



**STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION**

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M E M O R A N D U M

Date: June 15, 2026

To: Public Disclosure Commission Members

From: Peter Frey Lavalley, Executive Director

Subject: Request for Review— PDC Case 181096 (Tam Thi-Dang Bui)

I. Introduction

PDC Staff is in the process of investigating whether and to what extent Tam Thi-Dang Bui, who was recently elected to Division I of the Court of Appeals, has violated RCW 29B.40.070 (formerly RCW 42.17A.420)¹ for exceeding pre-election contribution limits within 21 days of the election. For the reasons expressed in this memo, Staff is concerned that continued investigation of this matter will involve the expenditure of substantial resources by the PDC. Thus, pursuant to WAC 390-37-060(2), Staff seeks Commission review of the matter before proceeding.

II. Status of Investigation

Background

- On April 20, 2025, Tam Thi-Dang Bui registered as a candidate in the 2025 election under the “Full Reporting” option for the position of Appeals Court Judge (Division I). She won the general election, defeating her opponent, Karen D, Moore.
- Candidates who opt for Full Reporting are allowed to give unlimited funds to their own campaign. However, they are subject to a contribution limit of \$7,500 during the 21-day period prior to the General Election for non-state-wide candidates. *See* RCW 29B.40.070.
- On October 24, 2025, Ms. Bui filed a C-4 report disclosing that she made an in-kind contribution of \$41,000 to a business called Overnight Printing for printing, processing, labeling & mailing of two political advertisements. The first order for 42,000 mail pieces was invoiced on October 15, 2025, and the second order for 34,860 mail pieces was invoiced on October 20, 2025.

¹ For ease of reference, this memo will cite to the current version of the statute, RCW 29B.40.070.

- The 2025 General Election was held on November 4, 2025, making the 21-day restriction described by RCW 29B.40.070 begin on October 14, 2025. It is undisputed that Ms. Bui’s \$41,000 in-kind contribution occurred during that 21-day period.
- On October 31, 2025, the Commission received a complaint against Ms. Bui alleging that her \$41,000 in-kind contribution violated RCW 29B.40.070. As noted in the complaint, “This \$41,000 in-kind contribution doubles the campaign’s total funds and was used to finance a last-minute mail campaign sent directly to voters. . . [t]his contribution gives the candidate an unfair advantage during the final days of voting and undermines the transparency and integrity that [RCW 29B.40.070] is designed to protect.”

PDC Staff Becomes Aware of Potential Issues with RCW 29B.40.070

- While investigating this case, PDC Staff became aware of several issues that have raised concerns as to the enforceability of RCW 29B.40.070 in PDC Case 181096 and other similar matters.
- First, PDC Staff is concerned that any temporal limit on a candidate’s ability to contribute personal funds to their campaign, such as that contemplated by RCW 29B.40.070, is unconstitutional as applied to such contributions, under *Buckley v. Valeo*, 424 U.S. 1 (1976). In that case, the US Supreme Court struck down the federal limit on expenditures by a candidate from their personal funds. The Court found that the primary governmental interest served by the Federal Election Campaign Act – the prevention of actual and apparent corruption of the political process – does not support the limitation. Specifically, the Court found that “the core problem of avoiding undisclosed and undue influence on candidates from outside interests has lesser application when the monies involved come from the candidate himself or from his immediate family.”
- PDC Staff was previously unsuccessful in enforcing an earlier version of RCW 29B.40.070 as to ballot measure committees in *Family PAC v. McKenna*, 685 F.3d 800, 812 (9th Cir. 2012). In *Family PAC*, the Ninth Circuit concluded that RCW 29B.40.070 (formerly RCW 42.17.105(8)) did not survive closely drawn scrutiny, finding the law imposed a significant burden on protected First Amendment rights by “limit[ing] contributions during the critical three-week period before the election, when political committees may want to respond to developing events.” *Id.* The Court found that the statutory limitation was not “reasonably necessary to inform voters about large contributions made in the final three weeks of the election[,]” given that “Washington already has in place a system requiring committees, during the 21 days preceding the election, to disclose contributions from large contributors within 48 or 24 hours of receiving them.” *Id.* at 813. *See also* RCW 29B.25.140. The Court’s reasoning in *Family PAC* is likely applicable to other political committees, including candidate committees.

III. Potential Next Steps

Pursuant to WAC 390-37-060(2), the Commission may inform Staff as to whether continuing to investigate potential violations of RCW 29B and WAC 390 is an appropriate use of the agency's resources. In addition, or in the alternative, pursuant to WAC 390-37-103, the Commission may: (1) direct the executive director to pursue an alternative resolution as provided in WAC 390-37-060; (2) defer enforcement as provided in WAC 390-37-075; (3) issue an order; or (4) refer the matter or apparent violations to the attorney general or other enforcement agency pursuant to RCW 29B.20.020 and 29B.60.020. Dismissal of this matter is one option available to the executive director pursuant to RCW 29B.60.020 and WAC 390-37-060.

Staff requests that the Commission consider whether to issue guidance regarding enforcement of RCW 29B.40.070. Since Staff began investigating this case, the PDC has received numerous complaints against political committees for alleged violations of RCW 29B.40.070.

Should no action be taken by vote of the Commission at the June 25, 2026, Commission meeting, PDC Staff will continue to investigate this matter, and will take the action it deems appropriate as provided by RCW 29B.60.020.

Respondent Names
Judge Tam Bui for Court of Appeals Campaign
Complainant Name
Erin Schultz
Complaint Description
Erin Schultz Fri, 31 Oct 2025 at 10:12 AM I have included a link to the campaign filing
What impact does the alleged violation(s) have on the public?
According to the PDC's public filings, on October 24, 2025, the Tam Bui for Court of Appeals campaign reported receiving an in-kind contribution valued at \$41,000 from the candidate. This contribution violates RCW 42.17A.420, which prohibits a campaign from accepting any contribution exceeding \$7,500 within 21 days of a general election. This \$41,000 in-kind contribution doubles the campaign's total funds and was used to finance a last-minute mail campaign sent directly to voters. The expenditure report does not specify how many mail pieces were sent, making it difficult for the public to assess the scale and impact of this last-minute communication. This contribution gives the candidate an unfair advantage during the final days of voting and undermines the transparency and integrity that RCW 42.17A.420 is designed to protect.
List of attached evidence or contact information where evidence may be found
https://apollo.pdc.wa.gov/public/registrations/campaign-finance-report/110326787
List of potential witnesses with contact information to reach them
Certification (Complainant)
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.

Mark C. Lamb

reported via email (Wed, 19 Nov 2025 at 9:10 PM)

To:"PDC Support" <pdcc@pdcc.wa.gov>

Cc:burman@carneylaw.com, porter@carneylaw.com

le@carneylaw.com

External Email

Ms. Townsend,

This office represents Judge Bui and provides the following response on her behalf to PDC Case Number 181096. The campaign sincerely regrets (and has corrected) the technical filing errors made by its volunteer Treasurer in Allegation One. The campaign did not violate the law as claimed in Allegation Two. We thank the Commission for its attention to this matter, and the assistance staff has provided as corrective filings were made.

Allegation One:

The campaign has a volunteer Treasurer (Judge Bui's sister). The campaign timely filed all C-3s and C-4s. The volunteer Treasurer didn't realize that online donations using Anedot (a giving platform) required that she enter different amounts as part of the C3 and C4.

Anedot allows donors to cover their processing fee. For example, a donor may have contributed \$100 online but opt not to pay the \$4 processing fee that Anedot charges. For those, the volunteer Treasurer incorrectly entered \$100 in the C-3. But, for a different donor that donated, for example, \$100 + \$4, thus opting cover the Anedot fee, she correctly entered that as a \$104 donation.

In both cases, the volunteer Treasurer should have entered the \$4 as a \$4 expenditure, even though one donor paid for the processing fee and the other did not. But she was simply unaware of the proper way to treat this processing fee. As soon as she realized the reporting error she spoke to Scott Haley on October 16th and asked him how the credit card donations should be reported. That day she learned the correct way to report credit card donations. He patiently explained how she should have entered the varying amounts in the examples above on the C3. Immediately (and before the complaint was filed), she began the long process of amending the filings for the voluminous number of online donations. She filed the first two C3 amendments on October 16 and asked Scott when she should get the rest done because of my full-time day job and campaign jobs. He was very kind and told her it is a common mistake, that the reporting is not intuitive, and that there's no deadline to make the corrections. The final amended filings were completed this last week.

Similarly, as a volunteer Treasurer she was unaware of the requirement to post the exact numbers of mail pieces sent on the expenditure C4s. The complaint argues, "The expenditure report does not specify how many mail pieces were sent, making it difficult for the public to assess the scale and impact of this last-minute communication." The complaint was filed by the political consultant used by Judge Bui's opponent <https://www.nwpcconsulting.com/erin>. It is quite possible that she and her client were frustrated by this inadvertent omission, but it strains credulity to assert the general voting public wished to "assess" the "scale and impact" of a direct mail piece in this (or any other) election.

Both violations are technical, minor and did not deprive the voting public of any meaningful information that could have conceivably influenced voters about the campaign. Similarly, these mistakes did not in any way

impede the enforcement of the Fair Campaign Practices Act nor violate the Declaration of Policy in 42.17A.001. All these errors have been corrected as of 11/14/25.

Allegation Two:

There are two reasons that the second allegation is meritless.

1. Judge Bui was a “candidate for statewide office.”

The donation at issue was an in-kind expenditure of \$41,000 in direct mail costs. As you summarize RCW 42.17A.420 below:

- During the 21 days before the general election, **no contributor may donate over \$75,000 in the aggregate to a candidate for statewide office, or over \$7,500 in the aggregate to a candidate for any other office.** This includes a candidate’s personal contributions to his/her own campaign. It does not apply to contributions from the state committee of the WA State Democratic, Republican or Libertarian Party or from a minor party. (emphasis added).

Judge Bui’s campaign was for a statewide office, so her in-kind expenditure of \$41,000 is well below the \$75,000 21-day limit. Although there is no definition of “statewide office” anywhere in the Fair Campaign Practices Act and the term appears only in RCW 42.17A.420, we believe the statute contemplates candidates for the Court of Appeals to be considered statewide candidates. Several reasons support that:

First, the Court of Appeals is divided into three divisions but is one statewide court. *See* RCW 2.06.10; *see also* RCW 2.06.020.

Second, WAC 390-17-303 clearly differentiates between candidates for Supreme Court and Court of Appeals versus candidates for Superior Court. There is no dispute that Supreme Court candidates campaigns are campaigns for statewide offices. So, WAC 390-17-303 supports that Court of Appeals’ candidates should be treated the same.

Third, The Supreme Court’s decision in *Ladenburg v. Henke*, 197 Wn.2d 645, 486 P.3d 866 (2021) creates a four-part test for determining whether a position is a state officer. The context is who the Supreme Court has original jurisdiction over a mandamus under article IV, section 4 of the Washington Constitution, but the principle of who a “state officer” is relevant to whether they hold a “statewide office.”

Ladenburg’s four-part test looks at whether (1) the officer is “subject to state control,” (2) the source of their salary, (3) whether they are subject to impeachment, and (4) the officer’s jurisdictional reach. 197 Wn.2d at 653-59. The Supreme Court illustrates how this four-part test applies to a judicial officer in *Spokane County v. Meneses*, 3 Wn.3d 99, 546 P.3d 1012 (2024).

Subject to State Control. The first factor cuts both ways for an appellate court judge. An appellate court judge vacancy is appointed by the chief executive officer of the state, the governor. RCW 2.06.080. But the electorate that votes on them is limited to their specific district. So, under *Ladenburg*, this factor is neutral. 197 Wn.2d at 653–54.

Source of Salary. The second factor favors an appellate court judge being a state officer. The State pays an appellate court judge’s salary. Judicial Branch, WCCSEO, <https://salaries.wa.gov/salary/judicial-branch>; *see also* RCW 2.06.062. *Ladenburg*, 197 Wn.2d at 654–55; *see also Spokane County*, 3 Wn.3d at 109.

Subject to Impeachment. The third factor also favors an appellate court judge being a state officer. An appellate court judge is subject to impeachment because the Court of Appeals is a “court of record.” *See* WASH. CONST. art. V, § 2; *see also* RCW 2.06.010.

Jurisdictional Reach. “Sovereign power” broadly defined is the “power to govern” or “all the specific powers necessary to accomplish the legitimate ends and purposes of government.” *Oceanographic Commission v. O’Brien*, 74 Wn.2d 904, 910, 447 P.2d 707 (1968). The Washington Constitution gives the “judicial power” of the state to the “supreme court, superior courts, justices of the peace, and such inferior courts as the legislature may provide.” WASH. CONST., art. IV, § 4. This includes the Court of Appeals. *See* RCW 2.06.010. As mentioned, the Court of Appeals is divided into three divisions but is one court for the entire state of Washington. *See* RCW 2.06.10; *see also* RCW 2.06.020. These courts also have “wide, general jurisdiction.” *See Ladenburg*, 197 Wn.2d at 658. So this factor leans in favor of a Court of Appeals position being a statewide position.

Based on all the above, the stronger argument is that a Court of Appeals position is a state officer, so holds statewide office. Even if the Commission were to decide otherwise, the practical reality is the undefined term “statewide office” precludes an enforcement action here, “[b]ecause the ordinance fails to give the ordinary citizen adequate notice of what is forbidden and what is permitted, it is impermissibly vague.” *See, e. g., Coates v. Cincinnati*, 402 U. S. 611, 614 (1971); *see also Chicago v. Morales*, 527 U.S. 41 (1999).

2. **Even if the Commission is persuaded that the campaign is for “any other office” under RCW 42.17A.420, a temporal limit on what a candidate may spend on their own campaign is facially unconstitutional.**

The landmark campaign finance decision in *Buckley v. Valeo* resolved the constitutionality of a temporal limit on a candidate’s own personal spending almost 50 years ago. The *Buckley* court struck down the provisions of the Federal Election Campaign Act of 1971 that set limits on expenditures by a candidate “from his personal funds, or the personal funds of his immediate family, in connection with his campaigns during any calendar year.” § 608(a)(1). The Court held in relevant part:

“The ceiling on personal expenditures by candidates on their own behalf, like the limitations on independent expenditures contained in § 608(e)(1), imposes a substantial restraint on the ability of persons to engage in protected First Amendment expression. The candidate, no less than any other person, has a First Amendment right to engage in the discussion of public issues and vigorously and tirelessly to advocate his own election and the election of other candidates.... **The primary governmental interest served by the Act -- the prevention of actual and apparent corruption of the political process -- does not support the limitation on the candidate's expenditure of his own personal funds...**Indeed, the use of personal funds reduces the candidate's dependence on outside contributions, and thereby counteracts the coercive pressures and attendant risks of abuse to which the Act's contribution limitations are directed.

The ancillary interest in equalizing the relative financial resources of candidates competing for elective office, therefore, provides the sole relevant rationale for § 608(a)’s expenditure ceiling. That interest is clearly not sufficient to justify the provision's infringement of fundamental First Amendment rights. First, the limitation may fail to promote financial equality among candidates. A candidate who spends less of his personal resources on his campaign may nonetheless outspend his rival as a result of more successful fundraising efforts. Indeed, a candidate's personal wealth may impede his efforts to persuade others that he needs their financial contributions or volunteer efforts to conduct an effective campaign. Second, and more fundamentally, **the First Amendment simply cannot tolerate § 608(a)’s restriction upon the freedom of a candidate to speak without legislative limit on behalf of his own candidacy. We therefore hold that § 608(a)’s restriction on a candidate's personal expenditures is unconstitutional.**” [Emphasis added.]

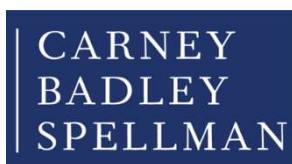
The First Amendment prohibition on government limiting a candidate's spending on her own behalf has been black letter law for half a century. The complaint states, "This contribution gives the candidate an unfair advantage during the final days of voting and undermines the transparency and integrity that RCW 42.17A.420 is designed to protect" But this rationale for a temporal restriction is the very kind of law *Buckley* held, "the First Amendment simply cannot tolerate". Indeed, the Commission has previously lost in the Ninth Circuit on the very issue of pre-election limits on contributions where the First Amendment prohibits them, *see Family Pac v. McKenna*, No. 10-35832 (9th Cir. 2011).

In conclusion, we believe that the statute as written does not apply to the conduct alleged here. To the extent that the Commission seeks to apply it, such an enforcement action would be facially unconstitutional based on five decades of Supreme Court precedent.

Please don't hesitate to contact this office if you have any questions or wish to discuss this matter further.

Thank you.

Sincerely,



Mark C. Lamb, Shareholder

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