



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112  
Toll Free 1-877-601-2828 • E-mail: [pdcc@pdcc.wa.gov](mailto:pdcc@pdcc.wa.gov) • Website: [www.pdcc.wa.gov](http://www.pdcc.wa.gov)

April 25, 2016

Sent electronically to Robert Phed "robert.phed@yahoo.com"

Vancouver Vitality PAC  
Robert S Phed  
Attorney at Law  
1001 SW 5<sup>th</sup> Avenue, Suite 1220  
Portland, OR 97204-1147

Subject: Complaint filed by Marsha Manning against Vancouver Vitality PAC  
PDC Case No. 15-053

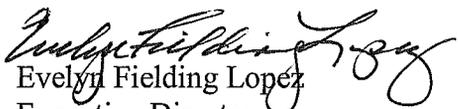
Mr. Phed:

On April 22, 2016, the Public Disclosure Commission (PDC) staff received a completed Statement of Understanding (SOU) from Vancouver Vitality PAC along with a \$50 civil penalty. With the concurrence of the Chair of the Public Disclosure Commission, I have dismissed the remaining two allegations in the complaint against Vancouver Vitality PAC filed by Marsha Manning on October 21, 2013. Enclosed is a copy of the dismissal letter sent to Ms. Manning.

I sincerely regret how long it has taken to bring this matter to conclusion, and appreciate your patience as PDC compliance staff members have worked their way through the backlog of complaints from prior elections.

If you have questions, please contact Kurt Young, Compliance Officer, at (360) 664-8854 or toll-free at 1-877-601-2828 or by e-mail at [kurt.youn@pdcc.wa.gov](mailto:kurt.youn@pdcc.wa.gov).

Sincerely,

  
Evelyn Fielding Lopez  
Executive Director

Enclosure



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April 25, 2016

MARSHA MANNING  
3801 NE 172<sup>ND</sup> AVE  
VANCOUVER WA 98682

Subject: Complaint filed against Vancouver Vitality PAC (PDC Case 15-053 & Case Ticket 2277)

Dear Ms. Manning:

Public Disclosure Commission (PDC) staff have completed our investigation of your complaint received on October 22, 2013 against Vancouver Vitality PAC, a 2013 local political committee formed as a single election-year political committee to support or oppose candidates for Vancouver City Council and Mayor on the November 5, 2013 general election ballot. Specifically, your complaint alleged that Vancouver Vitality PAC violated:

1. RCW 42.17A.205 by failing to disclose or include the name(s) of the committee's principal officers or sponsors on the Committee Registration (C-1pc report).
2. RCW 42.17A.235 and .240 by failing to disclose expenditure activities for a Comcast media buy, including pledges and orders-placed on Campaign Summary Contribution and Expenditure reports (C-4 reports).
3. RCW 42.17A.305 by failing to file timely Independent Expenditures (IE's) or Electioneering Communications (EC's) reports (C-6 reports) disclosing independent expenditures that were made in support or and in opposition to a number local Vancouver City candidates in 2013.
4. RCW 42.17A.320 by sponsoring political advertisements that failed to include the complete sponsor identification on EC's and IE's, including "Notice to Voters" and the "Top 5 contributors" language.

The complaint was considered in light of the following statutes:

**RCW 42.17A.205** requires a political committee to list its committee officers or principal decision-makers, and sponsors on the C-1pc report, and to timely amend that information within 10 business days of any material changes.

**RCW 42.17A.235 and .240** requires political committees to timely disclose expenditure activities, including pledges and orders-placed on C-4 reports for media buys.

**RCW 42.17A.305** requires political committees making IE's or (EC's) to timely file C-6 reports disclosing those activities.

**RCW 42.17A.320** requires sponsors of political advertisements in the form of IE's or EC's to include a complete sponsor identification, including the "Notice to Voters" and the "Top 5 contributors" language.

PDC staff reviewed your complaint and attachments, multiple responses and communications between Robert Phed, legal counsel for Vancouver Vitality PAC (VV PAC) and PDC staff, C-1pc reports, C-3 reports, C-4 reports and C-6 reports filed by Vancouver Vitality PAC. As a result of our investigation, we found the following:

**1. Disclosing the name(s) of VV PAC's principal officers or sponsors on C-1pc report**

- On September 13, 2013, Vancouver Vitality (VV PAC) filed a Committee Registration (C-1pc) with the PDC registering as a first-time political committee and selecting the Full Reporting Option. The C-1pc filed by VV PAC listed Lisa P. Ross as the Committee Treasurer, and only officer or principal decision-maker.
- Your complaint alleged that VV PAC failed to include other committee officers and principal decision-makers, and VV PAC failed to include the committee sponsor on the C-1pc report when it was filed. "Sponsor" is defined in terms of a political committee as any person who contributes eighty percent or more in total contributions to a political committee. Once identified as a sponsor, a political committee is required to list the sponsor's name on the C-1pc report and on all future PDC reports.
- Concerning the listing of principal officers on the C-1pc report, Mr. Phed stated when VV PAC filed its C-1pc report, Ms. Ross had been advised by PDC staff during her conversations "...that only the treasurer's name was required to properly file the form." He added that the PDC's Online Reporting of Campaign Activity software (ORCA), did not include a "mandatory field requirement for officers..."
- Mr. Phed stated that after discussions with PDC staff, VV PAC filed an amended C-1PC report to include the name of Mark Engleman, as a committee principal decision-maker since he was the individual who decided to form VV PAC just prior to the date the C-1pc was filed. He stated that Mr. Engleman was one of "...the responsible leaders pursuant to RCW 42.17A.205 (2)(c)" of VV PAC.
- Mr. Phed stated that the committee officer issue was not addressed sooner by VV PAC due to a "...delay with the response from the PDC in its initial review of Ms. Manning's complaint." Mr. Phed stated that once VV PAC received guidance from PDC staff, which staff acknowledges was delayed by a case backlog, VV PAC filed an amended C-1pc report on May 18, 2015 listing Mr. Engleman as the "Responsible Leader."

Because staff's investigation has not revealed sufficient evidence to establish a material violation of any laws or regulations under the Commission's jurisdiction, I am dismissing this allegation against VV PAC with the concurrence of the Chair of the Public Disclosure Commission.

## **2. Failure to timely C-6 reports**

- As a political committee making IE political advertisements of more than \$1,000 within 21 days of an election, or EC's within 60 days of an election in 2013, VV PAC was required to file a C-6 report within twenty-four hours of the date it first publishes, mails, or otherwise presents an IE political advertisement or EC advertisement.
- During 2013, VV PAC filed C-6 reports disclosing expenditures made for EC's or IE's undertaken during the 2013 election in support of four City of Vancouver candidates, Bill Turlay, Frank Decker, Micheline Doan, and Jeanne Stewart, and in opposition to Mayor Tim Leavitt, and City of Vancouver Council member candidates Alishia Topper, Ann McEnerny-Ogle, and Jack Burkman.
- VV PAC filed one C-6 report that disclosed a number of IE's or EC's that were reported late and included the following: (1) Four EC's totaling \$16,300 were disclosed 27-33 days late and included \$12,040 for two EC mailings, and \$4,260 for two EC newspaper inserts in The Columbian; (2) Three EC's totaling \$11,352 were disclosed 17-18 days late and included \$6,176 for the printing and postage for an EC mailing and an EC newspaper insert, and \$2,130 for a newspaper insert in The Columbian; and (3) Two EC's totaling \$9,300 were disclosed nine to 11 days late and included \$6,254 for an EC mailer and newspaper insert, and \$3,046 for an EC mailer.
- The late EC information was disclosed on a C-6 report by VV PAC 13 days prior to the November 5, 2013 general election being held.

VV PAC was offered and completed a Statement of Understanding (SOU) acknowledging violations of RCW 42.17A.260 and .305 by failing to timely file C-6 reports disclosing EC's undertaken during the 2013 election. The SOU is part of the Commission's recently adopted policy of "Alternative Responses to Noncompliance" in lieu of having a Brief Enforcement hearing held. On April 22, 2016, VV PAC completed the SOU and paid a civil penalty of \$50.

## **3. Failure to timely disclose campaign expenditure(s) for a media buy**

- You alleged that VV PAC failed to disclose expenditure activities for a Comcast media buy, including pledges and orders-placed on C-4 reports, and you included as an exhibit a copy of a September 17, 2013, VV PAC "Request for Purchase of Political Time."
- Mr. Phed stated that Comcast broadcast advertisements are not "binding" until paid. He noted that you mischaracterized the nature of the Comcast documentation and that the "Request for Purchase of Political Time" was not a signed "contract" by a VV PAC representative.
- Mr. Phed stated that VV PAC timely disclosed making three expenditures to Comcast for 2013 media buys. He stated that the first expenditure was made on October 15, 2013 totaling \$11,728 for the October 16, 2013 media buy, and that was the date VV PAC was required to disclose the expenditure as having been made. He stated VV PAC timely reported the October 15, 2013 media buy on the 7-day Pre-General Election C-4 report.

No evidence was found to establish a material violation of any law or regulation regarding the media buy, and I am dismissing this allegation against VV PAC with the concurrence of the Chair of the Public Disclosure Commission.

#### 4. Failure to include sponsor identification on electioneering communications

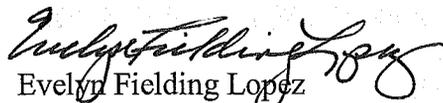
- Concerning the allegation that VV PAC violated RCW 42.17A.320 by sponsoring political advertisements that failed to include the proper sponsor identification by omitting the "Notice to Voters" and the "Top 5 contributors" language, PDC Staff reviewed the complaint, the advertisements, and the information you provided.
- During the course of our investigation, VV PAC acknowledged sponsoring four political advertisements in the form of mailers that were distributed without including the proper sponsor identification information as required for an electioneering communication (EC), and independent expenditure (IE) advertising of more than \$1,000 within 21-days of an election.
- This was a violation of RCW 42.17A.320, however it is PDC practice to issue a warning for first-time violations for failing to include the proper sponsor on an EC and IE sponsored by a political committee.

In accordance with that practice, a sponsor identification warning letter was sent to VV PAC on March 22, 2016, cautioning the VV PAC's principals that failure to include the complete sponsor identification, including the "Notice to Voter" and "Top 5 Contributor" language, for any future political advertisements, electioneering communications, or independent expenditures, could result in enforcement action before the Commission.

I sincerely regret how long it has taken to bring this matter to conclusion, and appreciate your patience as PDC compliance staff members have worked their way through the backlog of complaints from the 2013 and 2014 election seasons.

If you have questions, please contact Kurt Young, PDC Compliance Officer at 360 664-8854, or toll-free at 1-877-601-2828 or by e-mail at [kurt.young@pdc.wa.gov](mailto:kurt.young@pdc.wa.gov).

Sincerely,

  
Evelyn Fielding Lopez  
Executive Director

cc: Attorney Robert Phed, Counsel for Vancouver Vitality PAC