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

IN RE COMPLIANCE WITH RCW 42.17A:

PDC CASE NO. 14-011

Yes on I-522 Committee

FINAL ORDER

Respondent.

This matter came before the Washington State Public Disclosure Commission (PDC) on June 26, 2014 at the PDC Office, 711 Capitol Way, Room 206, Olympia, Washington. Those present included Amit Ranade, Chair; Grant Degginger, Vice Chair; and Katrina Asay, Member. In attendance were Phil Stutzman, PDC Director of Compliance; Andrea McNamara Doyle, PDC Executive Director; Assistant Attorney General Callie A. Castillo serving as Counsel for PDC staff; Jean Wilkinson serving as Commission Counsel; and Nancy Coverdell as recorder/reporter of the proceeding. C. James Frush, an attorney with Cable, Lagenbach, Kinerk & Bauer, LLP, was in attendance serving as counsel for the Respondent, along with Phil Lloyd, treasurer for the Respondent. The proceeding was open to the public and recorded.

This case concerns allegations made pursuant to RCW 42.17A.765(4) in a 45-day citizen action notice filed with the Attorney General on October 25, 2013, by Rob Maguire, an attorney with Davis, Wright, Tremaine, PLLC, against Yes on I-522 Committee, alleging that the Respondent violated RCW 42.17A.235, and 42.17A.240 by failing to timely disclose on Campaign Summary Receipts & Expenditures reports (C-4 reports) the receipt of in-kind contributions for political advertisements and staff services in support of I-522, a statewide

1 initiative concerning the labeling of genetically modified foods and beverages on the
2 November 5, 2013 general election ballot in Washington State. On October 28, 2013, the
3 Attorney General referred the Complaint to the PDC for investigation and possible action.

4 The Commission was provided with a Report of Investigation dated March 17, 2014
5 (and exhibits); a Notice of Administrative Charges dated March 17, 2014; a staff memo dated
6 June 23, 2014; a list of comparable cases prepared by PDC staff; and a document prepared by
7 Counsel for the Respondent dated June 19, 2014.

8 **Stipulation**

9 The parties jointly submitted a signed Stipulation as to Facts, Violations, and
10 Penalty (Stipulation). Ms. Castillo summarized the Stipulation, summarized comparable cases,
11 and asked the Commission to take appropriate action by accepting the Stipulation. Mr. Frush
12 summarized prior Commission actions, and urged the Commission to accept the Stipulation.
13 Mr. Stutzman summarized the staff recommendation that the Commission report back to the
14 Attorney General with a recommendation that the Attorney General take no further action with
15 respect to the allegations in the complaint.

16 The Commission voted 3-0 to accept the Stipulation of facts, violation, and penalty.
17 The Commission also unanimously voted to recommend that the Attorney General take no
18 further action with respect to the allegations in the complaint.

19 **I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

20 Based upon the Stipulation, which is hereby attached and incorporated by reference, the
21 Commission finds and concludes:
22

- 23 1. The Jurisdiction, Facts, Legal Authority, and Violations are established as
24 provided in the Stipulation.
- 25 2. Respondent violated RCW 42.17A.235 and .240 as provided in the Stipulation.
26

1 3. A civil penalty of \$4,000 is an appropriate resolution of this matter with respect
2 to the Respondent.

3 **II. ORDER**

4 Based upon the findings and conclusions, the Commission orders that:

- 5 1. The Stipulation is accepted.
6
7 2. The Respondent, Yes on I-522 Committee, is assessed a civil penalty of \$4,000
8 for the stipulated violation.

9 The Executive Director is authorized to enter this order on behalf of the Commission.

10 So ORDERED this 1st day of August, 2014.

11
12 WASHINGTON STATE PUBLIC
13 DISCLOSURE COMMISSION

14 FOR THE COMMISSION:

15 *Andrea M. Doyle*
16 Andrea McNamara Doyle
Executive Director

17 **ATTACHMENTS**

- 18 (1) Stipulation as to Facts, Violation, and Penalty
19 (2) Appeals and Enforcement of Final Orders

20 *Copy of this Order sent to:*

21 Yes on I-522 Committee
22 c/o C. James Frush
Cable, Lagenbach, Kinerk & Bauer, LLP
1000 Second Avenue, Suite 3500
Seattle, WA 98104

23 I, *Philip E. Stutzman*, certify that I mailed a copy of this order to the Yes
24 on I-522 Committee, through their counsel as noted above, postage prepaid, on the date
25 stated herein.

26 *Philip E. Stutzman*
Signature

8/1/2014
Date

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

In the Matter of Enforcement Action
Against:

Yes on I-522 Committee

Respondent.

Case No. 14-011

STIPULATION AS TO FACTS,
VIOLATIONS AND PENALTY

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Andrea McNamara Doyle, and Respondent, Yes on I-522 Committee, through its attorney, C. James Frush, 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 that 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.

I. JURISDICTION

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

II. FACTS

Background

1. During the 2013 election cycle, Respondent, Yes on I-522 Committee, participated in support of an initiative that would have required labeling of Genetically Modified Organisms in certain food and beverages.

2. The Yes on I-522 Committee registered as a political committee on February 11, 2013.
3. During the course of the election, the Yes on I-522 Committee received financial and in-kind contributions from numerous supporters including Ben & Jerry's Ice Cream, PCC Natural Markets, and Dr. Bronner's Magic Soaps.
4. On October 25, 2013, the Attorney General's Office received a citizen action notice from Rob Maguire, an attorney with Davis, Wright, Tremaine PLLC, a Seattle law firm. Mr. Maguire alleged that the Yes on I-522 Committee failed to properly and timely report receipt of in-kind contributions.
5. After the Yes on I-522 Committee received notice of these allegations, its treasurer, Phil Lloyd and his staff commenced a review of all contributions received by the Yes on I-522 Committee. Following that review, Mr. Lloyd filed amended the 21-day and 7-day pre-general election reports.

Failure to timely disclose in-kind contributions on C-4 Reports during 2013 Election (RCW 42.17A.235 and 42.17A.240)

6. The Yes on I-522 Committee failed to timely report in-kind contributions totaling \$117,708 received during the 21-day and 7-day pre-2013 general election C-4 reporting periods.

a. PCC Natural Markets Contributions

7. On its October 15, 2013 21-day pre-general election C-4 report, the Yes on I-522 Committee reported receipt of \$5,445 as in-kind contributions from PCC Natural Markets.
8. Then, on November 7, 2013, the Yes on I-522 Committee amended its 21-day pre-general election C-4 report to include \$12,433 in previously undisclosed in-kind contributions for political advertising and staff services.
9. On March 20, 2014, the Yes on I-522 Committee filed amended reports to lower the previously undisclosed in-kind contributions from \$15,760 to \$6,400. It based this

amendment on a recalculation of the previously undisclosed in-kind contributions from PCC Natural Markets for political advertising and staff services from \$12,433 to \$3,073.

10. The full amount of the in-kind contributions the Yes on I-522 Committee received from PCC Natural Markets (\$6,400) was disclosed 23 days late (due on October 15, 2013 and not reported until November 7, 2013) and two days after the November 5, 2013 general election.

11. PCC Natural Markets was one of the primary sponsors of the I-522 Initiative. Its total support of I-522 was \$144,058. The late reported \$6,400 represented 4.4% of its total support of I-522. The discovery of the under-reporting of PCC Natural Markets' in-kind contributions and subsequent late reporting occurred after the Yes on I-522 Committee's receipt of notification of a complaint to the Attorney General's Office and after the re-examination and reconciliation of the contributions with PCC Natural Markets' internal accounting records, including resolution of valuation issues.

b. Ben and Jerry's Ice Cream Contributions

12. Also, on November 7, 2013, the Yes on I-522 Committee amended its 7-day pre-general election C-4 report to include \$97,000 in previously unreported in-kind contributions from Ben and Jerry's Ice Cream for political advertising (\$95,000) and ice cream (\$2,000). These in-kind contributions were reported nine days late (due on October 29, 2013) and two days after the general election.

13. As with PCC Natural Markets, Ben and Jerry's Ice Cream was a primary supporter of I-522. Ben and Jerry's Ice Cream contributed a total of \$151,522 to the Yes on I-522 Committee.

14. Due to an unintentional error committed by the staff of the Yes on I-522 Committee's treasurer, Ben and Jerry's Ice Cream's in-kind contributions were not properly or timely reported on the Yes on I-522 Committee's 7-day pre-general election C-4 report. The office

staff member of the Treasurer misread information provided from Ben and Jerry's Ice Cream which she received in advance of the due date for the 7-day report and which included information about the contemplated in-kind spending by Ben and Jerry's Ice Cream but failed to include it on the report.

c. Dr. Bronner's Magic Soaps Contributions

15. On November 12, 2013, the Yes on I-522 Committee amended its 7-day pre-general election C-4 report for a second time to include \$12,246 in previously unreported in-kind contributions from Dr. Bronner's Magic Soaps made on October 15, 2013 for political advertisements in magazines. These contributions were reported 14 days late and seven days after the general election.
16. Dr. Bronner's Magic Soaps was another primary supporter of I-522. Dr. Bronner's Magic Soaps' total amount donated in support of I-522 was \$2,302,881.
17. The discovery of the error and subsequent late reporting occurred after the Yes on I-522 Committee was notified of a complaint against it had been filed with the Attorney General's Office and after a re-examination and reconciliation of the contributions with internal accounting records of the donor.
18. In total, the Yes on I-522 Committee failed to report \$117,708 in in-kind contributions in a timely manner between 9 and 23 days late and between 2 and 7 days after the November 5, 2013 general election. Of this amount, information related to over \$90,000 of in-kind contributions was timely provided from the Committee to its treasurer, and the treasurer's error resulted in the failure to timely report. The total untimely reported in-kind contributions accounted for 19.6% of the Yes on I-522 Committee's total in-kind contributions, and 1.46% of the Yes on I-522 Committee's total contributions received.

III. STATUTORY AUTHORITY

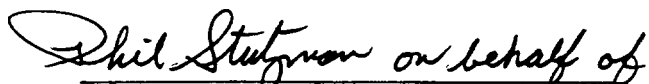
RCW 42.17A.235 and RCW 42.17A.240 require political committees to file timely, accurate reports of contributions and expenditures. Under the full reporting option, until five months before the general election, C-3 and C-4 reports are required monthly when contributions or expenditures exceed \$200 since 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. Beginning five months before the election, weekly C-3 reports are required to be filed every Monday disclosing contributions received and deposited during the previous week.

IV. VIOLATIONS


Based on the Stipulation of Facts set forth above, Respondent Yes on I-522 Committee stipulates that it committed multiple violations of RCW 42.17A.235 and 42.17A.240 by failing to timely disclose the receipt of in-kind contributions on Campaign Summary Receipts & Expenditures reports (C-4 reports).

V. PENALTY

Based upon the Stipulation of Facts and Violations set forth above, Respondent Yes on I-522 Committee agrees to pay a total civil penalty of \$4,000.00. Yes on I-522 Committee affirms its intention to comply in good faith with the provisions of RCW 42.17A in the future.


Andrea McNamara Doyle, Executive Director
Public Disclosure Commission

6/23/14
Date Signed


James Frush, Counsel for Respondent
Yes on I-522 Committee

6/23/14
Date Signed