



August 2, 2011

Re: Case No. 11-2-0727-1

Dear ***:

On July 27, you filed a complaint with our office alleging that Protect Seattle Now (PSN) failed to timely report (i) the vendor and the amount PSN paid for designing an eight-page literature piece, (ii) the cost associated with inserting that literature piece into the *Seattle Times*, and (iii) the cost associated with focus groups that you claim were commissioned by the Mayor. For the reasons that follow, I am dismissing your complaint.

1. Designing the eight-page piece of campaign literature.

We interviewed Scot Brannon, PSN's treasurer, who told us that the piece had been designed by Seth Geiser, a campaign volunteer. We interviewed Mr. Geiser, who told us that he had been laid off from the City's Department of Planning and Development and had not yet secured a new position. Mr. Geiser told us that he had discussed the literature piece with Esther Handy, PSN's campaign manager, as well as with the campaign's policy team, and that he had reviewed a similar piece prepared by the McGinn for Mayor committee in 2009.

Mr. Geiser told us that he had no contact whatsoever with Bill Broadhead, who had designed the 2009 piece for the McGinn for Mayor committee. We also interviewed Mr. Broadhead, who told us that he had not assisted PSN with its development of the piece.

We also reviewed hard copies of both the 2009 McGinn for Mayor insert and the 2011 PSN insert. The McGinn campaign piece was twice as many pages as PSN's piece, and the size of the insert itself was significantly larger than PSN's insert. The quality of paper used by the two campaigns was also noticeably different.

Based on our interviews and review of documents, I am dismissing your complaint alleging that PSN failed to disclose the cost of designing the eight-page piece of campaign literature. The piece was designed by a volunteer who does not earn a living doing graphic



design, and therefore does not trigger a reporting obligation. Under Election Code Rule 1.N, “[i]f a volunteer uses skills for which that volunteer ordinarily charges a fee, the campaign must report the fair market value of the volunteer’s services as an in-kind contribution.” That is not the case here. The fact that PSN looked to the Mayor’s successful 2009 campaign as a model does not violate the law.

2. *Labor costs associated with inserting the piece into the Seattle Times.*

We interviewed Mr. Brannon and Ms. Handy. Based on those interviews, it is my conclusion that the committee should have reported an obligation of approximately \$3,750 to the Seattle Times on its 21-day C-4 report for the cost of inserting the piece into roughly 50,000 copies of the July 31 *Seattle Times*.

While we were interviewing Mr. Brannon regarding the insert costs, he also told us that the committee had failed to report a \$1,105 payment to the Pacific Publishing Company for distributing the insert. Mr. Brannon amended the committee’s report on August 1 to show the payment.

I directed PSN to amend their 21-day C-4 to reflect the \$3,750 obligation to the *Seattle Times*. They amended the report on August 1 to reflect that obligation.

3. *Focus groups*

Ms. Handy told us that the campaign had not convened any focus groups, nor had it received any information from focus groups convened by others. Accordingly, I am dismissing your complaint against PSN alleging failed to report focus group expenses.

To the extent you wish to file a complaint with the SEEC against someone other than PSN regarding focus groups allegedly convened by the Mayor, I ask that you provide us with a firmer basis for initiating an investigation than a single sentence from a columnist’s web posting – not a newspaper column – stating that the mayor “apparently did some focus groups.”

Resolution

I am dismissing your first and third allegations as unsupported by the evidence. I am sustaining your second allegation, but dismissing the violation as inadvertent and minor (and corrected). The Commission last penalized a campaign for failing to report obligations in the 2007 election cycle, and the unreported obligations in that case exceeded \$40,000, more than ten times as large as the unreported obligations in this case. (I fined the committee \$100.) And the incorrect reports filed in that case provided an inaccurate snapshot of the funds available to the two candidates in that race at that point in time, a factor notably absent in this case.

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If you would like to appeal this dismissal, you have 21 days in which to do so. The Commission's Administrative Rule 4, which you can find here – www.seattle.gov/ethics/etpub/AdminRules.pdf – explains how to file an appeal.

Very truly yours,



Wayne Barnett

Executive Director

cc: Seattle Ethics and Elections Commission (*name and address of complainant redacted*)
Esther Handy, Protect Seattle Now (*name and address of complainant redacted*)
Bill Broadhead, Mercury Group (*name and address of complainant redacted*)