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GOVERNMENT COMPLIANCE
& ENFORCEMENT

STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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September 25, 2015

The Honorable Robert Ferguson
Attorney General
1125 Washington St SE
PO Box 40100
Olympia, WA 98504-0100

RE: Washington State Public Disclosure Commission Referral Following Staff Report of Investigation re: Protect Your Right to Vote on Initiatives and Tim Eyman, PDC Case 13-027, and Voters Want More Choices and Tim Eyman, PDC Case 15-078

Dear General Ferguson:

On March 12, 2013, the Public Disclosure Commission (PDC) opened an investigation into Protect Your Right to Vote on Initiatives and Tim Eyman, PDC Case 13-027, based on a complaint filed by Sherry Bockwinkel on August 20, 2012, and supplemented by Ms. Bockwinkel on August 29, 2012 and September 10, 2012. In order to report separately on findings concerning Voters Want More Choices and Tim Eyman, on September 10, 2015 staff opened a new case number for those respondents, PDC Case 15-078.

Ms. Bockwinkel's complaint alleged that beginning on or around April 15, 2012, the political committee Protect Your Right to Vote on Initiatives conducted a paid signature drive to qualify Initiative 517 for presentation to the 2013 Washington Legislature, and that the committee failed to register with the PDC until June 11, 2012. The complaint further alleged that the committee's contribution and expenditure reports were untimely, and that the committee had failed to disclose contributions and expenditures associated with its signature gathering efforts. Specifically, Ms. Bockwinkel alleged that funds raised by the political committee Voters Want More Choices to obtain signatures for another statewide initiative, Initiative 1185, were used to compensate petitioners for gathering signatures for both I-1185 and I-517.

This letter provides the Commission's referral to you of the complaint.

The Commission considered the results of the investigation into this matter at the September 24, 2015 Commission meeting, where PDC staff presented the Executive Summary and Staff Analysis, the Report of Investigation, and PDC staff's recommendation on the allegations. Copies of the PDC staff Report of Investigation and Executive Summary and Staff Analysis are enclosed with this letter.

Staff's investigation of the complaint filed by Sherry Bockwinkel showed evidence indicating multiple apparent violations of RCW 42.17A by Mr. Eyman and his committees, as follows:

1. Expenditures totaling \$623,325 by Voters Want More Choices to signature gathering vendor Citizen Solutions, LLC were incurred in a manner to effect concealment, because the expenditures were described in the committee's reports as paying for I-1185 signatures, but were intended in part to result in compensation for Mr. Eyman, and did result in a \$308,185 wire transfer to Mr. Eyman's LLC, Tim Eyman, Watchdog for Taxpayers, on July 11, 2012. Incurring expenditures in a matter to effect concealment violates RCW 42.17A.435.
2. In authorizing these payments to Citizen Solutions, LLC, Mr. Eyman also authorized the expenditure of campaign funds for prohibited personal use, and did use approximately \$170,000 in Voters Want More Choices funds for personal living expenses. Expending contributions reported under RCW 42.17A.235 and .240 for prohibited personal use violates RCW 42.17A.445.
3. Beginning on July 11, 2012, using the funds received that day from Citizen Solutions, LLC, Mr. Eyman's LLC made payments totaling \$200,000 to Citizens In Charge, a Virginia 501(c)(4) organization, for the purpose of sponsoring I-517 signature gathering. Reports filed by Mr. Eyman's committee Protect Your Right to Vote on Initiatives attributed \$182,000 in total in-kind contributions for signature gathering services to Citizens In Charge, when in fact the contributions were made by Mr. Eyman through multiple agents, in order to conceal the source of the funds. Making contributions through an agent to conceal the identity of the source of the contributions violates RCW 42.17A.435.
4. Finally, each instance of concealment also resulted in the failure by Mr. Eyman's committees Voters Want More Choices and Protect Your Right to Vote on Initiatives to file complete and accurate reports of contribution and expenditure activity. Such failure violates RCW 42.17A.235 and .240.

On receiving staff's Report of Investigation, Executive Summary and Staff Analysis, and staff's recommendation on the allegations, Commissioner Anne Levinson offered the following motion:

In regard to Case 13-027, Protect Your Right To Vote On Initiatives and Tim Eyman; and Case 15-078, Voters Want More Choices and Tim Eyman, the Commission is hearing this matter today pursuant to RCW 42.17A.755(3) to consider referral to the Washington State Attorney General or other law enforcement authorities in lieu of us holding a hearing or issuing an order. Therefore, we are not going to make specific findings. However, the record before us due to the staff's thoroughness of investigation is clear:

1. *The PDC staff's investigation indicates that I-1185 funds were used to support I-517.*
2. *The PDC staff's investigation indicates that the initial April 2, 2012 agreement Tim Eyman signed with Citizen Solutions on behalf of Voters Want More Choices included a cost of \$3.50 per signature for I-1185, and a total cost of \$1,050,000 but Citizen Solutions paid petition coordinators between \$1.00 and \$1.40 per I-1185 signature, indicating that the firm made at least \$2.10 per signature, which was a 60% gross margin.*
3. *The PDC staff's investigation, including Mr. Eyman's own testimony, indicates that total payments to Citizen Solutions to qualify I-1185 for the 2012 ballot were in excess of a million dollars, that Voters Want More Choices paid Citizen Solutions more than \$600,000 to qualify I-1185 for the ballot, and that a limited liability corporation that Mr. Eyman operates (Tim Eyman, Watchdog for Taxpayers LLC) received a payment of nearly half that amount back from the signature gathering firm.*
4. *The PDC staff's investigation, including banking records that Mr. Eyman produced in response to a PDC subpoena, indicates that the payment was made by wire transfer in July of 2012, and totaled \$308,185.*
5. *The PDC staff's investigation, including Mr. Eyman's own testimony and banking records produced as a result of a PDC subpoena, indicates that after receiving this more than \$300,000 payment from Citizen Solutions, Mr. Eyman's LLC made payments totaling approximately \$200,000 to Citizens in Charge and that Mr. Eyman understood that the funds his LLC provided would be used to sponsor signature gathering for I-517, not the stated purpose for which the donations were collected.*
6. *The PDC staff's investigation indicates that these payments were reported by Mr. Eyman's committee Protect Your Right to Vote on Initiatives as in-kind contributions from Citizens in Charge, when in fact Mr. Eyman was aware that they came from funds that Voters Want More Choices paid for I-1185 signatures.*
7. *The PDC staff's investigation indicates that in addition to using contributions raised by Voters Want More Choices for I-1185 to support I-517, Mr. Eyman further made personal use of approximately \$170,000 of those funds.*
8. *The PDC staff's investigation, including sworn testimony from a former principal of Citizen Solutions, indicates that the undisclosed more than \$300,000 payment Mr. Eyman received from Citizen Solutions July of 2012 may have been one in a series of such payments and that on multiple occasions between 2004 and 2011, after paying hundreds of thousands of dollars in committee funds to Citizen Solutions to qualify his initiatives for the ballot, Mr. Eyman sought and then received payments back from the firm ranging from \$5,000 to \$100,000 per campaign. This compensation to Mr. Eyman, which as the staff has pointed out*

was also not disclosed to the public, followed a 2002 PDC and Attorney General enforcement action concerning similar efforts by Mr. Eyman to conceal payments to himself from campaign funds. That matter, PDC Case 02-281, Permanent Offense, Tim Eyman et al, resulted in approximately \$55,000 in judgments and fees assessed to Mr. Eyman and his committee. Mr. Eyman was also permanently enjoined from acting as treasurer of any political committee, or as signer on any financial accounts of such a committee as a result of that PDC investigation.

9. *Finally, the PDC staff's investigation indicates that each instance of concealment also resulted in the failure by Mr. Eyman's committees Voters Want More Choices and Protect Your Right to Vote on Initiatives to file complete and accurate reports of contribution and expenditure activity.*

Based on this record, as well as on Mr. Eyman's refusal while being interviewed under oath by PDC staff to answer questions about his compensation, and his refusal to produce records subpoenaed by the PDC until further enforcement action was taken (and as just noted by the staff, a dozen subpoenas needed to be issued in this matter), the Commission is extremely troubled that it appears that Mr. Eyman intended to hide from the public the sources of funds and the actual purposes for which expenditures were made, and to further conceal that funds were used by Mr. Eyman solely for his personal use. Given his creation of multiple LLCs and committees, his explanations to PDC staff that he did not intend to hide the sources or uses of funds strain credibility. Nor can the Respondent legitimately claim this was somehow inadvertent, due to a lack of experience in filing the required campaign disclosure reports or in understanding the allowable uses of campaign donations. His actions and operations appear to have been an intentional flaunting of campaign finance and disclosure laws, laws which were enacted by the voters to put a stop to conduct such as this. It does not go unnoticed that the purported purpose of the Respondent's proposed initiatives are to protect the very public he appears to have harmed by his actions here. These laws are intended to assure the public that our governmental and political systems and individuals who operate within them are open and honest, and are premised on the principle that the public deserves to know who is funding political campaigns to influence their vote. If this apparent circumvention of campaign finance and disclosure laws were allowed to continue, it would significantly diminish the integrity of our electoral system.

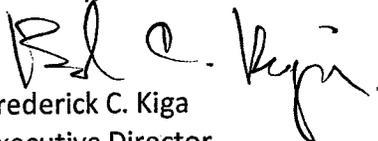
If the facts set forth in this record prove true, then Mr. Eyman's actions would constitute multiple serious violations of RCW 42.17A, including RCW 42.17A.435, RCW 42.17A.445, RCW 42.17A.235 and .240. Considering these violations, as well as Mr. Eyman's prior history with the PDC, frequent and repeated use of the initiative process, the refusal to produce documentation even after the issuance of multiple subpoenas, and the likelihood of an intentional ongoing pattern over multiple years, the Commission's penalty authority under RCW 42.17A.755 would be insufficient to enforce compliance with the law in a manner that adequately protects the public, holds Mr. Eyman accountable for his actions and deters future misconduct.

Accordingly, pursuant to RCW 42.17A.755(3), I move the Commission refer matters No. 13-027 and 15-078, to the Washington State Attorney General for further investigation and request that the Attorney General move swiftly to take any and all appropriate legal action pursuant to his authority under RCW 42.17A.765, including both possible civil and criminal sanctions. Given Mr. Eyman's continued failure to comply with multiple subpoenas, the Commission also requests that the Attorney General's investigation and prosecution expand the timeframe addressed by this investigation, and include in his possible prosecution any actions taken prior or subsequent to the time period covered by the PDC complaint and include any necessary additional charges, such as sanctioning for failure to comply with subpoenas pursuant under RCW 42.17A.110(6).

The above motion was seconded and approved by a unanimous vote of the Commission. Consistent with the above motion and the Commission's action, the Commission is referring this matter to you for further investigation and legal action in accordance with RCW 42.17A.105(5) and RCW 42.17A.755(3), requesting your office explore all remedies allowed by law in superior court, including as provided in RCW 42.17A.750.

If you have any questions, please contact me at (360) 664-2735. Thank you.

Sincerely,



Frederick C. Kiga
Executive Director

cc: Commissioners
Linda Dalton, Sr. Assistant Attorney General
Mark Lamb, counsel for Respondents
Sherry Bockwinkel