



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

BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

In RE COMPLIANCE WITH  
RCW 42.17A

Yes on I-522 Committee

Respondent.

PDC Case No. 14-011

Report of Investigation

**I.**

**Background**

- 1.1 Initiative 522 (I-522) was filed as an initiative to the Washington State Legislature during the 2013 Legislative Session. If it had been approved, it would have required the labeling of Genetically Modified Organisms (GMOs) in certain food and beverages.
- 1.2 No action was taken by the Legislature concerning I-522, and as a result, the bill became an Initiative to the People following adjournment of the 2013 Legislative Session. It was placed on the November 5, 2013 general election ballot where it was defeated.
- 1.3 On February 11, 2013, Yes on I-522 Committee filed a Committee Registration (C-1pc report) registering as a political committee in support of I-522. **Exhibit #1.**
- 1.4 On October 25, 2013, the Attorney General's Office (AGO) received a 45-day Citizen Action Complaint (Complaint) filed in accordance with RCW 42.17A.765(4) by Rob Maguire, an attorney with Davis, Wright, Tremaine, PLLC, a Seattle law firm. The Complaint alleged that the several entities supporting I-522 failed to register as political committees and/or properly and timely report contribution and expenditure activities.<sup>1</sup> **Exhibit #2.**
- 1.5 Yes on I-522 Committee was provided a copy of the Complaint on October 30, 2013, and provided a response on November 7, 2013. On December 19, 2013, staff sent a letter to Phil Lloyd, treasurer for Yes on I-522 Committee, informing him that staff had conducted its initial review of the Complaint and would be conducting a formal investigation of the alleged violations against the Yes on I-522 Committee.

---

<sup>1</sup> This Report of Investigation addresses only the findings relevant to the Yes on I-522 Committee. Investigative findings relevant to the other Respondents are addressed in separate reports.

## **II.** **Allegations & Results of Investigation**

- 2.1 The Complaint alleged that Yes on I-522 Committee violated RCW 42.17A.235 and .240 by failing to timely disclose in-kind contributions received from supporters of I-522.
- 2.2 As a result of the PDC investigation into the complaint, staff determined that Yes on I-522 Committee timely filed its C-3 and C-4 reports. The committee raised \$8.09 million with approximately \$616,000 coming from in-kind contributions, and spent \$8.04 million. However, Yes on I-522 failed to report in-kind contributions totaling \$127,067 until after the election, on amended C-4 reports. The late-reported in-kind contributions included \$14,494 reported 23 days late and two days after the November 5, 2013 general election; \$100,327 reported nine days late and two days after the election; and an additional \$12,246 reported 14 days late and seven days after the election. The late-reported contributions were attributed primarily to three contributors who were substantial contributors, and who were already identified in the committee's expenditure reports. In addition, the late-reported contributions (\$127,067) represented 21 percent of the in-kind contributions and 1.57 percent of total contributions raised by the committee.

## **III.** **Findings**

- 3.1 Political committees under the Full Reporting option that were participating in the 2013 general election, including the Yes on I-522 Committee, were required to file Cash Receipts Monetary Contributions reports (C-3 reports) starting June 1. Full Reporting Committees were also required to file the following Campaign Summary Receipts & Expenditures reports (C-4 reports):
- Monthly C-4 reports by the 10<sup>th</sup> of the month disclosing contribution and expenditure activities, if \$200 has been received or spent since the last C-4 report was filed.
  - A 21-day pre-general election C-4 report due on October 15, 2013, covering the period September 1 through October 14, 2013;
  - A 7-day pre-general election C-4 report due on October 29, 2013, covering the period October 15 through 28, 2013; and
  - A post-general election C-4 report by December 10, 2013, covering the period October 29 through November 30, 2013.
- 3.2 Staff reviewed the C-3 and C-4 reports filed by Yes on I-522 Committee during the 2013 election and found that the committee complied with the requirement to timely file its C-3 and C-4 reports. However, it was discovered that the 21-day and 7-day pre-general election C-4 reports did not initially include in-kind contributions totaling \$127,067.70. These additional in-kind contributions were reported on amended reports filed November 7 and 12, 2013.

3.3 On November 7, 2013, Mr. Lloyd responded by email on behalf of Yes on I-522 Committee to the allegations in the complaint. **Exhibit #3**. He provided the following information:

- Yes on I-522 Committee reviewed its records and re-confirmed the activities of its significant supporting organizations (and specifically PCC Natural Markets and Ben and Jerry's Ice Cream) and confirmed that while it reported extensive in-kind contributions from each organization, there were additional in-kind contributions that had not yet been reported.
- The most significant unreported in-kind contributions were newsletter advertising and other expenses totaling \$29,279 incurred by PCC Natural Markets and \$97,000 in Facebook and radio advertising incurred by Ben and Jerry's Ice Cream. These expenditures were reported on amended C-4 reports after the election.
- On October 11, 2013, Yes on I-522 Committee was provided a spreadsheet from a representative of Ben and Jerry's Ice Cream that included estimated future in-kind contributions that were to be provided by Ben and Jerry's Ice Cream. The spreadsheet listed those activities as "*Pending/Future Spending*." Mr. Lloyd stated that due to a miscommunication among Yes on I-522 Committee staff, the committee neglected to follow-up with Ben and Jerry's Ice Cream to confirm the actual amounts for the 7-day pre-general election C-4 report.
- Mr. Lloyd stated that Yes on I-522 Committee conducted extensive outreach with its allied organizations concerning in-kind contributions, but some expenses were unintentionally overlooked.

3.4 On November 7, 2013, Yes on I-522 Committee filed several amended C-4 reports disclosing previously unreported in-kind contributions received by the committee in October 2013, the month before the general election, totaling \$114,821. **Exhibit #4**.

**Amended 21-Day Pre-General Election C-4 Report (Original C-4 Filed 10/15/13 and Amended C-4 Filed 11/7/2013):**

3.5 On November 7, 2013, Yes on I-522 filed an amended 21-day pre-general election C-4 report disclosing \$14,494 in previously unreported in-kind contributions from the following contributors:

- PCC Natural Markets: PCC Natural Markets incurred a total of \$12,432.50 in expenditures that were in-kind contributions to Yes on I-522 Committee for political advertisements and staff services.
- Northern Ales Brewery: Northern Ales Brewery incurred a total of \$1,200 in expenditures that were in-kind contributions to Yes on I-522 Committee for event space.
- Rincon-Vitova Insectaries: Rincon-Vitova Insectaries incurred a total of \$861.70 in expenditures that were in-kind contributions to Yes on I-522 Committee for telephone work.

- 3.6 The \$14,494 in previously unreported in-kind contributions were disclosed 23 days late and two days after the November 5, 2013 general election.

**First Amended 7-Day Pre-General Election C-4 Report (Original C-4 Filed 10/29/13 and First Amended C-4 Filed 11/7/2013):**

- 3.7 On November 7, 2013, Yes on I-522 filed its first amended 7-day pre-general election C-4 report disclosing \$100,327 in previously unreported in-kind contributions, that included:

- Ben and Jerry's Ice Cream: A total of \$97,000 in expenditures that were in-kind contributions to Yes on I-522 Committee for the following political advertisements, goods, and services: (a) \$45,000 for Facebook ads; (b) \$39,000 for radio ads; (c) \$11,000 for web banner ads; and (d) \$2,000 for ice cream.
- PCC Natural Markets: A total of \$3,327 in expenditures that were in-kind contributions to Yes on I-522 Committee for staff services.

- 3.8 The \$100,327 in previously unreported in-kind contributions were disclosed nine days late and two days after the November 5, 2013 general election.

**Second Amended 7-Day Pre-General Election C-4 Report (Original Filed 10/29/13; First Amendment Filed 11/7/13; Second Amendment Filed 11/12/2013):**

- 3.9 On November 12, 2013, Yes on I-522 Committee filed a second amended 7-day Pre-general election C-4 report disclosing an additional \$12,246 in previously unreported in-kind contributions from Dr. Bronner's Magic Soap for political advertisements in magazines, made on October 15, 2013, that included: **Exhibit #5.**

- A \$4,900 in-kind contribution for advertising in Mother Jones magazine;
- A \$5,846 in-kind contribution for advertising in The Nation magazine; and
- A \$1,500 in-kind contribution for advertising in Progressive Magazine.

- 3.10 The \$12,246 in previously unreported contributions were disclosed 14 days late and seven days after the November 5, 2013 general election.

**Explanation of Late-Reporting of In-Kind Contributions**

- 3.11 On March 5, 2014, Mr. Lloyd sent a follow-up email concerning the late-reported in-kind contributions. **Exhibit #6.** Mr. Lloyd stated that the largest late-reported in-kind contributions totaled \$97,000 from Ben and Jerry's Ice Cream for political advertisements such as Facebook Ads, Radio Ads, and Banner Ads in support of I-522. He stated that the "...omission was caused by one of my office staff mis-reading an email that was forwarded to her by a committee fundraising staff member."
- 3.12 Mr. Lloyd stated that the email listed Ben and Jerry's Ice Cream expenditures in support of I-522 that were reportable as in-kind contributions during the 21-day pre-general

election C-4 reporting period. He said the email included "... a section labeled 'future spending' that did not get included on the 7 day report." He stated that after receiving and reviewing the compliant, the committee inspected all of its previous in-kind reporting, and discovered its reporting error. He reiterated that the omission was unintentional and not in any way an error on the part of Ben and Jerry's Ice Cream.

- 3.13 Mr. Lloyd stated the late reported in-kind contributions from PCC Natural Markets included a substantial mark-up in costs listed that were "...substantially due to including the fair market value of newsletter advertising, on the basis of what PCC would have charged a third party to place the ads." He said the expenditures PCC Natural Markets made in support of I-522 included in the in-kind contribution totals given to the committee were for the "...newsletter advertising value on the subject of GMOs generally" regardless of whether it mentioned I-522. Mr. Lloyd said he did not believe those advertisements even met the definition of Political Advertising.
- 3.14 Mr. Lloyd stated that the late-reported in-kind contributions from Dr. Bronner's Magic Soaps were for national magazine advertisements that Yes on I-522 Committee reported at their full value. He said he believed that if the committee were to more closely analyze those advertisements, "...we would find that they were national in scope and not targeted to Washington Voters, and hence the in-kind value to the campaign was likely substantially over-stated."
- 3.15 Mr. Lloyd stated that is has been his experience, concerning the timely reporting of in-kind contributions, that it "...is particularly challenging since it can't be reconciled to the committee's own bank account and it can be difficult to communicate with and to train each representative of a supporting organization." He stated the Yes on I-522 Committee had a "...robust program of communicating with allied organizations to ensure timely reporting of in-kind donations, and can demonstrate a pattern and culture of 'if in doubt, report it.'"
- 3.16 Mr. Lloyd concluded by stating that each of the three organizations (Ben and Jerry's Ice Cream, Dr. Bronner's Magic Soaps, and PCC Natural Markets) "...were already substantial contributors to the committee, and disclosed on their reports, and that though admittedly large dollar amounts, they were insubstantial relative to the total spending by the committee."
- 3.17 The Yes on I-522 Committee received a total of \$8,085,589, including \$615,640 in in-kind contributions. Of the total contributions received during the campaign, Dr. Bronner's Magic Soaps made \$2,302,881 in monetary and in-kind contributions for political advertising; PCC Natural Markets contributed \$159,966 in monetary and in-kind contributions for political advertising, printing, and staff services; and Ben and Jerry's Ice Cream donated \$151,521 in in-kind contributions for political advertising, staff services, and ice cream. Dr. Bronner's Magic Soaps and PCC Natural Markets also provided support to other committees who supported I-522.

**IV.**  
**Scope**

- 4.1 PDC staff reviewed the 45-day Citizen Action Complaint filed by Rob Maguire against several entities supporting I-522.
- 4.2 PDC staff reviewed the following:
- November 7, 2013 email from Phil Lloyd, Treasurer for Yes on I-522 Committee;
  - Campaign finance reports filed by Yes on I-522 Committee;
  - PDC Contribution and Expenditure database queries for Yes on I-522 Committee; and
  - March 5, 2013 email from Phil Lloyd, Treasurer for Yes on I-522 Committee.

**V.**  
**Laws**

- 5.1 **RCW 42.17A.235 and .240** require political committees to timely and accurately file reports of contributions and expenditures. Under the full reporting option, until five months before the general election, Campaign Summary Receipts & Expenditures reports (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, and in the month following the election, regardless of the level of activity. Contribution deposits made during this same time period must be disclosed on the Cash Receipts Monetary Contributions report (C-3 reports) due on the Monday following the date of deposit.

Respectfully submitted this 17<sup>th</sup> day of March, 2014.



Kurt Young  
Compliance Officer

**List of Exhibits**

- Exhibit #1** C-1pc filed February 11, 2013 by Yes on I-522 Committee.
- Exhibit #2** 45-day Citizen Action Complaint filed by Rob Maguire against several entities supporting I-522.
- Exhibit #3** November 7, 2013 email from Phil Lloyd to PDC staff on behalf of the Yes on I-522 Committee.
- Exhibit #4** 21-day and 7-day pre-general election C-4 reports, including amended reports.
- Exhibit #5** Second amended 7-day pre-general election C-4 report.
- Exhibit #6** March 5, 2014, email from Phil Lloyd to PDC staff on behalf of the Yes on I-522 Committee.