



**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

February 25, 2021

Sent electronically to Mike Cero, with Mercer Islanders for Sustainable Spending

Subject: Complaint filed against Mercer Islanders for Sustainable Spending, PDC Case 82004

Mr. Cero:

The Public Disclosure Commission (PDC) has completed its review of the PDC staff generated complaint filed against Mercer Islanders for Sustainable Spending PAC, a political committee registered with the PDC in 2019.

The PDC staff generated complaint alleged that Mercer Islanders for Sustainable Spending PAC may have violated:

- RCW 42.17A.240 by failing to provide the required expenditure details for independent expenditures and electioneering communications undertaken by MISS during the 2019 election cycle and disclosed on Summary Full Campaign Contributions and Expenditures reports (C-4 reports). Specifically, the 21-Day and 7-Day Pre-General Election C-4 reports are required to disclose expenditure descriptions and details including: (a) whether the expenditure was an independent expenditure or electioneering communication; (2) identifying the 2019 candidates for Mercer Island City Council supported or opposed by the expenditures; and (3) the number of mail pieces printed.
- RCW 42.17A.260 and .305 by failing to timely file Independent Expenditure reports (C-6 reports) disclosing independent expenditure and electioneering communication activities undertaken in support of or opposition to candidates for Mercer Island City Council during the 2019 election cycle.

PDC staff reviewed the allegations listed in the complaint; the statutes, rules and reporting requirements for a political committee; the Monetary Contributions reports (C-3 reports), C-4 reports and C-6 reports filed by Mercer Islanders for Sustainable Spending PAC; and the email responses from Mike Cero. Based on staff's review and the information included in the Report of Investigation, we found the following:

- On January 15, 2019, Mercer Islanders for Sustainable Spending (MISS) filed a Committee Registration as a continuing political committee in 2019, selecting the Full Reporting Option and listing Michael Cero as the Committee Manager and Treasurer.

- During the 2019 election, MISS filed Summary Full Campaign Contributions and Expenditures reports (C-4 reports) and Independent Expenditures/Electioneering Communications reports (C-6 reports) disclosing expenditures that supported and opposed 2019 candidates for the Mercer Island City Council. MISS made a number of expenditures for political advertisements in the form of independent expenditures, and/or electioneering communications during 2019.
- RCW 42.17A.260 requires sponsors of independent expenditure political advertisements undertaken within 21-days of an election that spend more than \$1,000 supporting or opposing a candidate(s), to file a C-6 report within 24 hours of presenting political advertising to the public. RCW 42.17A.305 requires sponsors of electioneering communications advertisements, undertaken within 60-days of an election and who spend more than \$1,000 in featuring or mentioning candidate(s) appearing on the ballot, to file a C-6 report within 24 hours of presenting that communication to the public.
- On November 4, 2019, MISS filed four C-6 reports one day before the November 5, 2019 general election indicating that the expenditures were for Independent Expenditures of \$100 or more, Independent Expenditure Advertisements of more than \$1,000 undertaken within 21 days of an election, and Electioneering Communications. The C-6 reports disclosed the following expenditures made by MISS:
 1. A \$1,433 expenditure was made to FedEx on October 3, 2019, to print a letter and envelopes for an electioneering communication advertisement that was presented to the public on October 11, 2019 and supported or opposed ten 2019 candidates for Mercer Island City Council. MISS was required to file a C-6 report within 24 hours of the advertisements being presented to the public, or no later than October 12, 2020. The expenditure information was disclosed 23 days late on a C-6 report.
 2. A \$5,201.90 expenditure was made to FedEx on October 21, 2019, to print a half page mailer for an independent expenditure advertisement of more than \$1,000 that was presented to the public on October 25, 2019. The advertisement was in support of Daniel Jacobsen and in opposition to Deborah Bertlin, two candidates for Mercer Island City Council, and MISS was required to file a C-6 report no later than October 26, 2020. The expenditure information was disclosed nine days late on a C-6 report.
 3. Four \$949 expenditures totaling \$3,796 were made to Sound Publishing by MISS for four full page independent expenditure newspaper advertisements that appeared in the Mercer Island Reporter, all in support of five 2019 candidates for Mercer Island City Council. The C-6 report disclosed: (1) a \$949 expenditure made on October 3, 2019, and presented to the public on 10/9; (2) two \$949 expenditures were made on October 15, 2019, for advertisements presented to the public on 10/16 and 10/23; and (3) one expenditure made on October 23, 2019, for an advertisement presented to the public on October 26, 2019. MISS disclosed the four independent expenditure newspaper advertisements on C-6 reports that were filed between nine and 19 days late.
- RCW 42.17A.240 requires political committees to accurately disclose all contribution and expenditure information on the C-4 reports, and provide a detailed description for all expenditures made including that the expenditure was for an independent expenditure or electioneering communication, the names of the candidate(s) supported or opposed by the advertisements, and the number of mail pieces printed and mailed.
- On October 15, 2019, MISS timely filed the 21-Day Pre-General Election C-4 report disclosing \$3,448 in total expenditures.

- The MISS expenditures included a \$1,433 expenditure made to FedEx on October 3, 2019, and listing the description as “Mailer, letter and envelopes”, and a \$949 expenditure made to Sound Publishing on October 3, 2019, and listing the description as “10/9 Full Page Color Ad.”
- On October 29, 2019, MISS timely filed the 7-Day Pre-General Election C-4 report disclosing a \$20,197.24 in total expenditures, minus a \$4,385 refund for one of the expenditures. The expenditures included: (1) a \$5,201.90 expenditure made to FedEx on October 21, 2019, for a half page mailer; (2) a \$4,241 expenditure made to FedEx on October 23, 2019, for a quarter page mailer; (3) a \$2,815 expenditure made to FedEx on October 28, 2019, for a half page mailer; and (4) three \$949 expenditures made to Sound Publishing, including two expenditures on October 15, 2019, and one expenditure on October 24, 2019, and listing the descriptions as “10/16, 10/23 and 10/30 Full Page Ads.”
- The expenditure descriptions for the mailers and newspaper advertisements disclosed on both the 21-Day and 7-Day Pre-General Election C-4 reports failed to identify the expenditures were for an independent expenditure or electioneering communication advertisement. In addition, both C-4 reports failed to identify any of the Mercer Island City Council candidates supported or opposed by the advertisements, the date of the mailer, or the number of mail pieces printed and mailed.
- On January 7, 2021, on behalf of MISS Mr. Cero filed four amended C-4 reports that included the 21-Day and 7-Day Pre-General Election C-4 reports, identifying the Mercer Island City Council candidates supported or opposed by the advertisements, and the number of mail pieces printed and mailed.
- On February 23, 2021, Mr. Cero completed a Statement of Understanding (SOU) on behalf of MISS acknowledging violations of RCW 42.17A.240, 260 and .305 and paying a \$600 civil penalty in accordance with the Penalty Schedule adopted by the Commission for Brief Enforcement Hearings set forth in WAC 390-37-143, to resolve this matter. The \$600 penalty consisted of:
 1. A \$300 penalty for the acknowledged violations of RCW 42.17A.260 and .305, for failing to timely file C-6 reports during the 2019 election cycle disclosing multiple independent expenditures and electioneering communication advertisements undertaken in support of, and opposition to, ten 2019 candidates seeking the office of Mercer Island City Council.
 2. A \$300 penalty for the acknowledged violations of RCW 42.17A.240 for failing to accurately disclose the required expenditure details on the 21-Day and 7-Day Pre-General C-4 reports for the independent expenditure or electioneering communication advertisements.
- MISS was a first-time political committee and Mr. Cero stated “this was the first campaign where I managed a PAC.” He stated that he reviewed one of the PDC training videos on the PDC website, and found the expenditures details did mention the quantity of the items printed or purchased, but that it was only a brief explanation and the video did not appear to provide the necessary details required for an expenditure description disclosed on the C-4 reports.
- Concerning the C-6 reporting requirements, Mr. Cero stated that “this one really caught me off guard. I logically relied on the Orca prompts in Report Manager” for the PDC Online Reporting of Campaign Activity (ORCA) filing software but discovered the C-6 reporting was done through a separate filing application.

Staff's review found that Mercer Islanders for Sustainable Spending PAC completed the SOU and paid the \$600 penalty in lieu of scheduling a Brief Adjudicative Proceeding (Brief Enforcement hearing) to resolve this matter. Based on these findings, staff has determined that in this instance, no further investigation is warranted, or any additional enforcement action shall be taken.

The PDC has dismissed the staff generated complaint filed against Mercer Islanders for Sustainable Spending PAC in accordance with RCW 42.17A.755(1) and WAC 390-37-070.

If you have questions, you may contact me at (360) 664-8854, toll-free at 1-877-601-2828, or by e-mail at kurt.young@pdc.wa.gov.

Sincerely,

Endorsed by:

s/ _____
Electronically Signed Kurt Young,
PDC Compliance Officer

s/ _____
Electronically Signed BG Sandahl, Deputy Director
for Peter Lavallee, PDC Executive Director

