



M U L T I S T A T E

## [Ohio Elections Commission Finds Council Leadership Fund Guilty of Campaign Finance Violation](#) (Ohio)

The Ohio Elections Commission, at its meeting Thursday, ruled that the Council Leadership Fund, a political action committee controlled by the Cleveland City Council President, was guilty of campaign finance violations for improper expenditures in the Ward 12 council race.

Challenger Rebecca Maurer ultimately won the race, unseating incumbent Tony Brancatelli in a ward that includes Slavic Village on the east side and portions of Old Brooklyn, Brooklyn Centre and Tremont on the west. She [filed the OEC complaint in September](#) against the Council Leadership Fund, Brancatelli and Brancatelli's campaign PAC, arguing that the Fund had made monetary and in-kind contributions that totaled far more than the maximum permitted by city charter and Ohio law.

The Council Leadership Fund had written Brancatelli's campaign a \$3,000 check this summer. Since 2016, that has been the max that PACs may donate in city council races. But the Fund subsequently paid for three pro-Brancatelli mailers in Ward 12. These were in-kind contributions worth thousands of dollars that Maurer argued tipped the scales even more dramatically in favor of the incumbent. Council races are typically low-budget affairs, and signs and mailers are some of the most costly expenditures candidates make.

(Though Maurer was the only challenger to file an OEC complaint for the Council Leadership Fund's activities, Scene reported that the fund [flouted campaign contribution limits in multiple Cleveland wards](#), supporting candidates who aligned with Kevin Kelley and endorsed him in the mayor's race.)

At its meeting in Columbus, the OEC dismissed both Brancatelli and his PAC from the complaint, but found that the Council Leadership Fund had indeed violated the rules.

As punishment, the mighty Fund will be fined \$50.

Fifty dollars.

When Scene spoke to an OEC staffer by phone Thursday evening, we asked whether the \$50 fine was standard. It sure seemed low to us. In fact, it seemed almost meaningless, if the goal was supposed to be deterrence.

"It varies case by case," the staffer said.

Well gosh. This outcome certainly illustrates the futility of enforcing campaign finance laws in Ohio. Lest there's any confusion, incumbents violate campaign finance limits and other laws related to campaign spending every year. In the overwhelming majority of cases, no one notices or cares. In rare cases, the violations are flagrant enough to earn a few local headlines. [Basheer Jones probably violated](#) a dozen or more earlier this year, and nothing came of it. Big donors like Tony George contribute more than they're allowed to every election cycle and can always pretend, if they're confronted, that excess contributions were actually made by additional family members. Just edit the filing. Wife. Son. Whoever. Take your pick.

In even rarer cases, a challenger documents the flagrant violations and appeals to the state's regulatory body, an appointed non-partisan commission, hoping for some accountability.

Alas.

The OEC is perhaps the least fearsome adjudicating board on planet earth. Its function is to make explicit how seriously the state of Ohio takes campaign finance laws: i.e. not seriously at all. Fifty freaking dollars! That's literally cheaper than a single ticket to the Immersive Van Gogh exhibit during peak hours.

With slaps on the wrist this meek, Ohio officials can't afford not to be corrupt.

[Missouri lobbyist to repay \\$151K, serve probation for tax crime](#) (Missouri)

Lobbyist and political consultant David Barklage was ordered Thursday to pay \$151,843 in restitution as well as serve probation and 120 hours of community service for a federal tax crime.

Barklage could have received 12 to 18 months in prison under the recommended federal sentencing guidelines.

In his guilty plea in August to a felony charge of filing a false tax return, Barklage, 60, admitted depositing a total of \$442,633 into his personal bank account, rather than the account for either

of his businesses, and failing to declare it as income. He also admitted filing a tax return that he did not believe was accurate.

Defense lawyer Joseph Passanise said in a sentencing memo that U.S. District Judge Matthew Schelp should take into account "Barklage's background, good character (notwithstanding his conduct in the instant offense), and his otherwise law abiding and hard-working life."

Passanise also cited Barklage's strong family support, extensive employment history and lack of a criminal record. A prison term would likely mean that his company would close, costing the jobs of Barklage's two other employees. He will also pay the back taxes at Thursday's sentencing hearing, the memo says.

Passanise also filed a 50-page "sentencing brochure" containing Barklage's background, ten pages of family photos and 18 letters in support from current and former politicians, lobbyists, political consultants, business executives and friends.

St. Louis County Councilman Erine Trakas and Franklin County Presiding Commissioner Tim Brinker wrote letters on official letterhead praising Barklage, with Trakas arguing against prison time.

Others writing on behalf of Barklage included former state Rep. Scott Dieckhaus; Jeff Rainford, former chief of staff to longtime St. Louis Mayor Francis Slay; lobbyist Andy Blunt, the son of U.S. Sen. Roy Blunt; businessman John Brunner, who unsuccessfully ran for Missouri governor and U.S. senator; Jefferson County Executive Dennis Gannon; John Hancock, spokesman for Gov. Mike Parson's Uniting Missouri PAC; and John W. Maupin, chairman of the St. Louis County Port Authority.

Many letter writers cited their own legal or public service backgrounds or dropped the names of prominent Missourians they know or have worked with.

A government sentencing memo is sealed from public view.

In court documents, Passanise said the federal investigation was started by an embezzlement accusation that later proved baseless but uncovered the tax crime.

The embezzlement accusation is a reference to former Missouri Lt. Gov. Peter Kinder, who reported concerns about financial irregularities to federal investigators in 2015. A Post-Dispatch analysis at the time showed Barklage failed to report more than \$64,000 in payments from the Kinder campaign.

From 2012-2014, he was paid about \$209,000 from Kinder's political campaign. He received \$30,000 in lobbying fees that he didn't report in 2013. In 2012, he was paid \$122,580 from "an independent media producer," his plea says.

Barklage was half owner of Barklage and Knodell and the sole owner of The Barklage Co. at the time.

Barklage started his political career with two terms on the Cape Girardeau City Council, then worked on political campaigns as a consultant and campaign manager, his sentencing memo says.

He owned Target Media Consultants from 1987 to 1998 and formed The Barklage Company in 2009.

He has been a major player in Republican campaigns in Missouri and led campaign committees in the 1990s that helped engineer the Republican takeover of the Legislature for the first time in 50 years.

### **[Wisconsin Family Action sues to strike down campaign finance rule to shield names of its donors](#)** (Wisconsin)

A conservative group from Wisconsin is seeking to strike down campaign finance regulations that it says limit its free speech rights.

[Wisconsin Family Action](#) on Thursday filed [the lawsuit](#) saying it was reluctant to spend money in two congressional races because it feared the Federal Election Commission would try to force it to disclose the names of its donors.

It is asking U.S. District Judge William Griesbach in Green Bay to declare some of the commission's regulations unconstitutional. Such a ruling would allow the group to spend money without having to name its donors.

The lawsuit alleges the commission is trying to require groups like Wisconsin Family Action to disclose the names of donors who give more than \$200 even if the money isn't intended for political efforts.

Wisconsin Family Action has been planning to spend money in the races for Republican U.S. Reps. Glenn Grothman and Tom Tiffany but has held back because of how the commission is interpreting campaign finance laws.

"Like virtually all groups that advocate positions on controversial social issues, and their supporters, WFA and its supporters prize their First Amendment freedom of private association," Wisconsin Family Action attorney Donald A. Daugherty Jr. wrote.

"Their freedom to associate with each other in fulfilling their social, political and ideological goals would be significantly damaged if they could not maintain the privacy of their relationships, as WFA's supporters would risk all manner of retribution from some who reject WFA's mission."

The latest lawsuit comes in response to court rulings that toughened campaign finance regulations to resolve a lawsuit brought by the watchdog group Citizens for Responsibility and Ethics in Washington.

Stuart McPhail, CREW's senior litigation counsel, argued the new lawsuit misconstrues the state of the regulations. Disclosure is required only for efforts that specifically urge people to vote for a candidate, he said.

"Americans have a right to know who's trying to spend to influence elections, who might be buying favors," McPhail said.

"The group here pretends that what it's asking for doesn't hurt anybody, but it really does. What the group here is asking for is to censor Americans' access to information, vital information, that's needed for democracy."

McPhail said CREW may seek to become involved in the Wisconsin case.

Daugherty, the attorney for Wisconsin Family Action, is a senior attorney with the [Institute for Free Speech](#) of Washington, D.C. The institute was founded by Bradley Smith, a former federal election commissioner who has long fought campaign finance regulations.

Daugherty is being assisted in the case by Brookfield attorney Michael Dean.

Separately, Dean is [seeking to keep in place subpoenas issued to Wisconsin officials](#) as part of a Republican review of the 2020 election. Democratic Attorney General Josh Kaul has [sought to block](#) those subpoenas.

## **Good government groups are pushing campaign finance limits in Oregon. They might have competition.** (Oregon)

After months of negotiations over what a system of campaign finance limits might look like for Oregon, a collection of left-leaning groups came to an impasse last week.

Now some participants in those negotiations are going it alone.

A coalition of good governance groups filed [three potential ballot measures](#) with the state on Monday that would shake up Oregon's permissive system of funding campaigns. The group says it will decide on one to put forward to voters in 2022, once polling shows which is most popular.

While complex and differing in their specifics, each of the proposals would create new limits on what individuals, advocacy groups, labor organizations, corporations and political parties can contribute to candidates and causes.

The proposals also include requirements that political advertisements prominently display top donors, and that so-called "dark money" groups disclose their funding sources if they engage in campaigning.

One of the proposals would implement a system of public campaign financing, allowing candidates to accept small donations from individual donors and have that money multiplied by matching public funds. With public funding of up to \$8 million a cycle for gubernatorial candidates — and far lower amounts for other offices — the system is designed to allow candidates to run competitive campaigns without focusing solely on big donors.

"I think they're all transformative for Oregon," said Jason Kafoury, a longtime advocate of campaign finance limits with the group Honest Elections Oregon, and a chief petitioner in the efforts.

"These measures can help to restore voters' confidence in healthy democracy," said Rebecca Gladstone, president of the League of Women Voters of Oregon. "Voters must know that our elections are fair and free of undue influence by powerful dark money at the expense of voters. We can accomplish this and restore trust in our political system."

If passed, any of the measures would ensure Oregon no longer sits among a handful of states with no limits on how much donors can give to candidates and ballot initiatives. Without those

limits, the cost of Oregon campaigns has increased each cycle, with the 2022 governor's race [seemingly on target](#) to be the most expensive in state history.

But the proposals put forward Monday lack something their backers had worked toward: buy-in from Oregon's public employee unions and left-leaning advocacy groups that play a powerful role in state politics.

In talks that played out over six months, those groups agreed to some aspects of the system Honest Elections Oregon and its allies are proposing, participants have said. But unions and advocacy groups bristled at enforcement mechanisms they felt could be overly strict, and disclosure requirements the leaders of some small nonprofit groups said could make it hard for them to raise money.

"We couldn't quite get there," Joe Baessler, political coordinator for the Association of Federal, State, County and Municipal Employees Council 75, said Monday.

Groups such as Planned Parenthood, the Communities of Color Coalition, the Oregon League of Conservation Voters and the state's farmworker union, Pineros y Campesinos Unidos del Noroeste, were among those that did not ultimately sign off on a proposal.

"There were a lot of conversations, and they were productive," said Doug Moore, executive director of the Oregon League of Conservation Voters. "In the end, there just wasn't agreement."

Kafoury said Monday the differences came partly down to a disagreement over how much the status quo of Oregon elections should change.

"Good government democracy groups were looking at: How do we get big money to have much less of a dominating force in Oregon politics?" he said. "Labor and the [nonprofit] groups were looking at it through: How do we do that, but then also be able to maintain how we participate politically?"

The lack of consensus creates a potential nightmare scenario for groups such as Honest Elections Oregon. If labor unions and their allies actively oppose a campaign finance measure or file their own, the battle could doom hopes of implementing new rules before the 2024 election.

But people on both sides of the split said Monday it was too soon to tell whether anything so dramatic would come to pass.

“I would not be surprised if some of our coalition partners want to file their own measures,” Baessler, the AFSCME political coordinator, said Tuesday. “If that has everything we want, we would support that measure.”

Kafoury said the decision to move forward without consensus was partly a function of timing. His campaign plans to collect 1,000 valid signatures for each of its three proposals -- enough to trigger the state to draft language that would appear on the ballot.

But legal wrangling over ballot language can draw out for months. Kafoury said advocates needed to file measures now in order to leave themselves enough time to collect signatures. To qualify for the November 2022 election, the campaign must submit 112,020 valid signatures by July 8.

“We had to file now or we weren’t going to have a shot at making the ballot,” he said.

Oregon voters have shown recent enthusiasm for limiting the influence of money in politics. Last year, a measure that amended the state constitution to formally allow for such limits [passed with more than 78% of the vote](#).

And more than a decade earlier, in 2006, voters [approved a measure](#) that included strict limits on campaign giving. The law didn’t ultimately take effect, however, because of an earlier Oregon Supreme Court ruling that had deemed such limits an unconstitutional violation of free speech protections.

The subject of campaign financing is a perennial live wire in Salem, where lawmakers who have succeeded under the current no-holds-barred system struggle to find consensus on how to change the status quo.

Lawmakers were unable to find the political will to pass regulations of their own this year, despite the overwhelming support of voters. Proposals to implement campaign contribution limits and to create a new system of public financing for campaigns [failed to garner enough interest](#).

Given the tension on this subject, the plans put forward Monday are certain to have critics.

Each of the three proposed measures implements [a similar set of limits](#) on how much different entities can donate to campaigns and causes. For instance, all measures would limit an individual to give \$4,000 per election cycle to a candidate for statewide office, and \$2,000 per

cycle to legislative candidates. Political action committees associated with specific candidates would be subject to the same limits.

But some entities could give far more. Committees associated with political parties could give up to \$100,000 per cycle to candidates for statewide office, and \$20,000 to legislative candidates.

The proposals also have higher limits for small-donor committees likely to be favored by labor unions, and membership organizations that include advocacy and business groups that engage in campaigning.

Caucus committees, the partisan PACs in each chamber of the Legislature that raise and spend large sums in support of legislative candidates, would be limited to contributing \$10,000 per election cycle on any race.

The initiatives also include new requirements -- similar to laws that Honest Elections Oregon convinced voters to pass in Portland and Multnomah County -- that require political ads to reveal the groups that paid for them, and the top funders for each of those groups. And they require so-called dark-money campaigns that spend above certain thresholds to independently support or oppose a campaign -- without that campaign's involvement -- to disclose donors.

Violations of the limits would be punishable by civil fines in at least the amount of the illegal campaign contribution or expenditure. If passed, the new contribution limits would take effect on Jan. 1, 2023, while requirements for disclosing donors would begin in June 2023.

Kafoury said Monday he expects the proposals to be popular with the public -- particularly in an election year in which they're likely to see eye-popping political spending as candidates jockey to replace Gov. Kate Brown. Former New York Times columnist Nick Kristof and state Sen. Betsy Johnson, in particular, have been raising money at a furious pace, with big checks flowing in from industry groups and well-placed supporters.

"If there was ever a moment in Oregon politics showing how necessary this is, just look at the last few months of the gubernatorial race," Kafoury said. "It's going to be the perfect cycle, we think, to bring campaign finance reform before the voters because of the grotesque amount of money that's going to be spent."

But there are likely to be hurdles, too. Covid has made signature-gathering efforts far more difficult than before the pandemic. Kafoury said his campaign could end up asking a court to alter the threshold for collecting signatures, if the campaign runs into trouble.

Or, they might ask lawmakers for help.

“It’s possible that if we reached an agreement, the legislature could refer something directly” to the ballot, he said. “There are many different scenarios, moving forward.”

### [Aguiar refunds another \\$4,500 in excess campaign contributions](#) (New York)

Riverhead Supervisor Yvette Aguiar has refunded another \$4,500 in excess campaign contributions according to an amended disclosure report filed Monday. This comes after the campaign [refunded \\$15,000](#) on Oct. 28 from contributors who gave over the legal limit.

During her run for town supervisor this fall, Aguiar, who raised more than \$117,000 according to her disclosure reports, accepted more than \$21,000 in campaign contributions that exceeded the legal limit for her campaign, as [reported by RiverheadLOCAL on Oct. 28](#). At that time, more than a dozen contributors had given her campaign committee, Taxpayers For Aguiar, more than the \$1,185 limit any single contributor was allowed to donate. The limit is set by a formula in New York State Election Law.

An amended disclosure report filed Monday afternoon shows additional refunds to six donors who gave over the election limit during the campaign cycle, which ran from the day after Election Day in 2019 to Election Day 2021. The amended disclosure report states the refunds were made by check on Nov. 25. The campaign had previously made partial refunds to some of those donors, but their total contributions still remained over Aguiar’s legal limit.

The amended 27-day Post-General (election) disclosure report, filed Monday, shows refunds to Apple Honda, City Cider House (Riverhead Cider House), Parkland Golf Inc., Thomas Witkop Sr., Stark Homes Inc and the International Union of Operating Engineers to bring their total contributions during the campaign cycle within the \$1,185 limit.

The campaign still holds \$2,745 over the election limit from three contributors: \$1,130 from Baiting Hollow Farm Vineyards, \$1,000 from Long Island Builders PAC, and \$615 from East End Commercial Real Estate/Landvalue.

When the original 27-day post-general disclosure report was filed on Nov. 29 — the deadline for that report — Aguiar’s campaign committee still retained more than \$6,000 in excess contributions from nine donors — even after the \$15,000 in refunds reported in that disclosure.

Monday’s amended report also shows refunds of \$191 to Devitt Spellman Barret LLP and \$241 to Keith Archer of Harris, Bloom and Archer LLP. 6

The campaign also refunded \$691 to Vineyard 71, which contributed \$1,800 during the 2019 campaign cycle, when Aguiar made her first run for supervisor.

Aguiar was required by law to refund excess contributions before Election Day to avoid potential fines and penalties. A candidate and a campaign committee treasurer face a civil penalty equal to the excess contribution amount plus a fine of \$10,000 for violating the election limit established by statute, according to New York State Election Law. They would also be required to refund the excess amount of contributions.

It is unclear whether Aguiar's failure to refund excess contributions before Election Day will be penalized. The State Board of Elections enforcement counsel, which is responsible for enforcing campaign finance laws, declined to say in an email whether Aguiar's campaign committee was under any investigation or audit.

In a Nov. 30 interview about the \$15,000 in refunds made Oct. 28, Aguiar's campaign treasurer Paul Carr said of the remaining excess contributions: "If anything has to be refunded, it will be refunded. If anything has to be done, it will be done. But I already did what I was mandated by the state."

"If you take a look, I've been refunding it all along," he added. "I just put it in yesterday... I'm still looking at some stuff. Okay? I review it. I always review it. If I find something that's a discrepancy I will amend the report."