



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 • Website: www.pdc.wa.gov

October 12, 2020

Delivered electronically to Dan Brady, legal counsel for Mike Vaska

Subject: Complaint filed by Rachael Berg, PDC Case 74473

Dear Mr. Brady:

Below is a copy of an electronic letter sent to Rachel Berg concerning a complaint she filed with the Public Disclosure Commission (PDC) against your client, Mike Vaska, a candidate for Washington State Attorney General in 2020.

While the Campaign acknowledged there were orders placed that were not timely disclosed, staff noted that the typical campaign practices and procedures that a Statewide candidate would typically engage in was completely changed in 2020 due to Covid 19. Communication and interactions with and between Campaign staff, consultants, donors, and supporters, including vendors such as Sermo Digital were impacted and raised new challenges for candidates, especially for a Statewide Office to comply with the PDC reporting requirements.

Based on this information and the mitigating factors listed above, PDC staff found no evidence of a violation that would require conducting a more formal investigation or pursuing additional enforcement action in this instance. However, pursuant to WAC 390-37-060(1)(d), the PDC is issuing a formal written warning to your client, the Mike Vaska for AG Campaign, concerning the failure to timely disclose orders placed with Sermo Digital on both the 21-day and 7-day Pre-Primary C-4 reports as required by RCW 42.17A.240. Mike Vaska is hereby advised that the Commission will consider this formal written warning in deciding on further Commission action, should there be future violations of PDC laws or rules.

The PDC has dismissed the complaint in accordance with RCW 42.17A.755(1). If you have questions, you may contact Kurt Young by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

Endorsed by,

/s _____
Electronically Signed Kurt Young
Compliance Officer

/s _____
Electronically Signed Peter Lavalley
PDC Executive Director



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: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

October 12, 2020

Delivered electronically to Rachel Berg

Subject: Complaint filed against Mike Vaska for AG Campaign, PDC Case 74473

Dear Rachel Berg:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on July 23, 2020 against Mike Vaska, a candidate for Washington State Attorney General in 2020. The complaint alleged that the Mike Vaska for AG Campaign (Campaign) violated RCW 42.17A.240 by failing to timely and accurately disclose expenditures for political advertisements undertaken by the Campaign for the August 4, 2020 primary election on Summary Full Campaign Contributions and Expenditures reports (C-4 reports).

PDC staff reviewed the complaint and allegations and the supplemental complaint information you submitted on September 3, 2020; the applicable statutes, rules and reporting requirements for a candidate seeking Statewide Office; the C-4 reports filed by the Campaign; and the responses from Dan Brady, legal counsel for the Campaign. Based on staff's review we found the following:

- On March 16, 2020, Mike Vaska filed a Registration with the PDC declaring his candidacy for Washington State Attorney General in 2020 selecting the Full Reporting Option and listing Tom Perry as the Treasurer and only Committee Officer. Mr. Vaska was defeated in a 2020 contested primary election and had previously been a candidate for Attorney General in 2004.
- Specifically, your complaint alleged that the Campaign failed to disclose on the 21-Day Pre-Primary C-4 report: (1) more than \$40,000 in expenditures for a television political advertising media buy for "advertisements that started running on July 13 on cable across multiple media market in Washington;" and (2) a mailed political advertisement paid for by the Campaign that was received on July 16, 2020.
- Mr. Brady stated the complaint attached a copy of an "Order Contract" that had been made with Comcast indicating a run date for a Campaign TV political advertisement of July 13, 2020. He stated that TV "order contracts with Comcast are booked with a Sunday to Monday run date regardless of the date the advertising is actually ordered, paid, and/or begins." He stated that while the "Run date" stated July 13, 2020 on the "Order Contract" line of the invoice, the detailed summary of the media buy made "it clear that no advertising ran before July 15, 2020."

- Mr. Brady acknowledged that the Campaign began having discussions with Comcast during the second week of July but “*did not place a final order with Comcast until July 14, 2020*” and reiterated the Campaign’s TV political advertisements did not begin running on Comcast until July 15, 2020. He stated the Campaign timely disclosed the expenditure to Comcast for advertising on the 7-day Pre-Primary C-4 report filed on July 28, 2020, and that the “*Order Contract was clearly available to the complainant as the advertising began to run.*”
- Mr. Brady stated the Campaign filed an amended 21-day Pre-Primary C-4 report disclosing TV and the video production costs for the advertising as four Orders Placed. The orders placed were made with Sermo Digital totaling \$4,283 and disclosed four different sub-vendors that provided some of the production work.
- Mr. Brady stated that the allegation concerning the expenditure for the mailer was disclosed on the 7-day Pre-Primary C-4 report as an expenditure made on July 14, 2020 to Sermo Digital. There was also a \$22,211 expenditure made to Sermo Digital for a Fundraising mail postage, and an order-placed on the Schedule B with an order date of July 14, 2020 for Sermo Digital “Mail pieces (285691) - Estimate; \$26,287.89.” He stated the Campaign “*has since received more accurate billing information regarding this mailing.*”
- Mr. Brady stated that the Campaign filed an amended 21-day Pre-Primary C-4 report disclosing the revised printing estimate for the mail pieces owed to Sermo Digital. He stated the postage expense was properly disclosed on the 7-day Pre-Primary C-4 report, since the mailing date was after the period covered by the 21-Day Pre-Primary C-4 report. The amended 21-day Pre-Primary C-4 report filed by the Campaign disclosed a total of \$38,130 in outstanding debts and liabilities that included a \$27,000 order placed on July 10, 2020 with Sermo Digital through Print NW to print an estimated 164,754 mail pieces.

Staffs review found the “Order Contract” line of the invoice did list a run date of July 13, 2020 in the upper left corner, but that the itemized details of the media buy listed below on the invoice indicated that no advertising ran before July 15, 2020. Staff’s review also found the following:

- On July 14, 2020, the Campaign timely filed the 21-Day Pre-Primary C-4 report disclosing \$90,154 in monetary contributions received, \$56,628 in expenditures made, with a \$5,000 outstanding debt for Consulting. The C-4 report disclosed 10 expenditures were made to Sermo Digital by the Campaign that included three totaling more than \$30,400 for fundraising mailing and postage costs made on June 30, 2020.
- On August 17, 2020 the Campaign filed an amended 21-Day Pre-Primary C-4 report disclosing the same monetary contributions received and expenditures made but adding \$33,130 in new orders placed and debts. The total liabilities included a \$27,000 order placed with Sermo Digital through Print NW to print an estimated 164,754 mail pieces, placed on July 10, 2020.
- On July 28, 2020, the Campaign timely filed the 7-Day Pre-Primary C-4 report disclosing \$16,278 in monetary contributions received, \$51,318 in expenditures made, and \$66,338 in outstanding debt and liabilities. The C-4 report disclosed the Campaign made a \$14,000 expenditure to Sermo Digital on July 14, 2020, and two orders placed with Sermo Digital that included a July 14, 2020 order placed for printing 285,691 (estimate) mail pieces costing \$26,288, and a \$27,808 order placed on July 15, 2020 with Comcast for a cable TV ad buy covering the period July 15, through August 8, 2020.
- On August 17, 2020 the Campaign filed an amended 7-Day Pre-Primary C-4 report disclosing the same monetary contributions received and expenditures made during the period, but added \$37,857 in new debts and total liabilities, the majority of which were orders placed with Sermo Digital.

- The new orders placed by the Campaign and disclosed on the amended C-4 report included \$12,500 for online advertising for the period July 15 through August 4, 2020; \$10,000 for online advertising with Pandora for the period July 27 through August 4, 2020; \$3,000 for Digital Consulting; and \$1,833 for email political advertising.
- Mr. Vaska stated he retained two very experienced consultants for his Campaign and an experienced Campaign Treasurer to file the PDC reports. He stated he met weekly via Zoom with the team and those discussions included PDC filing deadlines, and that PDC reporting requirements were also discussed by email. He stated that “I saw and approved invoices for campaign expenditures often accompanied by a note that the amounts would be reported in the next PDC filing.”
- Mr. Vaska stated that due to “COVID—19, our entire team never had the opportunity to meet in person after the campaign was launched. As a result, the campaign did not have the normal, in-person communications structure that would have provided me with a better opportunity to ensure full and timely disclosure by the campaign team, especially during the rigorous reporting deadlines in the three weeks before the Primary.”
- Staff reviewed the issue you raised in the supplemental complaint information and found that the Campaign received a total of seven contributions designated for the 2020 general election totaling \$10,750. Mr. Vaska stated that the Campaign “always maintained a cash balance exceeding the total balance of sequestered General Election contributions.” Staff’s review found that as of August 31, 2020, the Campaign had \$35,067 cash on hand balance that included the \$10,750 in general election contributions, verifying the general election contributions received by the Campaign had not been spent.
- On October 1, 2020, the Campaign submitted an email stating all of the general election contributions that had been received were refunded, and that the Campaign reattributed one contribution made by joint check between Carol and Roderick Wendt. Staff reviewed the amended C-3 reports and confirmed the Campaign refunded the following contributions: (1) a \$2,000 general election contribution to William Weyerhaeuser; (2) a \$2,000 general election contribution to Olympic Eagle Distributors; (3) a \$2,000 general election contribution to Francis Hoang; (4) a \$2,000 general election contribution to Shawn Bai; (5) a \$250 general election contribution to Mark Tabbutt; and (6) a \$250 general election contribution to Suzanne Burke.

Staff’s review found that the Campaign timely filed the vast majority of the required C-4 reports and Monetary Contributions reports (C-3 reports) during the 2020 primary election cycle, disclosing more than \$256,034 in total contributions received, expenditures made and/or orders placed for the August 4, 2020 primary election. The Campaign acknowledged there were orders placed with Sermo Digital for political advertisements that were not timely disclosed.

However, staff noted Mr. Vaska was seeking election to a high-profile office, and the typical campaign practices and procedures a Statewide candidate would engage in, including the communication and interactions with consultants, vendors and Campaign Officers and Treasurers was impacted due to Covid-19. The late-disclosed orders placed were for a statewide mailing and digital campaign that was largely conducted remotely. In addition, no evidence was found by staff that the Campaign exceeded contribution limits for the 2020 election or spent 2020 general election contributions.

Based on this information, PDC staff found no evidence of a violation that would require conducting a more formal investigation into the complaint or pursuing enforcement action in this instance.

However, pursuant to WAC 390-37-060(1)(d), the PDC is issuing a formal written warning to the Mike Vaska for AG Campaign concerning the failure to timely disclose orders placed with Sermo Digital on both the 21-Day and 7-Day Pre-Primary C-4 reports as required by RCW 42.17A.240. Mike Vaska is hereby advised that the Commission will consider this formal written warning in deciding on further Commission action, should there be future violations of PDC laws or rules.

The PDC has dismissed the complaint in accordance with RCW 42.17A.755(1). If you have questions, you may contact Kurt Young by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

Endorsed by,

/s

Electronically Signed Kurt Young
PDC Compliance Officer

/s

Electronically Signed Peter Lavalley
PDC Executive Director

cc: Dan Brady, legal counsel for Mike Vaska

