

Response to Complaint 2020-24-LS and 2020-25-LS

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To: City Elections <elections@portlandoregon.gov>

Cc: Loretta Smith <Sloretta407@aol.com>; Hansen, Louise <Louise.Hansen@portlandoregon.gov>; Scroggin, Deborah <Deborah.Scroggin@portlandoregon.gov>; Mottet, Susan <Susan.Mottet@portlandoregon.gov>; Jef Green <j.green@c-systems.com>

Hi Deborah,

Thanks for the opportunity to respond to the questions regarding Campaign Regulations Complaint 2020-24-LS and 2020-25-LS. Please find the answers to your questions below. Please note that our campaign is seeking further clarification on questions 4a, 7, and 8.

1. Please confirm when your campaign printed the attached mailer, the number of individuals the mailer was sent to, and the costs associated with producing the attached mailer.

Our campaign did print the mailer in question. The mailer was sent to 50,692 households and cost \$24,839.08 to produce and mail. It is our belief that the disclaimer language meets the requirements and is clearly visible. The font and color are comparable to the text listing our endorsements in the same shot, and the text is actually larger than the text listing our endorsements. It is legible and comprehensible to a person of regular reading and vision abilities, as required. The campaign was unaware that NACS codes were needed to accompany the contributors; the organizations are clearly identifiable as unions with the disclosure of their local numbers.

The argument that the \$6,000 listed in the campaign finance system as "Anonymous" should have been disclosed as one of our top contributors is nonsensical. The listed donation is actually a collection of individual donations under the \$250 individual donation limit, none of which the campaign actually benefited from. Similar to returning donations that are over the maximum amount allowed, the aggregate \$6,000 donation was donated to a local nonprofit, the Oregon Food Bank, as state law requires. The "contribution" in question provided no funding that the campaign used, and subsequently did not fund this mailer, or any voter communications. To have listed "Anonymous" as a top campaign contributor in our communications would have been tantamount to fraud, which is what the complainant, Seth Wooley, is saying we should have done.

2. What is the campaign's typical process for collecting, handling, and processing cash contributions?

The campaign's typical process for collecting, handling, and processing cash contributions is as follows –

1. Campaign staff receives the cash donation and verifies that the amount given is under the \$250 contribution limit
2. Campaign staff, after verifying that the amount enclosed is accurately reflected on the donation envelope, separates the cash from the envelopes, totals the cash and bundles the donation envelopes for delivery to C&E Systems.
3. Campaign staff delivers both the cash and bundled donation envelopes to C&E systems for deposit and logging of the contributions.
4. C&E makes the deposit with Columbia Bank, logs the donation to in the Open and Accountable Elections Program system and ORESTAR.
5. If cash donations come through the mail directly to C&E, they are responsible for all processing and logging within the appropriate systems.

3. Please describe the circumstances behind what led the Committee to Elect Loretta Smith to label the receipt of \$6K in cash contribution on 4/21/20 as an Anonymous Contribution in ORESTAR (transaction ID 3510675).

The \$6,000 cash contribution was logged as an Anonymous Contribution due to donation envelopes with donor information being missing due to a C&E initiated change in the processing of donations. Due to the risks of COVID-19, C&E Systems amended their hours of operation and preferred delivery of donations sometime in late March or early April 2020. The preferred method of delivering donations was by mail.

Excerpt from C&E Message to Clients –

"Please note - we are still open, but are restricting in-office visits to reduce COVID-19 risks. If you find it necessary to visit the office, please call first, to be sure that someone will be here to assist you. However, instead of visiting us, we encourage you to mail any donations to PO Box 42307, Portland, OR 97242. Thanks for your consideration. Take care!"

For the donations in question, instead of delivering via mail or delaying the cash deposit in the bank, the campaign delivered the donation envelopes to C&E Systems and deposited the corresponding cash deposit at Columbia Bank. The lapse in closing out the communication on the deposit with C&E was due to a medical emergency that required me to return home to Atlanta on April 24, 2020.

The deposit went unnoticed until mid-June because that was the first point in time after the April deposit that C&E performed reconciliation on our bank account, at which point we were notified for the first time that the deposit envelopes with the donor information were missing. A search was initiated at C&E Systems and the envelopes were not recovered. The campaign also had no additional record of individual donor information related to the contributions. At this point, both I and the Campaign Treasurer both independently reached out to the Open and Accountable Elections Program Director. The Campaign Treasurer also reached out to the Oregon Secretary of State's office for guidance, at which time it was determined that state law required the money to be identified as anonymous and donated to a local nonprofit.

4. How did the campaign discover the circumstances surrounding the receipt of the \$6K cash contribution by the campaign?

a. Which campaign staff, volunteer, or other affiliated authorized campaign worker initially discovered the contribution or contributions included in transaction ID 3510675?

For this question, the campaign seeks further clarification. When you say "initially discovered the contribution or contributions included in transaction ID 3510675" do you mean which campaign staff discovered the deposit, or which campaign staff initially handled the contributions?

b. When was this issue discovered?

Per Jef Green, President of C&E Systems and Campaign Treasurer for the Committee to Elect Loretta Smith, C&E Systems discovered the unaccounted for \$6,000 cash deposit during a reconciliation of the bank account on June 15th. When informed that the corresponding donor information was not in the campaign database or reported to ORESTAR, an internal search for the missing remit envelopes was initiated. When it was determined that the donor information could not be retrieved, C&E after consulting with State Elections office and OAE staff, informed the campaign of the procedure for reporting the funds received without donor info and the requirement to donate corresponding funds to a non-profit. In accordance with state regulations, a check for \$6,000 was cut and mailed to the Oregon Food Bank. The deposited funds and the corresponding donation were then reported to ORESTAR. **NOTE:** because the cash deposit was not in the database or on the campaign's account register, the funds were never utilized, nor were any OAE matching funds received.

c. Which individuals acted as campaign treasurer for the campaign, including anyone involved in collection of campaign contributions and ORESTAR reporting at the time of the receipt and reporting of the \$6K cash contribution?

Per Jef Green, President of C&E Systems and Campaign Treasurer for the Committee to Elect Loretta Smith, Jef Green is the Treasurer of the Committee to Elect Loretta Smith campaign; C&E System Staff supports Jef in that role. All filings with ORESTAR are done by C&E Systems including the \$6,000 cash donation that was deposited by campaign staff. Oregon campaign finance regulations considers any donation "received" by a campaign when it comes into possession of anyone involved in a campaign, regardless of whether they are the Treasurer. Oregon campaign finance regulations do not provide guidance on who can make deposit of funds, only that all funds received be deposited into the campaign bank account and be reported to ORESTAR.

5. How was the total amount of contribution at issue determined by the campaign (i.e., how did the campaign determine that it was in fact \$6,000.00 that made up the total cash contribution in question)?

The deposit into the bank account was \$6,000 in cash, which represents the total of the cash donations sorted at that time for the missing donation envelopes.

6. If the “Anonymous” contribution is in fact a compilation of cash contributions from individual contributors, how is the campaign accounting for the cash quantity contributed by each individual contributor within the “Anonymous” contribution?

Per Jef Green, President of C&E Systems and Campaign Treasurer for the Committee to Elect Loretta Smith, the contributions were not “Anonymous” at the time they were made to the campaign and when the funds were deposited into the bank account. “Anonymous” is the state elections office’s terminology for funds received but whose donor information is not available to be reported. That could be funds that were received from someone who did not give their donor info, or in this case funds where the corresponding donor info becomes unavailable before being reported to ORESTAR.

7. Please provide all email exchanges between reporter Nigel Jaquiss and Commissioner Smith or her campaign related to the “Anonymous” contribution question. See attached for all email correspondence.

For this request, the campaign seeks further clarification. Is the City Auditor’s Office interested in email exchanges that deal exclusively with the Anonymous contribution or other matters where the reporter’s coverage of the contribution is discussed? Also, when describing “her campaign” does that include third party staff that provide services for the campaign, but are not employed by the Committee to Elect Loretta Smith? Additionally, is the City Auditor’s Office only interested in the campaign’s communication with Nigel Jaquiss, or more broadly interested in communication with any media outlet regarding the “Anonymous” contribution question?

8. Were there any other communications (e.g., verbal/phone) between reporter Nigel Jaquiss and Commissioner Smith or her campaign related to the “Anonymous” contribution question?

For this request, the campaign seeks further clarification. Is the City Auditor’s Office interested in other communications that deal exclusively with the Anonymous contribution or other matters where the reporter’s coverage of the contribution is discussed? Also, when describing “her campaign” does that include third party staff that provide services for the campaign, but are not employed by the Committee to Elect Loretta Smith? Additionally, is the City Auditor’s Office only interested in the campaign’s communication with Nigel Jaquiss, or more broadly interested in communication with any media outlet regarding the “Anonymous” contribution question?

Again, thank you for the opportunity to respond to the questions regarding Campaign Regulations Complaint 2020-24-LS and 2020-25-LS. We look forward to receiving clarification requested above and to providing the City Auditor’s Office with a response to those questions to aid in the conclusion of your investigation.

Best,

Jerome Brooks
Campaign Manager

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