



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

May 8, 2018

Sent electronically by email to: Tyler Borders: tylerborders@gmail.com
Chad Standifer: chads@atg.wa.gov

Tyler Borders
3221 Baker Lane
Franklin, TN 37064

Subject: Commission Final Order, Go Big Tri-Cities, PDC Case 6954

Dear Mr. Borders:

Enclosed is a copy of the Public Disclosure Commission's Final Order Imposing Fine that was entered in the above-referenced case concerning Go Big Tri-Cities. Also enclosed is a copy of the Amended Stipulation as to Facts, Violations and Penalty that was accepted by the Commission.

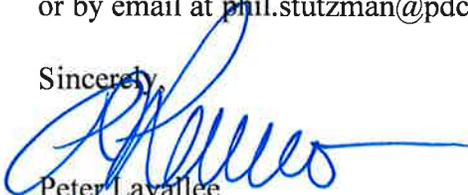
At its April 26, 2018 meeting, the Commission found Go Big Tri-Cities in violation of RCW 42.17A.205, .220, .235, .240, .320, and .245, and assessed a total civil penalty of \$1,000. The Commission also ordered that Respondent Go Big Tri-Cities pay the penalty within 30 days from the date of this Order, and come into full compliance with all reporting requirements, except for the requirement to file its final C-3 report of monetary contributions and its final C-4 report of contributions and expenditures using the electronic alternative provided by the Commission under RCW 42.17A.055.

Please make your \$1,000 check or money order payable to the **WA State Treasurer**, and mail the payment to the address listed below:

WA State Treasurer - Public Disclosure Commission
Financial Office
PO Box 41465
Olympia, WA 98504-1465

If you have questions, please contact Phil Stutzman at (360) 664-8853; toll free at (877) 601-2828 or by email at phil.stutzman@pdc.wa.gov.

Sincerely,



Peter Lavalley
Executive Director

Enclosure: Final Order and Amended Stipulation as to Facts, Violations and Penalty

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7 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**
8 **OF THE STATE OF WASHINGTON**

9 In re the Matter of Enforcement Action
10 Against:

11 GO BIG TRI-CITIES,

12 Respondent.

PDC CASE NO. 6954

FINAL ORDER

13 **I. INTRODUCTION**

14 This matter was heard by the Washington State Public Disclosure Commission
15 (Commission) on April 26, 2018, at the Public Disclosure Commission (PDC) Office, 711
16 Capitol Way, Room 206, Olympia, Washington 98504. The hearing was held pursuant to RCW
17 34.05, RCW 42.17A, and WAC 390-37.

18 Commissioners present were Anne Levinson, Commission Chair (presiding); Jack
19 Johnson, Commission Vice-Chair; and Commissioners David Ammons and William Downing.
20 Also present were Assistant Attorneys General Scott Douglas and John S. Meader, representing
21 the Commission; Philip Stutzman, Senior Compliance Officer on behalf of PDC Staff; and
22 Assistant Attorney General Chad Standifer, representing PDC Staff. Respondent Tyler Borders
23 was present telephonically on behalf of Go Big Tri-Cities. The proceeding was open to the
24 public and recorded.

25 The hearing concerned allegations that Respondent Go Big Tri-Cities violated RCW
26 42.17A.205 by registering as a political committee 56 days late and violated RCW 42.17A.220

1 by depositing \$19,750.00 it received in monetary contributions in its campaign depository
2 between 10 and 63 days late. Respondent was also alleged to have violated RCW 42.17A.235
3 and .240 by failing to report monetary contributions totaling \$2,000.00, and in-kind contributions
4 totaling \$7,522.50, and by disclosing expenditures on three C-4 reports totaling \$11,014.24, from
5 8 to 56 days late. Respondent was further alleged to have violated RCW 42.17A.320 by failing
6 to include sponsor identification on a moving billboard and on an advertisement placed in the
7 Tri-City Herald, and RCW 42.17A.245 by failing to report monetary contributions totaling
8 \$2,000, and in-kind contributions totaling \$7,522.50, by the electronic alternative provided by
9 the Commission under RCW 42.17A.055.

10 The Commissioners had before them the following materials:

- 11 • Notice of Administrative Charges dated April 19, 2018;
- 12 • Report of Investigation prepared by PDC Senior Compliance Officer Philip Stutzman, dated
13 April 19, 2018;
- 14 • Complaint filed on July 22, 2016, against Go Big Tri-Cities by Victor Epperly;
- 15 • Emails dated July 26, 2016, July 30, 2016, and August 10, 2016, between PDC Staff and
16 Tyler Borders;
- 17 • C-1, C-3, and C-4 reports filed by Go Big Tri-cities on July 11, 2016;
- 18 • Summary of interview with Tyler Borders on August 25, 2017, prepared by Philip Stutzman;
- 19 • Summary of interview with Ruston Hall of ALSC Architects on September 12, 2017,
20 prepared by Philip Stutzman;
- 21 • Spreadsheet of comparable PDC cases with violations and penalties; and
- 22 • Proposed Stipulation as to Facts, Violations, and Penalty submitted by the parties, signed on
23 April 19, 2018.

24 **II. STIPULATION**

25 The parties jointly submitted a signed Stipulation as to Facts, Violations, and Penalty
26

1 (Stipulation). Mr. Standifer summarized the Stipulation and asked the Commission to accept the
2 Stipulation. Mr. Borders likewise asked the Commission to accept the Stipulation. Mr. Stutzman
3 provided testimony regarding mitigating factors, including that Go Big Tri-Cities is a relatively
4 new organization, that Respondent was otherwise now in compliance with PDC reporting
5 requirements, that Respondent immediately filed what he believed were the missing reports
6 when he was made aware of the filing requirements, and that he was unable to use the
7 Commission's electronic alternative due to a computer crash that resulted in lost data.

8 The Commissioners asked the parties whether they would each accept two modifications
9 to the Stipulation: 1) a finding that the Respondent has come into full compliance with all
10 reporting requirements except for the requirement to file using the electronic alternative; and 2)
11 clarifying that the civil penalty is due within 30 days from the date of the final order. Each party
12 concurred with the two modifications. The Commission voted 4-0 to accept the Stipulation as to
13 Facts, Violations, and Penalty as modified.

14 15 **III. FINDINGS OF FACT**

16 1. The Kennewick Public Facilities District (KPFDD) was created on December 8, 2000
17 to manage, coordinate, finance and otherwise facilitate design and construction and provide
18 operation of the Three Rivers Convention Center. KPFDD contracts with VenuWorks of
19 Kennewick, LLC, a private Washington liability company, for management of the Convention
20 Center.

21 2. On April 28, 2016, the KPFDD placed Proposition 16-8 on the August 2, 2016 primary
22 election ballot in the City of Kennewick. The proposition authorized a sales and use tax increase
23 of 0.2 percent to fund an entertainment and event space and expand the Convention Center.

24 3. Go Big Tri-Cities is a 501(c)4 non-profit corporation working for the advancement
25 and improvement of the Tri-Cities region. Tyler Borders is its Director and is also a
26

1 communication consultant hired by VenuWorks to study the proposal. He managed the
2 campaign to support passage of Proposition 16-8 through Go Big Tri-Cities. City of Kennewick
3 voters rejected Proposition 16-8.

4 4. On July 22, 2016, the Public Disclosure Commission (PDC) received a complaint from
5 Victor Epperly alleging that Go Big Tri-Cities had not filed documents identifying itself as a
6 political committee, that a mobile billboard and a newspaper advertisement did not identify who
7 paid for those promotions in violation of RCW 42.17A.320, and that it had not filed periodic
8 reports as required by RCW 42.17A.200.

9 5. Go Big Tri-Cities received its first campaign contribution on May 2, 2016, when it
10 accepted a \$5,000 contribution from the Central Washington Building and Trades Council. It
11 was required to file a committee registration within two weeks, or no later than May 16, 2016.
12 Go Big Tri-Cities filed its committee registration 56 days late on July 11, 2016.

13 6. Go Big Tri-Cities timely filed a C-3 report on July 11, 2016, disclosing seven
14 Contributions totaling \$19,750.00. The contributions were deposited on July 11, 2016. However,
15 the contributions were not deposited within five business days of receipt, in violation of RCW
16 42.17A.220. The seven contributions were received between May 2, 2016 and June 24, 2016,
17 and were deposited a total of 287 days late, with each contribution deposited between 10 and 63
18 days late.

19 7. Go Big Tri-Cities failed to report two \$1,000 monetary contributions, received on July
20 14, and July 15, 2016, and an in-kind contribution valued at \$7,522.50, for animation services,
21 from ALSC Architects, in violation of RCW 42.17A.235 and .240. In addition, Go Big Tri-Cities
22 disclosed expenditures totaling \$11,014.24, from 8 to 56 days late.

23 8. Go Big Tri-Cities failed to include sponsor identification in two instances: on a
24 moving billboard and on an advertisement placed in the Tri-City Herald.
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V. ORDER

Based upon the stipulated Findings and Conclusions, the Commission accepts the Amended Stipulation of the parties and orders that:

Respondent Go Big Tri-Cities is assessed a total civil penalty of \$1,000 for violations of RCW 42.17A.205, RCW 42.17A.220, RCW 42.17A.235 and .240, RCW 42.17.320, and RCW 42.17A.245. The penalty shall be due and payable thirty days from the date of this final order.

2. Respondent Go Big Tri-Cities will come into full compliance also within thirty days from the date of this final order with all reporting requirements, except for the requirement to file its final C-3 report of monetary contributions and its final C-4 report of contributions and expenditures using the electronic alternative provide by the Commission under RCW 42.17A.055.

So ORDERED this 6th day of May, 2018.

WASHINGTON STATE PUBLIC
DISCLOSURE COMMISSION

FOR THE COMMISSION:



Anne Levinson
Chair, Public Disclosure Commission

Copy of this Order mailed and/or emailed to:

Tyler Borders, Respondent (tylerborders@gmail.com)
Phil Stutzman, PDC Staff (phil.stutzman@pdc.wa.gov)
Chad Standifer, Assistant Attorney General, Counsel for PDC Staff (ChadS@atg.wa.gov)

I, Philip Stutzman certify that I mailed a copy of this order to the Respondent/
Applicant at his/her respective address postage pre-paid on the date stated herein.

Philip E. Stutzman 5/8/2018
Signed Date

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NOTICE: RECONSIDERATION

Pursuant to the provisions of RCW 34.05.470 and WAC 390-37-150, you may file a Petition for Reconsideration with the PDC within ten (10) days from the date this Final Order is served upon you. Any Request for reconsideration must state the specific grounds for the relief requested. Petitions must be delivered or mailed to the Washington State Public Disclosure Commission, 711 Capitols Way, Room 206, Box 40908, Olympia WA 98504-0908.

NOTICE: PETITION FOR JUDICIAL REVIEW

You have the right to appeal this Final Order to Superior Court, pursuant to the Petition for Judicial Review provisions of RCW 34.05.542. Any Petition for Judicial Review of this Final Order must be filed with the court and also served upon both the Commission and the Office of the Attorney general within thirty (30) days after the date this Final Order is served upon you.

**BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON**

In the Matter of Enforcement Action
Against:

Go Big Tri-Cities

Respondent.

Case No. 6954

**AMENDED STIPULATION AS TO
FACTS, VIOLATIONS AND
PENALTY**

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Peter Lavalley, and Respondent Go Big Tri-Cities, through its Director, Tyler Borders, submit this Stipulation as to Facts, Violations and Penalty in this matter. The parties agree that the Commission has the authority to accept, reject or modify the terms of this Stipulation. The parties further agree that in the event the Commission suggests modification to any term of this agreement, each party reserves the right to reject that modification. In the event either party rejects a modification, this matter will proceed to hearing before the Commission.

JURISDICTION

The Public Disclosure Commission has jurisdiction over this proceeding pursuant to RCW 42.17A, the state campaign finance and disclosure laws; RCW 34.05, the Administrative Procedure Act; and WAC 390.

FACTS

1. The Kennewick Public Facilities District (Kennewick PFD or KPFDD) was created on December 8, 2000 "to manage, coordinate, finance, and otherwise facilitate design and construction and provide operation of the Convention Center." The KPFDD owns the Three Rivers Convention Center and manages the City of Kennewick's Toyota Center indoor stadium in Kennewick, Washington.

2. The Kennewick PFD contracts with VenuWorks of Kennewick, LLC, a private Washington limited liability company, for the management of Three Rivers Convention Center and the Toyota Center. Corey Pearson, an employee of VenuWorks, serves as its Executive Director and manages those two facilities.
3. On April 28, 2016, the KPF placed Proposition 16-8 on the August 2, 2016 primary election ballot in the City of Kennewick. The proposition authorized a sales and use tax increase of 0.2 percent (2 cents per \$10 purchase) to fund “the Link,” a facility that would include a Broadway theater, Toyota Center improvements, and other entertainment and event space, plus expansion of the Convention Center and other improvements authorized on the Three Rivers campus.
4. Tyler Borders is a communications consultant who was hired by VenuWorks to study why a similar proposal failed in 2012, and to suggest changes that should be made in 2016. Tyler Borders is also the director of “Go Big Tri-Cities,” a Washington 501(c)(4) non-profit corporation working for the advancement and improvement of the Tri-Cities region. He managed the campaign to support passage of Proposition 16-8 through Go Big Tri Cities. City of Kennewick voters rejected Proposition 16-8.

Filing committee registration late

5. Go Big Tri-Cities received its first campaign contribution on May 2, 2016, when it accepted a \$5,000 contribution from the Central Washington Building and Trades Council. It was required to file a committee registration within two weeks, or no later than May 16, 2016. Go Big Tri-Cities filed its committee registration 56 days late on July 11, 2016.

Depositing campaign contributions late

6. Go Big Tri-Cities timely filed a C-3 report on July 11, 2016, disclosing seven contributions totaling \$19,750.00. The contributions were all deposited on July 11, 2016. However, the contributions were not deposited within five business days of receipt, in violation of RCW

42.17A.220. The seven contributions were received between May 2, 2016 and June 24, 2016, and were deposited a total of 287 days late, with each contribution deposited between 10 and 63 days late.

Failing to disclose campaign contributions and disclosing expenditures late

7. Go Big Tri-Cities failed to report two, \$1,000 monetary contributions, received on July 14 and July 15, 2016, and an in-kind contribution valued at \$7,522.50, for animation services, from ALSC Architects, in violation of RCW 42.17A.235 and .240. In addition, Go Big Tri Cities disclosed expenditures totaling \$11,014.24, from 8 to 56 days late.

Failing to include sponsor identification on political advertising

8. Most of the political ads purchased by Go Big Tri-Cities included proper sponsor identification. However, in two instances, Go Big Tri-Cities failed to include sponsor identification. This failure occurred on a moving billboard and on an ad placed in the Tri-Cities Herald.

Failing to report contributions using the electronic alternative

9. Go Big Tri-Cities has failed to file two monetary contributions totaling \$2,000.00, and in-kind contributions totaling \$7,522.50 by the electronic alternative provided by the commission under RCW 42.17A.055.

Factors in Mitigation Offered by Go Big Tri-Cities

10. Go Big Tri-Cities is a first-time filer as a political committee. Mr. Borders contends that he was uninformed as to the reporting requirements, and relied on his legal counsel, who advised him on establishing Go Big Tri-Cities as a non-profit corporation, to also advise him on his PDC reporting requirements. He contends that had he been instructed to register and report with the PDC, he would have met every scheduled requirement provided to him.

11. Mr. Borders contends that as soon as he was made aware of his filing requirements, he immediately filed what he believed were the missing reports.
12. Mr. Borders contends that he worked with experienced multimedia professionals, including the Tri-City Herald and Townsquare Media, to ensure that proper sponsor identification was used on political ads. He contends that he intended to follow the rules and strived to do so.
13. Mr. Borders contends that he has been unable to complete the task of filing amended reports to close out the filing requirements for Go Big Tri-Cities, using the Commission's electronic alternative, due to a computer crash in which he lost all data associated with his PDC reports.

STATUTORY AND RULE AUTHORITY

RCW 42.17A.205 states that every political committee shall file a statement of organization with the commission. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier.

RCW 42.17A.220 states that all monetary contributions received by a candidate or political committee shall be deposited by the treasurer or deputy treasurer in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.

RCW 42.17A.235 and .240 require candidates and political committees to file timely, accurate reports of contributions and expenditures. Under the full reporting option, until five months before the general election, C-4 reports are required monthly when contributions or expenditures exceed \$200 since the last report. C-4 reports are also required 21 and 7 days before each election in which the committee makes expenditures, and in the month following the election. Contributions are reported weekly during this same time period, and must be disclosed on Monday for contributions deposited the previous seven days.

RCW 42.17A.320 states, in part, (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.

RCW 42.17A.245 states: (1) Each candidate or political committee that expended five thousand dollars or more in the preceding year or expects to expend five thousand dollars or

more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17A.055. The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission. (2) Failure by a candidate or political committee to comply with this section is a violation of this chapter.

VIOLATIONS

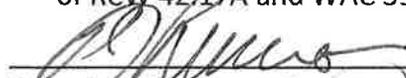
1. Based on the Stipulation of Facts, and Factors in Mitigation set forth above, Respondent Go Big Tri-Cities stipulates that it violated RCW 42.17A.205 by registering as a political committee, 56 days late, to support passage of Proposition 16-8, a measure placed on the August 2, 2016 primary election ballot by the Kennewick Public Facilities District (KPFDD).
2. RCW 42.17A.220 by depositing \$19,750.00 it received in monetary contributions, in its campaign depository, between 10 and 63 days late.
3. RCW 42.17A.235 and .240 by failing to report monetary contributions totaling \$2,000.00, and in-kind contributions totaling \$7,522.50, and by disclosing expenditures on three C-4 reports totaling \$11,014.24, from 8 to 56 days late.
4. RCW 42.17A.320 by failing to include sponsor identification on a moving billboard and on an ad placed in the Tri-Cities Herald.
5. RCW 42.17A.245 by failing to report monetary contributions totaling \$2,000.00, and in-kind contributions totaling \$7,522.50, by the electronic alternative provided by the commission under RCW 42.17A.055.

PENALTY

1. Based upon the Stipulation of Facts and Violations set forth above, Go Big Tri-Cities agrees to pay a total civil penalty of \$1,000 within thirty days of the date of the final order in this matter.
2. Go Big Tri-Cities agrees to come into compliance with all reporting requirements except for the requirement to file its final C-3 report of monetary contributions and its final C-4 report

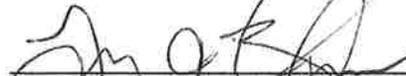
of contributions and expenditures using the electronic alternative provided by the commission under RCW 42.17A.055.

3. Respondent Go Big Tri-Cities affirms its intention to comply in good faith with the provisions of RCW 42.17A and WAC 390 in the future.



Peter Lavalée, Executive Director
Public Disclosure Commission

5/7/2018
Date Signed



Tyler Borders, Director
Go-Big Tri-Cities

5/3/18
Date Signed