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Public Disclosure Commission

January 30, 2012

Mr. Robert McKenna
Attorney General
State of Washington
P.O. Box 40100
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Ms. Linda A. Dalton
Senior Assistant Attorney General
Government Compliance & Enforcement Division
Office of the Attorney General
P.O. Box 40100
Olympia, WA 98504-0100

Mr. Daniel Satterberg
King County Prosecuting Attorney
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Seattle, WA 98104-2362

Mr. Phil Stutzman
Director of Compliance
Public Disclosure Commission
711 Capitol Way
Room 206
Olympia, WA 98504-0908

**Re: Complaint Against Move Bellevue Forward, Sue Baugh And John Su
For Public Disclosure Violations**

Dear Attorney General McKenna, Ms. Dalton, Prosecutor Satterberg and Director Stutzman:

I commend the Public Disclosure Commission's recent investigation into Move Bellevue Forward's non-compliance with our State's campaign finance disclosure requirements, as well as the Commission's finding of violations and sanctions in PDC Case No. 12-144.

This letter presents my request to commence an additional civil action pursuant to RCW 42.17.400 in the name of the State of Washington against Move Bellevue Forward for further violations of the Public Disclosure Act, including the provisions of RCW 42.17.120, in actions preceding the 2011 General Election.

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I request that you also commence related investigations of Ms. Sue Baugh and Mr. John Su, whose activities were directly related to Move Bellevue Forward's unlawful electioneering activities. Ms. Baugh and Mr. Su participated (*e.g.*, coordinated, funded and directed) in the activities of Move Bellevue Forward the Commission found to be in violation of our state campaign finance laws (Case No. 12-144). These individuals were also involved in electioneering activities related to Move Bellevue Forward that have not been reported to the Public Disclosure Commission. In sum, I therefore respectfully request that you also commence a civil action against Move Bellevue Forward and these two individuals pursuant to RCW 42.17.400.

Basis For This Supplementary Complaint

This supplementary complaint follows on the findings reported by the Commission Staff in the above case. This complaint focuses on the continuing failure of the Board Members of Move Bellevue Forward to fully and properly disclose the entire extent of their unreported political activity on behalf of Ms. Claudia Balducci, Mr. John Chelminiak and Mr. John Stokes in the 2011 City of Bellevue City Council elections.

While the eleven-page letter to the Commission from Move Bellevue Forward's President, Ms. Baugh, disclosed some of the organization's political activities and purposes, it appears from the letter that Ms. Baugh, acting on behalf of Move Bellevue Forward, purposely sought to misdirect the Commission's investigation with respect to a number of highly critical facts regarding the timing, fundraising and fundamental purposes of the organization. Ms. Baugh's failure to inform the Commission of these activities itself should be actionable.

Specifically, it appears that Ms. Baugh's letter was written to misdirect the Commission in order to:

- Avoid discovery of Move Bellevue Forward's much earlier declaration of the organization's political intent and its electioneering activities,
- Limit identification of the source(s) of its early funding, and
- Conceal the organization's coordination with the campaigns of three Bellevue City Council candidates that occurred as early as February 2011.

Additional Facts Not Yet Reported To, Or Investigated By The PDC

I call to your attention the following facts, as well as various widely available published documents, demonstrating that Move Bellevue Forward's intent was, from the very beginning, solely to serve as a Political Action Committee for the purpose of influencing the City of Bellevue's electoral processes, and specifically for assisting in the election of Ms. Balducci, Mr. Chelminiak and Mr. Stokes during the City of Bellevue's 2011 electoral season:

(1) Press Interview by Political Action Consultant to Move Bellevue Forward, January, 2011. On the evening of January 25, 2011, political consultant Timothy Ceis attended a public "Open House" meeting hosted by the City of Bellevue, at Bellevue City Hall. Mr. Ceis was interviewed at that time by a reporter of the **Publicola** news organization.

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The following morning the **Publicola** on-line news publication reported the following:

“On hand for the meeting: Former Seattle deputy mayor-turned-public-affairs-consultant Tim Ceis. Ceis’ firm is working to counter a pro-B7 group and told **Publicola** about a grassroots group competing with the B7 proponents called **Moving [sic] Bellevue Forward**.Ceis dropped in briefly on the action—”I’m going to head in to scare some people,” he told **Publicola**—before heading back to Seattle.”

< <http://publicola.com/2011/01/26/heated-words-at-bellevue-light-rail-city-hall/> >

Mr. Ceis is and was at all material times a paid political consultant, who was paid to assist and consult on furtherance of electioneering activities related to the 2011 Bellevue City Council races. Move Bellevue Forward was fully involved with Mr. Ceis’ consulting activities for the purpose of influencing the Bellevue Council races, participated in meetings with Mr. Ceis, and collaborated in hiding the funds he was paid, as well as the source of such funds.

(2) 501(c)(4) Federal Tax Status – To Allow for Political Fund Raising and Campaign Activities. As further evidence of Move Bellevue Forward's intent, from its inception, to engage in political lobbying and campaign activities, please note that the organization was set up as a 501(c)(4) entity under the U.S. Internal Revenue Code. According to the Washington Secretary of State website, Move Bellevue Forward was incorporated on February 7, 2011. Per the enclosed article [“Internal Revenue Service 501 (c) (4) Tax Status Information RE Political Expenditures Purpose”] from the IRS website, the purpose of a 501(c)(4) organization, as opposed to a 501(c)(3) charitable community organization, is to **“allow for political fundraising and other campaign-oriented activities.”** Clearly, Move Bellevue Forward's leadership knew that this federal tax classification would allow it to engage in campaign-oriented activities when they selected this corporate form to establish Move Bellevue Forward as a Political Action Committee.

(3) Move Bellevue Forward Publicly Stated Their Intent to Support Electoral Actions At Their Public Unveiling. Move Bellevue Forward set out their electoral intent when they first disclosed their formation on the occasion of public comments made before the Bellevue City Council on February 7, 2011 by official representatives of the organization. (You can view Ms. Baugh stating this political intent that evening in the video recording of her presentation to the City Council at: www.movebellevueforward.org/our-publications/videos/intro-to-bellevue-city-council (see minute 9:58) Ms. Baugh’s statement from that recording: **“We will support community leaders who embrace a progressive vision for Bellevue and will work with them to Move Bellevue Forward towards an even greater City in the future.”**

(4) Public Support Solicitation on March 1, 2011 Expressly Declared Bellevue City Council Electoral Activities Intent, and Was the Mechanism for Significant Contributions to Move Bellevue Forward That Have Not Been Disclosed to the PDC. Three weeks later Move Bellevue Forward made the intent of their political action incontrovertibly clear in an email solicitation sent to citizens across the City of Bellevue on March 1, 2011. On that date Mr. Matt Terry, an officer of Move Bellevue Forward and the City of Bellevue’s former Planning Director, sent the enclosed email message to a large, undisclosed number of citizens across the

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City of Bellevue making clear that the principal purpose of Move Bellevue Forward was to shape the election of the Bellevue City Council during the 2011 campaign season. Mr. Terry's message of that date included the following language:

"We want a Bellevue City Council who is committed to the long-term vision for the City, one who will support a progressive Bellevue. We are dedicated to supporting community leaders who share these values, **and intend to work hard over the next year or more to ensure that we have a City Council who embraces these goals for the city.**" (Emphasis added.)

Mr. Terry's message makes abundantly clear that Move Bellevue Forward's intent, from its inception, was solely to influence the City of Bellevue's 2011 City Council electoral process. In conjunction with this letter, Move Bellevue Forward launched its citywide solicitation of donations and raised at least \$5,000 prior to September 2011 (per Ms. Baugh's letter and filings on the PDC website). Mr. Terry's email message was sent to a very large distribution of Bellevue citizens who were known to Move Bellevue Forward's leaders.

Move Bellevue Forward had previously publicly commented, as early as February 7, 2011, that it was successfully raising contributions from Bellevue citizens for the purpose of its activities. These activities included its political action efforts. See minute 1:35 of Mr. Terry Lukens' message to the Bellevue City Council at: www.movebellevueforward.org/our-publications/videos/intro-to-bellevue-city-council. Mr. Lukens noted in his testimony that Move Bellevue Forward already had raised membership support funds from more than 70 individuals. None of these contributions to Move Bellevue Forward has been disclosed to the Public Disclosure Commission.

On April 18, 2011, Ms. Pam Womack, a member of Move Bellevue Forward, in public testimony before the Bellevue City Council (see: minute 1:00 at: www.movebellevueforward.org/our-publications/videos/testimony-2011-04-18) reiterated Mr. Lukens' comments of February 7, 2011, stating that Move Bellevue Forward had over 180 members who had contributed to the organization as of that date. None of these contributions to Move Bellevue Forward has been disclosed to the Public Disclosure Commission. The vast bulk of these contributions had been accomplished and received as a result of Mr. Terry's electoral campaign support solicitation message of March 1, 2011.

While Move Bellevue Forward has acknowledged purchasing and disseminating hundreds of yard signs and other City-wide communications, it has failed to acknowledge that their purpose, from at least February 7, 2011 forward, was to create a (false) distinction between "anti-light rail and pro-light rail" council candidates and to then (as it did) endorse the allegedly "pro-light rail" candidates.

The campaign message was created first, and then it was later used to label the candidates. As noted above, Mr. Ceis was the consultant hired by Move Bellevue Forward to help create the message and strategy Mr. Terry referred to in his mass email message of March 1, 2011.

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(5) A Pattern of Unlawful and Unreported Activities and Expenditures, from Move Bellevue Forward's Inception. Clearly, from the above information, Move Bellevue Forward was formed and funded for the sole purpose of influencing voters' decisions in the Bellevue City Council races. Contrary to Ms. Baugh's letter, Move Bellevue Forward became a Political Action Committee in January 2011 (February 7th at the latest). Move Bellevue Forward has yet to disclose the source(s) of the funds it received prior to September 2011, or the uses to which it put such funds.

Of further note, in response to PDC Case No. 12-144, Move Bellevue Forward identified John Su (owner of Su Development and SuDev LLC) as the source of \$5,000 of the funds used by Move Bellevue Forward in the unlawful independent expenditure in October 2011.

Mr. Su has already been the subject of a PDC fair practices complaint against the campaign run by Mr. John Stokes. From PDC documents, it appears that Mr. Su was the single largest contributor to the Stokes, Balducci and Chelminiak campaigns. Mr. Su appears to have evaded disclosure of campaign contributions laws by funneling funds through employees and other third parties.

All of the actions set forth above and in the prior complaint involving Move Bellevue Forward, Ms. Baugh and Mr. Su are significant violations of RCW 42.17.120, which reads:

"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."

A Fraud Perpetrated On the Commission

By the terms of the Public Disclosure Commission's mission statement:

"The Public Disclosure Commission was created and empowered by Initiative of the People to provide timely and meaningful public access to accurate information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates, and to ensure compliance with and equitable enforcement of Washington's disclosure and campaign finance laws."

Washington's citizens have the right to know the source of contributions, the expenditures being made to influence the direction of their vote, as well as the nature of the organizations that would seek to control these contributions and expenditures.

Move Bellevue Forward seeks to conceal the source of the funds that it used to create the campaign strategy and messages that it used for its endorsements of three Bellevue City Council candidates, despite the fact that its leaders knew, and intended from its very inception, to influence the Bellevue City Council races.

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The Commission should take note of the fact that the race for Bellevue City Council Position No. 1 (Stokes v. Laing) was decided by 54 votes out of nearly 36,000 cast, and went to a mandatory hand-recount.

The Commission's \$1,000 fine (half of which was suspended) is hardly a deterrent, if entities like Move Bellevue Forward can spend \$10,000 to change the outcome of an election and risk at worst a \$1,000 fine. If our State's campaign finance laws can be evaded by this simple trick or result in such a paltry fine, then we can expect that 2012 will bring some pretty creative abuses.

Given the nature and timing of Mr. Terry's enclosed letter, the fact that Ms. Baugh, as Move Bellevue Forward's President, has identified but failed to report the source and disposition of additional funds in excess of \$5,000, and the fact that Mr. Su (personally, through his entities and his employees) has made significant contributions to the campaigns of three of the 2011 Bellevue City Council Candidates, a thorough investigation of Move Bellevue Forward's activities dating back to January 2011, and additional investigations of Ms. Baugh and Mr. Su are warranted.

I believe that investigations will show that Move Bellevue Forward, Ms. Baugh and Mr. Su have perpetuated a fraud on the Commission and the people of Bellevue, as they have sought to misdirect the Commission in its investigative efforts and to hide the source(s) and use(s) of thousands of dollars of campaign funds.

I look forward to the public's right to know being fully vindicated through this investigation.

Respectfully,



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Enclosures:

- (1) PDC Case No. 12-144 Findings and Summary and Analysis
- (2) Publicola Article – 1/26/11 – RE Mr. Ceis' Role and Involvement With Move Bellevue Forward
- (3) 501 (c) (4) Tax Status Information RE Political Expenditures Purpose
- (4) March 1, 2011 Email Solicitation Message Stating Bellevue City Council Electioneering Intent
- (5) Prior Complaint Regarding Move Bellevue Forward