

August 15 2016 4:02 PM

KEVIN STOCK
COUNTY CLERK
NO: 16-2-10303-6

1
2
3
4
5
6
7 **STATE OF WASHINGTON**
8 **PIERCE COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 ECONOMIC DEVELOPMENT
13 BOARD FOR TACOMA-PIERCE
14 COUNTY, TACOMA-PIERCE
15 COUNTY CHAMBER, JOHN WOLFE,
16 in his official capacity as Chief
17 Executive Officer for the PORT OF
18 TACOMA, and CONNIE BACON,
19 DON JOHNSON, DICK MARZANO,
20 DON MEYER, and CLARE PETRICH,
21 in their official capacities as
22 Commissioners for the PORT OF
23 TACOMA,

24 Defendants.

NO.

COMPLAINT FOR CIVIL
PENALTIES AND FOR INJUNCTIVE
RELIEF FOR VIOLATIONS OF RCW
42.17A

25 **I. NATURE OF ACTION**

26 The STATE OF WASHINGTON (State) brings this action to enforce the State's
campaign finance disclosure law, RCW 42.17A. The State alleges that Defendants, the
ECONOMIC DEVELOPMENT BOARD FOR TACOMA-PIERCE COUNTY (EDB) and the
TACOMA-PIERCE COUNTY CHAMBER (Chamber) violated provisions of RCW 42.17A
by failing to properly report independent expenditures they made in opposition to certain local

1 ballot propositions. The State further alleges that Defendant JOHN WOLFE, in his official
2 capacity as Chief Executive Officer of the PORT OF TACOMA, and CONNIE BACON, DON
3 JOHNSON, DICK MARZANO, DON MEYER, and CLARE PETRICH, in their official
4 capacities as Commissioners for the PORT OF TACOMA, violated provisions of RCW 42.17A
5 by authorizing the use of public facilities in opposition to certain local ballot propositions. The
6 State seeks relief under RCW 42.17A.750 and .765, including penalties, costs and fees, and
7 injunctive relief.

8 II. PARTIES

9 1.1 Plaintiff is the State of Washington. Acting through the Washington State
10 Public Disclosure Commission, Attorney General, or local prosecuting attorney, the State
11 enforces the state campaign finance disclosure laws contained in RCW 42.17A.

12 1.2 Defendant, the EDB, is an active nonprofit corporation with a primary place of
13 business in Pierce County, Washington.

14 1.3 Defendant, the Chamber, is an active nonprofit corporation with a primary place
15 of business in Pierce County, Washington.

16 1.4 Defendant, John Wolfe, is the Chief Executive Officer of the Port of Tacoma,
17 which has its primary place of business in Pierce County, Washington.

18 1.5 Defendant, Connie Bacon, is a Commissioner of the Port of Tacoma, which has
19 its primary place of business in Pierce County, Washington.

20 1.6 Defendant, Don Johnson, is a Commissioner of the Port of Tacoma, which has
21 its primary place of business in Pierce County, Washington.

22 1.7. Defendant, Dick Marzano, is a Commissioner of the Port of Tacoma, which has
23 its primary place of business in Pierce County, Washington.

24 1.8 Defendant, Don Meyer, is a Commissioner of the Port of Tacoma, which has its
25 primary place of business in Pierce County, Washington.

1 1.9 Defendant, Clare Petrich, is a Commissioner of the Port of Tacoma, which has
2 its primary place of business in Pierce County, Washington.

3 **III. JURISDICTION AND VENUE**

4 2.1 This Court has subject matter jurisdiction over the EDB and the Chamber in
5 accordance with RCW 42.17A. The Attorney General has authority to bring this action
6 pursuant to RCW 42.17A.765.

7 2.2 The actions of the EDB, the Chamber, John Wolfe, Don Johnson, Connie
8 Bacon, John Marzano, Don Meyer, and Clare Petrich which form the basis for the violations
9 alleged below occurred in whole or in part, in Pierce County, Washington.

10 2.3 Venue is proper in this Court pursuant to RCW 4.12.

11 **IV. FACTUAL ALLEGATIONS**

12 3.1 RCW 42.17A.005(4) defines a “ballot proposition” to include any initiative,
13 proposed to be submitted to the voters of any municipal corporation, from and after the time
14 when the proposition has been initially filed with the appropriate election officer of that
15 constituency.

16 3.2 RCW 42.17A.255 defines the term “independent expenditure” to include any
17 expenditure that is made in support of or in opposition to any ballot proposition and is not
18 otherwise required to be reported pursuant to RCW 42.17A.220, .235, and .240. The report is
19 entitled in relevant part, “Reporting Form for: Independent Expenditures” and is designated by
20 the Commission as form C-6, pursuant to WAC 390-16-060.

21 3.3 On February 19, 2016, “Save Tacoma Water” filed a political committee
22 registration form (C1-pc) with the state Public Disclosure Commission for the stated purpose
23 of supporting a ballot proposition on the November 8, 2016 general election ballot. On March
24 7, 2016, Save Tacoma Water filed Charter Initiative 5 with the City of Tacoma Clerk, and then
25 on March 11, 2016, it filed Code Initiative 6 with the City of Tacoma Clerk. Both initiatives
26

1 were approved as to form, and on June 30, 2016, Save Tacoma Water submitted its signatures
2 to the City of Tacoma Clerk.

3 3.4 Tacoma Code Initiative 6 sought to amend the Tacoma Municipal Code by
4 imposing a requirement that any land use proposal requiring water consumption of one
5 millions gallons of water or more daily from Tacoma be submitted to a public vote. Charter
6 Initiative 5 was a companion measure that sought to similarly amend the city charter.

7 3.5 On June 6, 2016, the Port of Tacoma, the EDB, and the Chamber brought a
8 declaratory judgment action in Pierce County Superior Court against the City of Tacoma.
9 Upon information and belief, Defendant Wolfe authorized participation in the lawsuit by the
10 Port of Tacoma. The lawsuit sought to (1) declare that Charter Initiative 5 and Code Initiative
11 6 exceeded the proper scope of local initiative powers and therefore were invalid, (2) enjoin the
12 Initiatives' signatures from being validated, and (3) enjoin the Initiatives from being placed on
13 the November 2016 ballot, or adopted by the City of Tacoma.

14 3.6 On June 16, 2016, Port of Tacoma Commissioners Don Johnson, Connie Bacon,
15 John Marzano, Don Meyer, and Clare Petrich unanimously voted to ratify the Port of Tacoma's
16 legal action described in paragraph 3.5.

17 3.7 On July 1, 2016, the Superior Court enjoined placement of Charter Initiative 5
18 and Code Initiative 6 on the ballot. On July 29, 2016, Save Tacoma Water appealed.

19 3.8 Defendant EDB spent at least \$9,994 as attorneys' fees in conjunction with its
20 participation in the aforementioned lawsuit.

21 3.9 Defendant Chamber spent at least \$10,000 as attorneys' fees in conjunction with
22 its participation in the aforementioned lawsuit.

23 3.10 The Port of Tacoma spent at least \$45,000 in attorneys' fees in conjunction with
24 its participation in the lawsuit.

25 3.11 The EDB and the Chamber should have reported, as independent expenditures, the
26 value of what was expended for legal services in opposition to the respective ballot proposition(s).

