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THURSTON
SUPERIOR COURT

Superior Court
Linda Myhre Enlow
Thurston County Clerk

STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

NO. 16-2-03893-34

Plaintiff,

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

v.

2/3rds-FOR-TAXES
CONSTITUTIONAL AMENDMENT,
a political committee; WE LOVE
OUR CARS – VWMC - 2017, a
political committee; TIM EYMAN,
JACK FAGAN, MIKE FAGAN, in
their capacity as officers of 2/3rds-
FOR-TAXES CONSTITUTIONAL
AMENDMENT and WE LOVE OUR
CARS – VWMC 2016; and
BARBARA SMITH, in her capacity as
treasurer of 2/3rds-FOR-TAXES
CONSTITUTIONAL AMENDMENT
and WE LOVE OUR CARS – VWMC
2016,

Defendants.

I. NATURE OF ACTION

The State of Washington (State) brings this action to enforce the state's campaign finance disclosure law, RCW 42.17A. The State alleges that 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT, a political committee; WE LOVE OUR CARS – VWMC 2016, a political committee; TIM EYMAN, JACK FAGAN, MIKE FAGAN, in their capacity as officers of 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT and WE

1 LOVE OUR CARS – VWMC 2016; and BARBARA SMITH, in her capacity as treasurer of
2 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT and WE LOVE OUR CARS –
3 VWMC 2016, violated provisions of RCW 42.17A by 1) failing to properly report campaign
4 expenditures related to loan interest payments made from 2/3rds-FOR-TAXES
5 CONSTITUTIONAL AMENDMENT political committee funds on behalf of the Tougher to
6 Raise Taxes political committee; and 2) failing to properly and timely report contributions to
7 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT and WE LOVE OUR CARS –
8 VWMC 2016. The State seeks relief under RCW 42.17A.750 and .765, including penalties,
9 costs and fees, and injunctive relief.

10 II. PARTIES

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

14 1.2 Defendant 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT is a
15 political committee registered with the state Public Disclosure Commission. Such registration
16 occurred on January 8, 2016, with Defendant 2/3rds-FOR-TAXES CONSTITUTIONAL
17 AMENDMENT registering as a “new” committee. With such registration, Defendant 2/3rds-
18 FOR-TAXES CONSTITUTIONAL AMENDMENT is expected to comply with RCW 42.17A.

19 1.3 Defendant WE LOVE OUR CARS – VWMC - 2017 is a political committee
20 registered with the state Public Disclosure Commission. Such registration occurred on January
21 8, 2016, with Defendant WE LOVE OUR CARS – VWMC - 2017 registering as a “new”
22 committee. With such registration, Defendant WE LOVE OUR CARS – VWMC - 2017 is
23 expected to comply with RCW 42.17A.

24 1.4 Defendant TIM EYMAN is identified as the media contact and an officer of the
25 political committees 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT and WE
26

1 LOVE OUR CARS – VWMC - 2017 and is sued in that capacity. As such, Defendant Eyman
2 is expected to comply with RCW 42.17A.

3 1.5 Defendant JACK FAGAN is identified as the manager and an officer of the
4 political committees 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT and WE
5 LOVE OUR CARS – VWMC - 2017 and is sued in that capacity. As such, Defendant Jack
6 Fagan is expected to comply with RCW 42.17A.

7 1.6 Defendant MIKE FAGAN is identified as an officer of the political committees
8 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT and WE LOVE OUR CARS –
9 VWMC - 2017 and is sued in that capacity. As such, Defendant Fagan is expected to comply
10 with RCW 42.17A.

11 1.7 Defendant BARBARA SMITH is identified as the treasurer of the political
12 committees 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT and WE LOVE OUR
13 CARS – VWMC - 2017 and is sued in that capacity. As such, Defendant Smith is expected to
14 comply with RCW 42.17A.

15 III. JURISDICTION AND VENUE

16 2.1 This Court has subject matter jurisdiction over the Defendants, in accordance
17 with RCW 42.17A. The Attorney General has authority to bring this action pursuant to
18 RCW 42.17A.765.

19 2.2 Defendants' actions which form the basis for the violations alleged below
20 occurred, in whole or in part, in Thurston County, Washington.

21 2.3 Venue is proper in this Court pursuant to RCW 4.12.

22 IV. FACTUAL ALLEGATIONS

23 3.1 Pursuant to the provisions of RCW 42.17A, political committees are required to
24 timely and properly register and report contributions and expenditures with the Public
25 Disclosure Commission (Commission) during the life of the committee.

1 3.2 The contribution report is entitled “Cash Receipts Monthly Contributions” and
2 is designated by the Commission as Form C-3, pursuant to WAC 390-16-031. Per
3 RCW 42.17A.235(3), this report is due monthly until the first day of the fifth month before a
4 general election at which time the reports must be filed weekly.

5 3.3 The expenditure report is entitled “Summary, Full Report Receipts and
6 Expenditures” and is designated by the Commission as Form C-4, pursuant to WAC 390-16-
7 041. These reports are due monthly, until 21 days before a general election at which time the
8 reports must be filed 21 days and 7 days before the general election.

9 3.4 All monetary contributions are required to be deposited within five days of their
10 receipt by a candidate or candidate’s committee.

11 3.5 Defendants filed committee registrations (Form C-1pc) for Defendant
12 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT and WE LOVE OUR CARS –
13 VWMC - 2017 on January 8, 2016 and June 1, 2016 respectively, identifying each as a new
14 committee registered for 2016 and 2017, again respectively. They declared that Defendant
15 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT was a ballot committee and
16 indicated it was “against” a measure but did not indicate the name of the measure. They
17 declared that Defendant WE LOVE OUR CARS – VWMC – 2017 was a ballot committee and
18 indicated it was “for” Ballot Number 869. The registration forms also indicated that
19 Defendants Eyman, J. Fagan, M. Fagan, and Smith were connected to the committee as
20 officers, treasurer, media contact and manager. Finally, the forms indicated that the committees
21 maintained a bank account at Bank of America in Spokane, Washington.

22 **Defendant 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT**

23 3.6 For Defendant 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT,
24 Defendants filed five campaign disclosure forms on February 10, 2016. They filed one C-4
25 report and four C-3 reports.

1 3.7 The first and only C-4 report filed by Defendants disclosed a previous balance
2 of \$188,848.76. Defendants failed to identify how those funds were obtained or accounted for
3 by Defendant 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT. The report also
4 identified itself as a final report. Defendants did not file any other C-4 report for any other time
5 period.

6 3.8 The four C-3 reports filed by Defendants identified receipt of \$17,627.72 in
7 contributions to Defendant 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT. No
8 other C-3 reports were filed that accounted for \$188,848.76 identified on Defendants' February
9 10, 2016 C-4 report.

10 3.9 Defendants' February 10, 2016 C-4 report identified an expenditure of \$599.66
11 on January 29, 2016 to U.S. Bank with the stated purpose of "interest payment on Tim Eyman
12 loan."

13 3.10 Defendants' February 10, 2016 C-4 report did not disclose receipt of a loan by
14 Defendant 2/3rds-FOR-TAXES CONSTITUTIONAL AMENDMENT. No filings made by
15 Defendants disclosed a loan from Tim Eyman to Defendant 2/3rds-FOR-TAXES
16 CONSTITUTIONAL AMENDMENT.

17 3.11 On June 14, 2016, the Attorney General's Office received a citizen action
18 complaint filed under RCW 42.17A.765 alleging that Defendant 2/3rds-FOR-TAXES
19 CONSTITUTIONAL AMENDMENT had violated RCW 42.17A by failing to disclose a loan
20 to it on its filings with the Public Disclosure Commission.

21 3.12 On July 19, 2016, Defendants amended Defendant 2/3rds-FOR-TAXES
22 CONSTITUTIONAL AMENDMENT's February 10, 2016 C-4 report. They updated the
23 description of payment to U.S. Bank by saying "payment of interest on Tim Eyman's Loan for
24 Tougher to Raise Taxes VWMC", a separate political committee.

25 3.13 The separate political committee, Tougher to Raise Taxes – VWMC, reported
26 receiving a loan from Tim Eyman on December 28, 2015 in the amount of \$250,000. The

1 expenditure of \$599.66 reported by Defendant 2/3rds-FOR-TAXES CONSTITUTIONAL
2 AMENDMENT reported on February 10, 2016 was an interest payment for the loan to
3 Tougher to Raise Taxes – VWMC, and not on a loan to Defendant 2/3rds-FOR-TAXES
4 CONSTITUTIONAL AMENDMENT.

5 **Defendant WE LOVE OUR CARS – VWMC - 2017**

6 3.14 Defendant WE LOVE OUR CARS – VWMC – 2017 filed its first C-4 report on
7 July 11, 2016. It showed a previous balance of \$143,947.61. Defendants failed to identify how
8 those funds were obtained and were not properly accounted for by Defendant WE LOVE OUR
9 CARS – VWMC - 2017.

10 3.15 None of the form C-3 reports filed to July 2016 showed from what source the
11 funds that made up the previous balance on Defendant WE LOVE OUR CARS – VWMC –
12 2017’s first C-4 report were obtained.

13 **V. CLAIMS**

14 Plaintiff re-alleges and incorporates by reference all the factual allegations contained in
15 the preceding paragraphs, and based on those allegations, makes the following claims:

16 4.1 First Claim: Plaintiff reasserts the factual allegations made above and further
17 asserts that Defendants, in violation of RCW 42.17A.235 and .240, failed to properly report the
18 contributions received by Defendants for Defendant political committees 2/3rds-FOR-TAXES
19 CONSTITUTIONAL AMENDMENT and WE LOVE OUR CARS – VWMC – 2017 in the
20 amounts of \$188,848.76 and \$143,947.61.

21 4.2 Second Claim: Plaintiff reasserts the factual allegations made above and further
22 asserts that Defendants, in violation of RCW 42.17A.235 and .240, and WAC 390-16-037 and
23 390-16-207, failed to properly report expenditures made by Defendant 2/3rds-FOR-TAXES
24 CONSTITUTIONAL AMENDMENT on behalf of another political committee in the form of a
25 loan interest payment.

1 **VI. REQUEST FOR RELIEF**

2 WHEREFORE, Plaintiff requests the following relief as provided by statute:

3 5.1 For such remedies as the court may deem appropriate under RCW 42.17A.750,
4 including but not limited to imposition of a civil penalty, all to be determined at trial;

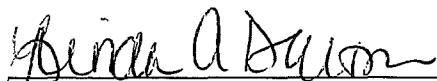
5 5.2 For all costs of investigation and trial, including reasonable attorneys' fees, as
6 authorized by RCW 42.17A.765(5);

7 5.3 For temporary and permanent injunctive relief, as authorized by
8 RCW 42.17A.750(1)(h); and

9 5.4 For such other legal and equitable relief as this Court deems appropriate.

10 DATED this 30th day of November, 2016.

11 ROBERT W. FERGUSON
12 Attorney General

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14 LINDA A. DALTON, WSBA No. 15467
15 Senior Assistant Attorney General
16 WALTER SMITH, WSBA No. 46695
17 Assistant Attorney General
18 Attorneys for Plaintiff State of Washington
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