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7 **STATE OF WASHINGTON**
8 **SNOHOMISH COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,

10 Petitioner,

11 v.

12 TIM EYMAN; VOTERS WANT
13 MORE CHOICES – SAVE THE
14 2/3RDS VOTE FOR TAX
15 INCREASES; VOTERS WANT
16 MORE CHOICES – SAVE THE
17 2/3RDS (MIKE FAGAN); PROTECT
18 THE INITIATIVE ACT (JACK
19 FAGAN); PROTECT YOUR RIGHT
20 TO VOTE ON INITIATIVES; 2/3-
FOR-TAXES CONSTITUTIONAL
AMENDMENT INITIATIVE-VWMC;
VWMC LOWER PROPERTY TAXES;
VOTERS WANT MORE CHOICES
PAC; HELP US HELP TAXPAYERS;
AND TIM EYMAN, WATCHDOG
FOR TAXPAYERS LLC,

Respondents.

NO. 16-2-15174-31

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER OF CONTEMPT

~~PROPOSED~~

21 THIS MATTER having come before the Court on the State's Motion for Contempt of
22 Court, the parties appeared through counsel, the Court having heard the argument of the parties,
23 and having considered the records and files, the Court now makes the following:

24 **I. FINDINGS OF FACT**

25 1. On November 13, 2015, the State issued Civil Orders to the Respondents for specific
26 financial records.

1 2. The Civil Orders sought financial and tax records including tax returns and
2 information, bank checks, cashier's checks, wire transfers, bank statements, and loan
3 documents related to their financial transactions with the signature gathering firm, Citizen
4 Solutions.

5 3. Respondents failed to fully respond to those Orders.

6 4. On June 9, 2016, the State sought to compel Respondents' compliance with its previously
7 issued Civil Orders.

8 5. On June 29, 2016, the Court issued an Order Compelling Compliance With Agency Civil
9 Orders (Order) directing Respondents to comply with the Civil Order by July 13, 2016. The Court
10 directed Respondents to produce all records responsive to the State's Civil Orders.

11 6. In its June 29 Order, the Court required Respondents to execute a declaration or affidavit
12 attesting that all responsive records had been provided.

13 7. Further, the Court directed Respondents to pay the State all costs and reasonable
14 attorneys' fees associated with this case.

15 8. The Court also ordered that Respondents provide a declaration attesting that they have
16 produced all records in their "possession and control" responsive to the state's Civil Orders.

17 9. Following issuance of the Order, Respondents submitted certain records on July 13,
18 2016. However, Respondents did not provide all responsive records.

19 ~~10. Respondents failed to provide all financial records including bank checks, cashiers,~~
20 ~~checks, wire transfers, bank statements, and loan documents related to financial transactions~~
21 ~~with the signature gathering firm Citizen Solutions. They also failed to provide all tax returns~~
22 ~~and tax information.~~

23 11. The State filed this Motion for Contempt of Court on July 27, 2016 following review of
24 the July 13 records. The Declaration of Derrick Millett outlined the documents the State
25 believed were missing from production.

26 12. Once Respondents received the State's contempt motion, Respondents provided

1 approximately 6 additional pages of banking records. ~~Despite Respondents' claim that all~~
2 ~~banking records in their "possession or control" have been provided, Respondents have failed,~~
3 ~~to provide all financial records responsive to the State's Civil Orders as the State identified in~~
4 ~~the Crummer Declaration filed in support of the State's reply.~~

5 13. The Civil Orders also sought Respondents' tax returns and tax information for filing
6 years 2009-2014. Prior to the filing of the State's Motion, Respondents produced only ~~partial~~ ^{TAX}
7 ~~materials~~ ^{RETURNS} for Mr. Eyman and his business, Tim Eyman Watchdog for Citizens LLC. They
8 failed to supply the required supporting schedules or documentation. They provided no income
9 tax records for any of the Respondent political committees.

10 14. Again, after receipt of the State's contempt motion, the Respondent political
11 committees began producing tax records responsive to the Civil Orders. The State, however,
12 has not been able to determine whether all tax records responsive to the Civil Orders have been
13 provided, and it does appear some tax records have not been provided.

14 ~~15. The Civil Orders also sought any other records of Respondents' transactions with the~~
15 ~~signature-gathering firm of Citizen Solutions. Respondent political committees publicly~~
16 ~~reported making 25 payments to Citizen Solutions covering the years 2011, 2012, 2013, and,~~
17 ~~2015. They did not produce contracts, invoices, agreements, emails, or any other~~
18 ~~documentation for all of these transactions. No further such records have been produced by~~
19 ~~Respondents following the issuance of this Court's Order.~~

20 ~~16. Respondents' failure and refusal to completely respond to the State's Civil Order has~~
21 ~~created a significant delay in and obstruction of the State's investigation for which contempt~~
22 ~~relief is appropriate.~~

23 II. CONCLUSIONS OF LAW

24 1. Respondents violated this Court's Order Compelling Compliance by failing to deliver
25 to the State the records described in the State's Civil Orders, ~~by July 13, 2016.~~ ^{ETP}

26 ~~2. Respondents are in contempt of the Court's Order Compelling Compliance.~~ ^{reserved ETP}

~~3. The Court may impose a sanction for contempt "[i]f the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform." RCW 7.21.030(2). Respondents' conduct clearly meets this standard given that they failed to produce records responsive to the State's Civil Orders.~~

4. The State's request to directly subpoena financial records from Respondents' financial institutions as a means to obtain the information it requested is reasonable in light of Respondents' failure to comply.

5. The State's request that Respondents ^{political committees} execute releases authorizing the State to seek tax information relating to Respondents directly from the Internal Revenue Service is reasonable in light of Respondents' failure to comply.

~~6. Based on Respondents' contempt, a forfeiture of _____ per day for each day Respondents remain in contempt of court is appropriate.~~

~~7. Based on Respondents' contempt, Respondents should be responsible for the State's attorneys' fees and costs associated with bringing this contempt motion.~~

III. ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Court hereby ORDERS as follows:

1. ^{The Court reserves its ruling on the} ~~The State's Motion for Contempt of Court is granted.~~ ~~the State's motion for contempt~~

2. ~~Respondents shall provide the State all outstanding records related to their financial and tax records and shall remain in contempt until such time as those records are produced.~~

3. ^{shall} ~~Alternatively,~~ Respondents ^{may} provide the State a declaration or affidavit that includes the names of any and all financial institutions and the corresponding names of account holders and account numbers, for any and all accounts used by each Respondent ^{political committee and}

~~Respondent Watchdog for Taxpayers, LLC during the time periods referenced in the State's Civil Orders.~~ ^{along with an executed release authorizing the State to obtain any outstanding records.} Once Respondents have provided this information, the State is hereby authorized to issue

a Civil Order directly to the financial institution(s) identified by Respondents for any and all

If deemed necessary by the State
~~submit the financial institutions and the~~

that are responsive to the Civil Order

1 financial records in the possession of said financial institutions belonging to Respondents. Once
2 all responsive records have been received by the State, contempt will be deemed purged.

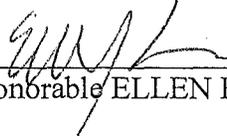
3 4. Further, Respondents ^{shall} may execute a release and provide all tax identification
4 information for Respondent Voters Want More Choices authorizing the State to seek tax
5 information relating to Respondent Voters Want More Choices directly from the Internal
6 Revenue Service and Respondent Voters Want More Choices' tax preparers. ~~Once the State~~
7 ~~has obtained all tax information, contempt will be deemed purged.~~

8 5. ~~Respondents shall forfeit the sum of _____ for each day the~~
9 ~~contempt of court continues from the date of this Order until contempt is purged.~~

10 6. ^{The Court reserves its ruling on whether} Respondents shall pay to the State all costs associated with this contempt motion,
11 including reasonable attorneys' fees and costs in an amount to be presented to this Court by
12 separate motion.

13 7. ~~This Order shall go into effect on the date signed below, and shall remain in effect until~~
14 ~~further order of this Court. Respondents shall be deemed in contempt until the Court is~~
15 ~~satisfied contempt has been purged and so orders.~~

16 DONE IN OPEN COURT this 12 day of August, 2016.

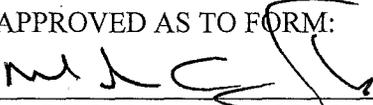
17 
18 The Honorable ELLEN FAIR

19 PRESENTED BY:
20 ROBERT W. FERGUSON
21 Attorney General

22 

23 CHAD C. STANDIFER, WSBA No. 29724
24 Assistant Attorney General

25 LINDA A. DALTON, WSBA No. 15467
26 Senior Assistant Attorney General
Attorneys for State of Washington

APPROVED AS TO FORM:


MARK LAMB, WSBA No. 30134
The North Creek Law Firm
Attorney for Respondents