



**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

November 20, 2023

Delivered electronically to Ed Pottharst at epottharst@gmail.com

Subject: Complaint filed by Glen Morgan, PDC Case 141655

Dear Ed Pottharst:

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

As noted in the letter to Mr. Morgan, the PDC has dismissed this matter following 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, per WAC 390-37-060(1)(d), this serves as a formal written warning concerning your failure to follow filing requirements for RCW 42.17A.235, .240 and WAC 390-16-037 in election year 2019 as noted in the enclosed letter sent to Mr. Morgan. Staff expects you to file all required reports of contributions and expenditures in future years timely and accurately. If violations of PDC laws or rules occur in the future, the Commission will consider this formal written warning in deciding on further Commission action.

If you have questions, you may contact Tanya Mercier toll-free at 1-877-601-2828, or by e-mail at pdc@pdc.wa.gov.

Sincerely,

/s/ Electronically signed

Tanya Mercier
Compliance Officer

Endorsed by,

/s/ Electronically signed

Peter Frey Lavallee
Executive Director



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

November 20, 2023

Delivered electronically to Glen Morgan at glen@wethegoverned.com

Subject: Complaint against Ed Pottharst, PDC Case 141655

Dear Glen Morgan:

The Public Disclosure Commission (PDC) has completed its review and assessment of the complaint you filed on August 23, 2023. The complaint alleged that Ed Pottharst, a candidate for City of Seattle Council, may have violated RCW 42.17A.235, .240 and WAC 390-16-037 for failure to timely and accurately disclose contributions and expenditures on reports and failure to list the vendor and the address of the vendor for in-kind contributions in election year 2019.

PDC staff reviewed the allegation(s); the applicable statutes, rules, and reporting requirements; the response(s) provided by the Respondent; the applicable PDC reports filed by the Respondent; and other relevant information, to determine whether the record supports a finding of one or more violations.

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

- The Respondent filed a Candidate Registration (C-1) report on May 21, 2019, and selected the Full Reporting option. Ed Pottharst lost in the primary election and did not proceed to the general election in 2019. Andrew Kamins was the treasurer of the campaign.
- Per RCW 42.17A.235 and .240, under the Full Reporting Option, the Committee was required to disclose contribution and expenditure information by submitting Receipts and Expenditure Summary (C-4) reports and Cash Receipts, Monetary Contributions (C-3) reports to the PDC. The Committee's due dates for the C-3 and C-4 reports are determined by its activity and participation in the election cycle.
- Amendments are insufficient evidence of late reporting. There are many reasons a committee might amend their reports and the mere presence of an amendment is not itself conclusive evidence of a violation. When considering C-3 and C-4s, these report amendments require inspection of the actual report to figure out whether the committee has a requirement to report activity by a given date. As well, deciding if a report is late is not as simple as calculating the days late based on a periodic reporting timeline and when a report was filed but is fact specific to the campaign and its activities. In this instance,

the evidence provided was insufficient to support the allegations of late or inaccurate reporting for the identified amended reports for 2019.

- Of the non-amended reports due in 2019, outlined in the evidence provided, there were 15 C-3 reports filed significantly late after the 2019 primary election, with most filed in 2021, for a total of \$38,012 in contributions. There was one C-4 report filed in 2021 that reported a \$10,000 payment to treasurer Jeanne Legault and an escheatment to the City of Seattle for \$1,447.09.
 - Of the C-3s filed late, report # 100932365 showed two contributions, made by two different people, with their employer information showing as “Seeking Information.” PDC staff contacted the campaign, and upon determining the information had been obtained, the campaign amended the report.
 - For the late filed C-4 report, PDC staff contact City of Seattle Ethics and Elections Commission (SEEC) and confirmed the \$1,447.09 had been escheated per Seattle Municipal Code 2.04.634.E.
- RCW 42.17A.240 also details requirements for information reported. PDC guidance further clarifies that disclosure of vendor name and address is encouraged when reporting in-kind contributions. The complaint alleges, that in report # 100917762, the campaign failed to disclose the vendor address on an in-kind contribution made by the candidate. PDC staff reviewed the report and determined the campaign did report the vendor’s name, but the vendor address is missing from the detail. Based on the information that was reported, the public was not deprived of critical information at the time of the election. Due to character limitations in ORCA, at the time of reporting, detail as outlined in the WAC would not have been feasible. Therefore, PDC staff has decided that requiring the campaign to amend reports now, four years past the election, does not serve the purpose of providing useful or timely information to the public.
- Per WAC 390-16-037(2), expenditures pursuant to an agreement or understanding must describe in detail the goods and/or services provided.
- The complaint identified three reports alleged to be missing a detailed description of purpose for reported expenditures. Based on staff’s review of the reports the reporting was insufficient in detail as outlined in WAC 390-16-037(2). The campaign did provide a general description of the expenditures and based on the information reported, the public was not deprived of critical information at the time of the election. Due to character limitations in ORCA, at the time of reporting, detail as outlined in the WAC would not have been possible. Therefore, PDC staff has decided that requiring the campaign to amend reports now, four years past the election, does not serve the purpose of providing useful or timely information to the public.
- In response to the complaint, Mr. Pottharst and his treasurer, Jeanne Legault, explained that at the end of the campaign the candidate was having trouble closing out their campaign. According to Ms. Legault, the SEEC “asked me to help him re-file his reports, because there were some filing errors etc. and he was unable to balance to zero. ... the object was to close out the account in as timely a fashion as possible.

Unfortunately, Mr. Pottharst had a family emergency, and this delayed his ability to provide the information I needed.”

- Mr. Pottharst does not have similar warnings or violations of PDC requirements.

Based on our findings staff has determined that, in this instance, Ed Pottharst’s failure to timely and accurately disclose contributions and expenditures on reports in election year 2019 and provide detailed descriptions for expenditures and vendor address for in-kind contributions of goods does not amount to a finding of a violation that calls for further investigation.

Per WAC 390-37-060(1)(d), however, Ed Pottharst will receive a formal written warning concerning their failure to follow filing requirements for RCW 42.17A.235, .240 and WAC 390-16-037 when reporting in the 2019 election year. Staff expects Ed Pottharst to file all required reports of contributions and expenditures in future years timely and accurately. If violations of PDC laws or rules occur in the future, the Commission will consider this formal written warning in deciding on further Commission action.

Based on this information, the PDC finds that no further action necessary and has dismissed this matter per RCW 42.17A.755(1).

If you have questions, you may contact Tanya Mercier toll-free at 1-877-601-2828, or by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

/s/ Electronically signed

Tanya Mercier
Compliance Officer

Endorsed by,

/s/ Electronically signed

Peter Frey Lavalley
Executive Director

cc: Ed Pottharst