



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.pdcc.wa.gov

October 15, 2024

Delivered electronically to kylemarkstrom@gmail.com

Subject: Complaint filed by Janice Banevich, PDC Case 157492

Dear Kyle Markstrom:

Below is a copy of an electronic letter sent to Janice Banevich concerning a complaint filed with the Public Disclosure Commission (PDC).

As noted in the letter to Janice Banevich, the PDC has dismissed this matter in accordance with [RCW 42.17A.755\(1\)](#) and will not conduct a more formal investigation into these allegations or take further enforcement action in this matter.

However, pursuant to [WAC 390-37-060\(1\)\(d\)](#), this serves as a formal written warning concerning the use of an official Port Commissioner email and website address on a personal Facebook page where election-related content was also present, as noted in the letter to Ms. Banevich. In the future, PDC staff expects you not to use public office-related facilities (resources) when expressing your personal views concerning supporting or opposing any candidate or ballot proposition, in accordance with WAC 390-05-271. The Commission will consider this formal written warning in deciding on further Commission action if there are future violations of PDC laws or rules.

Based on this information, the PDC finds that no further action is warranted and has dismissed this matter in accordance with RCW 42.17A.755(1).

If you have questions, you may contact Tabatha Blacksmith at 1-360-586-8929, toll-free at 1-877-601-2828 or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

Electronically signed Tabatha Blacksmith
Tabatha Blacksmith
Compliance Officer

Endorsed by,

Electronically signed Peter Frey Lavalley
Peter Frey Lavalley
Executive Director



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Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

October 15, 2024

Delivered electronically to janevich@msn.com

Subject: Complaint regarding Kyle Markstrom, PDC Case 157492

Dear Janice Banevich:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on July 22, 2024. The complaint alleged that Kyle Markstrom, a Port Commissioner for Port of Centralia, may have violated RCW 42.17A.555 by using public office or agency facilities to assist an election campaign. Specifically, you alleged that Commissioner Markstrom used his official Port Facebook page to endorse candidate Sean Swope, which you believe gave the appearance that his endorsement represented the Port of Centralia as a whole.

PDC staff reviewed the allegations and evidence you submitted; the applicable statutes, rules, and reporting requirements; the response provided by Kyle Markstrom (the “Respondent”); and other relevant information to determine whether the record supports a finding of one or more violations.

Applicable Laws & Rules

- [RCW 42.17A.555](#) prohibits elected or appointed officials, their employees, and employees of a public office or agency from using, or authorizing the use of, public office/agency facilities¹ (resources), directly or indirectly, for the purpose of assisting an election campaign or for the promotion of, or opposition to, any ballot proposition.
- [WAC 390-05-271\(1\)](#) states that RCW 42.17A.555 does not restrict the right of any individual to express their own personal views concerning supporting or opposing any candidate if such expression does not involve a use of public office or agency facilities.
- [PDC Interpretation No. 04-02](#) are guidelines set forth by the PDC to aid compliance with RCW 42.17A.555, and these guidelines state that 1) agency email systems shall not be used to aid a campaign for or against a candidate; 2) (agency) electronic communication systems shall not be used to generate or forward information that supports or opposes a candidate; and 3) agency websites shall not be used for the purpose of supporting or opposing a candidate.

¹ “Facilities” include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.

Background & Findings

Based on staff's review, we found the following:

- The Respondent currently serves as a Port Commissioner for the Port of Centralia.
- The Respondent has a personal Facebook page located at <https://www.facebook.com/markstromforport>, which he created on May 18, 2021 and for which he is the sole administrator. The page was originally created as a candidate page under the name "Kyle Markstrom for Port." The name of the page was changed to "Kyle Markstrom" on November 11, 2021, after the Respondent was elected to the office he now holds. The primary purpose of the Facebook page appears to be to facilitate communication between the Respondent and his constituents regarding matters concerning Port of Centralia.
- The Port of Centralia has its own official Facebook page located at <https://www.facebook.com/portofcentralia>
- The Port of Centralia's official website is located at <https://portofcentralia.com> and displays an email address of info@portofcentralia.com. There does not appear to be a way to reach Port Commissioners directly via email from the Port of Centralia's website. However, there is a general Contact page from which the public can email Port staff.
- On July 21, 2024, the Respondent published a post on his personal Facebook page indicating his support and intention to vote for 2024 candidate Sean Swope, who is running for the position of Lewis County Commissioner, District 1.
 - At the time the post was made, the Respondent's Intro page displayed an email address of Markstrom@portofcentralia.com and the website address portofcentralia.com
- The Respondent does not have previous warnings/violations of PDC requirements.

Summary and Resolution

Your allegation that the Respondent used an official social media page that belongs to Port of Centralia to endorse candidate Sean Swope has been dismissed. The Page Transparency section under the About tab on the Respondent's Facebook page clearly shows it belongs to him and not the Port of Centralia, which has its own separate Facebook page.

In your complaint, you also said the Respondent's July 21, 2024 post regarding candidate Swope gave the appearance that the entire Port of Centralia Commission endorsed him (Swope) and did not include a disclaimer making it clear the Respondent's statement was not representative of the Port of Centralia. However, the Respondent did not say or imply that he was speaking on behalf of Port of Centralia's Commission in his post, and the evidence you provided does not support this allegation, which is dismissed. Furthermore, a disclaimer, while helpful, is not required.

It is not a violation of RCW 42.17A.555 for an elected official to create and use their own personal social media page(s) to communicate with the public.

Furthermore, it does not violate .555 if a personal social media page contains content expressing support for or opposition to candidates or ballot propositions so long as the activity 1) does not involve the use of public office or agency facilities, such as agency equipment or systems; and 2) is not performed during the official's work hours.

However, if a personal social media page does include election-related content that supports or opposes any candidate (including the official) or ballot proposition, then the inclusion of an agency email and/or web address may violate .555.

Based on our findings, staff has determined that, in this instance, including an official Port Commissioner email and website address on a personal Facebook page where election-related content was also present does not amount to a violation that warrants further investigation.

Pursuant to [WAC 390-37-060\(1\)\(d\)](#), however, Kyle Markstrom will receive a formal written warning concerning the use of an official Port Commissioner email and website address on a personal Facebook page where election-related content was also present. The formal written warning will include staff's expectation that Kyle Markstrom not use public office-related facilities (resources) when expressing his personal views concerning supporting or opposing any candidate or ballot proposition, in accordance with RCW 42.17A.555 and WAC 390-05-271. The Commission will consider the formal written warning in deciding on further Commission action if there are future violations of PDC laws or rules.

Based on this information, the PDC finds that no further action is warranted and has dismissed this matter in accordance with [RCW 42.17A.755\(1\)](#).

If you have questions, you may contact Tabatha Blacksmith at 1-360-586-8929, toll-free at 1-877-601-2828 or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

Electronically signed Tabatha Blacksmith

Tabatha Blacksmith
Compliance Officer

Endorsed by,

Electronically signed Peter Frey Lavalley

Peter Frey Lavalley
Executive Director

cc: Kyle Markstrom