



State of Washington
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908

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

September 14, 2018

Delivered electronically to Randall Gaylord at “rgaylord@rockisland.com”

Subject: Randall Gaylord Complaint Return Cover Letter, PDC Cases #37535 (Gaylord 4);
#38237 (Gaylord 5);

Mr. Gaylord:

Below is a copy of an electronic letter sent to Edward Kilduff concerning two of the complaints he filed with the Public Disclosure Commission (PDC) against your 2018 Campaign for re-election as San Juan County Prosecutor. As noted below in the electronic letter to Mr. Kilduff, the PDC will not be conducting a more formal investigation into the allegations listed in the two complaints he filed against you

Based on this information, the PDC has closed these two cases. If you have questions, please contact PDC staff member Kurt Young by e-mail at kurt.young@pdcc.wa.gov.

Sincerely,

Endorsed by,

/s _____
Kurt Young, Compliance Officer

/s _____
Barbara Sandahl, Deputy Director
For Peter Lavalley, Executive Director





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September 14, 2018

Sent electronically to Edward Kilduff at “ed.kilduff@me.com”

Subject: Two complaints filed against Randall Gaylord, PDC Cases #37535 (Gaylord 4); #38237 (Gaylord 5)

Mr. Kilduff:

The Public Disclosure Commission (PDC) has completed its review of two of the complaints you filed against Randall Gaylord, the incumbent San Juan County Prosecutor and a candidate seeking re-election to that office in 2018.

The two complaints alleged that Mr. Gaylord, may have violated: (1) RCW 42.17A.240 by failing to disclose an expenditure or in-kind contribution for professional photography on Summary Full Report Contribution and Expenditures (C-4 report); (2) RCW 42.17A.330 sponsoring political advertising that contains a photograph of Mr. Gaylord that is more than five years old, and is larger than any other candidate photograph used in the same advertisement on Facebook; (3) RCW 42.17A.335 for sponsoring political advertising that contained a false endorsement from an individual, Ed Gasslee, on the campaign website; and (4) RCW 42.17A.555 by using the public facilities of San Juan County, including his official photograph, to assist his candidacy for re-election.

For your information, in order to more efficiently use PDC resources, these two complaints have been combined into one letter. PDC staff reviewed the allegations listed in the two complaints you filed, the statutes, rules and PDC Interpretation #04-02 “Guidelines for Local Government Agencies in Election Campaigns”, the C-4 reports filed by the Re-elect Gaylord Prosecutor Committee, and the response from Mr. Gaylord to the allegations listed in the two complaints. As a result, we found the following:

- Randall Gaylord is the incumbent San Juan County Prosecutor dating back to at least 1995 according to PDC records.
- Mr. Gaylord filed a Candidate Registration (C-1 report) on February 20, 2018, declaring his candidacy re-election to the office of San Juan County Prosecutor, and initially selecting the Mini Reporting option. Mr. Gaylord filed an amended C-1 report on May 28, 2018, requesting approval from the PDC to change to the Full Reporting option, and his request was approved on June 6, 2018.

Complaint #4 (PDC Case 37535): Alleged failure to disclose services for professional photography for a photograph used by the Campaign; and alleged use of San Juan County Prosecutor's Office facilities by using his official photograph in political advertising that supported his candidacy.

- Mr. Gaylord stated that the photograph identified in the complaint was originally taken during the 2014 campaign for re-election, specifically on Sunday, September 14, 2014, by a "hobby photographer."
- Mr. Gaylord stated the individual who took the photograph, provided it to him in an electronic format, and gave him any and "all rights to use the photo" as he saw fit, including for his campaign. He stated the contribution of a candidate's photograph(s) from a prior campaign, "need not be disclosed as an in-kind contribution" to the current election campaign, and he referenced PDC Case No. 8928 involving Jim Cooper, a candidate for Thurston County Commissioner in 2016.
- Concerning the second allegation, Mr. Gaylord stated that no San Juan County Prosecutor's Office owned equipment or facilities, or agency funds were used to create the photograph. He stated your allegation is incorrect and "falsely alleges that the campaign "took his official county photograph, edited it, and used it for his campaign website." He stated the image on the San Juan County website was not used in any political advertisements sponsored by his Campaign.
- Mr. Gaylord stated the photograph used in political advertisements sponsored by his Campaign was "held" by him, and is a higher "resolution photograph." He stated he provided a copy of the original photograph to his campaign "to fit the uses desired by the campaign."

Complaint #5 (PDC Case 38327): Alleged to have sponsored political advertising: (1) on Facebook containing a photograph of Mr. Gaylord that is more than five years old, and larger than any other candidate photograph used in the same advertisement; and (2) that contained a false endorsement from an individual.

- Mr. Gaylord stated that he has maintained a personal Facebook account for many years, and since May 25, 2018, "the Facebook profile picture has shown Mr. Gaylord with a loose tie leaning on a campaign sign in front of a log structure. The grainy photograph is obviously more than 5 years old and is truthfully explained in the text above the photo: "Here's a photo from the 1994 Campaign for Prosecuting Attorney."
- Mr. Gaylord stated the photograph in questions can be found as the "profile picture" on his personal Facebook page. He stated that he created the Facebook page primarily for his "personal life" which allows his to communicate with his family members. He stated that no payment or campaign expenditure "was made to Facebook in connection with the change of the personal profile picture, therefore that action is exempt from the PDC rules. See WAC 390-05-290 (4). In addition, Facebook, not Mr. Gaylord, controls the size of the photograph on the internet browser of the reader."
- Mr. Gaylord stated that there is no connection between the original source, a blog called sanjuanupdate.com and the Campaign, and that "truthfully reporting statements of support" from an individual critical of his opponent does not constitute a violation of RCW 42.17.335.

- Mr. Gaylord stated that one of the assertions in the complaint “is the identity of Ed Gasslee” and that you speculated it was actually “Tom Evans, a lawyer and supporter of Mr. Gaylord. No, it’s not Tom Evans, though it is true that Mr. Evans supports Mr. Gaylord’s re-election.” He stated the Campaign was trying to “balance the objective of Mr. Kilduff (to suppress speech he doesn’t like) against the distraction of (unfounded) PDC Complaints.”
- Mr. Gaylord stated that he made the decision “to remove the Gasslee statement of support from the campaign website (www.teamgaylord.com), and based on that action, he indicated no PDC action is necessary.

Based on these findings, the PDC has closed these four cases and will not be conducting a more formal investigation into your complaints or pursuing further enforcement action in these cases. If you have questions, you may contact Kurt Young by e-mail at kurt.young@pdc.wa.gov.

Sincerely,

Endorsed by:

/s_____
 Kurt Young
 PDC Compliance Officer

/s_____
 Barbara Sandahl, Deputy Director
 For Peter Lavalley, Executive Director

cc: Randall Gaylord

