



**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.pdca.wa.gov

December 16, 2021

Delivered electronically to Seth Landau at "sdlandau@aol.com"

Subject: Complaints filed by Richard Erwin & Daniel Franco-Malone, PDC Case 100171

Dear Seth Landau:

Below is a copy of an electronic letter sent to Richard Erwin and Daniel Franco-Malone with Barnard, Iglitzin & Lavitt LLP., concerning two complaints filed with the Public Disclosure Commission (PDC).

As noted in the letter to Mr. Erwin and Ms. Franco-Malone, 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 your failure to comply with the filing requirements noted in the enclosed letter sent to Mr. Erwin and Ms. Franco-Malone. Staff expects you to timely disclose independent expenditures made of \$100 within five days and to ensure the inclusion of the required sponsor identification on all political advertisement sponsored by you in future years. The Commission will consider this formal written warning in deciding on further Commission action if there are future violations of PDC laws or rules.

If you have questions, you may contact Jennifer Hansen at 1-360-586-4560 toll-free at 1-877-601-2828, or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

Electronically signed

Jennifer Hansen
Compliance Officer

Endorsed by,

Electronically signed

Peter Frey Lavalley
Executive Director



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December 16, 2021

Delivered electronically to Richard Erwin at “erwinr@yahoo.com” & Danielle Franco-Malone at “franco@workerlaw.com”

Subject: Complaint regarding Seth Landau, PDC Case 100171

Dear Mr. Erwin and Ms. Franco-Malone:

The Public Disclosure Commission (PDC) has completed its review of the complaint Richard Erwin filed on October 25, 2021 and the complaint filed by, Danielle Franco-Malone, an attorney with Barnard Iglitzin & Lavitt LLP., on November 10, 2021. Staff reviewed the complaint filed by Ms. Franco-Malone and, finding the allegations similar and related to the same two political advertisements already being investigated under the original complaint filed by Mr. Erwin, merged the two complaints and notified Ms. Franco-Malone of this action on November 12, 2021. The complaints alleged that Seth Landau, a sponsor of an independent expenditure advertisement, may have violated: (1) RCW 42.17A.255 & .260 for failure to timely and accurately disclose independent expenditures on a C-6 report; and (2) RCW 42.17A.320 by failing to include proper sponsor identification on political advertisements sponsored by him.

PDC staff reviewed the allegations; the applicable statutes, rules, and reporting requirements; the responses provided by the Respondent; the applicable PDC reports filed by the Respondent; and queried the Respondent’s data in the PDC contribution and expenditure database, to determine whether the record supports a finding of one or more violations.

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

- On October 19, 2021, Seth Landau made a \$1,202.90 expenditure to Mercer Island Reporter in Kirkland, for a newspaper advertisement that appeared in the publication on October 20, 2021.
- On October 27, 2021, Seth Landau made a \$727.25 expenditure to Mercer Island Reporter, for a newspaper advertisement that appeared in the publication the same day.
- Both advertisements opposed 2021 City of Mercer Island City Council candidates Katherine A. Akyuz, Daniel Becker and Ted Weinberg, attributing \$643.38 total for each candidate.
- RCW 42.17A.255 requires that a person making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, must disclose the activity on a C-6 within five days after the date of the expenditure.
- RCW 42.17A.320 requires written political advertisements to include the name and address of the person paying for or sponsoring the advertisement.

- The ad presented on October 20, 2021 included sponsor identification limited to Mr. Landau's name and was required to be disclosed on a C-6 report within five days of the expenditure or no later than Monday, October 25, 2021. Mr. Landau submitted the C-6 report two days late on October 27, 2021.
- The second ad presented on October 27, 2021 was disclosed timely on the C-6 report submitted electronically on October 27, 2021; however, the advertisement itself failed to identify the sponsor of the ad in any manner.
- In his response regarding the late filing of the C-6 for the October 20, 2021 ad, Mr. Landau stated that he forgot to hit the save button earlier and subsequently filed both independent expenditures together on October 27, 2021.
- In regard to the missing sponsor identification on the second ad presented on October 27, 2021, Mr. Landau stated that the vendor, Mercer Island Reporter, omitted the required "paid for by" statement without his knowledge.
- During a review of the C-6 report submitted by Mr. Landau, staff found that, based on the activity, he should have checked Box 1 of the C-6 for independent expenditures occurring at any time of \$100 or more, rather than Box 2 for independent expenditure ads appearing within 21 days of an election of \$1,000 or more.

Regarding the late C-6 filing, it appears that this was likely due to Mr. Landau's technical difficulties with the C-6 filing application. Staff noted, however, that Mr. Landau successfully filed a C-6 report in calendar year 2019 after encountering the same technical issue. Concerning the missing sponsor identification, staff found no evidence that Mr. Landau purposely failed to include complete sponsor identification on two political advertisements he sponsored that appeared in the same newspaper one week apart or that he otherwise attempted to mislead the public.

Based on our findings staff has determined that, in this instance, submittal of a C-6 report disclosing an independent expenditure two days late and failure to include required sponsor identification on two political advertisements does not amount to a finding of a violation that warrants further investigation.

Pursuant to WAC 390-37-060(1)(d), however, Seth Landau will receive a formal written warning concerning failure to timely disclose independent expenditures within five days and failure to include full sponsor identification on a political advertisement sponsored by him. The formal written warning will include staff's expectation that Mr. Landau timely files all future required reports of independent expenditures and that he ensures the required sponsor id is included on political advertisements he sponsors. 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 Jennifer Hansen at 1-360-586-4560 toll-free at 1-877-601-2828, or by e-mail at pdcc@pdc.wa.gov.

Sincerely,

Electronically signed

Jennifer Hansen
Compliance Officer

Endorsed by,

Electronically signed

Peter Frey Lavallee
Executive Director

cc: Seth Landau