



WASHINGTON STATE PUBLIC DISCLOSURE COMMISSION COMPLAINT FORM

(See instructions on the last page.)

Description of Complaint

1. RESPONDENT:

Identify who you are filing a complaint against and provide all contact information you have for them. Give names and titles, if any, for individuals, and the full name of any organization. Please note that the PDC does not enforce federal campaign finance laws or local ordinances.

Example #1: Joe Public, Mayor of My Town,

123 Main Street, Your Town, State, Phone: 555-123-4567, Email: unknown

Example #2: The Political Action Group (instead of P.A.G.), 123 Main Street, Your Town, State,

Phone: 555-123-4567, Email: pag@pag.org, Website: www.PAGwashington.org

Clear Ballot Choices (Pacific International Terminals LLC)

PO BOX 2909

BELLINGHAM WA 98227

RON5326@GMAIL.COM

Phone - 253-988-2455

2. ALLEGED VIOLATIONS:

Explain how and when you believe the people/entities you are filing a complaint against violated RCW 42.17/RCW 42.17A or Title 390 WAC. Be as detailed as possible about dates, times, places and acts. If you can, cite which specific laws or rules you believe were violated. Attach additional pages if needed. (Note that the RCW 42.17 citation applies to conduct before 2012 and the RCW 42.17A citation applies to conduct on or after January 1, 2012.)

OVERVIEW

Clear Ballot Choices (Pacific International Terminals, LLC), hereinafter CBC, is a newly formed political action committee created with the intention of influencing the election governing several proposed amendments related to Whatcom County and to the election of Whatcom County Council members (CBC supports Whatcom Propositions 1, 2 and 3 and opposes Whatcom Propositions 9). Pacific International Terminals (PIT) is the company behind a highly contentious coal export terminal proposed for Whatcom County in an area west of Ferndale, a proposal which may ultimately be adjudicated by the Whatcom County Council. PIT is the largest (and all-but-exclusive) donor to CBC and is also the largest donor in Whatcom County elections and is one of the largest donors in any election in Washington State. The aggregate total donated by this company (to this PAC and others) is more money than has been raised by any candidate running for any office in Whatcom County this year.

From my review of PDC records and other publically available information, it is apparent that CBC intentionally and maliciously violated four separate reporting requirements:

1. RCW 42.17A.205 governing initial statement of organization by a political action committee,
2. C3 Reporting deadlines; and,

3. RCW 42.17A.245 governing electronic filing requirements; and
4. Failure to name the sponsor.

Taken together these violations conspired to hide the existence of this political action committee from public view during a critical period of time in the election. These violations all had the same net effect. Had CBC followed the law, the existence of this PAC would have been known to the public in September, and the scale of the contributions flowing to it from Pacific International Terminals would have become visible on October 13th. Instead, this information was not available until October 19th. During this window of time there were three significant consequences:

1. The Bellingham Herald published a story about the Charter amendment propositions which CBC exists to influence. The article discussed which funders, PACs and parties were supporting or opposing the various propositions. Because of these four concerted reporting violations the huge influence of this single source funded PAC was not known by the reporter. The reporter and his audience had a right to this information.

2. Ballots were received by voters. They were mailed on October 14 and received over the next few days. An entire weekend elapsed before this information came to light. Traditionally many voters cast their ballots on the first weekend after ballots arrive. This year, those voters cast their ballots having illegally been kept in the dark about who was spending money or planning to spend money to influence their votes.

3. Other actors in the election, were put in a disadvantageous position for having followed the law. CBC's political opponents filed timely reports and revealed their funding and disclosable activities on schedule. The CBC was then able to review and consider that information for a whole week before revealing their funding and disclosable activities. By skirting the law, CBC was able to make strategic decisions about resource allocation and gained a strategic advantage over law abiding political actors.

A similar tactic was used by operatives of the same company in 2013 (The political action committee "Save Whatcom" in case number 14-004 and 14-005). These errors were repeated and were working in concert with each other to achieve clear tactical objective. Moreover, the treasurer of CBC serves as treasurer of other political action committees and appears to run a business called "campaign compliance solutions." A reasonable person can only conclude that they were not a series of coincidental mistakes but were, in fact, intended.

Given the significance of this violation, its flagrance and its repeated nature, I submit that it deserves the maximum penalty allowable under Washington state law.

FAILURE TO REPORT THE ORGANIZATION OF THE COMMITTEE - RCW 42.17A.205

CBC's Amended C1pc form is on file on the PDC website and is dated 10/19. An earlier version of the C1 was sent to the PDC on 10/13 and although no longer available online is available in PDC records. I am happy to provide a PDF if necessary. Several revisions were made by email on 10/19 and 10/20. RCW 42.17A.205 (1) states that:

"Every political committee shall file a statement of organization with the commission. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier."

CBC grossly violated both the spirit and letter of this rule. CBC intended to create this political action committee, and had even set up a PO box by September 10. Meaning that they waited

more than five weeks to file after they had expectation of receiving contributions and making expenditures.

There are two key pieces of evidence of the earlier existence of this PAC. Firstly, their C4 dated 10/13 and received on 10/19 records "expenses of \$50 or less" during the month of September. Secondly, a blog post found at DOVE Whatcom attempts to raise money for CBC. DOVE Whatcom is a different Political Action committee, but maintains similar electoral positions to those of CBC. On September 10th, in a post titled "What about Proposition #9" the author writes:

"Finally, know that even if Proposition #9 should come to pass, a referendum to reconsider the matter is already in the works. A repeal of Proposition 9 could be before voters again as soon as the 2016 ballot. This referendum is spearheaded by Clear Ballot Choices, P.O. Box 2909, Bellingham WA 98227.

All we can do is watch the history play itself out. Or people can get involved, learn the facts, and spread the truth. Help us campaign for better government this election season. We need to raise money to get the word out. Consider it an investment in good government."

(<http://www.dovewhatcom.com/2015/09/what-about-proposition-9.html> – PDF attached). Note that the PO Box listed is the same as that listed on CBC's C1 and that Prop. 9 is one of the measures that CBC filed as working to oppose. Clearly there were discussions taking place between those planning the CBC PAC and the authors of the DOVE website. And the appeal to raise funds, and the expenditure of funds necessary to open a post office box put them at the start of the two week clock necessary for reporting their existence. None-the-less they waited another 5 and a half weeks.

MISSED C3 DEADLINE

On October 9, CBC received \$25,000 in direct donations and an additional \$13,544.56 in in-kind donations from Pacific International Terminals. A C3 report of all new expenditures is due every Monday unless Monday is a holiday, which it was on October 12th. The report for these donations should therefore have been made on October 13. A review of PDC records shows that no such filing was made. The report was made one week late on October 19. Consequently, the public was kept in the dark about an enormous campaign contribution intended to influence the outcome of the election while the election was happening.

FAILURE TO FILE ELECTRONICALLY - RCW 42.17A.245

On Tuesday October 13th a C4 filing was due for the period between September 1 and October 12. Had this been filed properly, it would show the above discussed \$38,544.56 in donations and in-kind support from Pacific International Terminals. This report was originally submitted by paper copy, which slowed down the processing. The report did not appear on the PDCs website until Oct. 19.

It is for exactly this reason that RCW 42.17A.245 requires that any "political committee that expended five thousand dollars or more in the preceding year or expects to expend five thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission." Filing paper copies by USPS is a slow process, which delays the public's access to information.

It appears that some corrective action was already taken since the scanned paper version was taken down from the PDCs website and replaced with an electronic version now dated October 19. The C4 currently on file with the PDC does not have a date next to the signature of the

treasurer. None-the-less the damage was done and the public spent nearly a full week unaware of this PAC and its funding source.

FAILURE TO NAME THE SPONSOR - RCW 42.17A.455

CBC submitted its initial C1PC filing on October 13th under the name Clear Ballot Choices. An amendment was made on October 19th to include the name of the sponsor changing the name to Clear Ballot Choices (Pacific International Terminals). The conditions under which a sponsor be named is clearly articulated in the PDC instructions for filing a C1PC:

“Sponsor” of a Political Committee – Sponsor of a political committee includes any person, except a committee authorized by a candidate or by a public official against whom recall charges have been filed to whom any of the following applies: • the committee receives 80% or more of its contributions either from the person or from the person’s members, officers, employees, or shareholders; • the person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees. “Person” is defined in RCW 42.17A.005(36). * A political committee shall include a known sponsor in its name when filing the initial C-1pc.”

CBC’s refusal to follow this requirement continues the pattern of obfuscation. The fact that it was eventually corrected does little to correct the damage that was done during the period when they were hiding the truth. This fourth violation again prevented the public from becoming aware of the role of PIT in the elections during the critical first week after ballots were mailed.

THE PUBLIC CONSEQUENCES

These violations of the reporting requirements conspired to prevent the release of exactly the kind of information that the PDC exists to make available. The donor in question is a project applicant to the County government with a clear agenda. The dollar figures are enormous by the scale of Whatcom County elections. The operatives involved are seasoned political actors who have no excuse for not following the rules. And the impact of their failure was a clear, foreseeable and significant advantage for the ends of PIT and CBC.

As a result of these three failures, CBC’s existence and true funding source was not known to the public until October 19. Had they followed the law, their existence would have been known in September and their funding source would have been disclosed on October 13. During these six days, several significant consequences to CBC’s illegal action occurred:

On October 14, the Bellingham Herald published an article (<http://www.bellinghamherald.com/news/politics-government/election/local-election/article39236730.html>) discussing the ballot measures in question. It is common practice for the Bellingham Herald reporter to reach out to a number of sources as they develop a story like this, and information travels and it becomes common knowledge that a story is pending. It is clear from the contents of the article that the reporter had been reaching out to conservatives for comments for several days. The article states that, “[conservative charter review commission member Chet] Dow couldn’t be reached for comment in the days before this story was published...”

It is reasonable to assume that CBC was advised that this article was coming; they would be ineffective political operatives if they didn’t know. Moreover, it is clear to anyone following Whatcom County politics that the presence of a significant donation by the proponents of North America’s largest coal export terminal would immediately become significant news. This is not speculation, these same organizations donated a similar amount to a different PAC in 2013 and it inspired significant local media coverage.

An awareness of this PAC and these sizable donations would have completely changed the contents of this story, which is probably the single most significant news coverage of these propositions. The exclusion of this information from the article was absolutely to the advantage of CBC.

Ballots were mailed in Whatcom County on October 14. Voters in Whatcom County received their ballots on the 15th through 17th and many voted over the weekend, mailed their ballot in and never knew that these hidden contributions were a factor in the elections. Over the past several years I have personally talked to more than a thousand voters in Whatcom County, and for many of them the coal terminal is the single most important issue governing their decision about how to vote. That is information that the public had a right to know before making these decisions, and they didn't get it for the first five days in the 20 day election period.

And finally, political action committees working the other side of the election, and playing by the rules, were put at a strategic disadvantage because of CBC's violations. Political expenditures made in the last few weeks of a campaign are always triage decisions – which voters to reach out to, what message to focus on and when. Knowing what your opponent is doing, or has the funds to do, is a critical part of these decisions. The PDC requirements for disclosure mandate that political actors reveal to their opponents information that, in a tight election, could easily be the difference between winning and losing. These rules are only made fair because both sides are at an equal disadvantage. But by breaking the law, CBC waited for their opponents to reveal their cards, made strategic decisions and then revealed their own cards. Six days may seem like a short amount of time, but it was nearly a third of the time remaining in the election and most of the time remaining to make decisions about media purchases.

REPEAT OFFENDERS

Pacific International Terminals is the company formed for the Gateway Pacific Terminal project. It is jointly owned by Cloud Peak Energy and SSA Marine. In 2013, two interrelated political action committees in Whatcom County, "Save Whatcom" and "Whatcom First" accepted \$12,000 from SSA Marine and \$50,000 from Cloud Peak Energy. They also accepted about \$100,000 in additional contributions from coal industry related donors. These donations all came in shortly after the filing deadline and were filed illegally by mail rather than electronically (the same violation of RCW 42.17A.245 that CBC repeats this year). The PDC was notified and Save Whatcom and Whatcom First were found to be in violation of the rules and were fined accordingly in cases 14-004 and 14-005. This case looks very much like that case in several important ways:

1. The PAC is funded primarily by a few large donors with clear ties to this coal terminal project.
2. Several donations of significant sums of money arrive at the last minute, as if coordinated in advance.
3. Donations are funneled to a newly formed political action committee.
4. Donations are used for election advertisements that will benefit the coal terminal proponents.
5. Election laws are skirted in a way that delays the reporting of the coal industry funds to the public until well into the period when voters have their ballots.
6. In 2013 the expenditures were used to try to win Whatcom County Council elections. In 2015 they are being used to influence the rules governing future elections of County Council members.

Clearly it cannot be the intent of the RCWs that a company be allowed to create a new political action committee, assign a different treasurer, and break the same laws every year and each time be treated as a first time offender. I ask that these violations be treated as the repeat offences that they clearly are. If the evidence as I have outlined it is insufficient to prove intent to repeat the crime, I ask that an investigation be instigated and a process of discovery be conducted.

I would also ask that any effort to plead ignorance of the rules be overruled. CBC's treasurer, Mr. Tom Perry, appears to be the treasurer of other PACs including "Neighbors for Banks" <https://www.pdc.wa.gov/rptimg/default.aspx?docid=4528385>. He also appears to be the principle of a company titled "Campaign Compliance Solutions" http://www.sos.wa.gov/corps/search_detail.aspx?ubi=603277643. CBC hired a professional to get professional results in their compliance and they ended up with a result that maximally violated the good intention of the state's public disclosure law with a minimum violation of the letter of the law. Correspondingly, the maximum penalty for those violations which can be shown should be applied.

ADDITIONAL IRREGULARITIES

At this time, I cannot demonstrate that the in-kind donation from PIT to CBC is a violation of the law, but it stands out to me as questionable. I ask that the PDC staff review this matter, look at information that may be available through unpublished correspondences and consider them in the context of the above violations. It may be that additional enforcement is necessary.

PIT provided a \$10,000 in-kind donation to CBC for "survey research" which was reported on their C4 dated 10/19. As a resident of Whatcom County, I am aware that there have been multiple voter research efforts conducted by PIT during 2015. In the winter they conducted a poll with live survey collectors (not a recorded "robo"-poll) and also recruited participants for a focus group. They conducted a message poll in September and a tracking poll this week. Having been part of conducting similar research myself, I can tell you that the cost to conduct a statistically significant live poll is more than \$24,000, tracking polls are a few thousand each and a focus group is anywhere from \$15,000 and up. While these numbers may be rough, the fact is that they are many times the amount listed by CBC/PIT. I find the \$10,000 figure listed to be totally unbelievable based on what I know PIT has done.

Thank you for your consideration of this important matter.

Evidence and Witnesses

3. EVIDENCE:

List the documents or other evidence you have that support your complaint, if any, and attach copies to this form. If you do not have copies, provide any information you have about where you believe the documents or evidence can be found and how to obtain it. Attach additional pages if needed.

Example: Emails between Joe public and Candidate X, attached OR

Joe Public has emails from Candidate X which describe an illegal campaign donation, and Joe Public's phone number is 555-123-4567.

Links to non-PDC sources provided above. A PDF of the DOVE blog post is attached.

4. WITNESSES:

List the names and contact information, if known, of any witnesses or other persons who have knowledge of facts that support your complaint. Attach additional pages if needed.

Example: Jane Public was present when Candidate X spoke to me about the illegal contribution. Jane Public's address is 123 Main Street, Your Town, USA 12345, and her phone number is 555-123-4567.

N/A

Certification

In signing this complaint:

- I have provided all information, documents and other evidence of which I am aware;
- If I become aware of additional information, documents or evidence related to my complaint, I will promptly provide it to the PDC; and,
- I am providing the PDC current information on how to contact me, and will promptly update that information if it changes.
- Unless otherwise noted, I agree that PDC may use email instead of U.S. mail for all written correspondence about this complaint.

E-mail address: AlexWRamel@gmail.com

Your name (print or type):Alex Ramel

Street address: 2308 Woburn St

City, state and zip code: Bellingham, WA 98229

Telephone number (including area code): 360-305-5079

Oath

Required for all complaints filed with the Public Disclosure Commission:

I certify (or declare) under penalty of perjury under the laws of the State of Washington that information provided with this complaint is true and correct to the best of my knowledge and belief.*

Your signature *Alex Ramel*

Date signed 10/30/15

Place signed (city and county)

<u> Bellingham </u>	<u> Whatcom </u>
City	County

Attachments

Check here if you are attaching copies of documentary evidence or extra pages explaining your complaint.

**RCW 9A.72.040 says that "(1) A person is guilty of false swearing if he makes a false statement which he knows to be false, under an oath required or authorized by law. (2) False swearing is a misdemeanor."*

Washington State Public Disclosure Commission
Instructions for Filing a Formal Complaint

➤ **When to use the formal complaint form:**

While this form is not required, its use is recommended when you want to file formal allegations of a violation of the Public Disclosure Commission (PDC) statutes or rules. You can find the PDC statutes and rules on the PDC website at www.pdc.wa.gov.

If you have information or concerns about a possible violation but do not wish to file a complaint, please contact the PDC office directly.

➤ **How to submit your complaint form to the PDC:**

- Complete all sections. If you do not have some information, please write “unknown” instead of leaving a blank space.
- Attach copies of any evidence you have - we’ll contact you if we need originals.
- Sign the oath.
- Mail, fax, or email your complaint and all attachments to the PDC.

➤ **If you have more questions:**

If you have more questions about filing a complaint, see the “Frequently Asked Questions about Filing a Complaint” guide available on the PDC’s website at www.pdc.wa.gov under “Enforcement and Compliance.” You may also contact the PDC directly.

PDC Contact Information

MAILING ADDRESS: Washington State Public Disclosure Commission
711 Capitol Way, Room 206
PO Box 40908
Olympia, WA 98504-0908

EMAIL ADDRESS: pdc@pdc.wa.gov

PHONE: 1-877-601-2828 (toll free)

FAX: (360) 753-1112

HOURS: Monday-Friday, 8:00 a.m. – 5:00 p.m., closed on state holidays.