

Spin Control: 2008 election gone, but in court it lives on

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The Spokesman-Review

OLYMPIA – The 2008 governor’s race probably slipped from most voters’ minds long ago.

The winner, Democrat Chris Gregoire, retired from office in 2012 and the loser, Dino Rossi, seems headed for the status of elder statesman in the Republican Party.

It was their second contest, something of a grudge match, and like most sequels, Gregoire-Rossi 2 lacked much of the excitement and drama of the original in 2004.

But the race has tremendous staying power in the state court system. Last week, the state Supreme Court was asked to order a trial on whether one of the state’s largest business organizations, the Building Industry Association of Washington, violated campaign finance laws in the effort to help elect Rossi.

The state Public Disclosure Commission and the state attorney general’s office have said it didn’t, although its for-profit subsidiary, BIAW Member Services Corp., did and had to settle a state claim. A pair of former Supreme Court justices, Faith Ireland and Robert Utter, insist it did, and filed their own suit, which was dismissed on summary judgment in a trial court, a ruling eventually upheld by an appeals court.

But Tuesday, attorneys for Utter and Ireland were back before the Supremes, arguing strenuously that the whole thing should go to trial, while attorneys for the BIAW argued just as strenuously it should not.

That the BIAW wanted Rossi in and Gregoire out has never been in doubt. They were urging members to contribute to a campaign effort even before the former state legislator announced he would run. But the case is a good example of the shell game some large groups play with money as it’s funneled into “independent expenditure” campaigns. Who wins the argument could depend on some fine points of language and law.

Rather than reach into their pockets or get out their checkbooks, BIAW members were urged to contribute a portion of the refunds they would receive through a program their Member Services Corp. runs to help the builders cut workers’ comp costs. When they did, the money went from BIAW-MS to ChangePAC, which was set up to make independent expenditures in the governor’s race and some other campaigns.

PDC records say BIAW gave some \$7 million to ChangePAC in 2008. An attorney for the organization, however, told the court last week that money really came from BIAW-MSA, but because the space on the agency's form is so small, the last three words just didn't fit.

ChangePAC spent some of that money in an independent campaign to support Rossi, then funneled much of it to a separate political action committee that spent its money to oppose Gregoire. Both PACs had the same post office box and the same treasurer, who had an email address that ended @biaw.com.

Knoll Lowney, an attorney for Utter and Ireland, say parent organization BIAW should have filed as a political committee with the PDC because political activity was "a" primary purpose of the group. Harry Korrell, an attorney for BIAW, said it did not have to file because the law says that's only necessary when political activity is "the" primary purpose of a group.

Lowney argued the case should be put before a jury. Korrell said the trial court was right to throw it out.

Siding with the former justices are several good-government groups such as the Washington Coalition for Open Government, which wants to preserve citizens' rights to go to court when state officials won't. Siding with BIAW are some of the state's largest unions, who, like BIAW, don't think they should have to file as political committees just because they engage in political activity through their PACs.

If Utter and Ireland prevail, and a trial is ordered, it's a sure bet whatever verdict will be back in front of the Supreme Court at some future point. It could become the 21st-century version of "Bleak House," Charles Dickens' novel about a case that stays in the courts so long that the principals die off and the money is exhausted.

If BIAW prevails, the case is probably over. The organization and its members will have that victory as a small consolation for having spent so much on a losing cause in 2008.

Spin Control, a weekly column by political reporter Jim Camden, also appears online with daily items and reader comments at www.spokesman.com/blogs/spincontrol.

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