee's finances. After timely filing a report on August 9 showing a negative balance of almost $5,000 with one week of voting remaining, the Committee two days later amended the report to increase its cash on hand and balance available by more than $21,000. On the last day of voting, August 16, the Committee filed another amendment, this time showing a balance even lower than that reported initially, and, on August 23, the Committee filed another amendment showing that, with liabilities taken into account, the Committee was actually almost $9,000 in debt.

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RELEVANT LAW

The Seattle Elections Code authorizes the Commission's Executive Director to impose late filing penalties of $10 per day for each day each report is late filed. During the final seven days before the election, those penalties increase to $50 per day. SMC 2.04.330.B through D.

The Commission's Elections Code Administrative Rule 4.B states that reports that contain "substantial omissions of fact" are not considered filed, and subject the committee to late filing penalties."

LATE FILING PENALTIES

Voters did not have an accurate account of the Committee's finances throughout the three weeks in which voting took place, and for that reason I am imposing a $150 penalty.

I consider the Committee to be "on notice" that further problems with its reports will almost certainly warrant the maximum penalties possible. I know that you took over the treasurer duties after the primary election, and I encourage you to work closely with my staff to ensure that the Committee's general election reporting meets voters' expectations.

RIGHT TO APPEAL

You may appeal this decision by submitting to this office, by 4:00 p.m., October 3, 2011, a written request for appeal, pursuant to the Commission's Administrative Rule 4, which provides in relevant part:

A. Upon the written request of a party aggrieved by the executive director's decision to…impose late-filing penalties under SMC 2.04.330, the action may be reviewed by the Commission.

…

C. An appeal of late-filing penalties shall be served at the Commission's office no later than 14 days after the date of mailing the decision of which review is sought.

ACTIONS TO TAKE

No later than October 3, deliver payment to the Commission at 700 Fifth Avenue, Suite 4010, P.O. Box 94729, Seattle, WA 98124-4729, or your request for appeal.

CONCLUSION

A major purpose of the Seattle Elections Code is to give the public timely access to accurate information regarding all contributions and expenditures made supporting or opposing City candidates. Inaccurate reports, followed by inaccurate amendments, confuse the public, and warrant penalties.

If you have any questions, please call me at 684-8577.

Very truly yours,

Wayne Barnett
Executive Director

cc: Seattle Ethics and Elections Commission
Jeff Upthegrove, former treasurer, Elect Dian Ferguson committee

APPENDIX

21-day C-4
(reporting activity from June 1 through July 25)

Date Filed/Amended	7/27	8/9	8/16	8/23
Cash on Hand	$16,822.65	$2,291.70	$1,427.60	$1,427.60
Liabilities	($4,700.00)	($4,700.00)	($4,700.00)	($8,374.05)
Balance	$12,122.65	($2,408.30)	($3,272.40)	($6,946.45)

7-day C-4
(reporting activity from July 26 through August 8)

Date Filed/Amended	8/9	8/11	8/16	8/23
Cash on Hand	($284.34)	$21,338.80	($513.44)	($448.44)
Liabilities	($4,700.00)	($4,700.00)	($4,700.00)	($8,374.05)
Balance	($4,984.34)	$16,638.80	($5,213.44)	($8,822.49)