

Executive Summary and Staff Analysis
Kimberly Lauk
PDC Case No. 15-085

This summary highlights staff's findings, conclusions, and recommendations regarding the allegations contained in PDC Case No. 15-085, a complaint filed with the PDC by State Senator Pam Roach on September 8, 2015. In her complaint, Senator Roach stated that she would also file a copy with the Washington Attorney General and King County Prosecutor as a 45-day citizen action letter (Citizen Action Complaint). PDC staff understands that Senator Roach filed a citizen action letter with the Attorney General's Office on September 14, 2015, making allegations similar to those in her complaint to the PDC. The AGO informed staff that the 45 day notice period for the citizen action letter will elapse on October 29, 2015, however, the AGO has not provided a copy of the 45-day citizen action letter to PDC staff, and has not requested that staff investigate the allegations.

As discussed below, Senator Roach's complaint alleged violations connected with incomplete personal financial affairs disclosure by Kimberly Lauk. In most instances, such alleged violations by a candidate or elected official are within the Commission's \$10,000 penalty authority under RCW 42.17A.750(1)(c), and PDC staff has the appropriate expertise to investigate and prosecute the violations before the Commission, assuming enforcement is warranted. In this case, given the complainant's notice to sue for the alleged violations, staff provides this report to enable the Commission to make a recommendation to the AGO concerning the allegations within the citizen action notice period.

Allegations

The complaint alleged that Kimberly Lauk violated RCW 42.17A.710 as follows:

- A. **Failed to accurately disclose creditors (Wells Fargo and Reliable Credit).** The complaint alleged that Ms. Lauk failed to disclose creditors from her bankruptcy on her F-1(Personal Financial Affairs Statement) filed on May 28, 2015.
- B. **Failed to disclose business customer and accurate ownership interest on F-1 Supplement (Kim's Sweet Dream Cakes).** The complaint alleged that Ms. Lauk failed to disclose her business customers and accurate ownership interest in Kim's Sweet Dream Cakes.
- C. **Failed to disclose income (Brandon Lauk [spouse] 401K).** The complaint alleged that Ms. Lauk failed to disclose her spouse's income from his 401K.
- D. **Failed to disclose income (Food Stamps).** The complaint alleged that Ms. Lauk failed to disclose food stamps her family received during the reporting period of May 2014 through May 2015.

Applicable Statutes and Rule

RCW 42.17A.700 requires each candidate to file a F-1 statement of personal financial affairs covering the previous twelve months within two weeks of becoming a candidate for office.

RCW 42.17A.710 specifies the content of the F-1 report, including, among other information, the occupation, employer, and business address for the filer and each member of his or her immediate family; sources of \$2,400 or more in compensation, and the value of the compensation; the name and address of each creditor to whom the value of \$2,400 or more was owed; the names of entities in which the filer held specified interests; and the identity of certain types of customers for such entities, including business customers paying ten thousand dollars or more during the reporting period. (Note that the dollar amounts represented here are adjusted reporting thresholds provided under **RCW 42.17A.110** and **WAC 390-27-301**.)

Investigative Findings

Kimberly Lauk is a first time candidate for Enumclaw City Council, position 2. The 2015 race for Enumclaw City Council, position 2 drew only two candidates, and did not appear on the August 4, 2015 primary ballot. On May 28, 2015, Ms. Lauk filed a Personal Financial Affairs Statement (F-1 report) disclosing her personal financial information.

On September 16, 2015, staff sent an email to Ms. Lauk requesting a response to the allegations in the complaint. On September 17, 2015, staff received a response from Ms. Lauk stating that the rules were confusing to her as a first time candidate. She also stated that she had been in contact with PDC Staff and submitted an amended F-1, which was received by the PDC on September 16, 2015. Ms. Lauk applauded PDC staff for assisting her in understanding what needed to be reported and submitted in her amended F-1. Ms. Lauk provided a copy of the amended F-1.

Alleged Failure to Disclose Reportable Information Concerning Kim's Sweet Dream Cakes: Ms. Lauk's business, Kim's Sweet Dream Cakes, was a private endeavor that was never registered as a business with the Washington Secretary of State or the Department of Revenue. Ms. Lauk stated that she made cakes and cupcakes for friends, family, and social functions, and donated baked goods to organizations. Ms. Lauk has a website for Kim's Sweet Dream Cakes. However, she stated that she has not been able to open a business due to the initial expenses involved, and had no income from the activity during the F-1 reporting period.

Alleged Failure to Disclose Reportable Creditor Information: In addition, the complaint alleged that Ms. Lauk did not report her bankruptcy. In Ms. Lauk's amended F-1 received on September 17, 2015, she disclosed the two creditors that were over the \$2,400 minimum required for reporting purposes. The two creditors, Reliable Credit and

Wells Fargo, listed original debt amounts in value codes “A” (\$1 - \$4,499) and “B” (\$4,500 - \$23,999) respectively. The report indicated that the debts were paid as of the end of the F-1 reporting period.

Alleged Failure to Disclose Income in the form of Public Assistance: Ms. Lauk stated that during the reporting period of May 2014 through May 2015, the amount of food stamps received were well under the \$2,400 minimum required for reporting.

Alleged Failure to Disclose Other Income (Spouse’s 401K): Ms. Lauk’s spouse’s 401(K) plan was not included on her initial F-1 filed on May 28, 2015. However, after Ms. Lauk spoke with PDC staff and understood the reporting requirements, she included her spouse’s 401(K) on the amended F-1 she filed on September 17, 2015. The report indicates that the 401(K) had a value of code “B” (\$4,500 - \$23,999), and that Ms. Lauk’s spouse received no income from the 401(K) during the F-1 reporting period.

Conclusion

The evidence shows that Kimberly Lauk did not violate RCW 42.17A.710 by failing to disclose the following on her May 28, 2015 F-1 report:

- (1) Ownership interest in and customers of Kim’s Sweet Dream Cakes; or
- (2) Income in the form of food stamps.

The evidence indicates that Ms. Lauk substantially complied with RCW 42.17A.710 by amending her May 28, 2015 F-1 filing on September 17, 2015, approximately seven weeks before the November 3, 2015 general election, disclosing the following information:

- (1) Debts owed to Reliable Credit and Wells Fargo during the F-1 reporting period, and which were paid by the close of the period; and
- (2) The value of her spouse’s 401(k) plan, which generated no income during the reporting period.

Recommendation

PDC staff recommends that the Commission:

- (1) Dismiss the allegations regarding violations of RCW 42.17A.710 by Kimberly Lauk; and
- (2) Recommend to the Washington Attorney General that no further action be taken on the Citizen Action Complaint.

Exhibits

- PDC complaint filed against Kimberly Lauk, received from State Senator Pam Roach on September 8, 2015 (note – the complaint included an attachment consisting of photographs of cakes, however this attachment is not included as an exhibit to this report);
- Amended F-1 report filed by Kimberly Lauk on September 17, 2015