



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In RE COMPLIANCE WITH
RCW 42.17A

Lucy DeYoung/Ethical Woodinville

Respondent.

PDC Case No. 14-008

Report of Investigation

I.

Background

- 1.1 On March 28, 2013, Bernie Talmas filed a Candidate Registration (C-1 report) declaring his candidacy for re-election to the Woodinville City Council in 2013. Mr. Talmas was elected to the Woodinville City Council in 2009, and served as the Mayor of Woodinville in 2013. **Exhibit #1.**
- 1.2 At the July 16, 2013 Woodinville City Council meeting, the council discussed amending the language about the removal of the Mayor and Deputy Mayor in the Council's "Rules of Procedure" in Resolution No. 436. The council also discussed amending the Council's "Code of Ethics" to add language for a censure process in the Rules of Procedure for a violation of General Decorum. This issue was related to statements made earlier in 2013 by Susan Boundy-Sanders, a Woodinville City Councilmember, about Liz Aspen, also a Woodinville City Councilmember, and Lucy DeYoung, a private citizen.
- 1.3 On October 3, 2013, Susan Boundy-Sanders, an incumbent Woodinville City Councilmember, filed a complaint against Ethical Woodinville alleging failure to register and report as a political committee disclosing contribution and expenditure activities connected with political advertisements or other communications that identified a candidate for Woodinville City Council elections in 2013. **Exhibit #2.**
- 1.4 As part of her complaint, Ms. Boundy-Sanders submitted three postcards that were sponsored by Ethical Woodinville and prominently featured incumbent Woodinville Mayor Bernie Talmas, attacked his character and campaign tactics, and included a message to contact Mayor Talmas and "*...Ask him to stop the bullying and demand he vote yes on stricter ethics rules for Council conduct...*"
- 1.5 Ms. Boundy-Sanders supplemented her complaint with Addendum #1 on October 11, 2013, and Addendum #2 on October 23, 2013. The addendums included two additional

postcards produced and distributed by Ethical Woodinville (EW), in addition to the three postcards already provided.

II.

Allegations & Results of Investigation

- 2.1 Ms. Boundy-Sanders alleged that EW failed to disclose contributions received and the expenditures made in connection with the postcards, alleged violations of the following:
- A. RCW 42.17A.205 for failing to register as a political committee.
 - B. RCW 42.17A.235 and .240 for failing to report contribution and expenditure activities undertaken by a political committee.
 - C. RCW 42.17A.305 for failing to report electioneering communications on Independent Expenditure or Electioneering Communications reports (C-6 report); and
 - D. RCW 42.17A.320 for failing to include proper sponsor identification on its political advertising.
 - E. RCW 42.17A.435 for concealing the identity of the source of the contribution through the name of another person.
- 2.2 On January 10, 2014, EW/Lucy DeYoung filed five Grass Roots Lobbying reports (L-6 reports) covering the period of August 1 through December 31, 2013, disclosing what Ms. Young described as a grass roots lobbying campaign with the purpose of adopting "Stronger ethical rules for City of Woodinville City Council Conduct." The L-6 report disclosed that Ms. DeYoung was the sole "principal officer" for EW and that she was the only contributor/funder, making two contributions totaling \$20,336.
- 2.3 On February 7, 2014, after conversations with PDC staff, EW filed a C-6 report of Electioneering Communications identifying Lucy DeYoung as the sponsor and sole funder of EW activities, which included creating a website, printing and mailing postcards, and making robo-telephone calls. The C-6 report disclosed that Ms. DeYoung, using personal funds, spent \$11,740 for a series of electioneering communication mailings that identified Bernie Talmas during the 2013 election, and \$297.50 for related telephone calls.
- 2.4 Sponsors of electioneering communications of more than \$1,000 per candidate are required to file C-6 reports within 24 hours of presenting a qualifying communication to the public. The C-6 report submitted by Lucy DeYoung/EW was filed more than four months after the November 5, 2013 general election.

III. Findings

- 3.1 An "electioneering communication" means any broadcast or United States postal service mailing that: (i) Clearly identifies a candidate for a local office by name (ii) Is broadcast, mailed, distributed, or otherwise published within sixty days before any election for which the candidate is seeking election; and (iii) Alone, or in combination with one or more

communications identifies the candidate by the same sponsor, and has a fair market value of \$1,000 or more.

- 3.2 During the period August 29 through October 19, 2013, Lucy DeYoung/EW produced and distributed five postcards that featured Woodinville Mayor Bernie Talmas and a candidate for election in 2013.¹ The postcards provided information about Mayor Talmas, attacked his character and campaign tactics, and ended with a “Call Bernie Talmas...” message. Staff’s review found that Lucy DeYoung/EW created a website on August 7, 2013, and also made automated or “robo” calls about Bernie Talmas beginning in the second week of August 2013.
- 3.3 The election related communications attributed to Ethical Woodinville attracted considerable media attention in the weeks leading up to the November election. There were a number of newspaper articles and Letters to the Editor concerning the activities undertaken by Ethical Woodinville, and the Woodinville election involving Bernie Talmas, that appeared in local newspapers in September and October of 2013. In addition, the complaint provided an email exchange between EthicalWoodinville.com and one of the complainants, Candy Allen, concerning disclosing the sponsors behind Ethical Woodinville and removing her name from the robo-call list (Exhibit #1, pages 20-23). The newspaper articles, included, but were not limited to, the following: **(Exhibit #3)**
- **October 10, 2013, Seattle Times article:** The article included the Headline “Shadowy ads target Woodville mayor, council member” and provided readers with background information and some of the content of the postcard ads attributed to Ethical Woodinville. The article stated the ads called Mayor Bernie Talmas a bully, accused him of using an informant to obtain information about another councilmember, and that the ads “...aren’t sponsored by his election opponent or a registered political action committee, but by a shadowy entity that isn’t saying where it gets it funds....”
 - **Several articles and a number of “Letters to the Editor” appeared in the Woodinville Weekly both before and after the 2013 election.** The letters included, but were not limited to, the following:
 1. **October 13, 2013, Woodinville Weekly article:** The article included the Headline “Complaint filed against anonymous political group” and provided readers with information about the complainants, including Susan Boundy-Sanders, and comments she made concerning her complaint against Ethical Woodinville with details about the alleged reporting violations. The article included content from the postcard ads that Ethical Woodinville produced and distributed that “...accuse Mayor Bernie Talmas of bullying and harassing other councilmembers and call him “Peeping Bernie.” Ms. Boundy-Sanders makes a reference to Lucy DeYoung in the article which stated “...DeYoung didn’t respond to requests for an interview.”

¹ Postcard No. 1 was received by the complainant on August 29, 2013, and presented to the public more than 60 days prior to the November 5, 2013 general election. Therefore, Postcard No. 1 was not reportable by the Respondent as an electioneering communication. However, PDC staff believes Postcard No. 1 is reportable as Independent Expenditure political advertising on a C-6 report.

2. **September 2, 2013, Letter to the Editor in Woodinville Weekly:** The letter to the Editor was from EthicalWoodinville.com and stated that Ethical Woodinville: “is not a political action committee (PAC) as claimed. There has never been, nor will there ever be, any endorsement of any candidates for office...will never ask citizens to vote for or against any candidate. Our mission is stated clearly in every phone call, mailer, or web post that is made public: we ask citizens to call the City Council and urge them to vote for stronger ethics rules for council behavior. The embarrassing antics of Mayor Bernie Talmas and the political operatives and council members who work on his behalf must stop.”
- 3.4 On December 4, 2013, PDC staff sent a letter to EW (since staff was not aware of Ms. DeYoung’s involvement at this time), notifying EW about a complaint that was filed by Ms. Boundy-Sanders, and stating that staff had opened a formal investigation into the complaint.
- 3.5 On December 20, 2013, Phil Stutzman, PDC Director of Compliance, exchanged emails with an anonymous and unidentified representative of EW. The EW representative stated in the email that the complaint letter had just been received, and that EW was requesting additional time to provide a response to the allegations in the complaint.
- 3.6 On January 13, 2014, Mark Lamb, an attorney with the North Creek Law Firm, contacted PDC staff, and stated that he had recently been retained to represent EW in this matter. Mr. Lamb requested additional time to provide a response on behalf of Lucy DeYoung/EW. Mr. Lamb stated that prior to being contacted by the PDC, representatives of EW had communicated with another attorney concerning this matter and had been advised that the postcard mailings were not reportable to the PDC.
- 3.7 Mr. Lamb stated that after the complaint was filed, he was retained as legal counsel, and after reviewing the complaint, reporting requirements and statutes, he suggested that EW file grassroots lobbying (L-6) reports.

Responses from Lucy DeYoung/Ethical Woodinville

- 3.8 On February 6, 2014, Mr. Lamb sent an email to PDC staff on behalf of Lucy DeYoung/EW in response to the complaint filed by Ms. Boundy-Sanders. Mr. Lamb stated: **Exhibit #4**
 - 3.8.1 Lucy DeYoung created EW in the first half of 2013, and is the sole principal decision-maker and contributor/funder.
 - 3.8.2 Ms. DeYoung’s purpose in creating EW was to support an ordinance in the City of Woodinville to prevent what she perceived as bullying and other types of abusive behavior on behalf of some members of the Woodinville City Council.
 - 3.8.3 EW is not an incorporated entity or registered association.
 - 3.8.4 EW does not have a bank account separate from Ms. DeYoung.
 - 3.8.5 Lucy DeYoung hired Minnick and Minnick, a political consulting firm, to conduct the activities undertaken by EW including mailing postcards, creating a website, and making robo-calls.

- 3.8.6 After Ms. DeYoung consulted with Minnick and Minnick, and prior legal counsel, she stated that she "...believed that EW was the appropriate sponsor of issue advertising postcards..." and that those activities "...were not express advocacy relating to the election and defeat of a candidate."
- 3.8.7 Ms. DeYoung "has no objection to being associated with Ethical Woodinville or the ongoing efforts to pass an ordinance in the City of Woodinville to prevent bullying and abusive behavior on the Woodinville City Council."
- 3.9 On May 19, 2014, PDC staff conducted a telephone interview under oath with Ms. DeYoung, and she was represented by Mr. Lamb, who participated by telephone along with Ms. DeYoung from his Bothell law office. **Exhibit #5.** During the telephone interview under oath, Ms. DeYoung stated:
- 3.9.1 She served as a Woodinville City Councilmember on the initial city council after the incorporation, and served as the initial Mayor of Woodinville. She stated that she was a former member of the WA Public Stadium Authority, and she was also a statewide candidate in 1996 seeking the office of Washington State Treasurer.
- 3.9.2 She was the sole decision-maker for EW and that she made all of the expenditures using her personal funds.
- 3.9.3 All of EW's expenditures were made to Minnick & Minnick except for payments she made to Jeffrey Possinger, a local attorney with whom she consulted in this matter.
- 3.9.4 Mr. Minnick proposed she engage in an "issues campaign" that featured Bernie Talmas, with the content focusing on the alleged "bullying and stalking" of fellow Woodinville council members and citizens.
- 3.9.5 EW produced and mailed five postcards before the election, and mailed one postcard after the election. Mr. Minnick wrote the content for the postcards, and Ms. DeYoung approved the final copy.
- 3.9.6 EW also made Robo-calls with content similar to the postcards, in that the calls ended with a "Contact Bernie Talmas" message concerning the Woodinville City Council adopting an ethics ordinance. She stated that an additional set of Robo-calls were made after the November 2013 general election right before the November 2013 Woodinville City Council meeting that listed the "bullying" issue on the agenda.
- 3.9.7 She wanted to have things done legally, so she recalled having a discussion with Mr. Minnick concerning the sponsor's name that would be listed on the postcards. Ms. DeYoung stated, "...Mr. Minnick assured me that they (meaning the content of the advertisements) would be written so that they would not cross over into a political campaign..."
- 3.9.8 Mr. Minnick informed her that the postcards concerned the Woodinville City Council and attempts to adopt an ordinance related to the "bullying" issue.
- 3.9.9 Mr. Minnick stated the postcard activities were not part of a political campaign, and that the postcards and other EW activities were not reportable to the PDC.
- 3.9.10 She became aware of the PDC reporting requirement for EW activities when she received the complaint letter from PDC staff. She stated that after receiving the

complaint letter, she contacted Mr. Lamb and he advised her to file L-6 reports since he could not find a way for her to file and disclose the “issue advertising” for all of the activities EW was engaged in.

- 3.9.11 She did not meet or have any contact with Bradley Walker, Mr. Talmas’ opponent, concerning the postcards, and that she did not coordinate, consult or communicate with anyone from Mr. Walker’s campaign concerning the EW activities.
- 3.10 Staff reviewed the June 18, 2013, Woodinville City Council agenda, minutes, and video section. The agenda listed a “NEW ITEM: Review of City Council Ethics and Rules of Procedure (No staff report provided)”. The minutes and the video indicated the matter was held over for another meeting, with Mayor Talmas stating on the record “Due to the late hour (10:00 pm), this item was rescheduled to the next Council meeting.”
- 3.11 Staff reviewed the July 16, 2013 Woodinville City Council agenda, minutes, and video section. The agenda listed “Resolution No. 436 Amending the Council Rules of Procedure” concerning language about the removal of the Mayor and Deputy Mayor, along with a “Discussion of Amendments to Code of Ethics.” The minutes and the video indicated both matters were discussed and motions were made and voted on by the council, including: (1) A motion to table Resolution No. 436 concerning language about the removal of the Mayor and Deputy Mayor until January 2014 (passed on a 6-0 vote); and (2) A motion to add language for a censure process in the Rules of Procedure for a violation of General Decorum (passed on a 3-2 vote).

Telephone interview under oath with Chad Minnick

- 3.12 On August 27, 2014, PDC staff conducted a telephone interview under oath with Chad Minnick. Mr. Minnick was represented by Mr. Lamb in this matter. Mr. Lamb participated by telephone along with Mr. Minnick from Mr. Lamb’s Bothell law office. During the telephone interview under oath, Mr. Minnick stated:
- 3.12.1 He set up his political consulting firm in 1996 and began consulting in 1997. He stated that he has worked with numerous candidates for state, legislative and local office, and several political committee and party organizations (including Dino Rossi and the Washington Association of Realtors).
- 3.12.2 Ms. DeYoung contacted him in late winter/early spring of 2013 about issues concerning the City of Woodinville, and the actions of certain council members which she felt was bullying towards other members of the council and Woodinville citizens.
- 3.12.3 Ms. DeYoung’s goal and objective for EW was to have the Woodinville City Council adopt some type of ethics rules or an ordinance to address the “bullying” behavior, or to adopt or make changes to the Council’s “Rules of behavior.”
- 3.12.4 In order to achieve those goals, he proposed that Ms. DeYoung and EW undertake an “issues campaign” by communicating with the Woodinville community (voters), and inform them about the alleged bullying that was occurring involving some City Council members.

- 3.12.5 The issues campaign intended to encourage the public to send emails or make telephone calls to the Woodinville City Council to try and “put pressure on the council” to come up with some sort of plan to address the bullying issue.
- 3.12.6 He never discussed a budget or specific dollar amount to be spent by Ms. DeYoung, but that they agreed to create an EW website, print and mail a number of postcards featuring Bernie Talmas, and make robo-calls, all funded by Ms. DeYoung.
- 3.12.7 He had discussions with Ms. DeYoung early in the process about the sponsor’s name to be disclosed on the postcards. He understood that EW and Ms. DeYoung sought advice from a local attorney (Jeffrey Possinger) prior to engaging in any activities concerning PDC issues and reporting requirements.
- 3.12.8 He does not advise his clients on PDC related matters. None of the advice concerning EW and whether the mailings were reportable to the PDC came from him. Advice came from Lucy DeYoung/EW’s legal counsel at the time.
- 3.12.9 His understanding was that the postcards and other EW activities were attempting to influence a local policy matter before the Woodinville City Council, and that he did not view EW’s activities as electioneering communications. He stated that he does not understand the concept or definition of an electioneering communication or how an electioneering communication is to be reported.
- 3.12.10 He did not meet or have any contact with Bradley Walker (Bernie Talmas’ opponent in the 2013 Woodinville City Council election) concerning EW’s activities, and he did not coordinate, consult or communicate with anyone connected with Mr. Walker’s campaign.

Ethical Woodinville/Lucy DeYoung files Grass Roots Lobbying reports (L-6 reports)

- 3.13 On January 10, 2014, EW/Lucy DeYoung filed five Grass Roots Lobbying reports (L-6 reports) covering the period of August 1 through December 31, 2013, and disclosing a campaign with the purpose of adopting “Stronger ethical rules for the City of Woodinville City Council Conduct.” **Exhibit #5.** The L-6 reports filed by EW disclosed:
 - Ms. DeYoung was the only “principal officer” for the entity and the only contributor and funder, making two contributions totaling \$20,336.
 - Ms. DeYoung contracted with Minnick & Minnick, a political consulting firm, and listed them as the organizer or manager for the campaign for EW.
 - EW disclosed making \$20,336 in expenditures to Minnick & Minnick, which included \$13,031 for consulting and public relations; \$6,510 for printing and mailing costs; \$705 for other expenses; and \$90 for office expense, travel, and other expenses.
- 3.14 After being contacted by Mr. Lamb, PDC staff informed Mr. Lamb that L-6 reports are only filed for grassroots lobbying efforts directed at the Washington State Legislature or a Washington State agency concerning the agency’s rulemaking authority, and are not used to disclose local lobbying activities. Staff informed Mr. Lamb that Ms. DeYoung’s mailed

communications were considered electioneering communications, and requested that he advise Ms. DeYoung to file C-6 reports as required.

Ethical Woodinville/Lucy DeYoung files C-6 report

3.15 On February 7, 2014, Lucy DeYoung/EW filed one C-6 report, manually on paper.

Exhibit #6. The C-6 report did not indicate whether the report was being filed for independent expenditures, independent expenditure advertising, or electioneering communications by including a “check-mark” in one of the three boxes at the top of the form. The C-6 report disclosed the following:

- Ms. DeYoung made all of the expenditures for electioneering communications using her personal funds.
- One candidate, Bernie Talmas, was identified in the electioneering communications, with \$12,038 in expenditures attributed to his candidacy. The report attributed \$2,935 in expenditures to Susan Boundy-Sanders, an incumbent city councilmember.
- The C-6 report failed to disclose whether the candidates were supported or opposed by the advertisements.
- Minnick & Minnick was the political consultant “organizing or managing the campaign,” and a total of \$12,038 in expenditures were made for four postcard mailings (a total of \$2,935 per mailing), and \$298 was spent for robo-calls.
- The four mailings were all ordered on August 15, 2013, but were presented to the public or mailed on the following dates, which are the dates that trigger the reporting requirement:
 1. September 9, 2013; (C-6 report required on September 10, 2013);
 2. September 23, 2013; (C-6 report required on September 24, 2013);
 3. October 7, 2013; (C-6 report required on October 8, 2013); and
 4. October 18, 2013; (C-6 report required on October 19, 2013).
- According to the C-6 report filed on paper on February 7, 2014, and electronically on March 4, 2014, the robo-calls (\$298 expenditure) were produced on August 3, 2013, and were presented to the public on October 21, 2013.

3.16 Staff contacted Mr. Lamb and informed him that the C-6 report was required to be filed electronically by Lucy DeYoung/EW disclosing the electioneering communications, and that Ms. Boundy-Sanders was not a candidate on the ballot in 2013, and therefore should not be listed on the C-6 report. Staff asked that Ms. Boundy-Sanders’ name be removed from the C-6 report, and that the portion attributed to her be attributed to opposing Mr. Talmas.

3.17 On March 4, 2014, Lucy DeYoung/EW filed a C-6 report electronically identifying Ms. DeYoung as the sponsor. **Exhibit #7.** The C-6 report filed by Lucy DeYoung/EW

disclosed electioneering communications that were paid for by Ms. DeYoung totaling \$12,038, all made in opposition to Bernie Talmas' candidacy, and listed the same information as previously discussed in this Report of Investigation.

Lucy DeYoung/EW Postcards/Communications

3.18 During the 2013 election, Lucy DeYoung/EW produced and distributed five postcards and two telephone "robo-calls" that prominently identified and attacked the character and campaign tactics of incumbent Woodinville Mayor Bernie Talmas, a candidate for re-election to that office in 2013. In accordance with WAC 390-16-063, the postcards that met the definition of "electioneering communication" in RCW 42.17A.005(19) were required to be reported as such on for C-6 within 24 hours of being presented to the public. Because all five of the postcards attacked the character and campaign tactics of Bernie Talmas, they also met the definition of independent expenditure political advertising, and were required to display a statement of sponsor identification taking the form, "No candidate authorized this ad. It is paid for by (name, address, city, state)." Finally, Ms. DeYoung's initial independent expenditure political advertisement postcard, and her two "robo-calls," did not meet the definition of an electioneering communication, but were nevertheless required to be disclosed on PDC form C-6 within five business days of Ms. DeYoung's expenditures.

The five postcards are described as follows:

Ethical Woodinville/Lucy DeYoung Postcard No. 1:

- 3.19 Postcard No. 1 was titled "Bullying at Woodinville City Hall." The postcard was received on August 29, 2013, which indicates it was presented to the public more than 60 days prior to the November 5, 2013 general election. As such, it did not constitute an electioneering communication. However, as discussed above, because the postcard constituted independent expenditure political advertising, it was required to be disclosed on PDC form C-6 within five business days of Ms. DeYoung's expenditure, and was not disclosed.
- 3.20 Postcard No. 1 referenced a "Woodinville Weekly" article about Mayor Talmas attempting "to bully a fellow council member into resigning"; and alleged that he accessed a Woodinville City Councilmember's financial information and had someone watching the councilmember's house. The postcard stated "*This kind of behavior is embarrassing to Woodinville. We should expect more from our Mayor and City Council*" and provided a website address for EW and a telephone number for information about contacting a Woodinville City Councilmember. The postcard ended by stating: "*Call Bernie Talmas...Ask him to stop the bullying and demand he vote yes on stricter ethics rules for Council conduct...*"
- 3.21 On November 17, 2014, PDC staff contacted Mr. Lamb and informed him that staff has determined the content of Postcard No. 1 constituted "express advocacy" in opposition to a candidate, which made the postcard a political advertisement and reportable by Ms. DeYoung as an independent expenditure. Staff suggested that Mr. Lamb ask Ms. DeYoung to file a C-6 report disclosing the costs of Postcard No. 1 as an independent

expenditure on a C-6 report. Mr. Lamb indicated that he would contact Ms. DeYoung and request that she file a C-6 report.

Ethical Woodinville/Lucy DeYoung Postcard No. 2:

3.22 Postcard No. 2 was received on September 10, 2013, and began by stating “Bernie Talmas and Boundy-Sanders called citizens and other council members *‘bitch’ ‘evil’ and ‘mean cafeteria lady.’*” The postcard was mailed within 60 days of the 2013 general election and was reportable as an electioneering communication. The postcard:

- Alleged that Ms. Boundy-Sanders sent an email to supporters of Mayor Talmas about the 2013 Woodinville City Council elections, and referred to certain Woodinville citizens using the words listed above.
- Stated: *“Is this junior high School and it’s all about them? Or are they our elected public servants working for Woodinville.”*
- Ended by stating *“Call Bernie Talmas...Ask him to stop the bullying and demand he vote yes on stricter ethics rules for Council conduct...”*

Ethical Woodinville/Lucy DeYoung Postcard No. 3:

3.23 Postcard No. 3 was received on September 24, 2013, and began by stating that a political operative of Mr. Talmas *“...harassed a City Councilman, taking photos on his property when no one was home.”* The postcard:

- Stated *“On March 10, 2013, one of Talmas’ agents went onto the [unidentified] Councilmember’s private property [and] photographed what he claimed were ‘code violations’ for repairs being made to the Councilmember’s leased home.”*
- Included a picture of a sign stating *“Private Property No Trespassing”* followed by *“...yes, that means you, Bernie Talmas!”*
- Ended by stating *“Call Bernie Talmas...Ask him to stop the bullying and demand he vote yes on stricter ethics rules for Council conduct...”*

Ethical Woodinville/Lucy DeYoung Postcard No. 4:

3.24 Postcard No. 4 was received by Ms. Boundy-Sanders on October 19, 2013, and submitted by her as Addendum #1 to her complaint. The postcard displayed a picture of an eye peering through a hole in the wall and was entitled *“Peeping Bernie.”* The postcard:

- Began by stating *“Bernie Talmas had an informant who watched the home of another Councilman late at night.”*
- Stated *“At the Feb. 12, 2013 City Council meeting, Mayor Bernie Talmas tried to bully a fellow Councilman into resigning on the spot.”*
- Included the statement in a box on the right side panel *“Call Bernie Talmas...Ask him to stop the bullying and demand he vote yes on stricter ethics rules for Council conduct...”*

Ethical Woodinville/Lucy DeYoung Postcard No. 5:

3.25 Postcard No. 5 was received by Ms. Boundy-Sanders on October 19, 2013, and submitted by her as Addendum #2 to her complaint. The postcard began by stating "*Bernie Talmas: a pattern of bullying.*" The postcard provided information concerning Mr. Talmas under five separate bullet points, repeating claims from prior postcards about his demand for the resignation of another Councilmember, and harassing him about an alleged "fraudulent voter registration" and name calling. The postcard:

- Stated "*Talmas operative trespassed onto private property to photograph Councilman's home and sent a threatening email to City Hall.*"
- Stated "*Following this pattern of harassment and bullying by Talmas, the City Council voted to draft stronger ethics rules governing Council behavior. Talmas voted no.*"
- Stated: "*When the new, stronger ethics rules are drafted and come before the City Council for a final vote, Bernie Talmas and the City Council should vote yes. We need civility at Woodinville City Hall.*"
- Ended by stating in a box on the right side panel "*Call Bernie Talmas today...and demand he vote yes on stricter ethics rules for Council conduct...*"

Content of Telephone Calls

3.26 Robo-call No. 1 was produced on August 9, 2013, but was presented to the public on October 21, 2013. Its content was:

"Hi. I'm with a group called Ethical Woodinville, and I'm calling for the group to ask for your help. The Woodinville Weekly reported how Mayor Bernie Talmas tried to bully a fellow council member into resigning. Talmas claimed that he personally had access to other councilmen's private financial documents, and that his people had been watching the councilman's wife and son outside their house late at night. Any parent with children would find this disturbing. Meanwhile, there is still nothing happening on downtown traffic. Widening projects sit stagnant while Bernie Talmas squabbles with councilmembers. Please join us and call Bernie Talmas today. Ask him to vote "Yes" on stricter ethics rules for council conduct. Visit us at ethicalwoodinville.com or call 425-949-6752 for information on how to contact your councilmember."

3.27 Robo-call No. 2 was produced on August 15, 2013, but was presented to the public on October 21, 2013. Its content was:

"Hi. I'm with Ethical Woodinville, and I'm asking for your help. Recently, Mayor Bernie Talmas demanded that another city Councilman resign, and the Councilman refused, so one of Bernie Talmas' political operatives harassed the Councilman by filing a challenge to his voter registration. Even though the Councilman had released his personal rental agreement, and proved the allegation false, Talmas and his people kept bullying and harassing him. So as Bernie Talmas is busy taking sides with other Councilmen, downtown traffic gets worse. Please call Bernie Talmas today. Ask him to vote "Yes" on stricter ethics rules for council conduct, and get back to doing what we elected him to do. Visit us at ethicalwoodinville.com or call 425-949-6752 for information on how to contact your councilmember."

Sponsor Identification in Postcards/Telephone Calls

3.28 None of Ms. DeYoung's electioneering communication postcards, her independent expenditure political advertising postcard, or her independent expenditure political advertising telephone calls included a statement of sponsor identification taking the form, "No candidate authorized this ad. It is paid for by (name, address, city, state)." Rather, the postcards identified Ethical Woodinville with a web address and a rented UPS mailing address. The telephone calls identified Ethical Woodinville with a web address and telephone number. None of the communications identified Ms. DeYoung as their sponsor.

Lucy DeYoung Prior PDC Filing History

3.29 Ms. DeYoung :

- Was a Statewide Candidate seeking the office of Washington State Treasurer in 1996. Ms. DeYoung was defeated in the 1996 general election after her campaign raised and spent more than \$230,000.
- Served as a Woodinville City Councilmember from 1993 to 1997.
- Served as a Member of the Washington Public Stadium Authority from 2001 to 2005.
- Filed two C-6 reports on behalf of her father, Al DeYoung, in 2009 (one on paper, and one electronically). The C-6 reports were filed as electioneering communications for political advertisements in support of Charles Pilcher, a candidate for King County Hospital District 2. **Exhibit #8**

3.30 Ms. DeYoung stated that Al DeYoung is her father. In 2009, Mr. DeYoung made expenditures in support of Charles Pilcher, a candidate for King County Hospital Commissioner which required him to file a C-6 report. Ms. DeYoung stated that she filed one C-6 report twice on behalf of her father for electioneering communications he made, one on paper and the same report electronically, because her father did not have a computer. She stated that she filed the report after receiving direction from Dave Mortenson, a political consultant hired by her father to assist him with his electioneering communications.

3.31 Ms. DeYoung has no prior PDC violations.

IV. Scope

- 4.1 PDC staff reviewed the complaint filed by Susan Boundy-Sanders against Ethical Woodinville on October 3, 2013, Addendum #1 she submitted on October 11, 2013, and Addendum #2 submitted on October 23, 2013.
- 4.2 On December 16, 2013, PDC staff sent a letter to IQ Direct, in accordance with RCW 42.17A.345, requesting information concerning the five postcards sponsored by Ethical Woodinville that featured Bernie Talmas. The letter was returned to PDC staff as not deliverable to the address provided.

4.3 PDC Staff reviewed the following:

- Articles, Letters to the Editor, and Other Information in the Woodinville Weekly concerning actions and comments about the Woodinville City Council and the 2013 election.
- Grass Roots Lobbying reports (L-6 report) filed by Ethical Woodinville/Lucy DeYoung on January 10, 2014.
- February 6, 2014, email from Mark Lamb, an attorney with the North Creek Law Firm, representing Ethical Woodinville/Lucy DeYoung, in which he attached a three-page response letter and an emailed copy of an Independent Expenditure/Electioneering Communications Report (C-6 report).
- February 7, 2014 C-6 report filed by Ethical Woodinville/Lucy DeYoung disclosing electioneering communications undertaken during the 2013 election cycle.

V.
Laws

- 5.1 **RCW 42.17A.005(19)(a)** defines "Electioneering communication" to mean any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that: (i) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name; (ii) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and (iii) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of one thousand dollars or more.
- 5.2 **RCW 42.17A.005(36)** defines "Political advertising" to include any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.
- 5.3 **RCW 42.17A.005(26) (26)** defines "Independent expenditure" as an expenditure that has each of the following elements:
- (a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of *eight hundred dollars or more.² A series of expenditures, each of which is under eight hundred dollars, constitutes one independent expenditure if their cumulative value is eight hundred dollars or more.

- 5.4 **Washington State Supreme Court's ruling in *Washington State Republican Party v. Public Disclosure Commission*, 141 Wn.2d245 (2000) (WSRP).** (Excerpt) The Court further stated, in defining "express" advocacy, that when an ad "is unmistakable and unambiguous in its meaning, and presents a clear plea for the listener to take action to defeat[a] candidate," it is "express" advocacy. *Id.* At 273. The Supreme Court held as "important" that if, in an ad, "a candidate's character and campaign tactics are attacked, the ad may be subject to only one reasonable interpretation: an exhortation to vote against the candidate." *Id.* At 270. In contrast, the Court described "issue" advocacy as advocacy that "intend[s] to inform the public about political issues germane to [an] election." *Id.* At 272. This paragraph is from the meeting materials for the January 26, 2012 Commission Meeting, on page 122 of 312.
- 5.5 **RCW 42.17A.255** states: (1) For the purposes of this section the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17A.220, 42.17A.235, and 42.17A.240. ... (2) Within five days after the date of 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, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission an initial report of all independent expenditures made during the campaign prior to and including such date.
- 5.6 **RCW 42.17A.305** requires that a payment for any electioneering communication shall be reported to the commission by the sponsor, and include: (a) Name and address of the sponsor; (b) Source of funds for the communication, (c) Name and address of the person to whom an electioneering communication related expenditure was made; (d) A detailed description of each expenditure of more than one hundred dollars; (e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published; (f) The amount of the expenditure; and (g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate. The sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted,

² Per WAC 390-05-400, in 2013 this dollar amount was set at \$900.

mailed, erected, distributed, or otherwise published.

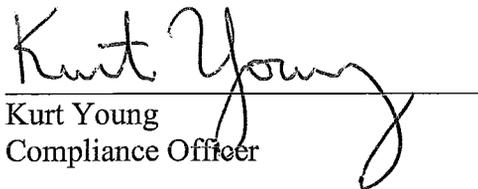
5.7 **RCW 42.17A.320** requires (1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party must include as part of the communication:

(a) The statement: "No candidate authorized this ad. It is paid for by (name, address, city, state)"; ...

5.8 **RCW 42.17A.435** states that no contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.

Respectfully submitted this 25th day of November, 2014.


Kurt Young
Compliance Officer

List of Exhibits

- Exhibit #1** March 28, 2013, Candidate Registration filed by Bernie Talmas.
- Exhibit #2** October 3, 2013, complaint filed by Susan Boundy-Sanders against Ethical Woodinville, which includes Addendum #1 received on October 11, 2013, and Addendum #2 received on October 23, 2013.
- Exhibit #3** Newspaper articles concerning postcards and robo-calls made by Ethical Woodinville
- Exhibit #4** February 6, 2014, email received from Mark Lamb, an attorney with the North Creek Law Firm, submitted on behalf of Ethical Woodinville/Lucy DeYoung.

- Exhibit #5** January 10, 2014, Ethical Woodinville/Lucy DeYoung files five Grass Roots Lobbying reports (L-6 reports) as the sponsor of a grass roots lobbying campaign for “Stronger ethical rules for the City of Woodinville City Council Conduct.”
- Exhibit #6** February 7, 2014, Ethical Woodinville/Lucy DeYoung files a C-6 report manually on paper.
- Exhibit #7** March 4, 2014, Ethical Woodinville/Lucy DeYoung files a C-6 report electronically.
- Exhibit #8** Two C-6 reports filed by Ms. DeYoung on behalf of her father, Al DeYoung in 2009, (one on paper, and one electronically) as electioneering communications in support of Charles Pilcher, a candidate for King County Hospital District 2.42