

John G. McDaid
65 Gormley Ave
Portsmouth, RI 02871

October 1, 2007

Mr. Richard Thornton
Rhode Island Board of Elections
50 Branch Ave.
Providence, RI 02904-2790

Dear Mr. Thornton,

This letter constitutes a complaint regarding alleged in-kind campaign expenditures in the election of November, 2006 by the Portsmouth Concerned Citizens (PCC) (which was at the time, to the best of my knowledge, an unincorporated dues-paying membership organization) in support of candidates for the Portsmouth Town Council and School Committee. Based on the facts provided below, the assertion is that the expenditures appear not to be in compliance with RIGL 17-25-10(3)(b):

"any person making the expenditure shall be required to report all of his or her expenditures and expenses, if the total of the money so expended exceeds one hundred dollars (\$100) within a calendar year, to the board of elections within seven (7) days of making the expenditure and to the campaign treasurer of the candidate or political party committee on whose behalf the expenditure or contribution was made, or to his or her deputy, within seven (7) days of making the expenditure"

Based on the facts provided below, I believe it is reasonable to infer that the PCC made an in-kind contribution in excess of \$100 by producing and distributing beyond their association membership a newsletter containing their endorsement of a slate of candidates. If this is true, based on communication from at least two of the candidates, it also appears that they failed to meet the candidate notification requirements of the section cited above.

I have attempted to resolve this question by speaking directly with the president of the PCC, Mr. Larry Fitzmorris, but my request for information about the amount of in-kind expenditures related to the newsletter was denied twice. In the absence of information from the PCC which would clear up any potential misunderstanding, unfortunately I have no other recourse but to file this complaint.

Facts:

1. That in August, 2007, the PCC distributed a newsletter in which they claimed they had supported local candidates in the November, 2006 election.

"PCC Achievements

- Supported election of four Town Council Members:

Karen Gleason, Huck Little, Dennis Canario and Peter McIntyre

- Supported election of three School Committee members:

Doug Wilkey, Jamie Heaney and Mike Buddemeyer"

Source:

Exhibit 1. Current (Fall 2007) newsletter, downloaded from <http://portsmouthconcernedcitizens.com/newsletter/current.pdf>

2. That in the PCC's October, 2006 newsletter, contained an endorsement of candidates for local office.

(a) "PCC Recommendations for Local Office" and listing 12 candidates for Town Council and School Committee (p.1)

(b) "The endorsed candidates are listed in this Newsletter, which has been mailed to all PCC members, as well as other interested voters." (p.2)

Source:

Exhibit 2. October, 2006 (Endorsement) newsletter

<http://portsmouthconcernedcitizens.com/newsletter/2006/PCCNewsletterOct2006.pdf>

3. That the October, 2006 newsletter was distributed to people within the town of Portsmouth who were not members of the PCC, affirmed by the PCC newsletter itself, as well as several of the endorsed candidates who were contacted by e-mail.

(a) "The endorsed candidates are listed in this Newsletter, which has been **mailed to all PCC members, as well as other interested voters.**" (p.2) (emphasis added)

Source:

Exhibit 2. October, 2006 (Endorsement) newsletter

<http://portsmouthconcernedcitizens.com/newsletter/2006/PCCNewsletterOct2006.pdf>

(b) "The support of which they speak, was in the form of that endorsement, which was probably circulated to several thousand residents of the town."

Source:

Exhibit 3. E-mail communication from Jamie Heaney, August 31, 2007

(c) "The PCC endorsed me in their newsletter during the campaign."

Source:

Exhibit 4. E-mail communication from Michael Buddemeyer, August 30, 2007

4. That the PCC distributes their newsletter both on-line and physically in Portsmouth beyond their membership.

(a) That the endorsement newsletter is available for download from the PCC web site,
<http://www.portsmouthconcernedcitizens.com>. Exhibit 8.

(b) That the PCC distributes their newsletter by placing copies at locations in town. Exhibit 9 is a photograph, taken September 29, 2007 at the Portsmouth Public Library.

(c) That according to Town Council President Dennis Canario, the PCC also sometimes distributes them by hand.

"I did not see this recent PCC newsletter. I have received them in the past once in a while through my mailbox at town hall."

Source:

Exhibit 5. E-mail communication from Dennis Canario, August 29, 2007

5. That according to at least two of the candidates endorsed, information about the PCC's support had not communicated to them.

(a) "You would have to ask the PCC as to "how they exactly supported your (my) election effort." I am not certain as to exactly what you are asking. But in regards to your question I simply cannot answer for the PCC as I am not a member. It is likely that they simply went to the polls and voted for me."

Source:

Exhibit 6. E-mail communication from Karen Gleason, September 8, 2007

(b) "I don't know how they supported me; they have never got hold of me or anything."

Source:

Phone conversation with Huck Little, September 13, 2007, verifiable by Mr. Little.

6. That the president of the PCC, Larry Fitzmorris has refused to answer questions about the amount the organization spent on distributing these endorsements.

(a) That at the Town Council meeting, attended by Larry Fitzmorris on September 10, 2007, I personally asked Mr. Fitzmorris how much they spent distributing their endorsement to

non members. He replied, "We're not obligated to release to you our internal financial operations."

Source:

Personal communication, verifiable by Mr. Fitzmorris.

(b)That at the School Committee meeting on September 25, 2007, School Committee Vice-Chair Richard Carpender said, in public session, "They [the PCC] endorse specific candidates, which in and of itself I don't have a problem with. However, when they work to get those candidates elected with in-kind contributions and are unwilling to talk money because they don't have to, I have a problem." And that Mr. Fitzmorris responded to several other points made by Mr. Carpender, but did not respond to nor rebut the assertion of in-kind contributions.

Sources:

Exhibit 7. Statement on PCC's Contention Re: Illegal Budget Action. E. Richard Carpender.

Tape of the school committee meeting, available from Mr. Fitzmorris.

(c)That after the conclusion of the meeting, I personally asked Mr. Fitzmorris if, given Mr. Carpender's expression of concern, he would be willing to clarify the PCC's campaign expenditures. Mr. Fitzmorris replied, "Not willing to discuss that at all."

Source:

Personal communication, verifiable by Mr. Fitzmorris.

7. That I was unable to find a record of either PCC or personal expenditure reports in the online filings at RICAMPAIGNFINANCE.COM. That while Lawrence Fitzmorris has an id (4269), multiple searches returned no activity for filings, contributions, or expenditures. That searches for "Portsmouth Concerned Citizens" and "PCC" also returned no results.

Source:

<http://www.ricampaignfinance.com/RIPublic/Filings.aspx>

I hereby attest that this complaint is based on actual knowledge and is submitted under pain and penalty of perjury if I have willfully sworn or affirmed falsely.

Signed

John McDaid