City of Seattle

Ethics and Elections Commission

August 25, 2011

Maurice Classen
Classen for Seattle Committee
410 15th Ave E
Seattle, WA 98112

Kate Whiting
3109 Hawthorne Place SE
Olympia, WA 98501

Dear Mr. Classen and Ms. Whiting:

The Classen for Seattle Committee (the "Committee") failed to file accurate reports on numerous occasions from March through May 2011. The Committee regularly failed to deposit contributions within five business days as required by State and City law, failed to timely report approximately $4,000 in expenditures and obligations, and filed C-3s stating that the Committee had deposited contributions when, in fact, it had not. For reasons articulated below, I have decided to assess two penalties: $150 to Ms. Whiting, the former treasurer, and $50 to the Committee.

FACTS

Ms. Whiting was the Committee's treasurer when it registered with the Commission in February of this year. In May, she and the campaign parted ways. The candidate retrieved the electronic and paper campaign records in her possession.

In June, the candidate recruited a new treasurer, who worked with the campaign staff to review the campaign's reports filed to date. During that audit, the new treasurer determined that a number of credit card contributions had been reported as deposited that had not been deposited, or were deposited much later than the date reported on the C-3.

On June 24, the Committee filed 33 C-3s to reconcile what had previously been reported with what had actually occurred. The Committee filed additional amended C-4s on June 29 and July 25, making further corrections.

It appears that Ms. Whiting collected campaign contributions throughout the month, but did not deposit all of them. (Ms. Whiting did not respond to our repeated requests for an interview, which we communicated by telephone, e-mail, and finally certified mail. SEEC staff relied on a review of the campaign reports and bank records to determine how she handled the Committee's reporting.) Then, during the last two days of the month, Ms. Whiting filed C-3

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reports that showed large deposits on those days. Bank records show that many of those deposits were not actually made until the first week of the subsequent month.

As a result of this, the C-4 reports for March, April and May included deposits that had not been made by the end of the reporting period. As a result of these inaccurate reports of deposits, and the failure to timely report approximately $4,000 in expenditures and obligations – consisting primarily of a $2,500 payment to the campaign manager in February, and $1,600 in advertising-related charges that were not reported until July – the Committee significantly overreported its "cash on hand" in March, April and May.

These errors made the campaign's finances look better than they actually were. For example, a May 11 post on Publicola reported that the Committee's cash on hand at the end of April was $48,991, "within striking distance" of the incumbent's. The amended April report shows cash on hand totaling $40,186.[1] The gap between the two campaigns was more than 40 percent larger than initially reported. While some of that difference can be attributed to Ms. Whiting's failure to timely deposit credit card contributions that *could have* been reported in time to be included in the campaign's April totals, the fact remains that the reported cash on hand was inaccurate.

RELEVANT LAW

The Seattle Elections Code authorizes the Commission's Executive Director to impose upon a candidate, campaign treasurer, political committee or officer of a political committee, 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 "known errors or substantial omissions of fact" are not considered filed, and subject the committee to late filing penalties. Ms. Whiting knew when she filed reports of deposits that the money had not actually been deposited into the campaign's account.

LATE FILING PENALTIES

The March, April and May C-4s amended to correct the previous errors were filed a total of 148 days late. At $10 per day, the Committee is subject to $1,480 in late-filing penalties. (The late C-3s are not included in this total.)

Because I find Ms. Whiting to be personally responsible for almost all of the Committee's reporting errors, I am assessing her a penalty of $150. The failure to timely deposit contributions, and reporting them as deposited when they were not, were errors that were invisible to the rest of the Committee.

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[1] The committee's 21-day C-4 included a $1,600 payment to its consultant for online advertising and design work in March, April and May. If the Committee had accurately accounted for these obligations in the March and April reports, the Committee would not have broken the $40,000 threshold in cash on hand.

But the failure to report the $2,500 payment to the campaign manager, and the failure to report advertising expenses in the spring, were errors that could and should have been detected. To make clear the Commission's expectation that campaigns monitor the treasurer's reports for accuracy, I am imposing a $50 penalty on the Committee.

RIGHT TO APPEAL

The Committee or Ms. Whiting may appeal this decision by submitting to this office, by 4:00 p.m., September 8, 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.

ACTION TO TAKE

No later than September 8, deliver payment for the respective penalties to the Commission at 700 Fifth Avenue, Suite 4010, P.O. Box 94729, Seattle, WA 98124-4729, or your request for appeal.

CONCLUSION

A successful campaign finance reporting regime requires that all campaigns play by the same rules. In a system where the media eagerly await and report on fundraising totals as a measure of which campaigns are up and which are down, there are tremendous incentives to report "good" numbers. Especially when inaccurate campaign reports have the effect of making a campaign's finances appear stronger than they were in reality, I have no alternative but to impose a fine.

Very truly yours,

Wayne Barnett
Executive Director

cc: Seattle Ethics and Elections Commission