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AUG 15 2012

Public Disclosure Commission



**WASHINGTON STATE PUBLIC DISCLOSURE COMMISSION
COMPLAINT FORM**

Description of Complaint

1. RESPONDENT:

Identify who you are filing a complaint against and provide all contact information you have for them. Give names and titles, if any, for individuals, and the full name of any organization. Please note that the PDC does not enforce federal campaign finance laws or local ordinances.

Preserve Marriage Washington

c/o Joseph Backholm
Chairman and Treasurer, Preserve Marriage Washington,
16108 Ash Way
Lynnwood, WA 98087, (245) 608-0242
jbackholm@fpiw.org

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2. ALLEGED VIOLATIONS:

Explain how and when you believe the people/entities you are filing a complaint against violated RCW 42.17 or Title 390 WAC. Be as detailed as possible about dates, times, places and acts. If you can, cite which specific laws or rules you believe were violated.

1. Introduction

On February 13, 2012, Washington Governor Christine Gregoire signed Engrossed Substitute Senate Bill 6239 (“SB 6239”) into law, legalizing same-sex marriage in Washington State.¹ Eight days later, Preserve Marriage Washington (“PMW”), which pledges to “preserve marriage as the union between one man and one woman,” registered as a single-year political committee with the Washington State Public Disclosure Commission (“PDC”).² Before SB 6239 could take effect, PMW and its allies collected enough signatures to put the law up to a popular vote in November 2012, as Referendum 74.³ Unfortunately, throughout its campaign, PMW has failed to obey Washington State public disclosure laws.

2. Preserve Marriage Washington has Violated RCW § 42.17A.240 by Failing to Report Staff Services as Expenditures, Debt, or, if the Staff was Uncompensated, as In-Kind Contributions.

Under Washington law, political committees like PMW must report staff services as expenditures, debt, *or*, if the staff is uncompensated, as in-kind contributions.⁴ PMW did none of the three, thereby violating RCW § 42.17A.240.

PMW has not reported expenditures for the services of its Campaign Manager,⁵ Frank Schubert, its Deputy Campaign Director,⁶ Chris Plante, or its Chairman⁷ and Treasurer,⁸ Joseph

¹ Ex. 1. <http://apps.leg.wa.gov/documents/billdocs/2011-12/Pdf/Bills/Session%20Law%202012/6239-S.SL.pdf>

² Ex. 2. PMW’s CIPC

³ Ex. 3. <http://www.sos.wa.gov/elections/initiatives/referendum.aspx?y=2012>

⁴ RCW § 42.17A.240

⁵ Ex. 4. Preserve Marriage Washington, Ref 74 Steering Committee Combined Meeting Minutes

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Backholm.⁹ If PMW has not compensated these or other staff members, it must report the fair market value of their services either as debt or as an in-kind contribution. However, PMW never reported such services as debt,¹⁰ and the only in-kind contributions for staff services it reported were in February¹¹ for Mr. Plante and Brian Brown, the President of the National Organization for Marriage.¹² PMW reported no other staff services as in-kind contributions at any time.¹³

Since PMW reported staff services only for Mssrs. Plante and Brown in February, PMW violated RCW § 42.17A.240 if Plante or Brown worked for the campaign outside February, or if any other staff worked on the campaign at any time. In reality, Mssrs. Plante, Schubert and Backholm have actively campaigned on behalf of PMW since its inception. Mr. Plante has appeared on several radio programs as a representative of the campaign,¹⁴ and admitted, according to the organization's own meeting minutes, that "he and his family were moving to Washington State to be able to devote full time to the effort of Referendum 74 [sic]."¹⁵ PMW has reported neither these appearances nor any other campaign work Mr. Plante references.¹⁶ Mr. Schubert, a veteran of California's Proposition 8 fight, also never appears in PMW's disclosure documents, even though he is identified as "leading the messaging effort" as the campaign's "Manager" in the organizations' minutes.¹⁷ PMW also has not reported Mr. Backholm's services,

February 29th in Olympia & March 1st in Bothell, *available at* <http://media1.razorplanet.com/share/511455-8555/siteDocs/Ref%2074%20Steering%20Committee%20combined%20meeting%20minutes.pdf>.

⁶ <http://www.youtube.com/watch?v=AginCUi0zOw>;

⁷ Ex. 5. <http://www.nytimes.com/2012/06/07/us/gay-marriage-opponents-face-tougher-test-in-washington-state.html>

⁸ See C1PC, *supra* note 2.

⁹ Ex. 6. Preserve Marriage Washington C4 Forms.

¹⁰ See C4s, *supra* note 9.

¹¹ See C4s, *supra* note 9.

¹² Ex. 7. http://www.nationformarriage.org/site/c.omL2KeN0LzH/b.7511259/k.71DB/Brian_Brown_President.htm

¹³ See C4s, *supra* note 9.

¹⁴ See, e.g., <http://www.youtube.com/watch?v=cGYvpKoh6JU>; <http://www.youtube.com/watch?v=AginCUi0zOw>

¹⁵ Meeting Minutes, *supra* note 5.

¹⁶ See C4s, *supra* note 9.

¹⁷ Meeting Minutes, *supra* note 5.

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even though he identified himself as the Chairman¹⁸ and Treasurer¹⁹ of the campaign, helped collect the signatures to put R-74 on the ballot,²⁰ and appeared in numerous interviews as a representative of PMW.²¹

Mr. Plante's, Mr. Schubert's, and Mr. Backholm's campaign management services do not qualify under the "volunteer services" disclosure exception.²² Such services fall under the exception only if the manager "does not ordinarily charge a fee or receive compensation for providing the service."²³ Mr. Plante charged PMW and PMW compensated him for his campaign services in February.²⁴ Under the statute, PMW cannot pay Mr. Plante for his services one month and claim he does not ordinarily receive payment the next. Mr. Schubert, too, ordinarily receives a fee for his services. The Associated Press has described him as a "well-paid political consultant," who currently manages four "statewide campaigns" related to same-sex marriage.²⁵ The facts support this conclusion: the Yes On 8 campaign paid Frank Schubert and his consultancy, Schubert Flint Public Affairs, \$588,242.69 in 2008 for managing its Proposition 8 operations in California.²⁶

Determining whether Mr. Backholm ordinarily receives a fee presents difficulties precisely because he has worked for organizations under investigation for skirting disclosure laws. On May 15, 2012, the Public Disclosure Commission began investigating Family PAC, a political committee Mr. Backholm founded and ran in 2009, for failing to disclose "over

¹⁸ NY Times, *supra* note 7.

¹⁹ See C1PC, *supra* note 2.

²⁰ Ex. 8. <http://www.seattlepi.com/news/article/Opponents-block-Washington-state-gay-marriage-3612967.php>

²¹ See, e.g., <http://www.youtube.com/watch?v=hWYvsCmpmoo>; <http://www.youtube.com/watch?v=ItgAQ66Uf5c>;
<http://www.youtube.com/watch?v=cGYvpKoh6JU>

²² WAC 390-17-405(1)(k).

²³ *Id.*

²⁴ Feb C4.

²⁵ Ex. 9. http://www.google.com/hostednews/ap/article/ALeqM5jq2w3X8dgP9yYagg8h9tUPq_ERQ

²⁶ Ex. 10. Cal-Access, PROTECTMARRIAGE.COM - YES ON 8, A PROJECT OF CALIFORNIA RENEWAL
<http://cal-access.ss.ca.gov/Campaign/Committees/Detail.aspx?id=1302592&session=2007&view=expenditures>.

\$140,000 in contribution and expenditure activity.”²⁷ If Family PAC kept incomplete records as to Mr. Backholm, he could succeed in covering one violation with another, posing as a volunteer now because no record exists of Family PAC paying him in 2009. Luckily, Mr. Backholm works as the Executive Director of the Family Policy Institute of Washington’s (FPIW).²⁸ FPIW financial records and tax filings, which are not publicly available, would likely reveal that FPIW compensates Mr. Backholm for his R-74 work, or for similar work, such that he “ordinarily” receives compensation and falls outside the “volunteer” exception. In the end, none of the three men can sidestep the disclosure requirements because each ordinarily receives compensation for similar campaign services.

Just as Mr. Backholm’s Family PAC violated Washington State public disclosure laws in 2009, so has Preserve Marriage Washington defied the law by failing to disclose staff services as expenditures, debt, or in-kind contributions. Washington State has one of the strongest histories of openness and transparency in politics of any state in the country. I urge the PDC to hold Preserve Marriage Washington accountable for flouting that tradition and failing to be honest with the citizenry.

²⁷ Ex. 11. PDC Memo re Family PAC Action

²⁸ Ex. 12. <http://www.fpiw.org/about/who-we-are/joseph-backholm.html>

Evidence and Witnesses

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Public Disclosure Commission**3. EVIDENCE:**

List the documents or other evidence you have that support your complaint, if any, and attach copies to this form. If you do not have copies, provide any information you have about where you believe the documents or evidence can be found and how to obtain it. Attach additional pages if needed.

See attached exhibits.

4. WITNESSES:

List the names and contact information, if known, of any witnesses or other persons who have knowledge of facts that support your complaint. Attach additional pages if needed.

Preserve Marriage Washington personnel are identified in the previous section. Individual donors and other expenditures should be found in the records maintained by PMW.

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Certification

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In signing this complaint:

- I have provided all information, documents and other evidence of which I am aware;
- If I become aware of additional information, documents or evidence related to my complaint, I will promptly provide it to the PDC; and,
- I am providing the PDC current information on how to contact me, and will promptly update that information if it changes.

Your name (print or type) Sandra Turner Fukumoto

**c/o Michele Radosevich
Davis Wright Tremaine LLP
1201 Third Avenue Suite 2300
Seattle, WA 98111**

Your signature  _____

Attachments

X Check here if you are attaching copies of documentary evidence or extra pages explaining your complaint.