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SPEAKERS

Piper, Josh, Thursday

J Josh 00:03
Friends and neighbors, you're listening to Portland from the left, my name is Josh and I use he him pronouns.

P Piper 00:08
My name is Piper and I use she her pronouns. And today we're talking to our friend Thursday about money in politics in Portland and the state.

T Thursday 00:16
My name is Thursday, I use she and they pronouns, I write about local politics over at PDX.vote. And I just follow everything that kind of crosses my interest,

J Josh 00:27
we're gonna be talking pretty broadly about campaign finance, how it affects Portland, the county, Multnomah County and various other places the state, but we probably won't dig into too much federal campaign policy stuff. And to start with, we thought it might be useful to talk a little bit about the different entities that move money around inside of politics. Yeah, so Thursday what's your favorite one? What's what's maybe what's the most dangerous one that you're worried about?

T Thursday 00:54
We have to talk about PACs to start with political action committees or political alliance committees, depending on who's doing the defining, there's both state level PACs and federal level PACs, most of the PACs that you will encounter in an Oregon election are kind of the

standard issue PAC, but there's also what's called a Super PAC. A super PAC has even less constraints on how they spend money. So a PAC can donate directly to a candidate's campaign, they have usually a couple of different candidates or different issues they'll be working on at any given time. And they bring in donations of their own, which they sort of just, you know, put into a pot and redistribute. A super PAC is usually a pile of money that it's a little hard to tell where it came from. But they don't give money directly to candidates. They spend money around an election around a race, but they're not supposed to coordinate with a individual candidates. So super PAC can do something like an ad bashing a particular candidate without ever talking to the person who's running against that candidate. So they can kind of do whatever they want in some regards.

J Josh 02:23

So with the PACs and super PACs, just to bring it to some examples from our but what I think is our favorite election, the 2020 Portland mayoral election, so specifically, I believe, it was united for Portland, which was the PAC that was kind of anti progressive that was trying to get Wheeler elected. And were they a Super PAC?

T Thursday 02:45

I believe, but I would have to double check that one. But I believe that they were just a standard issue PAC here in Oregon.

P Piper 02:55

So as a standard issue PAC allowed to coordinate with the campaign?

T Thursday 02:58

They are because they're allowed to do things like endorse a particular candidate, and they can have conversations about hey, we're giving you this check that sort of thing. So they are allowed to coordinate.

J Josh 03:10

So the the finances for that PAC, I know we're in Orestar, because I've been looking into them a little bit, just for some kind of historical reference and kind of trying to understand some of these things. One of the things I noticed was that they as a PAC, were also receiving donations from PACs. Specifically, the one I noticed that was a lot of money was the I'm gonna get the name wrong, but it's the Portland metro Realtors PAC, gave \$200,000 to them. And I'm mentioning that because it previously I think I've mentioned this before about this PAC and about the people that funded it, in my mind the Portland Business Alliance was the big culprit there, when actually, you know, they only donated \$50,000. So, so getting a handle on the entities. So in this case, a PAC that was specifically built up to reelect Ted Wheeler and avoid electing Ianarone in that moment, that's now kind of defunct, but the entities that funded it are

still around still much moving money around. Specifically the Portland metro realtors' PAC has been putting money into things like preschool, presumably pro realtor candidates. I didn't really dig into all the candidates, they were funding, but definitely like, you know, police funding and quote unquote, public safety things and stuff like that. So like PACs donate to each other. And so tracking the money becomes really difficult, right? Because you're then talking about a PAC that also gets donations. So where did their money come from? And then I also noticed that the local police unions with scare quotes around it because those aren't really unions and cops aren't workers, but those police unions also have PACs, and that's how they move money around, which isn't something I understood. Yeah, so So lots of PACs moving around and moving money around. Much of it feels like a way to obscure the sources of funding to me, but I realized that there's like, competing interests, right? I'm sure the Secretary of State kind of wants. Well, I assume the Secretary of State wants stuff to be more public, and that all of the politicians want things to be less public. But of course, the Secretary of State's a politician, right?

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Thursday 05:15

Oh, yeah, the incentives here are a little screwy.

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Piper 05:20

So I wanted to summarize for a minute where we are so got PACs, there's two kinds. There's issue PACs, which like the simple issue packs, which are tracked in Orestar, and can coordinate with candidates. And then there's Super PACs, which are not tracked in Orestar

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Thursday 05:38

So most super PACs are federal level. So they're tracked by the FEC, rather than because there's differences between what's tracked at the federal level and the state level. And, yeah, it's, it's a little complicated,

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Piper 05:54

but your summary of it was, it's a lot harder to see to track where the money goes in Super PACs,

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Thursday 05:59

right. At least for an Oregon registered PAC that is taking in donations and spending money on Oregon campaigns, they're supposed to be reporting everything through Orestar. Mostly they do. And there are, you know, some ways to report without like sharing too much information. So it's still pretty opaque even with that transaction information. And then following on what Josh mentioned, about PACs giving to other PACs, that's really common. There's also lots of

situations where somebody will give money to multiple PACs, or to say, a PAC and a local business boosting group. It's also a way to kind of move around constraints on what an individual can do, right their money in terms of an election as well,

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Piper 06:59

because that because there are donor limits

T

Thursday 07:01

right? In Oregon there, there are that many limits on what an individual can do with their money, or a PAC or anyone else involved in candidate in campaign finance. But there are city level laws, there are county level laws that will put some constraints on on somebody. So for instance, we've seen Phil Knight make some very impressively large donations to candidates. Just in this election. He's given I think, \$100,000 to Kevin Martin in the Washington County DA race, he's given think, nearly a quarter of a million dollars to Betsey Johnson in the governor's race. He's a little less worried about these campaign regulations, because he can afford to figure out how to do all these things. But at the same time, you don't see donations of that size from Phil Knight to a Multnomah County Commissioners race, or to a city of Portland commissioners race, because there are caps on individual spending in both localities.

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Piper 08:16

I guess that's our that's our next place where money comes from are individuals, very rich individuals. So what what are the caps at the city and county level in Portland?

T

Thursday 08:27

So on the city level, there's a cap of see, I believe, \$500 per individual in terms of what you can donate, and then across the full election an individual is only supposed to donate \$5,000. So in, you know, this primary race that we're looking at, there's two city commissioner races and a city auditor race. And, in theory, if there were more, you could spend up to \$5,000 on the race, but you're really only supposed to spend 500 on each race.

P

Piper 09:05

I didn't actually realize there was an election level cap. Yeah,

T

Thursday 09:09

um, but there are also effective caps. I don't I don't think that's the correct phrase for it, like, technically speaking, but it's how I think about it. So within Portland, we've got this small donors election program, right. And the first \$20 of an individual's donation to a candidate is matched. So for a lot of people that \$20 has become an effective limit, because that's that's

what gets matched the most and to participate in the small donor elections program candidates actually have to agree to an even lower cap for the donations that they're accepting. There's also a cap on how many donations you can get as an individual that you can get matched by the city program

P Piper 10:00

and that's on a per candidate level or is that on a election level

T Thursday 10:05

that is on an election level.

P Piper 10:07

And in this current Portland City race, are all the candidates participating in the public matching program?

T Thursday 10:15

All of the candidates whose names you know probably are beside the city auditor race. There's something like 20 candidates between the two Commissioner seats who are running and of those candidates Jo Ann Hardesty is doing matching donations. Vadim Mozyrsky is, Rene Gonzalez is, Dan Ryan is, AJ McQueary is. I think that might be it right?

P Piper 10:46

You're right, those were all the candidates I know.

T Thursday 10:50

But the interesting thing about the way that the matching program works is that to even start the process of qualifying, a candidate has to submit paperwork at the by the very beginning of January. And the registration deadline for candidates isn't until March. So for candidates who get in the race later, it's substantially less likely that they will qualify for that program.

P Piper 11:20

So individuals have these caps on how much they can give to candidates, are there caps for how much a PAC can donate to a candidate?



T Thursday 11:31

In other states, yes, in Oregon, not really, there are some limits on what a Super PAC can do in Oregon.

P Piper 11:42

Interesting.

T Thursday 11:43

But that's that's about it. And it's a very high limit. It's it's not a limit worth worrying about. But every every locality is kind of different. With one exception, Metro basically plays by Multnomah County's rules. So they share a set of rules, sort of. Everybody else makes up their own rules.

J Josh 12:11

I think the thing I was thinking about for City of Portland elections is that if you're participating in the small donor stuff, that's when businesses can't donate to you.

T Thursday 12:21

Yeah,

P Piper 12:21

they can't at all?

J Josh 12:22

Remembering something specifically, I was tracking. Yeah, because you're kind of signing up to be well, small donors. Right.

T Thursday 12:29

So the the small donors program like, candidates agree to a whole list of restrictions that are not on their opponents. And this is this is one of the things that going back to the mayoral race in 2020. That was kind of a big problem was that, you know, one candidate was playing by a set of rules that had nothing to do with the rules that anybody else was playing by. And like, one thing that I think is also worth noting is, if you are running on those small donation programs, if you're running on those matched funds, the city will only match to a certain point. So in a primary for city commissioner or city auditor, candidate can only get \$200,000 from

matching funds. If they're in the general election, they can then get another \$240,000 in matching funds. But the limits for mayoral candidates are \$300,000 for primaries and \$450,000 for general elections. So if say somebody has \$500,000 in the bank, for some reason that we won't, we don't know why people have money, right?

P Piper 14:02

Just say, you know, just like it could be like a family business.

T Thursday 14:06

It could be a family business, it could be an inheritance, it could be some sort of windfall. But you have \$500,000 that you can spend on a campaign. There's no incentive to participate in the small donor elections. So yeah, it is perfectly legal for a candidate to say hey, I'm not going to do the small donor elections. I'm going to go do my own thing because I don't need the city's help with fundraising.

P Piper 14:39

There are still rules on official campaigns, though there are some spending rules right like what what on the Portland level are some some rules that a campaign not doing the small donor has to abide by

T Thursday 14:50

a candidate still is required to report all their transactions. And even though it's a local election, Orestar is the sort of reporting body for all elections in the city in the I'm sorry, in the state. There are some limitations on what you can spend money for. It's supposed to be expenses related to your campaign. But depending on what you're running for, and how you're running and all those other details, there's a lot of different things that you can argue are campaign expenses, some of the research that's best available is actually on state level races, just because there's less, I guess, incentive to do this sort of analysis on local races. But there are plenty of examples of state representatives and state senators using their campaign funds for things like living expenses, including after they've gotten elected. There's, you know, all the standard expenses of the campaign like marketing materials and advertising and things like that. But also paying fines for campaign violations is considered a campaign expense, hiring a lawyer to sue the Secretary of State to put you on a ballot, even though you haven't lived in a state long enough to be on that ballot. That is a legitimate campaign expense.

P Piper 16:34

Interesting. There's oftentimes like a pool of money after a campaign. And one thing I was surprised by is it seemed that they just can like convert themselves to PACs. Can you tell me anything about that? Like, oh, yeah, how come that money can just stay there when a campaign is over

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Thursday 16:50

So when a campaign is over. Say, say, going off of that same train of thought you you've sued the state and the state Supreme Court was like, No, dude, you're still not on the ballot. And you've raised a couple of million dollars from people outside the state. What do you do with all that money you have leftover? Well, after you pay all your lawyer bills, and any other outstanding expenses, you can do a bunch of things with it, you can just let that money sit in that account forever. If that's what you're feeling. There's no requirement that you return money to donors, there's no requirement that you shut down a campaign account. When the campaign is done anything like that. You can also do a couple of other things, you can donate it to other candidates. Going back to that example of Kevin Barton running for reelection in the Washington County DAs race. So he's gotten money from Phil Knight for this, this go round. He's also gotten donations from Newt Bueller's government or govener campaign account. So 2018. One of the big donors that kind of ensured that Mueller had money leftover, interestingly enough, it's also Phil Knight. It all is connected in some way or another. That is kind of effectively rolling your campaign funds over to a PAC. You can also hand that money over to an existing organization usually like a state parties funds or something like that. There are some situations in which that money can be withdrawn and given to essentially a nonprofit that doesn't come up very often for some reason. But like, the most common thing that we see is a candidate with leftover funds, using that money for other candidates to help them get elected, which again, makes it a little bit harder to follow money because you have a candidate in this year's race who's receiving funds from the candidate who didn't win two years ago, four years ago, eight years ago. And then you go back and you have to like try to figure out who the donors were from that campaign and what money was probably leftover. So yeah, it is very opaque

J

Josh 19:33

just to go over this a little bit. So we're talking about the money sources and how money comes in. We talked a little bit about Super PACs, which at the federal level, big massive things, not necessarily something we'll get into a lot here. We've got PACs, which are the political action committees or political alliance committees. And that's things like the United for Portland, I think it was called or something like that. The anti progressive PAC from 2020's Portland mayoral election, then we got public funds. So things like the small donor election program where donations are matched. Yeah. And then of course, individuals, which in the city and county level for us are pretty, relatively well limited, but in Oregon and state at large, are not basically unlimited and don't really have any caps at all right, right. Yeah. And I read that all off Thursday's notes just to, to let everybody know that it wasn't like all in my head,

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Thursday 20:32

just to make sure that I'm covering everything. Businesses can donate. But a lot of businesses, especially larger ones, will set up a PAC to handle their donations. But there's not a requirement they do so. Similarly, unions or nonprofits will also often have a PAC. So a lot of unions will have the PAC handle their donations to candidate. Planned Parenthood, for example, has PACs that handled their donations to candidates as well

J Josh 21:04
got it. So they don't have to. But that's the thing a lot of them do, probably for tax implications and stuff like

T Thursday 21:10
and reporting.

P Piper 21:11
So it also seems like sometimes there are other entities that are not PACs that are not campaigns that are not individuals in play. We were talking before we started recording about some nonprofit entities that can come into play in politics.

T Thursday 21:26
Sure. I am gonna say that there, there are some differences between what's supposed to happen and what actually happens when we talk about this part of campaign finance. So what's supposed to happen is, most nonprofits are not supposed to do a lot of political work. It's not supposed to be their core work. So a 501C3 usually has a specific mission that they're supposed to be working on so does a 501C4. A church, for example, is a nonprofit organization that's not supposed to be involved in politics. There are some ways around this legally speaking. So legally speaking, the organization that's like a 501C3, or a 501C4, can talk about issues, not candidates, just issues, they can also report on things that have already happened, like saying such and such happened in the last election. But they're not supposed to endorse candidates directly. They're not supposed to be working for politics as their main thing. So exactly what their main thing is, depends on what kind of nonprofit they are. A 501C4 for example, is usually what's called a social welfare organization. So while they can, you know, occasionally touch on politics, they're more likely to be doing something like legal aid or unionization efforts or something like that. Unions are sometimes 501C4s. Now, here in Portland, we have an example of a 501C4 that is strangely involved in politics, to the point where it's, you know, probably a violation, and that that's, of course, People from Portland. So, there is already one violation, as it's been reported to the Secretary of State. They've People Portland has done some advertising, where they had named specific candidates, such as Lynn Peterson, who is running for re election for Metro Council, and clearly has targeted certain candidates for defeat. So that that is against the rules. And, interestingly enough, a lobbyist Michael cell, I may be mispronouncing his name, but I believe it's Michael selvaggio reported them to the Secretary of State for Oregon to talk to them about whether in fact they are violating the law. The thing that makes this a little bit more complicated is that People for Portland has followed certain reporting laws just not around campaign reporting. They are reporting their lobbying activity. So we don't know the last quarters worth of lobbying activity yet but we know that in 2021 The organization spent about \$1.2 million on lobbying in the City of Portland,

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Piper 21:28

the Portland Business Alliance got in trouble for not reporting lobbying, for instance, and I think the fine was \$420

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Thursday 24:57

\$450. And that

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Piper 25:00

\$450 was the largest find that the city Auditor's Office has issued since 2016. So like, I'm just like trying to scale things a little bit. So first, they're not supposed to be talking about candidates, really. But it seems like the thing they only get in trouble for is like whether or not they report on it.

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Thursday 25:37

Got it.

P

Piper 25:37

So if they report on it, even if they're not really supposed to be doing it, because it's like, they're not primarily doing it as more of a thing. So as long as they report on it, they're mostly okay. But if they don't report on it, they could be spending \$1.2 million and get a \$450 fine.

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Thursday 25:52

Correct.

P

Piper 25:53

doesn't really seem like a big stick.

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Thursday 25:55

Oh, oh, no, no, it isn't. And, in fact, well, that's the level that we see for lobbying. It's also about the level of fines we often see for campaign finance issues. So the most common campaign finance violation state of Oregon is not reporting transactions on time. And the fine for not reporting transactions on time is limited to at most 10% of the donation that wasn't reported

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Piner 26:31

Piper 26:31

Seems like you could just work that into your math

T

Thursday 26:33

It can easily be a budgeted item at that point. It's also interesting, like gets hit with these penalties as well. Most of the penalties are against candidates or elected officials. So the only other lobbying violation in the City of Portland after 2016 besides Portland Business Alliance, was that when she was commissioner Chloe Eudaly reported some stuff 14 days late. And for that she was fined I believe 140 bucks for the for one infraction and then another 50 for a secondary infraction. So Chloe, Eudaly with her relatively small budget got a penalty on the same order of magnitude as Portland Business Alliance, which I find interesting.

P

Piper 27:36

And People for Portland so far, none. No fines yet.

J

Josh 27:40

So talking about the fines and the kind of I don't know, holding people to any of these rules or laws. At least in the City of Portland. I believe that's up to a combination of the auditor and the city attorney. Is that accurate?

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Thursday 27:58

Yes but let's dig a little deeper because as usual, that is sadly more what's supposed to happen than what actually happens. So um the city auditor is responsible for enforcing those caps and any reporting requirements, things like that. The city auditor gets their budget from the city council. So the mayor and the city commissioners decide how much money the city auditor gets in order to pursue any violations, any complaints, anything like that. The city council also decides when the city auditor can use the city attorney on any of these issues. So going back to that mayoral election we've been talking about, the city council decided whether or not the auditor's office could use a city attorney to pursue a complaint against the Wheeler campaign. Now Ted Wheeler did recuse himself from that decision, you know, way to meet the absolute bare minimum of ethics there my dude. But with a City Commission as small as ours, and with you know, a public vote, it's not surprising that the city auditor's request was denied. So then the city auditor basically has to look at office budget and say, Can I afford an outside lawyer to pursue this complaint? The city auditor can go back to the city council and say, Hey, can I have extra money to hire this lawyer? But if they've already said no to the city attorney, they will also often say no to an additional expenditure. Um, I'd also add that the city council can assign responsibilities to the auditor's office without the auditor agreeing to it. So when they make that budget, they can say, Oh, this budget has to cover all these things that we've decided that you're responsible for. And this, this is showed up in a lot of other political issues around Portland. So as an example, the city auditor just very recently said, Hey, this Police Accountability Commission that you're doing, that's a new thing. I don't want it in the office,

you haven't given me budget for it, I really want you to take it back. And that was assigned to the office without the auditors permission. And the auditor is basically just saying, Yeah, sure, you can assign it, but we're not going to do that work.

P Piper 31:08

Interesting.

T Thursday 31:10

So, so yeah, so while the auditor is theoretically, this completely independent office, that independence,

P Piper 31:21

if you were like a really nefarious person, so I'm not saying anyone is, but if you were on city council, you could be like, I'm running for reelection, I'm actually going to just cut the auditor's budget ahead of time. Just, I'm just gonna, I'm just gonna get rid of a whole thing, or, you know, effectively get rid of enough that they can't investigate me in my next upcoming election.

T Thursday 31:45

Absolutely.

P Piper 31:47

And you need the consent of two other people, really, because for a vote on the budget, you just need three people. So you just need you just need two people being like, Yep, you're good to go.

T Thursday 31:56

Yep. And I don't want to say that No, responsibility or accountability should be given to the city auditor in this whole mess as well, because the auditor does kind of get to decide which rules they're going to enforce on top of everything else that's going on. So during the 2020 election, we were essentially waiting on a, an Oregon Supreme Court decision on how constitutional are these contribution caps? And Mary hold Caballero, our current city auditor was like, well, there's no decision, I'm just going to not enforce any of this because I can do that. I don't really need anybody to tell me one way or the other. Similarly, the Secretary of State gets to make a lot of decisions about which rules they do and don't apply. So this is probably a good time to talk about ballot measures for campaign reform because the three ballot measures that transparency advocates put forward

P Piper 33:26
is a state this is state level,

T Thursday 33:28
this is state level. Yeah. But the the three that they put forward, the Secretary of State's office has decided don't meet requirements and won't be on the ballot this year. This is one of those things that is a little bit complicated and you start pulling on threads,

P Piper 33:45
because the Secretary of State also is an elected office.

T Thursday 33:50
Oh, there are far more threads than just that. All right. So

P Piper 33:56
let's let's do the full thread, Let's do the full red red string on this one.

T Thursday 33:59
Okay. Okay. So just to give a little bit more contextual information. At the beginning of I believe December, Honest Elections, Oregon, filed three ballot measures,

P Piper 34:14
Honest Elections, Oregon is it's a PAC?

T Thursday 34:17
No, this is. This is a local group that is headed up by Jason Kaufory. And has been working on campaign reform in Oregon for years and years and years.

P Piper 34:30
And what type of an organization are they? They're nonprofit?



T Thursday 34:33

Okay. Yes, when I say Kafoury, I do mean a cousin of the Multnomah County Commissioner, just because Portland it turns out, is tiny. These three ballot measures were developed by honest elections Oregon, in conversations with all these different stakeholders, unions, League of Women Voters, a bunch of good governance groups, a bunch of people came together and said, This is generally what we're thinking. Now, a lot of those groups didn't sign on for these being the final version. And that's an important note. So like several of the unions were like, yes, but this would also limit our ability to give money. So we're gonna actually write our own ballot measures and propose that. So there's three other ballot measures on campaign finance reform, besides the three that I'm talking about here, just to keep things interesting. Now, in February Shamia, Fagan, the Secretary of State was like, Oh, these three ballot measures from Honest Elections Oregon, don't contain the full text of the Oregon law that they'll change, therefore, on that, technicality, I am disqualifying them from the ballot. Now, on paper, that means that they can go and get more signatures, requalify, everything like that, in reality, that late in the game, it's already probably going to be impossible for them to get on the ballot for 2022 if their a if their initial proposal was deemed incorrect for any reason

P Piper 36:18

So when something like that happens, do they have to start completely over with the signature gathering?

T Thursday 36:23

Yeah,

P Piper 36:23

it's like a brand new process,

T Thursday 36:25

right? So they do have the ability to take it to, you know, a higher power being the the Oregon Supreme Court and be like, Hey, we think that Shemia Fagan is interpreting law incorrectly. What do you guys think? So they did, and the Oregon Supreme Court was like, Well, as far as we can tell, the Secretary of State is acting within her power. So two weeks ago, maybe that's when the Supreme Court came back with that decision. We need to talk about two things here. First, is this a technicality that has kept anything else off the ballot? And second, how did she mean Fagan become aware of this technicality issue? There have been many ballot measures that did not meet this technical requirement. The 2019 ballot measure for legalizing the use of mushrooms in clinical settings did not meet this requirement. It was on the ballot, it passed. No problems. There's been several others though. I haven't found any examples from this election cycle yet. Now. How did Shinya Fagan find out about this issue? Well, according to her office, you know, it's part of the standard review. They noticed it, they informed the Honest Elections, folks, and you know, off the ballot. Thing is Shemia Fagan got a letter in February from Michael Selvaggio, who I mentioned earlier, about putting in the complaint against people for Portland.

Interesting, Selvaggio's day job is that he's a lobbyist. He's a lobbyist for United Food workers for the Oregon coalition of police and sheriffs, Audubon Society of Portland, a couple of other places United Food and Commercial Workers is one of the largest unions in Oregon. They're very active in politics, they give a lot of money to candidates, including as it turns out, Shemia Fagan for her secretary of state race in 2020, they gave her \$50,000. So when you start pulling these threads, you're like, Oh, everybody knows everybody. Everybody's talking to everybody. And everybody's kind of working from the same playbook. So whether or not the Secretary of State caught this technicality on a review of everybody's paperwork, it still looks a little it's kind of complicated. Complicated is a fair word to use. Doesn't make any assumptions about who knows who knew what when

P Piper 39:18

it certainly shows the potential for corruption, whether or not it occurred, right.

J Josh 39:23

I'm interested if you have any thoughts on why he might have reported that and what that might be about because I would assume that at least People for Portland cops union would be pretty well aligned but maybe I'm missing some nuance there some reason why somebody or their clients might want people for Portland to face some opposition or whatever.

T Thursday 39:44

I obviously don't know what goes on in in his business or in his head. Of course, the things that I find noteworthy here though, is that the concern about People for Portland isn't the content of their message. It's whether they're playing by the rules that, you know, other lobbyists have to play by. And I do think that People for Portland is more likely to be forced to play by the rules, than to change their position on anything

J Josh 40:24

right, right. Okay.

T Thursday 40:26

I think that there's less concern about the impact of what they're doing than the way that they're doing it.

J Josh 40:33

Got it. So as a lobbyist, hypothetically right, we can't read their mind. But as a lobbyist, it makes sense that they would not want other lobbyists to be able to move a bunch of money that they can't right like, because then their work is less valuable, less significant, or whatever,

that that makes sense and definitely leads me further away from conspiracy theories, which

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Piper 40:54

I got caught in a side conspiracy theory, where now I'm very upset that the Audubon uses the same lobbying group is

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Thursday 41:02

that what it's at the Oregon coalition of police and sheriff's Yeah, so

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Piper 41:06

now I'm gonna write some emails. So

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Thursday 41:08

it's very easy with all of this to stray into conspiracy theory territory, sadly, a substantial amount of it is happening in the open. And a lot of the organizations involved don't have any need to hide information. So taking them at their word, while it feels a little weird, is probably okay. Because they're not concerned with people knowing that they're, you know, very pro police or anything like that. They're not concerned with people knowing that, like People for Portland is actively pursuing a ballot measure that criminalizes poverty. And that's not something they're hiding.

P

Piper 41:58

It is interesting, though, because, you know, you're talking about like, not hiding things like they're having to report things. But when I talk to just like my neighbors, and just my coworkers, people just out in the world, they actually have no idea about any of these things that have been reported. They only see like the front messaging. So it might be sort of like a, I don't need to hide, because nobody's looking kind of a situation. Like I think most people don't know, like, who that is, like, Who is it? And what are their incentives? And so they'll just see a message. Like, it's so inhumane that we're letting people sleep on the streets. And it's like, I agree with that. I mean, I personally agree with that, too. But they don't actually see where the money is coming from and what the actual ballot measure does, and aren't connecting the dots. So they don't even need, why would they need to hide? If they can just market? I guess it's my my argument.

T

Thursday 42:56

Exactly. I think you're you're spot on there. Like there's there's not news sources that are really great about highlighting those problems, like this is one of the reasons I do my site. I think this is one of the reasons y'all do this podcast. But there's the media coverage of things like

campaign finance reform is relatively minimal, like it's not considered something that's going to bring in advertisers, it's not considered something that's going to bring in new readers. So even at the best intentioned outlets, there's not as much coverage as there, frankly, needs to be.

P Piper 43:40

It is hard to cover. And I'm also thinking about the fact that all of these organizations are suing each other like back and forth, or taking each other to court or reporting each other to the regulatory agency. And it's like, there's kind of like a little bit of a risk and like, what if I accidentally get something wrong? Now I'm in this mess of like getting sued. And because that's where the all of it is. So there's, I feel like there would be a potential for there to be a hesitancy to even report on it because of just like the adversarial nature of what's already happening between all those different organizations.

T Thursday 44:16

Absolutely. And to add a whole nother level of excitement to any lawsuits. Of course, judges here in Oregon, are also elected, and also may have campaign finance committees

P Piper 44:33

and have a stake in the rules being a way that favors them in whatever way whether or not they act on that. Who knows, but they have a stake.

J Josh 44:41

The media outlets reporting on this, at least in Portland, a handful of them are also members of Portland Business Alliance. And while that doesn't necessarily mean they are directly impacting the PAC's, decisions or whatever, I don't know I don't know the internal mechanisms for making those decisions and stuff. Clearly there's there's incentive to paint those contributions or that activity in a positive light. Even in the best case scenario with, you know, great reporters and people really working hard, I think, you know, I'm sure that there are moments where things get edited or where pieces don't end up getting published, because of the nature of things, you know, because of those relationships.

T Thursday 45:24

And, and there are even more relationships than just that to like, the editor in chief of the Oregonian is Terese Bottomly. Leslie Bottomly, who is running for reelection, as a judge in Multnomah County is a sibling to the Bottomly at the Oregonian. So like, I don't know anything about either of their personal politics, but you have to kind of assume that if you're running a newspaper and your sibling as a judge that, like your opinion of things happening in the judicial system will at least a little bit be colored by, you know, what you hear at the Thanksgiving dinner table, I don't think that there's a way to avoid it. And that's not necessarily a conflict of

interest. But it is something that, you know, maybe we should be talking about, in as much as we're talking about the relationships between, you know, all of these other folks who are either candidates or working at PACs, or all these other factors

P Piper 46:31

I told Josh the other day, when I read The Oregonian, I think about Terese Bottomly, sitting in the Arlington club the next day after it's published. So I'm thinking about, like, what would that do to your headline, if you're gonna go have lunch there, the next day, it's just a frame I use to filter everything.

T Thursday 46:49

I also find it really interesting what articles The Oregonian chooses to put behind a paywall, versus which ones they release for free. So like, they're pretty good about making a lot of sports coverage available to everybody. They're less great about, like making their coverage of the state legislature session available to everybody. And like the argument is, what are people going to pay for? What can they use to upsell people to a subscription, that sort of thing. And, sure, that is a reasonable concern for a business, but

P Piper 47:28

I'm not gonna buy the argument that people will pay for legislator coverage and not sports. I'm just not.

T Thursday 47:35

I mean, I haven't had a chance to look at the Oregonian's books but..

J Josh 47:44

Just to mention, it will link to I have a little JavaScript code thing that can get you past the paywall for the Oregonian, and we'll link to that in some instructions on how to install that. Because we believe paywalls on news outlets are fundamentally evil. Like, it's actually class war to do that, so we're gonna fight that. Yeah, I'm hoping at some point they break it so I can make another one.

T Thursday 48:11

I will say, you know, the Oregonian aside, I do find value in paying money for my news. But like, I find value in paying like Reveal, which is a nonprofit, which is very transparent about how they use funds. I feel really good about subscribing to like High Country news, which covers

indigenous issues, which a lot of our local outlets never cover, even though it's very relevant to what's going on here. So I'm not, personally at least I'm not against supporting my favorite news outlets. I, I just want to be thoughtful about how I spend my money.

J Josh 48:55

Yeah, absolutely.

P Piper 48:56

You know, there are different models to like, I think about OPB has a member model, which doesn't limit access to coverage for anybody at that's, that's a way to do it, where you're still paying for news, but you're not actually holding news back from people who can't afford to pay for it.

J Josh 49:13

Right, exactly. I think funding sources are really important. So we're a great example, right, this podcast, it's very cheap to produce. And we can just kind of do it out of our own pockets. And that enables us to not worry about growth, not worry about who cares what we say or whatever, we can just deliver the information as transparently and as clearly as we can, and talk about the issues that we think are important without kind of outside factors weighing in on that and like, you know, other people can have different incentives. That's cool. I actually dearly wish that some of the best reporters in town would band together and start a Patreon they could probably make more money than they're making right now. And they almost certainly could write better stuff or you know, broad stuff, maybe. My anger at the Oregonian is because they're the primary news source of town with the most resources.

P Piper 50:06

I mean, we just literally did an episode about how bad we think the Oregonian is. So a lot of reasons to hate the Oregonian

J Josh 50:14

because we just talked about High Country news. I wanted to mention you have in this document Thursday that the I believe the tribal elections are like,

T Thursday 50:24

yeah, they're not under the Secretary of State's oversight.

J Josh 50:28

J Josn 50:28
There you go.

T Thursday 50:29

Yeah. So every, every tribe recognized by the federal government, which is not all of them, has the sovereignty to organize and handle their own elections, including in terms of donations, which is good. Like, don't get me wrong, my pause is not about the question of indigenous sovereignty. My pause is about the fact that some of these tribal elections have less resources to do sort of the checking on or requesting information about how money is being used. So there have been situations. One of them that's kind of been going on, there's a area in Nevada called the Winnemucca Indian colony, which is pretty close to the border, where the tribal council is doing things that members of the tribe don't agree with, because they were able to essentially be elected without a significant portion of the tribe agreeing to it. And like, I want to follow all the elections, right. So right now, Warm Springs, which is here in Oregon, the tribe that Confederated Tribes of Warm Springs are in the process of doing a tribal election, which Election Day is March 30. So probably after, probably before this episode comes out, but after recording,

P Piper 52:06

so we've been talking about all these issues with campaign finance, and we did talk about Shemia Fagan's office not permitting these ballot measures on the ballot this session, because they would need to get more signatures. Should we talk about maybe what those would do? Like what was the intent of those measures so that we can better understand like, what could be next? Or what are some of the fixes that people already trying to work on?

T Thursday 52:30

Yeah, we can definitely talk about fixes a little bit. So the three ballot measures that Honest Elections, Oregon, put together are all kind of the same. Just some of the details are slightly different. They all have donor caps, they all have stricter rules for PAC contributions. There's, you know, a bunch of different pretty standard responses that we see. So because Oregon doesn't have any rules, having those caps that aren't just at a city by city level would be obviously a big fix for all different kinds of contributors. And those caps are in for the most part are in the three ballot measures that are still in the running that various unions have put forth.

P Piper 53:33

Gotcha. So the alternate versions that weren't struck down by Shemia Fagan's office yet,

T Thursday 53:41

right.

P Piper 53:42
But could be.

T Thursday 53:43
So those measures do allow larger contributions from certain kinds of organizations than the versions Honest Elections put forth. Specifically, unions. So these three ballot measures that are still in the running. Two of them were put forth by United Food and Commercial Workers, which you know, is the union that Michael Selvaggio represents, and then one was put forth by AFS CME, which is the union for public employees. So, folks who work at City of Portland folks who work for the legislature, various government agencies, some school district employees all belong to that.

P Piper 54:33
Gotcha.

T Thursday 54:35
So yeah, so the big difference is around the constraints that these bills would, or these measures would put on unions for donating

P Piper 54:43
which is something I'm very interested in, because one of the kinds of unions that exists are police union

T Thursday 54:49
right.

P Piper 54:50
That's unfortunate.

T Thursday 54:51
It really is because I mean, I hate to be a you know, a one issue voter or anything like that. At, but I do feel that the police union in Portland has such an outsized impact on every single thing that happens here from elections to well how homelessness is handled how decriminalization of

anything is handled all of these different factors that I am kind of a one issue voter in terms of limiting the power of the Portland Police Association,

J Josh 55:30

one of the things I've been thinking about a lot is like disclosure requirements. Recently, somebody DM me and asked if I was press, and after thinking about it for a while I told them no, but it's a good question. I personally feel more like a propagandist or someone who is attempting to convince people of things. Yeah, so I'm really curious about the different disclosure requirements for these political consultants.

T Thursday 55:52

So I'm gonna, I'm going to break this down into a couple of pieces. And I'm going to say, first, by legal definitions, if you are not a journalist, and you're talking about things in a way that is intended to get politicians to change what they're doing, which arguably a podcast could be construed as such, you would legally be considered a lobbyist and therefore required to follow lobbyists rules. So from a legal perspective, I think it's very important that you define yourself as a journalist. But of course, I'm not a lawyer.

J Josh 56:34

I have somebody I can check in with. That's a good point.

P Piper 56:37

No, we're entertainers.

T Thursday 56:39

Sure, comedians are exempt from a lot of things. entertainers are to a certain extent. But let's let's focus more on the people who are acting as lobbyists as like a profession.

J Josh 56:52

Right.

T Thursday 56:52

So once again, different rules, different levels, we've got state level rules, we've got city level rules. For our purposes, city level rules are probably going to be the most important. And most of that is around reporting financial transactions. There's very little, it's not necessarily about, you know, who's involved. It's about what money is being spent, where. A lobbyist is required

to report the money that they're spending on lobbying. They're required to report certain kinds of interactions with elected officials, a lot of which involve, again, money. Elected officials are also required to report when they receive gifts of \$25 or more, meals fallen under that, that sort of thing. So there's, there are expectations, but it's all about reporting, and all of the violations are about reporting. So the things that a lobbyist can do wrong, are not file their reports, or give a gift that is of an incorrect amount. That's kind of it. And then, you know, they get their their fine of \$450 that they pay and they're on their merry way. So there aren't that many requirements about things like where's the money for that gift coming from? There's not a lot of requirements around, you know, who might have donated to a 501 C4, that happens to be engaged in lobbying, once again, partially because that's not what a 501 C4 is supposed to be doing with their funds and time. For the ballot measure that People for Portland is proposing. In their press release, they did say that they would establish a PAC to work on it. And that PAC would then be required to report on where funds are coming from into the PACs accounts. But if say, People for Portland, the 501 C4 makes a donation to people for Portland, the PAC they have to say, Oh, this money came from this nonprofit. They don't have to say where the nonprofit got their money from.

P

Piper 58:27

maximum Everything's really about whether they reported the money or gave gifts the right amount, but not as much about like campaigning. So I'm thinking about like, you know, when there's ads out for a candidate, it has to say something like paid for by bla bla bla bla bla. But if you're just a lobbyist, and you're just like creating content, and you're like, hey, vote for this person and donate to them, do you have to state your relationship?

T

Thursday 59:56

It's complicated by the fact that that's it not what the state considers to be lobbying work. So the state kind of considers lobbying and campaigning to be two completely unconnected things that should be tracked separately also, but should be managed separately. So, for instance, a report on lobbying from the city auditor's office doesn't correlate that information with a report on what those same organizations did campaign wise. As a, for instance, if the local organization, a local nonprofit, gives money to a candidate, that's disclosed, you know, through their campaign, reporting to Orestar. And then if that same organization lobbies that person after they've been elected, that's reported through the lobbying reporting system, say, at the city Auditor's Office, and then if there's a violation that's reported from the city auditor's office, but on a different page. I have some feelings, you know, when I'm doing my research, that maybe this is not an effective way to manage any of this information. But changing the system is going to take more than just passing a law as well. So like, we've got, you know, these ballot measures that we're considering there have also been some efforts in the state legislature to pass bills there that would do similar things. In the 2022, short session, there were two bills, actually, that suggested public finance options for Oregon candidates. All that, you know, would make campaigning more accessible, all that sort of good stuff that theoretically makes everything more transparent. From a purely mechanical perspective, updating Orestar to allow those sorts of things, updating the city reporting systems as well, is not a trivial undertaking. It took two years to build Orestar. The state legislature passed a bill saying that, you know, we're setting aside budget here are the what we expect the system to do everything like that, in

2005, it was 2007, before the system was actually up and running. And that's the system we're still using. Now, even though technology has changed pretty, pretty thoroughly in the last 17 odd years,

P

Piper 1:02:56

I think about the fact that just you know, it's sort of like how I was saying before, it's like, even if technically, the information is transparent and reported somewhere, which often it's not, and people violate it, but even if it was, if it's that inaccessible, there's a lot of just like hand waving and marketing going on. That's what most people are going to encounter, they're not actually going to be able to open up these three systems and look up the different versions of like, okay, they gave the money here, and they got it from here. And they did the campaigning here. And they did the violation here and like be able to put it all together.

T

Thursday 1:03:32

Exactly.

P

Piper 1:03:32

So it's it's effectively hidden through complexity, I guess that would be the way I think about it. Yeah,

T

Thursday 1:03:39

through complexity and through a lack of access to the right technology too. Like, you can't even have two tabs open in your browser that are both showing you Orestar reports, or star will just lose its little database way and freeze one of them and say this, this you cannot have. So if you're trying to compare two different sets of information, it's always better to just download it off of Orestar and work with it yourself. But you mentioned violations. And that's, you know, in theory, we have the system to make it easier to find violations. Well, given that most violations that we currently find are around people not reporting things all this system gives us basically is if somebody has reported something at a particular time, we don't have filing deadlines in Oregon. So the Secretary of State is judging violations on an absence of information. Now, there are you know, errors as violations as well like a transaction is recorded just not recorded properly. The Secretary of State has 10 days from the time they get that information to decide whether it's erroneous and to pursue a violation. Otherwise, you know, it's a complaint driven system. So a donor can complain, another candidate can complain, that sort of thing. And that can prompt an investigation. But the Secretary of State still kind of gets to decide which complaints to investigate. And then, you know, it goes over to the Attorney General to decide whether to prosecute some of these things, then it goes to the Supreme Court or whatever court has jurisdiction to actually, you know, go through the legal process of dealing with one of these violations. And at each step, we're talking about people who are elected using the same system. So incentives to change anything about this system are pretty small. And even when somebody gets into the system who might have other incentives, it's pretty tough to get elected, stay in office do that work. So one thing that came out of the state legislative session

that ended earlier in March is that there was a bill on raising legislator pay. So right now, a state senator or state representative, makes a little over \$30,000 a year in the state of Oregon, that's extremely low when compared to other states. So there was a bill that would have raised it essentially, to match like the poverty line in Oregon was the goal, maybe a stipend for childcare for if we want to be real nice to those state legislators. But it didn't pass, it didn't go anywhere. And three state legislators stood up at the end of the session and said, Hey, none of us are running for reelection, because we can't afford to be state legislators, they're all women, I think all three of them have families that they've needed to hire help to take care of while they're doing this legislative job. Most state legislators either have a full time job besides being state legislator, or they have some other sorts of funds to live on. Now, that other source of funds is either going to be inherited wealth, or their campaign money. So like the incentive to not change their pay, and to not change the system of campaign finance here are the same. So if somebody is getting more money from their campaign, essentially, from their fundraising, than they would, from, you know, their salary, why would they even care about the salary? And why would they want to limit the campaign funds? Exactly

J

Josh 1:08:08

this is this particular case is really interesting, especially in Oregon, where, you know, as we've been talking about, there's very little state level, or almost no state level, campaign finance rules, as far as limits and things and how big those buckets of money can get, you know, I know myself that I have been at very, very different income levels. And I know that like the way I think about things, the decisions I made, you know, all that kind of stuff really changes based on where you're at, and what resources you have. I think everybody's familiar with this with their personal budgets. So hearing about legislators' pay, I think sometimes for me is like, oh, fuck them, they don't need money, whatever. But the reality is, if we want people from various income backgrounds, if we want poor folks in office, etc, they need an income to pay their bills and pay rent and stuff. It's not, it's it is not acceptable to require work from somebody and not pay them. So yeah, I just wanted to reiterate that like, well, I don't necessarily love giving politicians more money, I recognize that paying people for work is good. And also that the very, very real limitations as we're seeing here, for for people, just, well, even middle class people to be able to do this work while having a family, while being younger. You know, we have a lot of very, very old politicians. Well, everywhere, right? So while it doesn't feel important to me, I know, like, logically it is important. So I'm accepting that and trying to turn that into an emotion.

P

Piper 1:09:48

I think a lot about how most people I know that work in the nonprofit space, who are oftentimes working on social justice issues. Well, maybe not most of them, but there's a large number of people in leadership roles in those spaces who actually didn't need a high income, like nonprofits often paid less than for profit field. And so the people that end up taking those jobs, oftentimes have a wealthy spouse or they have family money. And so you end up with people making decisions about social justice, who skew away from the community that they're supposedly serving. And that's a similar thing. If, for instance, I could either work a full time job or be in the legislature, I couldn't pay my mortgage on \$30,000 a year. So I wouldn't be in that position. But if I had like, say, I don't know, like a judge a husband or something like that, or family money, I could. So it shapes who can enter in any of these spaces where there's not just

like a living wage, sort of a level, it shapes, who takes it, and then therefore, who has power over those issues. So I think it happens in a lot of spaces, not just in, not just in politics. And when you think about like, like journalism is another example. And oftentimes starts out with unpaid internships. And so if you are someone that comes out of college without money, you cannot enter that field through that path. So it's a closed door, because it doesn't pay. Some people don't need to be paid, because they don't need money, because they have it already.

J Josh 1:11:19

And I think it's been a conversation has been kind of in the air a lot last couple of years, about the negative impact of that, like you'd like you spoke on. So I think it's you're totally right, that it's very broad thing. And something that we should all be paying attention to

P Piper 1:11:32

We don't want only people with that already have power to be making decisions for us. Yeah,

T Thursday 1:11:39

just one thing I wanted to note, you mentioned like a judge as a potentially like high income spouse that would enable. In the state of Oregon, we also recently tried to increase judicial pay, and haven't, and keep losing judges back to private practice, because... and this is not to say that, you know, somebody who is a judge is automatically going to be a great arbiter of all sorts of social justice issues. But if this is the system, we have all agreed to, we need to staff it.

P Piper 1:12:18

Yeah. Well and we certainly don't only want independently wealthy people in those roles, that would be bad.

J Josh 1:12:26

Right? Yeah. Well, and also lawyers I follow on Twitter have been talking about

P Piper 1:12:31

public defenders.

J Josh 1:12:32

Yeah, the lack of public defenders that there's not enough funding and way, way too many cases and that kind of thing. So yeah, getting money to the right places, especially in talking about all this kind of campaign finance stuff where there's like hundreds of 1000s of dollars

floating around. You know, even with single donation sometimes. Or more than that, right. We talked about millions, and then, you know, the state can't the state, county, etcetera, can't fund the systems that are in place to, you know, ostensibly protect people, right, we have criticisms of the justice system, but it is a system in place. And as Thursday mentioned that we should staff it or tear it down,

P Piper 1:13:11

we should at least not only staff, the state's side. At minimum, we should at least also do the defense side.

T Thursday 1:13:22

We're not staffing either side at this point. Yeah. Mike Schmidt has an editorial in today's Oregonian. But you know, 20 years ago, I think there was, you know, 100 plus people working in the prosecutor's office, and now they're down under 70 and can't recruit anybody. Wow. I'm not a big fan of any district attorney's office.

P Piper 1:13:48

I'm yeah, I'm kind of thinking. Are we defunding the prosecutors maybe that's good.

T Thursday 1:13:54

But effectively, yes, we're defunding prosecutors and public defenders and all these other, you know, support systems? Well,

P Piper 1:14:04

I don't know that I would call a prosecutor a support system, just just from my own perspective.

T Thursday 1:14:11

I'm sorry, yeah I was more thinking public defense as a support system. But yeah, like all of these other parts of the government, we are defunding in favor of funding the police. You cut the police's budget, even a few million dollars, and suddenly, you might actually be able to staff some of these other offices.

P Piper 1:14:37

If there is a group collecting money and doing campaigning without a candidate involved. So they're not officially a campaign, what are they and what rules would they have to follow?

T

Thursday 1:14:48

So the big factor is where the money is winding up whose name is on the bank account. So if say this was for a candidate who dropped out or otherwise wasn't in the race anymore. It could still be a campaign committee. Because the committee is often run by a treasurer, who isn't the candidate. It could be run that way by, you know, people who are still acting on behalf of somebody who was previously a candidate.

P

Piper 1:15:24

And like, would that be if it like had the pool of money from the original campaign and like, that could carry over?

T

Thursday 1:15:30

Correct. Now, if it's somebody who entered the race later on after the registration deadline, for example, as like a write-in candidate, that person would still theoretically need to do the reporting element to or star or their campaign would meet rather. Then there's like, the possibility it could be a PAC, setting up a PAC in Oregon, if you're not trying to do federal things is very easy. Like the biggest constraint is getting the bank account set up for it. And if you are okay, with not using a credit union, setting up a new bank account isn't really that hard. Yeah, so it could be a PAC, it could also be an informal group of people who just aren't reporting things. And depending on the amount raised, because this is a complaint driven system, it would be very easy for that not to be considered for nobody to complain about it. And for it not to be a formal violation of law.

P

Piper 1:16:44

Because there's no complainant right bringing it to so it

T

Thursday 1:16:48

could be a lot of things. Yeah.

P

Piper 1:16:51

So if if say, a candidate, this is truly hypothetical, if say, a candidate didn't sign on, and a PAC was just like running a campaign for a candidate? Would they not have the same? Would they have PAC rules? Or is there a limit to like how much they can do for a, for a candidate before they become a campaign?

T

Thursday 1:17:09

As far as my understanding goes, they'd still just be a PAC. If the candidate isn't formally running also, like if they're write-in candidate, or if it's one of those draft So-n-so campaigns or something like that, that would definitely be okay for it to be a PAC if they're not coordinating. So

P

Piper 1:17:32

Like, what are the weird tools people can use right now,

T

Thursday 1:17:34

So the rules that govern everything about all of this, there's the actual written laws that are have either been passed through the state legislature or had been ballot measures and voted on by voters in the state, you know, approved of and those rules are often you know, very opaque and difficult to understand. But you can get copies of them off of the state website and everything like that. Then there's case law. And a big chunk of this is case law, which means that it's, you know, any of the edge cases or the nuances of what's going on somebody who has felt it necessary to take it to court, the judge then decides, you know, this is legal, this is not legal, and then that can be appealed. It can be taken up to an appellate court, the Oregon Supreme Court, whoever has jurisdiction, and they can reverse it, they can agree with it. But if we take a look at campaign finance reform here in Oregon, we actually have kind of a really good example. So, in 1997, the Oregon Supreme Court ruled that campaign donation limits are prohibited by the Oregon State Constitution, because they're considered free speech. That's case law that established that those limits were non-existent. It wasn't the state legislature that decided that. And then in 2006, voters approved ballot measure 47, which would have revised campaign finance laws, but they didn't change the state constitution. So in 2012, that ballot measure that would have changed the campaign finance laws was declared unconstitutional by the Oregon Supreme Court. So this case law is what's really determining a lot of what's going on. And figuring out what the case law is means reading through a bunch of judicial opinions, and then being like so this circumstance that is different in these ways from what they've already decided, means that they would probably say... something? But it's not like a easy, this is illegal. This is not a legal sort of situation. And yeah, so we have like all of these different layers and like changing the Oregon constitution is necessary to get the Oregon Supreme Court to agree that something works some way or another. But also there are some circumstances in which say, we changed the Oregon State Constitution in a way that violated the US National Constitution, it can go even further, like this system, using the word system may be overly generous.

P

Piper 1:20:41

One form of like authority and power is like being like, I know how this works. And you don't know and it's too complicated for you. And that this is a really good example of that where someone can be like, Well, I actually, don't worry, I actually know how this works. I've figured it out. Your little complaint is nonsense. And I'm gonna use a lot of legalese. And that whether or not they're correct, that is already doing something and preventing challenges to their authority by just knowing the words and making the system seem overly complex. And then being an insider and you being an outsider to it. This is a really good example of that

happening, because we're trying to work through this, you think about it all the time. And there's still like, so many places where you're like, oh, it's messy, it's confusing. And so these lobbyists can be like, Oh, well, and kind of smooth things out through their marketing through whatever makes it into the local media in the story. And like, yeah, sure, they might pay a couple \$100 here and there. But what's important is like, where they they lose, like their legitimacy. And it's really hard to even know, like, for the public.

T

Thursday 1:21:48

And there's, there's really a two tiered system here. Like if you have the money to throw at lawyers, who are willing to parse the situation, argue in front of a judge all of that. Most of the time, you get to play by a different set of rules. Like one of the few times we've seen that not hold true, is with Kristof's attempt to get on the ballot. And it was a closer thing than it should have been. Like a lot of okay, I read, you know, judicial opinions for fun, obviously, I'm going to have really specific opinions. But the fact that not only it went to the Oregon Supreme Court, but that some parts of the discussion were based on another Supreme Court decision back in the 70s. whether somebody's address between two counties within Oregon was the closest case law they could come up with. It really came close to Kristof's eligibility being decided on the basis of one state representative's eligibility decades ago.

P

Piper 1:23:02

And Kristoff had a lot of money in his campaign coffers to find little, little things like that, that someone else would not have, he had a lot of out of state funding.

T

Thursday 1:23:14

Yeah, if you look at like the media coverage of once the Secretary of State started the disqualification process, like that decision showed up in a lot of media very quickly, which means somebody already had that press release, ready to go

J

Josh 1:23:34

talking about these specifically about reporting violations and putting in complaints, that's also an interesting angle. Because, you know, if there's not an opposition that is familiar with these systems, then, you know, there would be no one to complain. And it sounds like you know, they have occasional reporting and parsing and stuff, but it doesn't seem like a lot of like, you know, these campaign finance issues come up through that. What you've at least told us here today, and what I've heard before is like, it's usually a lawyer associated with the campaign or some someone else, it's like, got some sort of reason to oppose what's going on. Uh, will use it as a way, you know, politically speaking to prevent somebody from doing something or at least slow them down or whatever. So yeah, like even getting access to that kind of power is really significant. It's interesting to think about, you know, that there's so many things that are going on that just don't face any opposition, right, even there are some elections during the don't, that just have one person running and not, again, lack of awareness combined with a lack of access. Seems like a pretty big deal and I'm really glad Thursday that you're working on this

stuff. While I'm talking about that. Let me make the pitch PDX.vote is there's a site it's incredibly informative. I read your I think it was like state of the ballot or something like that came in a little bit maybe a couple days ago or it's just like incredibly detailed, really informative. There's also a way to fund the site. You can donate or do recurring donations, you should totally do that. And fund Thursday's project and speaking of disclosure, Thursday also has really detailed disclosure, information about money coming in money going out, which you know, we appreciate and really grateful for Thursday's work. So go sign up PBX.vote.

T Thursday 1:25:26

Thank you so much. I disclose everything. Things you even want to know.

J Josh 1:25:35

I'm big on like, over publishing Well, clearly. Just like I know, sometimes people are awash in it, or like, nothing gets really noticed, because there's so much of it. So I appreciate putting out a lot of stuff.

P Piper 1:25:49

Josh is the one that made us do an episode about why we're doing what we're doing. I was like, no one cares.

T Thursday 1:25:55

I mean, I've I've been splitting some of that stuff off at least and putting it on, like my personal site, just not to overwhelm people. But no, like I I accidentally wrote like, 2000 words on why I felt this was important. So I'm, I'm right there.

P Piper 1:26:12

You two are kindred spirits on that

J Josh 1:26:14

for sure. For sure. Thursday, was there anything we didn't cover? Or things that like you've been thinking about? Do you want to just refer a while about things you hate?

T Thursday 1:26:21

I was gonna say I want to riff about why I hate Orestar

J Josh 1:26:25
that's perfect.

P Piper 1:26:26
Yeah, let's do it.

T Thursday 1:26:26
Obviously, I spend too much time on that site to begin with.

J Josh 1:26:32
And just to go into detail, because I don't remember if we did, Orestar, where you can look up the campaign finance transactions, the information about the different entities, all that kind of stuff is all stored in the system. And like there's a mentioned before it, it was built, what 15, 17 years ago, and it's like very slow and terrible.

T Thursday 1:26:49
It is so slow, it is so terrible. I think I mentioned already, you can't have multiple tabs open with it, it doesn't correlate information between certain topics. So candidate information and committee information are kind of separate. So it's hard to sort of trace things throughout their maintenance periods, it's probably more of a me problem. But I often do research and find that they're in the middle of a maintenance period, because I'm up at like 4am looking at somebody's campaign disclosures. And that's apparently the time they love to do maintenance. But it's, it's so frequent, like so many other things that I use, yeah they still have their maintenance periods, but it's not constant, it's a few times a quarter maybe. But on top of that, like, if we make any changes to how we handle campaign finance reform statewide, if say we add a public option, this tool will not serve those needs, we're almost guaranteed to have to build something new from the ground up anyhow. So on top of it being outdated, it's not really easy to build on top of. I'll also note that it's an internally developed tool at the Secretary of State's office, which means that it's much harder to understand how its secured, it's much harder to evaluate any potential leaks of information. And there have been leaks of information, stuff like personal addresses and stuff like that. So there's a lot of things that can be done to sort of update it. And there are some projects, not by the government, but by other organizations. There's a site called Portland record.com, which has sort of built their own little interface on top of it called campaign funderarater. And they produce nice, neat little lists of who's donated to a given campaign who's doing the top donations, those sorts of things. For anybody who has worked in software development, if you go GitHub, which is where a lot of people post open source projects, there's multiple pages of just people who have built different scrapers to get different information out of the site. Over the years, I have looked at this list, and I have used some of these projects, right? Like it shouldn't be that hard to get information that is not just a public record, but directly impacts our ability to evaluate these elections to be sure that they are at least meeting these very low levels of compliance. So yes, I would love a

more modern system, not just you know, Oh, because I spent so much time which it. But also because it would make it much easier to even tell what kind of violations might be being missed by the Secretary of State, it'd be much easier to tell patterns and how money is being used. And if there are ways to make public election funds more useful for people. Like there's so many different ways that it could be improved. But almost all of them require, basically starting from the ground up from what I gather, like they don't they don't just let you poke around the code for campaign finance tracking, but

P

Piper 1:30:51

and I think about, you know, a business say, they were offering a software tool, they at least have the pressure of customers that they have to sell to coming back to them being like, hey, this isn't usable. Maybe it's not accessible or something like that. It's like the only mechanism for actually affecting the usability of a tool like this is like lawsuits or something like if it technically violates the letter of the law, and a lot of things can be technically can technically function without really functioning for people. Very well aware of that. And there's no, there's no way there's not really a built in incentive for the people maintaining it to serve the end user.

T

Thursday 1:31:32

Exactly.

P

Piper 1:31:33

They just have to want to, I guess,

T

Thursday 1:31:35

like, the main reason or start exists at all, is because legislators wanted an easier way to submit this paperwork that they had, they were already doing it electronically, but not, not in a way that was efficient for a campaign. So since I don't see a lot of campaigns advocating for changing the system, I can't imagine it changing anytime soon. Yeah.

P

Piper 1:32:05

And that's interesting, too, that you brought that up? Because I was imagining the end user as being the public or media? And no, not really, the it sounds like the primary end user was actually campaigns themselves, which have completely different incentives for what you would want to optimize the system to do. Almost almost the opposite.

J

Josh 1:32:24

That'd be an interesting question to ask. I wonder if the Secretary of State would let us know, like, if there's like a percentage of people using the system, or like, what percentage is like

randos, like us? And what percentage like people signing into to do campaign filings

P Piper 1:32:39
at least I like submitting versus viewing or something like that? Yeah, I'd

T Thursday 1:32:43
be honestly surprised if there's a robust analytics system or logging,

P Piper 1:32:50
because again who would care?

T Thursday 1:32:53
most of them, most of the good, at least out of the box systems post date, the development of horse star,

P Piper 1:32:59
and again, like a business has a role because they're trying to optimize usage or something like that. There's somebody whose role it is to actually care about that, and like work towards those outcomes. But unless you explicitly created that with a law, there's not I can't really see a reason why they'd have an incentive to do that. Like, who's gonna like sit through the quarterly report of usage of Orestar like, nobody's charged with that as their reason for being? Yep.

T Thursday 1:33:30
It comes down to everything's legal until somebody complains,

P Piper 1:33:35
does not seem like a great system, when in order to make a complaint, you need a law degree.

T Thursday 1:33:40
Yeah, it's a very flawed system. But I feel it's pretty consistent across all of our quote unquote, crimes in this country that everything's legal until someone complains and you run out of money for lawyers.



Piper 1:33:55

That's the overall story, isn't it?