



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In Re Compliance with RCW 42.17

Gil Mendoza

Respondent.

PDC Case No. 12-153

Report of Investigation

I.

Background

- 1.1 The Sumner School District had three school board positions on the 2011 ballot, District 2, District 3, and District 4. On Wednesday, June 8, 2011, in the middle of filing week (June 6 – June 10, 2011) it became public at a Sumner School Board meeting that Gil Mendoza, Superintendent of the Sumner School District, would be “mutually separating” from the District, in a recent decision reached by Superintendent Mendoza and the School Board. Between June 8 and June 10 of filing week, new candidates filed for two of the three school board positions on the ballot.

II.

Allegations

- 2.1 On October 24, 2011, Sherman Voiles, President of the Sumner School Board, filed a complaint with the Public Disclosure Commission (PDC), alleging that Respondent, Gil Mendoza, former Superintendent of the Sumner School District, and a group named “Citizens Advocating a Responsible Education System (C.A.R.E.S.)” violated: 1) RCW 42.17.040, .080, and .090 by failing to timely register and report with the PDC as a political committee and failing to disclose its contribution and expenditure activities; 2) RCW 42.17.103 by failing to timely file a special report disclosing political advertising sponsored within 21 days of the November 8, 2011 general election that supported or opposed candidates for School Board in the Sumner School District in 2011, and that qualified as an independent expenditure with a fair market value of \$1,000 or more; and 3) RCW 42.17.510 by sponsoring political advertising that failed to include the required sponsor identification for an independent expenditure that supported or opposed candidates. The complaint included a copy of a mailer that supported three candidates and opposed two candidates for Sumner School Board, and which was identified as being from “C.A.R.E.S. Citizens Advocating A Responsible Education System.” (See Exhibit #1)

- 2.2 On October 24, 2011, Ron Weigelt, a 2011 candidate for Sumner School Board, faxed an inquiry to PDC staff stating that on October 20, 2011, he had received a mailing from a group identifying itself as "Citizens Advocating A Responsible Education System (C.A.R.E.S.)". He noted that the mailing supported and endorsed some Sumner School Board candidates. He asked whether the group had filed with the PDC, and whether the group was required to indicate "Paid for by" information on the mailing. **(See Exhibit #2)**
- 2.3 On November 16, 2011, Ron Weigelt filed a complaint alleging that Gil Mendoza spent nearly \$8,000 on behalf of a slate of three candidates for the Sumner School Board. He alleged that the expenditure was illegal, but did not specify what statutes were allegedly violated. PDC staff consolidated Mr. Weigelt's complaint with Mr. Voiles' complaint that was received on October 24, 2011 for purposes of this investigation. **(See Exhibit #3)**

III. Findings

- 3.1 On or about October 18, 2011, Mr. Mendoza sent a mailer to approximately 24,288 residents of the Sumner School District supporting three candidates (Paul A. Bucich, Richard Hendricks, and Casey Chamberlain) and opposing two candidates (Jeff DeMarre and Ron Weigelt) for Sumner School Board.
- 3.2 In response to PDC staff inquiries about the matter, **(See Exhibit #4)** Mr. Mendoza contacted PDC staff on October 31, 2011 and stated that he used only his personal funds to pay for the political advertising cited in the complaint, and that the mailer was sent on October 18, 2011.
- 3.3 PDC staff advised Mr. Mendoza that, based on his statement that the expenditure was independent of any candidate supported or opposed, and because the mailing was made within 21 days of the election and cost \$1,000 or more, he was required to file an Independent Expenditure report (C-6 report) within 24 hours of the mailing. Staff informed Mr. Mendoza that because he had paid for the mailing entirely with his personal funds, he was required to include his name on the mailer as the sponsor, and because the mailer featured candidates, he was required to include the statement, "*No candidate authorized this ad. It is paid for by (name, address, city, state).*"
- 3.4 On November 2, 2011, Mr. Mendoza confirmed in writing his October 31, 2011 oral representation that he paid for the mailing solely with his personal funds. Mr. Mendoza stated that when he made the expenditure for the mailing, he was unaware of the C-6 reporting requirement. In addition, Mr. Mendoza stated that he obtained his mailing list from the Pierce County Auditor's Office through a public records request. **(See Exhibit #5)**
- 3.5 Mr. Mendoza also attached a scanned copy of his C-6 report to his e-mail to the PDC. **(See Exhibit #6)** The C-6 report disclosed that the mailing cost \$7,810, and confirmed that it was presented to the public on October 18, 2011.

- 3.6 On November 4, 2011, Mr. Mendoza filed an amended C-6 report disclosing an additional \$358 in expenditures for printing and handling costs associated with the mailer. The amended C-6 reported disclosed that the total cost of the mailing was \$8,168. This amount consisted of \$6,315 for direct mail, \$1,705 for printing and handling, and \$148 for mailer seals. (See Exhibit #7)
- 3.7 Mr. Mendoza's name did not appear anywhere in the advertisement, while the acronym C.A.R.E.S. and the full name, "Citizens Advocating a Responsible Education System" was prominently featured on both sides of the mailer.
- 3.8 In his March 8, 2012 written response to the allegations, Mr. Mendoza stated the following: (See Exhibit #8)
- In June of 2011 "*...it became public at a school board meeting that I would be "mutually separating" with the Sumner School District, promulgated by the School Board, of which Mr. Voiles was president.*" He stated that while that issue was going on, it was candidate filing week for the 2011 school board elections.
 - Mr. Mendoza informed PDC staff that there was no group operating under the name C.A.R.E.S. He acknowledged that he had used this name as a pseudonym so that his identity would not be disclosed.
 - He chose to use the name C.A.R.E.S. in the mailing, in order to avoid unfairly influencing or biasing recipients of the mailing by including his name in the advertisement, since he was the former Sumner School District Superintendent.
 - He believes he is well known and respected in the community, and he wanted people to consider voting for school board candidates with children in the Sumner School District, without interjecting his personal influence.
 - He acknowledged that his actions may have violated PDC political advertising laws; however, he stated he believed the complaint filed by Mr. Voiles, combined with Mr. Voiles' notifications to the local media concerning the mailing and identifying Mr. Mendoza as the sponsor, and Mr. Voiles' actions to inform the local community about the mailer, mitigated the alleged violations of not including his name on the mailer and filing the C-6 report late.
 - He believed the public became supportive of the message in the mailer once they became aware that he had sponsored the mailing.
 - He did not consult, collaborate, or coordinate the mailing with any of the candidates identified in the mailer.
 - He did not seek permission from any of the Sumner School Board candidates prior to sending the mailer.

- Prior to distributing the mailer, he contacted the Pierce County Auditor's Office to determine whether he needed to register as a political action committee. He stated that based on the information he provided to the Pierce County Elections office, he was told it was not necessary for him to register and report as a political committee. When asked to provide more details about his contact, he stated "*...at the time of mailing, I was unaware of the requirement for reporting, given what I have previously shared regarding contacting both the Pierce County Auditor's Office and the Pierce County Election's office.*"
- 3.9 All three candidates supported by the mailer (Bucich, Hendricks, and Chamberlain) had filed under the mini reporting option and were limited to spending no more than \$5,000 and accepting no more than \$500 from any one source, during their respective campaign. In addition, both of the candidates opposed by the mailer (Demarre and Weigelt) also filed under the mini reporting option.
- 3.10 Each candidate supported by Mr. Mendoza in his mailer (Bucich, Hendricks and Chamberlin) stated that Mr. Mendoza did not consult, collaborate, or coordinate with their campaigns or them personally, or seek their permission for his October 18, 2011 mailing. Shortly before distributing the mailer, Mr. Mendoza informed Mr. Chamberlain of the advertisement and showed him a finished copy of it.
- 3.11 Mr. Mendoza has no prior history of PDC violations.

IV. Scope

- 4.1 PDC Staff reviewed two complaints filed against Gil Mendoza regarding a mailing portrayed as being from Citizens Advocating a Responsible Education System (C.A.R.E.S.). One complaint was filed by Sherman Voiles on October 24, 2011, and one was filed by Ron Weigelt on November 16, 2011.
- 4.2 PDC staff reviewed a C-6 report filed by Mr. Mendoza on November 2, 2011 and an amended C-6 report filed by Mr. Mendoza on November 4, 2011.
- 4.3 PDC staff reviewed a response from Mr. Mendoza received on November 2, 2011.
- 4.4 PDC staff reviewed a six-page response from Mr. Mendoza received on March 8, 2012.
- 4.5 PDC staff spoke with Mr. Mendoza by telephone and communicated by e-mail.
- 4.6 PDC staff communicated with Paul Bucich, Richard Hendricks, and Casey Chamberlain, the three candidates supported by Mr. Mendoza's October 18, 2011 mailer, concerning the mailer.

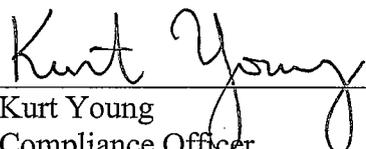
V.
Laws & Rules

- 3.1 **RCW 42.17.100 (now RCW 42.17A.255)** For the purposes of this section the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, 42.17.080, or 42.17.090 (now RCW 42.17A.220, 42.17A.235 and 42.17A.240). "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person. Independent Expenditures are reportable when their value equals one hundred dollars or more during the same election campaign by the same person.
- 3.2 **RCW 42.17.040 (now RCW 42.17A.205)** requires political committees to timely file a registration statement within two weeks of receiving contributions or making expenditures that support or oppose a candidate or a ballot proposition.
- 3.3 **RCW 42.17.080 and 42.17.090 (now RCW 42.17A.235 and 42.17A.240)** require political committees under the full reporting option to file timely, accurate reports of contributions and expenditures.
- 3.4 **RCW 42.17.103 (now RCW 42.17A.260)** requires independent expenditure political advertising valued at \$1,000 or more, per candidate supported or opposed, and presented to the public within 21 days of an election, to be reported within 24 hours on a report of Independent Expenditures (C-6 report).
- 3.5 **RCW 42.17.120 (now RCW 42.17A.435)** states that no contribution shall be made in a fictitious name, by one person through an agent, relative, or other person, or anonymously, in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.
- 3.6 **RCW 42.17.510(1) (now RCW 42.17A.320)**, in part, requires all written political advertising, whether relating to candidates or ballot propositions, to include the sponsor's name and address. It states that the use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. Subsection (2) states, in part, that in addition to the information required by subsection (1), except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party must include as

part of the communication: (a) The statement: "No candidate authorized this ad. It is paid for by (name, address, city, state)."

- 3.7 **RCW 42.17.510(3) (now RCW 42.17A.320)** requires the sponsor identification: (a) to appear in at least ten-point type; b) not be subject to any half-tone or screening process; and (c) be set apart from any other printed matter.
- 3.8 **WAC 390-18-010** requires that printed advertising clearly state, in an area set apart from any other printed matter, that it has been paid for by the sponsor (Example: (1) Paid for by the XYZ committee, mailing address, city, state, zip code; (2) Vote for John Doe, paid for by John Doe, mailing address, city, state, zip code).

Respectfully submitted this 1st day of June, 2012.



Kurt Young
Compliance Officer

List of Exhibits

- Exhibit #1** October 24, 2011 complaint from Sherman Voiles.
- Exhibit #2** October 24, 2011 inquiry from Ron Weigelt, candidate for Sumner School Board.
- Exhibit #3** November 16, 2011 complaint from by Ron Weigelt.
- Exhibit #4** October 25, 2011 e-mail from PDC staff to Mr. Mendoza.
- Exhibit #5** November 2, 2011 e-mail response from Mr. Mendoza.
- Exhibit #6** November 2, 2011 C-6 report.
- Exhibit #7** November 4, 2011 Amended C-6 report.
- Exhibit #8** March 8, 2012 response from Mr. Mendoza.