

FILED

APR 22 2016

Superior Court  
Linda Myhre Enlow  
Thurston County Clerk

☐ EXPEDITE  
☐ No Hearing Set  
☒ Hearing is Set:  
Date: Friday, April 22, 2016  
Time: 9:00 a.m.  
The Honorable Gary Tabor

STATE OF WASHINGTON  
THURSTON COUNTY SUPERIOR COURT

STATE OF WASHINGTON, *ex rel.*,  
WASHINGTON STATE PUBLIC  
DISCLOSURE COMMISSION,

Plaintiff,

v.

FOOD DEMOCRACY ACTION! and  
FOOD DEMOCRACY ACTION! YES  
ON I-522 COMMITTEE TO LABEL  
GMOS IN WASHINGTON,

Defendants.

NO. 14-2-02381-0

ORDER GRANTING THE STATE'S  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT ON VIOLATIONS AND  
SETTING TRIAL ISSUE

~~PROPOSED~~

THIS MATTER came before the Court on Plaintiff STATE OF WASHINGTON's Motion for Partial Summary Judgment. The parties appeared through counsel. The Court considered the following records and pleadings:

- a. State of Washington (State)'s Partial Motion for Summary Judgment;
- b. Declaration of Kurt Young with Exhibits;
- c. Declaration of Linda Dalton with Exhibits;
- d. Food Democracy Action! and Food Democracy Action! Yes on I-522 Committee to Label GMOs in Washington (collectively FDA)'s Partial Opposition to State's Motion for Partial Summary Judgment;
- e. Declaration of David Murphy; and

1 f. State's Reply in Support of Its Motion for Partial Summary Judgment.

2 The Court also considered the parties' oral argument presented on April 22, 2016. The  
3 Court hereby makes the following:

4 **I. FINDINGS OF FACT**

5 1. Defendant Food Democracy Action! is registered with the Internal Revenue  
6 Service as a 501(c)(4) non-profit organization. Defendant Food Democracy Action! Yes on I-  
7 522 Committee to Label GMOs in Washington is a political committee now registered with the  
8 State of Washington. Defendant Food Democracy Action! registered this committee with the  
9 State on November 13, 2013.

10 2. In November 2012, California voters rejected an initiative (Proposition 37) that  
11 would have required labeling of genetically modified or engineered food. FDA supported this  
12 initiative and made at least two contributions totaling \$115,000 in its own name to the Yes on  
13 37 For Your Right To Know political committee. These contributions were reported by the  
14 Yes on 37 committee.

15 3. On June 29, 2012, Chris and Leah McManus submitted Initiative 522 to the  
16 Washington Secretary of State as an initiative to the legislature. Initiative 522 would have  
17 "require[d] most raw agricultural commodities, processed foods, and seeds and seed stocks, if  
18 produced using genetic engineering as defined, to be labeled as genetically engineered when  
19 offered for retail sale."

20 4. The Secretary of State then certified the initiative and forwarded it to the  
21 legislature. The legislature took no action on the initiative during the 2013 legislative session.  
22 As a result, Initiative 522 appeared on the November 5, 2013 General Election ballot. Voters  
23 rejected Initiative 522.

24 5. Starting on July 2, 2013, Defendant Food Democracy Action! began sending  
25 newsletters to encourage its members and supporters to support the labeling efforts in  
26

1 Washington, including Initiative 522. Defendant Food Democracy Action! used its newsletters  
2 as a fundraising campaign to raise and receive money to support Initiative 522.

3 6. Defendant Food Democracy Action! sent its first newsletter with a request for  
4 contributions on July 2, 2013. Subsequently, Defendant Food Democracy Action! sent similar  
5 requests by newsletter on July 10, July 16, and October 22, 2013.

6 7. In response to Defendant Food Democracy Action!'s solicitations, over 7,000  
7 people gave money to Defendant Food Democracy Action!. Most of those people were from  
8 outside the state of Washington.

9 8. In total, Defendant Food Democracy Action! received \$295,661.58 to support  
10 Initiative 522.

11 9. Of the amount it received, Defendants Food Democracy Action! and Food  
12 Democracy Action! Yes on I-522 Committee to Label GMOs in Washington spent \$200,000 in  
13 contributions to the Yes on I-522 political committee. The Yes on I-522 political committee  
14 reported the contributions as if the funds belonged to and came from Defendant Food  
15 Democracy Action!.

16 10. FDA made the following cash contributions to the Yes on I-522 political  
17 committee from the funds collected: (a) August 16, 2013 - \$50,000; (b) October 15, 2013 -  
18 \$50,000; (c) October 24, 2013 - \$50,000; (d) October 25, 2013 - \$25,000, and (e) October 30,  
19 2013 - \$25,000.

20 11. Defendant Food Democracy Action! Yes on I-522 Committee to Label GMOs  
21 in Washington ultimately reported spending \$50,025.90 of the money collected to pay  
22 Defendant Food Democracy Action! for data and staff services, as well as PayPal for credit  
23 card processing fees. Defendant Food Democracy Action! identified itself as the contributor to  
24 the Yes on I-522 political committee, rather than the individuals who gave the money to  
25 Defendant Food Democracy Action!. All of the funds collected by Defendant Food  
26

1 Democracy Action! were received by it prior to registering a political committee in  
2 Washington State.

3 12. On October 28, 2013, the Attorney General's Office received a complaint that  
4 included allegations that FDA solicited and then contributed the funds received to the Yes on I-  
5 522 committee, identifying only Defendant Food Democracy Action! as the source of the  
6 contributions. After being notified of the complaint, FDA registered a political committee.

7 13. Defendant Food Democracy Action! Yes on I-522 Committee to Label GMOs  
8 in Washington filed 12 campaign finance disclosure reports (PDC Form C3) disclosing the  
9 names of its contributors, the dates of receipt of the contributions, and the amount of the  
10 contribution. Defendant Food Democracy Action! Yes on I-522 Committee to Label GMOs in  
11 Washington also filed five reports (PDC Form C4) disclosing a summary of its financial  
12 transactions including expenditures it made to the Yes on I-522 political committee and other  
13 costs associated with the committee.

14 14. Based on the date of its first solicitation for contributions, FDA was required to  
15 register a political committee no later than July 16, 2013. Its registration report was filed on  
16 November 13, 2013, 92 days late.

17 15. Based on the date of the first contribution received, FDA was required to begin  
18 filing campaign finance reports no later than August 10, 2013. All the contribution receipt  
19 forms were filed on November 22, 2013. This made the reports between 18 and 110 days late.

20 16. Based on the date of the first contribution received, FDA was required to file a  
21 PDC Form C4 beginning on July 16, 2013. These reports were not filed until January 15,  
22 2014. This made the reports between 36 and 156 days late.

## 23 II. CONCLUSIONS OF LAW

24 Based on these undisputed facts, the Court makes the following determinations as a  
25 matter of law:  
26

1. FDA violated RCW 42.17A.205 by failing to timely register Defendant Food Democracy Action! Yes on I-522 Committee to Label GMOs in Washington as a political committee in Washington within two weeks after the date it first had the expectation of receiving contributions or making expenditures in the election campaign to oppose Initiative 522, namely, July 16, 2013.

2. FDA violated RCW 42.17A.210 and RCW 42.17A.215 by failing to timely identify a) a treasurer for Defendant Food Democracy Action! Yes on I-522 Committee to Label GMOs in Washington, and b) a depository for its funds.

3. FDA violated RCW 42.17A.235, .240 and .245, by failing to regularly, timely, and electronically report the financial activities of Defendant Food Democracy Action! Yes on I-522 Committee to Label GMOs in Washington.

4. FDA violated RCW 42.17A.435 by concealing the identity and source of contributions it received that it then used to make contributions to the Yes on I-522 committee as well as the value of in-kind contributions made to the Yes on I-522 committee.

5. RCW 42.17A.435 does not require a showing that FDA intended to violate state campaign finance disclosure laws in order to establish a violation of this statute.

### III. ORDER

Based on these determinations, it is HEREBY ORDERED as follows:

1. The State's Motion for Partial Summary Judgment is GRANTED, and FDA is determined to have committed multiple violations of state campaign finance laws as identified in the State's Complaint.

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