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Hawaii News

AG rejects charges against anti-Cayetano PAC

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"The law says you have to do certain things, and they didn't do it."

Ben Cayetano

Former governor

The Hawaii Attorney General's Office has declined to pursue criminal charges against the Pacific Resource Partnership Political Action Committee or its chairman for allegedly failing to report some of its campaign expenditures made during the vicious 2012 campaign for Honolulu mayor.

That decision by the state's top law enforcement official comes more than two years after the state Campaign Spending Commission referred the case to the attorney general for possible prosecution based on allegations by former Gov. Ben Cayetano.

PRP PAC spent more than \$3.7 million in 2012 in an effort to defeat Cayetano. Kirk Caldwell won the election.

ADVERTISING

BY THE NUMBERS**\$3.7M+**

Amount PRP PAC spent in the 2012 election that ended with Ben Cayetano's loss to Kirk Caldwell

\$363,477

What Cayetano alleges PRP PAC failed to report

The Honolulu rail project was the focus of that campaign, and PRP was a consortium of union carpenters and private contractors that advocated aggressively for the project. Cayetano had pledged to block rail if he was elected.

Cayetano alleged in his complaint that PRP and its chairman and treasurer, John White Jr., failed to report \$363,477 that the political action committee spent that year on consultants who helped with the campaign. Campaign spending officials voted on Nov. 19, 2014, to refer that case to the attorney general for possible prosecution.

In a two-page letter to the commission dated Tuesday, First Deputy Attorney General Russell A. Suzuki said any criminal prosecution in connection with Cayetano's allegations is "legally precluded due to a procedural defect" that occurred before the case was referred to the Attorney General's Office.

The attorney general's letter also informed the commission there was "insufficient evidence" to prove a criminal violation in a separate complaint against PRP and White

for failing to report \$86,182 that PRP spent on mailers in support of City Councilwoman Carol Fukunaga in 2012.

Staff for the Attorney General's Office did not immediately answer questions on Wednesday about the decision.

Campaign Spending Commissioner Kenneth Goodenow described the letter as "very disappointing." In particular, Goodenow said, he wondered about the "procedural defect" that prevented prosecution in the Cayetano complaint. "I look forward to hearing from them more about that," he said.

William McCorriston, the attorney for White, said that "we are grateful but not surprised by the decision of the attorney general. The conclusion that there is absolutely no criminal conduct here is correct."

McCorriston said the "procedural defect" in the case was that Campaign Spending Commission staff imposed an administrative fine of \$1,250 on PRP and White for filing the incorrect reports before Cayetano filed his complaint on Aug. 29, 2014.

PRP paid the fine and filed corrected reports, but Cayetano then urged the commission to instead pursue a criminal case. The commission reversed itself on Nov. 19, 2014, rescinded the fine and referred the case to the Attorney General's Office for possible criminal prosecution.

McCorriston said that process of pursuing first administrative and then criminal penalties was improper, and that his team pointed out that "procedural irregularity."

Cayetano said it was clear the case was not a priority because the state failed to act on it for so long. He said he finally asked Attorney General Douglas Chin about the issue, and that Chin said he would look into it.

"A first-year law student would see that the violations are pretty much black-and-white," Cayetano said. "The law says you have to do certain things, and they didn't do it."

"They may think that this is too small in the scheme of things because the Attorney General's Office is involved in these national issues, from immigration to I don't know what else," he said. "Maybe that's how they feel, but I'd like to see the attorney general or whoever the deputy is come out and say there's no evidence of criminal liability, because it's black-and-white to me."

The commission may still decide to impose fines in the case, but deferred discussion of any further action on the matter until its next meeting on Sept. 6.

Cayetano also filed a libel lawsuit against PRP, White and others during the 2012 campaign alleging PRP and its associates conducted a coordinated campaign that included television and radio advertisements falsely accusing Cayetano of accepting

illegal campaign contributions, giving government contracts in exchange for contributions, and keeping contributions for personal gain.

PRP in 2014 agreed to apologize to Cayetano for the barrage of negative advertising it unleashed during the campaign, and as part of the settlement agreed to donate \$100,000 to the University of Hawaii medical school and \$25,000 to the Hawaiian Humane Society in Cayetano's name.

Cayetano said his lawsuit allowed him to obtain hundreds of internal emails that revealed PRP had made unreported payments to consultants Hoakea Communications, Andrew Winer and Stanford Campaigns. Those payments totaled \$363,477, and were the basis of his request that criminal charges be filed.

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Correction: A previous version of this story stated that the commission will consider further action against the PRP and White on Sept. 13.