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No. 89462-1

SUPREME COURT
OF THE STATE OF WASHINGTON

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ROBERT UTTER and FAITH IRELAND in the name of the STATE OF
WASHINGTON

Petitioners,

vs.

BUILDING INDUSTRY ASSOCIATION OF WASHINGTON,

Respondent.

PETITIONER'S STATEMENT OF ADDITIONAL
AUTHORITIES (RAP 10.8)

SMITH & LOWNEY, PLLC

By: Knoll D. Lowney
WSBA No. 23457

2317 East John Street
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LAW OFFICES OF MICHAEL W.
WITHEY

By: Michael W. Withey
WSBA No. 4787

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Attorneys for Petitioners

ORIGINAL

Pursuant to RAP 10.8, Petitioners Robert Utter and Faith Ireland identify the following additional authorities:

Vermont Right to Life Committee v. Sorrell, No. 12-2904-cv (2nd Circuit, July 2, 2014) (“[S]ince *Citizens United* and its approval of extensive disclosure regimes, two Circuits have concluded that the major purpose test is not a constitutional requirement. *See* *Ctr. for Individual Freedom v. Madigan*, 697 F.3d 464, 490 (7th Cir. 2012) ...; [15] *Nat'l Org. for Marriage v. McKee*, 649 F.3d 34, 59 (1st Cir. 2011) ...*see also* *Human Life of Wash., Inc.*, 624 F.3d at 1009-11. **We join the Circuits that have considered PAC definitions in this context after *Citizens United* and hold that the Constitution does not require disclosure regulatory statutes to be limited to groups having ‘the major purpose’ of nominating or electing a candidate.** ... When the *Buckley* Court construed the relevant federal statute to reach only groups having ‘the major purpose’ of electing a candidate, it was drawing a statutory line. *See McConnell*, 540 U.S. at 191-93. It was not holding that the Constitution forbade any regulations from going further. *Id.*”) (emphasis added).

State of Washington v. Grocery Manufacturer's Association, Thurston County Cause No. 13-2-02156-8, Order on Motion for Judgment on Pleadings (July 25, 2014) *and* State's Opposition to Motion, p. 4

(Exhibits A and B) (Court refuses to dismiss State's claim that 100-year old nationwide trade association was required to register as a political committee due to its in-state political activities during the 2013 election cycle; State confirms that reporting requirements of political committees extend only "throughout a given election cycle.") (emphasis added).

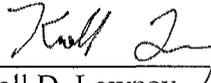
Food Democracy Action! (FDA) and Food Democracy Action! Yes on 522 Committee to Label GMO's in Washington, PDC Case No. 14-007, Executive Summary and Staff Analysis (Exhibit C) (Nationwide organization was required to register as a political committee due to activities in State during 2013 election cycle).

Master Builders Association of King and Snohomish Counties, PDC Case No. 09-008, Executive Summary and Staff Analysis (Exhibit D) (100-year old trade association was required to report political funds solicited and distributed during 2008 election cycle).

Respectfully submitted this 23rd day of September, 2014.

SMITH & LOWNEY, PLLC

LAW OFFICES OF MICHAEL W.
WITHEY

By: 

Knoll D. Lowney
WSBA No. 23457
Marc Zemel
WSBA No. 44325.

By: 

Michael W. Withey
WSBA No. 4787

Attorneys for Petitioners

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the state of Washington that on September 23, 2014, I caused the PETITIONERS' STATEMENT OF ADDITIONAL AUTHORITIES to be served in the above-captioned matter upon the parties herein via by United State mail, postage prepaid, and electronic mail:

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Scott L. Nelson
1600 – 20th Street NW
Washington, DC 20009

Stated under oath this 23d day of September, 2014.

Jessie C. Sherwood

EXHIBIT A

FILED
SUPERIOR COURT
THURSTON COUNTY, WA

2014 JUL 25 AM 9:10

BETTY J. GOULD, CLERK

<input type="checkbox"/>	EXPEDITE (if filing within 5 court days of hearing)
<input type="checkbox"/>	No hearing is set.
<input checked="" type="checkbox"/>	Hearing is set:
	Date: <u>June 13, 2014</u>
	Time: <u>9:00 a.m.</u>
	Judge/Calendar: <u>Honorable Christine Schaller</u>

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

STATE OF WASHINGTON,
Plaintiff,
v.
GROCERY MANUFACTURERS ASSOCIATION,
Defendant.

No. 13-2-02156-8

ORDER DENYING IN PART AND GRANTING IN PART GMA'S MOTION FOR JUDGMENT ON THE PLEADINGS UNDER CR 12(c)

GROCERY MANUFACTURERS ASSOCIATION,
Plaintiff,
v.
ROBERT W. FERGUSON, Attorney General of the State of Washington, in his official capacity,
Defendant.

No. 14-2-00027-5

THIS MATTER having come before the Court on June 13, 2014 on Plaintiff Grocery Manufacturers Association's ("GMA") Motion for Judgment on the Pleadings under CR 12(c), is DENIED in part and GRANTED in part for the reasons stated on the record. The

[PROPOSED] ORDER DENYING IN PART AND GRANTING IN PART JUDGMENT ON THE PLEADINGS UNDER CR 12(c) - 1

K&L GATES LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

1 Court's oral ruling explaining its reasoning is attached to this Order and incorporated herein
2 (Attachment A). At the hearing, GMA was represented by Michael K. Ryan and Aaron
3 Millstein of K&L Gates, LLP; and the State of Washington and Robert W. Ferguson were
4 represented by Linda A. Dalton, Senior Assistant Attorney General and Callie A. Castillo,
5 Assistant Attorney General.

6 The Court having considered the argument of counsel, together with the pleadings in
7 the court file:

8 Now, therefore, IT IS HEREBY ORDERED:

9 1. GMA's motion is GRANTED as to the Third Claim in its complaint in Case
10 No. 14-2-00027-5 and the Third Claim in its Counterclaim in Case No. 13-2-02156-8; RCW
11 42.17A.442 is declared unconstitutional under the First and Fourteenth Amendments to the
12 United States Constitution as applied to ballot measure committees;

13 2. GMA's motion is GRANTED as to the State's claim against GMA in Case No.
14 13-2-02156-8 based on the violation of RCW 42.17A.442; while that claim is hereby
15 DISMISSED with prejudice, this does not constitute a final judgment pursuant to Civil Rule
16 54(b); and

17 3. GMA's motion is otherwise DENIED in all other respects.

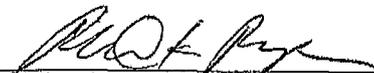
18 DONE ~~IN OPEN COURT~~ this 25 day of July, 2014.

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21 _____
22 JUDGE CHRISTINE SCHALLER
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Presented by:

K&L GATES LLP

By: 

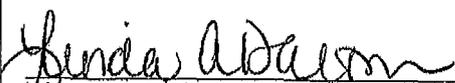
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Attorneys for Grocery Manufactures Association

**Copy received, approved as to form and content, notice of
Presentation waived:**

STATE OF WASHINGTON



Linda A. Dalton, WSBA #15467
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Callie A. Castillo, WSBA #38214
Assistant Attorney General
Attorneys for Plaintiff State of Washington

[PROPOSED] ORDER DENYING IN PART
AND GRANTING IN PART JUDGMENT ON
THE PLEADINGS UNDER CR 12(c) - 3

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ATTACHMENT A

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

STATE OF WASHINGTON,)	
)	
Plaintiff,)	
)	
vs.)	SUPERIOR COURT NO. 13-2-02156-8
)	
GROCERY MANUFACTURERS)	
ASSOCIATION,)	
)	
Defendant.)	

THE HONORABLE CHRISTINE SCHALLER PRESIDING

Ruling on CR 12(c) motion
June 13, 2014
2000 Lakeridge Drive SW
Olympia, Washington

Court Reporter
Ralph H. Beswick, CCR
Certificate No. 2023
1603 Evergreen Pk Ln SW
Olympia, Washington

A P P E A R A N C E S

For the Plaintiff: Linda A. Dalton, AAG
PO Box 40100
Olympia, WA 98504-0100

For the Respondent: Michael Ryan
K&L Gates
925 4th Avenue, Suite 2900
Seattle, WA 98104-1158

1
2 THE COURT: Please be seated.

3 This matter has come before the court on the Grocery
4 Manufacturers Association's motion pursuant to CR 12(c) as
5 a motion to dismiss. I'm going to refer to the Grocery
6 Manufacturers Association as GMA for the purposes of my
7 ruling, and I'm going to refer to the state as the state.

8 And there are three issues that were posed by GMA, and
9 I'm going to use the issue statements as they posed them as
10 I make my ruling in this matter. As was argued to the
11 court and as I needed to frequently remind myself as I
12 reviewed all of these materials and sought to analyze them,
13 this is a motion pursuant to CR 12(c), and based upon that
14 rule, the court is to accept the facts as presumed true,
15 and that the court should grant dismissal only if there
16 were no facts which would entitle a party to relief. I may
17 only consider the facts in the complaint, except the court
18 also has the ability to take judicial notice of public
19 documents if authenticity cannot be reasonably disputed and
20 documents whose contents are alleged in the complaint but
21 which are not attached. The motion must be construed in
22 the light most favorable to the nonmoving party.

23 In this case GMA, which is a trade association of food
24 and beverage companies which has been in existence for a
25 long time, over a hundred years, they made some decisions

1 that ultimately led them to bring some funds into
2 Washington State and ultimately led to this litigation. In
3 December of 2010 there was a direction in GMA research, and
4 they made some conclusions based upon their research -- and
5 the research started in December of 2010 -- about the
6 campaign here in the state of Washington, I-522, Initiative
7 522. Ultimately they determined that they would contribute
8 funds into the state of Washington as it related to this
9 campaign. They had created a fund called the Defense of
10 Brands Strategic Account. They created that account for
11 multiple reasons, and ultimately millions of dollars came
12 into the state of Washington as it relates to I-522 to
13 fight that initiative during and up until the election.

14 The first challenge is: Does the state violate the US
15 Constitution by regulating GMA as a political committee
16 while not equally treating functionally identical
17 membership associations? And the answer to that question
18 is no. From the court's perspective, GMA has characterized
19 the law as a speaker-based discrimination. The law is
20 neutral and does not single out certain speakers for
21 special burdens. Rather than focusing on speaker or
22 content, the law focuses on conduct. The law is facially
23 neutral and was not applied differently to GMA than to
24 others.

25 GMA has primarily focussed its argument on an equal

1 protection claim, which in the context of disclosure law is
2 intertwined with the First Amendment, and the court is
3 applying the proper standard of exacting scrutiny to this
4 challenge. To survive exacting scrutiny there must be a
5 substantial relation between the disclosure requirement and
6 a sufficiently important governmental interest. To
7 withstand the scrutiny, the strength of the governmental
8 interest must reflect the seriousness of the actual burden
9 on First Amendment rights. Although GMA has argued that it
10 has been treated differently than organizations which it
11 says it's similar to, such as the Natural Products
12 Association Northwest, I do not find that for the purposes
13 of the matter before the court, again, specifically
14 relating to the issue of conduct.

15 The issue as to the expectation standard, which the
16 court must consider, is meant to prevent owners from
17 shielding their identities and using a third-party
18 organization to funnel contributions. If a donor
19 contributed to an organization that did not at the time
20 expect to use the money for a particular campaign, then
21 there is no such risk that the donor was trying to
22 circumvent the disclosure laws.

23 The Court of Appeals has held that the state has a
24 substantial interest in promoting integrity and preventing
25 concealment that could harm the public and mislead voters.

1 Here, there is a sufficiently important governmental
2 interest of prohibiting circumvention of campaign finance
3 disclosures and the requirement relating to the
4 expectations of how contributions will be used is
5 substantially related to the government interest, and in
6 this way the law has not been unconstitutionally applied to
7 GMA.

8 GMA has argued and asked the question: Are Washington's
9 disclosure laws as applied unconstitutional because GMA
10 could have safely participated in the state's political
11 process only by disclosing millions of dollars of
12 non-Washington, non-electoral transactions and no
13 legitimate state interest in informing Washington voters
14 about Washington elections supports this burden? The
15 answer to that question is no.

16 GMA's argument is that the disclosure requirements are
17 unconstitutional because it will need to disclose
18 information that is not related to the I-522 campaign and
19 because disclosure would be required before it had actually
20 contributed to that campaign or committed itself to doing
21 so. There are many factual allegations that GMA has made
22 for the purposes of this motion from the court's
23 perspective that are not appropriate in a CR 12(c) motion.
24 It argues that it would be impossible for it to know from
25 the outset how much it would contribute to the No on 522

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campaign, it would be required to over-report donations, and the campaign disclosure laws necessarily and unconstitutionally require it to report information that has no relation to Washington politics. As I've talked about, the facts must be taken in the light most favorable to the state. The allegation in the complaint and/or amended complaint must be viewed as true, and the court is to consider and can consider hypothetical facts as well.

The first amended complaint alleges that GMA researched how much money it should devote to oppose I-522, and it concluded that \$10 million should be allotted to the effort. It created a fund called the Defense of Brands Strategic Account for multiple purposes, including fighting the GMO labeling ballot measures. GMA has assessed its members with dues for the No on 522 opposition, among other efforts, and ultimately deposited over \$13 million in the Defense of Brands Strategic Account. GMA kept its members informed about the No on 522 campaign. From that account, it has contributed millions of dollars on the No on 522 campaign, and only after this occurred did it register as a political committee and disclose the contributions.

GMA's argument is based on its version of facts, not the facts taken in the light most favorable to the state. GMA does not explain how the law is unconstitutional as applied in light of its choice to comingle the funds despite clear

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reporting requirements. The law does not require disclosure of funds that are unrelated to Washington politics as long as organizations register as a political committee and keep its accounts separate. GMA's broader records are only at issue because it did not report their millions of dollars in contributions in its capacity as a political committee.

This law is not over-broad. It has not been unconstitutionally applied to GMA, and as it relates to that portion of the motion, it is also denied as well as the first issue.

The last issue before the court is: Does Washington's ten-contributor law violate the First Amendment as it applies to ballot measure committees by conditioning political association on a group's gaining token support from ten registered Washington voters? And the answer to that question is yes.

RCW 42.17A.442 provides that a political committee may make a contribution to another political committee only when the contributing political committee has received contributions of ten dollars or more each from at least ten persons registered to vote in Washington State. This law was enacted in 2011, became effective January 1, 2012. And it was, as was argued, a direct response to a situation which occurred in 2010 wherein a political consultant for a

1 state senate race created a series of sham political
 2 committees and made contributions between them to hide the
 3 true source of funds for advertisements. And in the end,
 4 that candidate who benefited from the deceptive practice
 5 won. And though today I am ruling in favor of GMA as it
 6 relates to this law and I believe that their position is
 7 correct, it is not in any way a reflection on this court's
 8 thought about what the legislature was trying to do and why
 9 they were trying to do it. I simply find that the law as
 10 written is unconstitutional.

11 After the incident in 2010, the legislature wanted to
 12 make it more difficult to conceal the true source of funds
 13 by using sham political committees to contribute to other
 14 committees, and that is when RCW 42.17A.442 was created.
 15 It is argued that this law increases transparency, prevents
 16 recurrence of the problem that occurred in 2010 and sheds
 17 daylight on organizations trying to simply move money from
 18 one organization to another. If that is what the statute
 19 is supposed to do, it raises several questions. How will
 20 the recruitment of ten extremely small donors prevent or
 21 even reduce the existence of sham political committees? It
 22 doesn't seem difficult to obtain ten small contributors.
 23 That would hardly be a roadblock as the state has argued.

24 One of the most important and troubling questions in the
 25 court's mind, however, is why must these contributors be

1 registered Washington voters? The state did not and cannot
2 articulate a reason for this classification. The law at
3 issue here distinguishes among different speakers. It also
4 treats political speech of natural persons differently than
5 that of corporations. It requires support of ten natural
6 persons who are also Washington voters before a campaign
7 contribution can be exchanged from one political committee
8 to another.

9 This discriminates in a manner that violates the First
10 Amendment. This was as expressed in *Citizens United versus*
11 *the Federal Elections Commission*. Quoting from that case,
12 "Premised on mistrust of governmental power, the First
13 Amendment stands against attempts to disfavor certain
14 subjects or viewpoints.... Prohibited, too, are
15 restrictions distinguishing among different speakers,
16 allowing speech by some but not others.... Quite apart
17 from the purpose or effect of regulating content, moreover,
18 the government may commit a constitutional wrong when by
19 law it identifies certain preferred speakers. By taking
20 the right to speak from some and giving it to others, the
21 government deprives the disadvantaged person or class of
22 the right to use speech to strive to establish worth,
23 standing and the respect for the speaker's voice." It goes
24 on to further state, "The court has recognized that First
25 Amendment protection extends to corporations.... The court

1 has thus rejected the argument that political speech of
2 corporations or other associations should be treated
3 differently under the First Amendment simply because such
4 associations are not 'natural persons.'

5 But moreover, this law also implicates the freedom of
6 association. GMA may not make a particular form of
7 contribution unless it associates politically with ten
8 Washington voters. The United States Supreme Court held
9 that mandatory associations are permissible only when they
10 serve a compelling state interest that cannot be achieved
11 through means significantly less restrictive of
12 associational freedoms. While the mandatory associations
13 at issue in those cases involved comprehensive regulatory
14 schemes that are much different than the case before the
15 court in which GMA could merely opt out and then decline to
16 contribute to the No on 522 campaign, such forced
17 associations regarding political speech should be closely
18 scrutinized.

19 It has been argued as it relates to the test for
20 evaluation that "A campaign contribution limitation is
21 'closely drawn' if it focus[es] on the narrow aspect of
22 political association where the actuality and potential for
23 corruption have been identified -- while leaving persons
24 free to engage in independent political expression, to
25 associate actively through volunteering their services, and

1 to assist in a limited but nonetheless substantial extent
2 in supporting the candidates and committees with financial
3 resources." And that comes from the *Montana Right to Life*
4 *Association versus Eddleman* case.

5 But this test cannot be met in this situation. This law
6 does not focus on the narrow aspect of political
7 association at issue because it does not prohibit sham
8 political committees; it merely requires a larger group of
9 contributors. It does not leave persons free to engage in
10 independent political expression because it mandates
11 association rather than independence, and it mandates the
12 categories in which those associations must belong. Based
13 upon all of this, I find that RCW 42.17A.442 as it applies
14 to ballot title measure committees is unconstitutional.

15 So I don't know if the parties anticipate presenting
16 orders today. I presume not. But I will leave it to you
17 to address that issue, and if you cannot present orders
18 today, and if there's not agreement, you can re-note it on
19 any Friday.

20 MR. RYAN: I have a quick question. I saw you were
21 reading from something. Do you intend to issue some type
22 of letter ruling?

23 THE COURT: No. That's why I ruled in open court.

24 MR. RYAN: Okay. Thank you, Your Honor.

25 THE COURT: Thank you.

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MS. DALTON: Thank you, Your Honor.

THE COURT: Thank you.

CERTIFICATE OF REPORTER.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I, RALPH H. BESWICK, CCR, Official Reporter of the Superior Court of the State of Washington in and for the County of Thurston do hereby certify:

That I was authorized to and did stenographically report the foregoing proceedings held in the above-entitled matter as designated by Counsel to be included in the transcript and that the transcript is a true and complete record of my stenographic notes.

Dated this 23rd day of June, 2014.

RALPH H. BESWICK, CCR
Official Court Reporter
Certificate No. 2023

Exhibit B

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THURSTON COUNTY, WA

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BETTY J. GOULD, CLERK

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EXPEDITE
 No Hearing Set
 Hearing is Set:
Date: Friday, March 28, 2014
Time: 9:00 a.m.
The Honorable Carol Murphy

STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

GROCERY MANUFACTURERS
ASSOCIATION,

Defendant.

NO. 13-2-02156-8

STATE'S/DEFENDANT
FERGUSON'S OPPOSITION TO
GAM'S MOTION FOR
JUDGMENT ON THE
PLEADINGS

GROCERY MANUFACTURERS
ASSOCIATION,

Plaintiff,

v.

BOB FERGUSON, ATTORNEY
GENERAL,

Defendant.

NO. 14-2-00027-5

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8 C. GMA Contributions To The No On 522 Committee From Its Defense Of
Brands Strategic Account 9

9 D. GMA’s Failure To Comply With Washington’s Campaign Finance Laws..... 9

10 IV. ISSUES PRESENTED..... 10

11 1. Has GMA shown that the State can prove no set of facts under which it is
12 constitutional to require GMA to register a political committee?..... 10

13 2. Has GMA shown that the State can prove no set of facts under which it is
14 constitutional to require GMA to disclose its contributions?..... 10

15 3. Has GMA shown that the State can prove no set of facts that would
16 justify the requirement that political committees receive 10 modest
contributions from Washington voters before donating to other political
committees?..... 10

17 V. STANDARD OF REVIEW FOR RULE 12(C) MOTION..... 10

18 VI. ARGUMENT 11

19 A. The State, Acting Well Within Constitutional Bounds, Treats GMA Like Any
Group Engaged In The Same Conduct 11

20 1. Disclosure requirements receive exacting, not strict, scrutiny..... 12

21 2. Washington’s disclosure requirements survive any level of scrutiny..... 13

22 B. GMA Cannot Hide Its Campaign Contributions Merely By Coupling Them
23 With Other Spending. 16

24 C. Washington’s 10 voters/\$10 Requirement Is Closely Drawn To Address The
State’s Important Interest In Transparency..... 19

25 1. The 10-\$10 rule is not subject to strict scrutiny..... 19

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- 2. The 10-\$10 rule is a response to a well-documented problem and serves important public interests..... 20
- 3. The 10-\$10 Rule is closely drawn to ensure transparency and prevent subterfuge..... 22

III. CONCLUSION 24

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I. INTRODUCTION

There is no constitutional right to hide the identity of those funding an initiative campaign. On the contrary, Washington has a compelling interest in “requiring ballot measure committees to disclose” who is funding them. *Family PAC v. McKenna*, 685 F.3d 800, 806 (9th Cir. 2011). Nonetheless, the Grocery Manufacturers Association (“GMA”) claims that the people of Washington cannot constitutionally require it to register a political committee and disclose its donors. No court has ever accepted GMA’s radical arguments, and this Court should reject them as well.

Intending to oppose Initiative 522, but wanting to “shield[] individual companies from attack for providing funding,” Complaint ¶ 13, GMA solicited millions from its member companies to funnel the money to the No on 522 campaign through GMA. Washington campaign finance disclosure laws, enacted by the people in Initiative 276, prohibit such subterfuge. GMA cannot meaningfully dispute that it violated the law; so instead, it attacks the constitutionality of Initiative 276’s disclosure requirements. All of its arguments fail.

GMA first argues that, although courts have repeatedly upheld Washington’s definition of “political committee,” that definition is unconstitutional because it does not sweep in every trade organization. But the definition of political committee turns on the nature of an organization’s election-related *conduct*, not on its organizational status or viewpoint. There is nothing suspect about treating organizations differently based on their conduct, and courts apply exacting (not strict) scrutiny to such distinctions. *See, e.g., Fed. Elections Comm. v. Beaumont*, 539 U.S. 146, 162, 123 S. Ct. 2200, 156 L. Ed. 2d 179 (2003) (degree of scrutiny turns on the nature of activity regulated); *Human Life of Washington Inc. v. Brumsickle*, 624

1 F.3d 990, 1011 (9th Cir. 2010) (upholding Washington disclosure requirements even though
2 they do “not extend to all groups with ‘a purpose’ of political advocacy, but instead [are]
3 tailored to reach only those groups with a ‘primary’ purpose of political activity”).

4 GMA next argues that Washington cannot require it to disclose any of its campaign
5 activities in Washington because it commingled some of the contributions it solicited for use
6 against Initiative 522 with other non-electoral funds. But accepting this argument would create
7 a gaping loophole in campaign finance law, as any organization could avoid disclosure by that
8 same ruse. Such maneuvers cannot defeat the public’s “important (and even compelling)
9 informational interest in requiring ballot measure committees to disclose information about
10 contributions.” *Family PAC*, 685 F.3d at 806.

11
12 Finally, GMA challenges Washington’s requirement that political committees receive
13 donations of \$10 or more from at least 10 Washington voters before contributing to another
14 political committee. RCW 42.17A.442 (“10-\$10 rule”). But Washington enacted this limit on
15 the making of contributions in response to a demonstrated problem—individuals using sham
16 political committees to donate to each other and thereby hide the true source of contributions.
17 Washington’s 10-\$10 rule is tailored to prevent this very real problem, and survives any level
18 of scrutiny.

19
20 In short, GMA’s arguments lack any support in fact or law, and the State asks that the
21 Court deny GMA’s motion and allow this case to proceed.

22 23 **II. OVERVIEW OF WASHINGTON CAMPAIGN FINANCE 24 DISCLOSURE LAW**

25 Of the policies furthered by Washington’s campaign finance disclosure laws,
26 RCW 42.17A, one stands above all others: transparency. In 1972, Washington voters enacted

1 Initiative 276 and announced that it is “the public policy of the state of Washington: (1) That
2 political campaign . . . contributions and expenditures be fully disclosed to the public and . . .
3 (10) That the public’s right to know of the financing of political campaigns . . . far outweighs
4 any right that these matters remain secret and private.” RCW 42.17A.001.

5 The State enforces the disclosure laws to ensure that political campaigns comply.
6 These laws “seek to ferret out those whose purpose is to influence the political process and
7 subject them to the reporting and disclosure requirements of the act in the interest of public
8 information.” *State v. Evans Campaign Comm.*, 86 Wn.2d 503, 508, 546 P.2d 75 (1976). The
9 “requirements do not restrict political speech – they merely ensure that the public receives
10 accurate information about who is doing the speaking.” *Voters Educ. Comm. v. Public*
11 *Disclosure Comm’n*, 161 Wn.2d 470, 498, 166 P.3d 1174 (2007).

12 The law requires disclosure and reporting by “political committees,” which it defines as
13 “any person . . . having the expectation of receiving contributions or making expenditures in
14 support of, or opposition to, any candidate or ballot proposition.” RCW 42.17A.005 (37).
15 Thus, an organization qualifies as a political committee “by either (1) expecting to receive or
16 receiving contributions, or (2) expecting to make or making expenditures.” *State ex rel.*
17 *Evergreen Freedom Found. v. Washington Educ. Ass’n (EFF)*, 111 Wn. App. 586, 598, 49
18 P.3d 894 (2002).

19 Case law has applied and clarified this definition. Under the receiver of contributions
20 prong, an organization has “the expectation of receiving contributions . . . in support of, or
21 opposition to, any candidate or ballot proposition,” when its members have “actual or
22 constructive knowledge that the organization is setting aside funds to support or oppose a
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1 candidate or ballot proposition.” *Human Life*, 624 F.3d at 1020 (citing *EFF*, 111 Wn. App. at
2 602). That is, membership payments become “political ‘contributions’ if the organization’s
3 members intend or expect their dues to be used for electoral political activity.” *EFF*, 111 Wn.
4 App. at 602.

5
6 Under the maker of expenditures prong, an organization is a political committee if it
7 “mak[es] expenditures in support of, or opposition to, any candidate or ballot proposition,”
8 RCW 42.17A.005 (37), and “one of its primary purposes is political advocacy.” *Human Life*,
9 624 F.3d at 1020 (citing *EFF*, 111 Wn. App. at 599). The “primary purpose” limitation
10 “ensures that the electorate has information about groups that make political advocacy a
11 priority, without sweeping into its purview groups that only incidentally engage in such
12 advocacy.” *Id.* at 1011.

13
14 Once an organization’s conduct triggers the definition of political committee, it must
15 register a political committee with the Public Disclosure Commission (“PDC”) and publicly
16 report contributions received and expenditures made on a fixed schedule throughout a given
17 election cycle. RCW 42.17A.205(1) requires political committees to file a statement of
18 organization with the PDC within two weeks after organization or within “two weeks after the
19 date when it first has an expectation of receiving contributions or making expenditures in any
20 election campaign, whichever is earlier.” Within this same time frame, a political committee
21 must also appoint a treasurer (RCW 42.17A.210 (1)) and open a designated bank account in
22 which political contributions must be deposited. RCW 42.17A.215. All deposits must be
23 made within five days of receiving the contribution. RCW 42.17A.220 (1). To ensure that the
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1 true source of all contributions and expenditures is transparent to the public, RCW 42.17A.435
2 prohibits concealment of these transactions.

3 While the statutes discussed thus far have been on the books for decades, one statute at
4 issue here, RCW 42.17A.442, was enacted much more recently in response to a very specific
5 problem. In a 2010 state Senate race, a political consultant, engaged to support a particular
6 candidate, created several political committees and made contributions between them to
7 conceal the true identity of those financing certain political mailings.¹ The candidate who
8 benefitted from this deceptive strategy won the election.²

9
10 In response to this abuse of political committees to obscure the identity of donors, the
11 Legislature enacted a comprehensive reform bill, Engrossed Substitute Senate Bill 5021
12 (“ESSB 5021”), which included a naming convention for political committees
13 (RCW 42.17A.005 (42); .205 (3, 5)); a lowering of the reporting thresholds for electioneering
14 communications (RCW 42.17A.245); stronger penalties (RCW 42.17A.750 (2); .755(4)); and a
15 new requirement for contributions between political committees (RCW 42.17A.442).
16 Dalton Decl., Att. A. As initially proposed, the bill would have entirely banned contributions
17 from one political committee to another, as other states do.³ Dalton Decl., Att. B. Ultimately,
18 the Legislature chose a narrower approach, requiring that political committees receive
19 donations of at least \$10 from at least 10 Washington voters before they can contribute to
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22 ¹ http://www.atg.wa.gov/uploadedFiles/Home/News/Press_Releases/2010/Complaint%2020101029.pdf.

² http://seattletimes.com/html/politicsnorthwest/2013899574_nick_harper_of_everett_seated.html.

23 ³ See, e.g., Mo. Rev. Stat. § 130.031 (13): Political action committees shall only receive contributions
24 from individuals; unions; federal political action committees; and corporations, associations, and partnerships
25 formed under chapters 347 to 360, and shall be prohibited from receiving contributions from other political action
26 committees, candidate committees, political party committees, campaign committees, exploratory committees, or
debt service committees. Ala. Code § 17-5-15 (b): It shall be unlawful for any political action committee to make
a contribution, expenditure, or any other transfer of funds to any other political action committee or 527
organization.

1 another political committee. RCW 42.17A.442. The goal, of course, was to make it more
2 difficult to conceal the true source of funds by using sham political committees to contribute to
3 other committees. The bill passed the Legislature unanimously, stating in its intent section that
4 “recent events have revealed the need for refining certain elements of our state’s election
5 campaign finance laws that have proven inadequate in preventing efforts to hide information
6 from voters.” RCW 42.17A.005 Findings – Intent – 2011 c 145.⁴
7

8 III. STATEMENT OF FACTS

9 A. Initiative 522

10 On June 29, 2012, Chris and Leah McManus submitted Initiative 522 to the
11 Washington Secretary of State. Complaint ¶ 6. Initiative 522 would have “require[d] most
12 raw agricultural commodities, processed foods, and seeds and seed stocks, if produced using
13 genetic engineering as defined, to be labeled as genetically engineered when offered for retail
14 sale.” *Id.* Initiative 522 was set on the November 5, 2013 General Election ballot.
15 Complaint ¶ 8.
16

17 B. GMA “Defense Of Brand Strategic Account”

18 Following the 2012 defeat of a similar ballot measure in California (Proposition 37),
19 GMA staff and its Board of Directors (“GMA Board”) began developing strategies to oppose
20 any mandatory labeling on products containing genetically modified organisms. Complaint
21 ¶ 12; Dalton Decl., Att. C.
22

23 ⁴ The legislative record in this case includes videos from the Senate and House hearings related to ESSB
24 5021, Senate and House Bill Reports, House Bill Analyses, Fiscal Notes, Striker Amendments, and the three
25 versions of the bill. See <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=5021&year=2011#documents>.
26 During testimony before the Legislature, citizens and legislators discussed extensively the events that lead to the
bill’s proposal, the purpose of the bill, the individual provisions of the bill, the pros and cons of the provisions,
and suggested modifications made to specific provisions.

1 In December 2012, the GMA Board directed GMA staff to conduct polling in
2 Washington State “to determine the viability of a campaign to defeat I-522.” Complaint ¶ 13;
3 Dalton Decl., Att. D. The GMA Board also directed GMA staff to “scope out a funding
4 mechanism to address the GMO issue” “while better shielding individual companies from
5 attack for providing funding.” *Id.* At the same time, the GMA Board directed GMA staff to
6 “begin preparations for a campaign, . . . to defeat I-522.” *Id.* The GMA Board also discussed
7 the estimated cost for a campaign to defeat Initiative 522 and GMA members’ “appetite to
8 mount a campaign to defeat the Washington State Measure.” Complaint ¶ 14; Dalton Decl.,
9 Att. E. The GMA Board expressed “a preference for GMA to be the funder of such efforts,
10 rather than individual companies.” Complaint ¶ 16; Dalton Decl., Att. F.

11
12 In February 2013, GMA’s CEO proposed to the GMA Board a budget for GMA’s anti-
13 labeling efforts, which included the cost to “fight Washington State Ballot Measure” in 2013.
14 Complaint ¶ 17; Dalton Decl., Att. F. This proposal included establishing a separate GMA
15 fund that would “allow for greater planning for the funds to combat current threats and better
16 shield individual companies from attack that provide funding for specific efforts.” *Id.* The
17 fund, identified as the “Defense of Brand Strategic Account,” allowed GMA—rather than its
18 member companies—to be identified as the source of funding for efforts that included
19 defeating Initiative 522. Complaint ¶¶ 17, 18; Dalton Decl., Att. F.
20
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22 GMA members funded the Account through a special assessment separate from their
23 normal dues. Complaint ¶ 18; *see also* Dalton Decl., Att. F, G, H. The goals for the Account
24 included to “defeat ballot measures” and to “oppose all state measures.” *Id.* GMA segregated
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26

1 the funds received for this Account from other GMA funds. *Id.* GMA used funds in this
2 Account to oppose Initiative 522. *Id.*; *see also* Dalton Decl., Att. I, J.

3 On March 15, 2013, GMA sent its first Account invoice to specific GMA members.
4 Complaint ¶ 21; Answer ¶¶ 21, 22, 24; MJP⁵ 1, 4; Dalton Decl., Att. G. In addition to
5 describing the purpose of the Account, GMA's CEO provided GMA members an "Update on
6 Washington State," including GMA efforts to "assess the viability of a campaign to defeat I-
7 522" and the results of GMA's polling. Complaint ¶ 21; Dalton Decl., Att. G. Updates were
8 promised to GMA members about "our progress on the Washington State efforts." *Id.* The
9 March Account invoice characterized the amount GMA billed its members as a "contribution"
10 for its 2013 Defense of Brands Strategic Account and as the first of two installments with a due
11 date of April 15, 2013. Complaint ¶ 22; Dalton Decl., Att. G.

12
13
14 On or about August 13, 2013, GMA sent the second invoice to GMA members for the
15 2013 Defense of Brands Strategic Account, again labeling the installment as a "contribution"
16 to the Account. Complaint ¶ 24; Dalton Decl., Att. H. By October 7, 2013, GMA had
17 accumulated \$13,480,500 from GMA members' contributions to the Account. Complaint ¶ 28;
18 Dalton Decl., Att. C. GMA originally planned to collect \$16 million for the Account in year
19 one and budgeted \$10,000,000 from the Account to oppose Initiative 522. Complaint ¶ 20;
20 Dalton Decl., Att. I. This represented 62.5% of the Account's first year budget.

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25 _____
26 ⁵ GMA's motion for judgment on the pleadings shall be referred to as "MJP."

1 **C. GMA Contributions To The No On 522 Committee From Its Defense Of Brands**
2 **Strategic Account**

3 On May 8, 2013, the No on 522 committee reported its first contribution from GMA,
4 for \$472,500.⁶ Complaint ¶ 23; Dalton Decl., Att. K. GMA told its members that this
5 contribution came from the special assessment for the Account. *Id.*; Dalton Decl., Att. J.

6 GMA made the following additional contributions to the No on 522 political committee
7 from its Account: (a) August 23, 2013 - \$1,750,000; (b) September 27, 2013 - \$5,000,000; (c)
8 October 24, 2013 - \$2,900,000; and (d) October 25, 2013 - \$877,500. Complaint ¶¶ 25, 26, 27,
9 30; Dalton Decl., Att. L, M, N, O. GMA spent \$11,000,000 of the total collected from its
10 members on contributions to the No on 522 committee.⁷ Complaint ¶ 31. Except for
11 \$352,935.44, GMA's contributions to the No on 522 committee came from GMA member
12 contributions to the Account and were received by GMA prior to GMA registering a political
13 committee.⁸ Complaint ¶¶ 30, 32; Dalton Decl., Att. P, Q.

14 **D. GMA's Failure To Comply With Washington's Campaign Finance Laws**

15 The State commenced this enforcement proceeding against GMA on October 16, 2013,
16 charging GMA with failure to timely register and properly report a political committee.
17 Complaint at 8 (Claims ¶¶ 1-5). Despite soliciting and receiving millions of dollars between
18 March and October, 2013, GMA did not register the Account as a political committee
19 (Grocery Manufacturers Association Against I-522) until October 17, 2013. Complaint ¶ 29;
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23 ⁶ As a registered political committee in Washington, No on 522 regularly reported the contributions it
24 received and expenditures it made in opposition to Initiative 522. See RCW 42.17A.235, 240.

25 ⁷ GMA also paid for polling expenses on behalf of the No on 522 political committee that were reported
26 late. Complaint ¶ 31; Dalton Decl., Att. R.

⁸ Discovery is outstanding, so the entire amount collected into the Account from March 2013 through the
date of the election has not been ascertained. Dalton Decl., ¶ 11.

1 Dalton Decl., Att. S. On October 18, 2013, GMA disclosed \$7,222,500 in its filings with the
2 PDC as the total amount of contributions it had collected from its members as of that date.
3 Complaint ¶ 29; Dalton Decl., Att. P. It later reported another \$2.9 million that it had raised
4 between March and October 2013 and contributed to the No on 522 committee. Complaint ¶
5 30.
6

7 When GMA made its contributions to No on 522, it had not received contributions of
8 \$10 or more from at least ten Washington voters. Complaint ¶ 27; Answer ¶ 27. GMA finally
9 reported receiving such contributions on October 29, 2013. Dalton Decl., Att. Q.

10 IV. ISSUES PRESENTED

- 11 1. Has GMA shown that the State can prove no set of facts under which it is
12 constitutional to require GMA to register a political committee?
- 13 2. Has GMA shown that the State can prove no set of facts under which it is
14 constitutional to require GMA to disclose its contributions?
- 15 3. Has GMA shown that the State can prove no set of facts that would justify the
16 requirement that political committees receive 10 modest contributions from
17 Washington voters before donating to other political committees?

18 V. STANDARD OF REVIEW FOR RULE 12(C) MOTION

19 GMA is entitled to judgment on the pleadings only if it can prove *beyond doubt* that
20 there are *no* facts that would support the State's claims. *P.E. Systems, LLC v. CPI Corp.*, 176
21 Wn.2d 198, 203, 289 P.3d 638 (2012); *In re Washington Builders Ben. Trust*, 173 Wn. App.
22 34, 80, 293 P.3d 1206, *rev. denied*, 177 Wn.2d 1018, 304 P.3d 114 (2013). In making this
23 determination, the trial court presumes that the plaintiff's allegations are true and may consider
24 hypothetical facts outside the complaint. *Burton v. Lehman*, 153 Wn.2d 416, 422, 103 P.3d
25 1230 (2005). The court may also consider the complaint and answer; any documents attached
26 to or mentioned in the pleadings; documents that are not attached to the pleadings but that are

1 integral to the claims alleged; and matters subject to judicial notice. *P.E. Systems, LLC*, 176
2 Wn.2d at 642-43; *see also L-7 Designs, Inc. v. Old Navy, LLC*, 647 F.3d 419, 422 (2nd Cir.
3 2011).

4 VI. ARGUMENT

5 A. The State, Acting Well Within Constitutional Bounds, Treats GMA Like Any 6 Group Engaged In The Same Conduct

7 GMA claims the State is “singling out GMA for regulation as a political committee”
8 and that the State’s political committee disclosure requirements are, therefore, subject to strict
9 scrutiny and unconstitutional. MJP 11. These arguments have no basis in fact or law.

10 The State has not “singled out” GMA in any way. It is not GMA’s identity or status as
11 a trade association that brings it under the auspices of RCW 42.17A; rather, it is GMA’s
12 conduct in soliciting, receiving and contributing funds to oppose Initiative 522. Any
13 organization qualifies as a political committee if it receives “contributions . . . in support of, or
14 opposition to, any candidate or ballot proposition,” RCW 42.17A.005 (37), when its members
15 have “actual or constructive knowledge that the organization is setting aside funds to support
16 or oppose a candidate or ballot proposition.” *Human Life*, 624 F.3d at 1020 (citing *EFF*, 111
17 Wn. App. at 602). The State’s complaint alleges that GMA fell squarely within this definition,
18 as it specifically asked its members to contribute to a fund to be used to oppose Initiative 522,
19 its members subsequently contributed well over \$13 million to that fund, and GMA then
20 contributed \$11 million to the No on I-522 committee. Complaint ¶¶ 13-27. Indeed, the only
21 thing unique about GMA’s actions was the scale of its violation of the law, as this was by far
22 the largest effort to hide the true source of campaign contributions in Washington history.
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1 GMA claims, however, that it is being treated differently from similar organizations
2 and that this distinction triggers strict scrutiny. Not so.

3 **1. Disclosure requirements receive exacting, not strict, scrutiny.**

4 It is well settled that disclosure requirements like this one—indeed, that this very law—
5 must survive exacting, not strict, scrutiny. *See, e.g., Doe v. Reed*, 561 U.S. 186, 130 S. Ct.
6 2811, 2818, 177 L. Ed. 2d 493 (2010) (disclosure requirements are subject to the “less
7 demanding standard of review of exacting scrutiny”); *Voters Educ. Comm.*, 161 Wn.2d at 482
8 (“disclosure regulations must survive ‘exacting scrutiny’”); *Family PAC*, 685 F.3d. at 805-06
9 (same, evaluating this law); *Human Life of Washington*, 624 F.3d at 1005 (same). That the law
10 applies to some organizations and not others based on their different conduct makes no
11 constitutional difference. Every campaign finance disclosure law draws such distinctions—
12 e.g., exempting those who contribute less than a certain amount—yet GMA can cite no case
13 applying strict scrutiny to such a law on this basis. On the contrary, the U.S. Supreme Court
14 has made clear that the “degree of scrutiny turns on the nature of the activity regulated”—here,
15 disclosure—even if the regulation treats some organizations differently from others.
16 *Beaumont*, 539 U.S. at 162 (applying exacting rather than strict scrutiny to a campaign
17 contribution law that banned contributions by most corporations but not individuals). For that
18 reason, every federal court of appeals has held that disclosure schemes receive exacting, not
19 strict, scrutiny. *See Worley v. Florida Secretary of State*, 717 F.3d 1238, 1244 (11th Cir.
20 2013).

21 Undaunted, GMA pulls selective excerpts from a hodgepodge of cases in different
22 contexts, ignoring those directly on point. For example, GMA cites *Iowa Right to Life*
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1 | *Committee, Inc. v. Tooker*, MJP 14, but that very case held that “disclosure laws are subject to
2 | exacting scrutiny.” 717 F.3d 576, 589 (8th Cir. 2013). The *Tooker* Court applied strict
3 | scrutiny only to a restriction on independent expenditures, which are always subject to strict
4 | scrutiny. *Id.* at 605-06. GMA also cites a number of cases involving content or viewpoint
5 | discrimination, neither of which is even allegedly at issue here. See MJP 11-13. GMA
6 | ignores, however, a Ninth Circuit decision considering this very statute and directly on point.
7 | In *Human Life of Washington*, the Court applied exacting scrutiny after explicitly noting that
8 | the law required disclosure from some organizations but not others. 624 F.3d at 1011.
9 |

10 | In short, GMA asks this Court to take the unprecedented step of subjecting a disclosure
11 | law like this one to strict scrutiny. The Court should decline.

12 | **2. Washington’s disclosure requirements survive any level of scrutiny.**

13 | Ultimately, Washington’s disclosure requirements for political committees survive any
14 | level of scrutiny. GMA’s central claim is that the disclosure rules are insufficiently tailored
15 | because they require disclosure from groups who set out to raise funds to influence elections,
16 | but not from other groups. That distinction, however, is eminently well tailored.
17 |

18 | For a law to survive exacting scrutiny, there must be “a substantial relation between the
19 | disclosure requirement and a sufficiently important governmental interest.” *Doe v. Reed*, 130
20 | S. Ct. at 2818. GMA effectively concedes, as it must, that there is “an important (and even
21 | compelling) informational interest in requiring ballot measure committees to disclose
22 | information about contributions.” MJP 14, 20; *Family PAC*, 685 F.3d at 806. Thus, the only
23 | question is whether Washington’s disclosure requirements “are substantially related” to that
24 | interest. *Doe v. Reed*, 130 S. Ct. at 2818; *Voters Educ. Comm.*, 161 Wn.2d at 482.
25 |
26 |

1 GMA claims that Washington's definition of "political committee" is insufficiently
2 tailored because it covers GMA but not organizations that, in GMA's view, are "functionally
3 identical." MJP 2. This argument misses the mark. What distinguishes GMA from other
4 organizations and requires it to register is that GMA specifically solicited contributions from
5 its members to be used to oppose Initiative 522, and its members knew that its funds would be
6 used for that purpose. The danger posed in such situations is that members of an organization
7 can funnel money through the organization for the purpose of hiding their identities. That, of
8 course, is exactly what GMA members did here, seeking to "shield[] individual companies
9 from attack for providing funding." Complaint ¶ 13.
10

11 By contrast, when a membership organization is not soliciting funds to be used to
12 support or oppose a ballot measure, and its members have neither "actual [n]or constructive
13 knowledge that the organization is setting aside funds to support or oppose a candidate or
14 ballot proposition," *Human Life*, 624 F.3d at 1020 (citing *EFF*, 111 Wn. App. at 602), there is
15 little, if any, risk that members will use the organization to camouflage political contributions.
16 When such an organization makes a political contribution, it is not acting as a cover for its
17 members, but instead is speaking with its own voice, using money members provided for
18 reasons other than to support or oppose a ballot measure or candidate. This distinction
19 explains why GMA's attempt to compare itself to another trade association, Natural Products
20 Association NW (NPA), MJP 13, n. 13, is inapt. GMA offers no evidence that NPA engaged
21 in *conduct* like GMA's, *i.e.*, soliciting donations from members to be used in the Initiative 522
22 campaign in an effort to hide their true source.
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1 Courts have routinely approved this sort of anti-circumvention goal as a valid basis for
2 tailoring a law, including this specific law. *See, e.g., Human Life of Washington*, 624 F.3d at
3 1012 (deeming Washington's definition of "political committee" appropriately tailored
4 because it "minimizes th[e] risk of circumvention"). This Court should do the same.

5 Even if strict scrutiny applied, the result would be the same. Strict scrutiny, of course,
6 requires that a law be narrowly tailored to achieve a compelling government interest. As noted
7 above, the Ninth Circuit has already held that Washington has a "compelling[] informational
8 interest in requiring ballot measure committees to disclose information about contributions."
9 *Family PAC*, 685 F.3d at 806. As for narrow tailoring, the definition of "political committee"
10 is narrowly tailored for the reasons just explained—it targets organizations that would
11 otherwise be used to hide the true identities of donors sponsoring a candidate or ballot
12 measure.

13 The Court need not take the State's word for it. In 2006, before the U.S. Supreme
14 Court clarified in *Citizens United v. FEC*, 130 S. Ct. 876 (2010) that disclosure requirements
15 receive only exacting scrutiny, the Ninth Circuit applied strict scrutiny to Alaska's "political
16 committee disclosure requirements," which are "materially identical" to Washington's.
17 *Human Life of Washington*, 624 F.3d at 1013-14 (citing *Alaska Right to Life Comm. v. Miles*,
18 441 F.3d 773, 791 (2006)). The Court held that Alaska's disclosure requirements "survive
19 strict scrutiny." *Id.* In light of that holding, Washington's "materially identical" provisions
20 survive strict scrutiny as well.

21 In sum, whatever level of scrutiny applies, it is perfectly constitutional for Washington
22 to require GMA to register a "political committee" and disclose its contributors. If the State
23

1 cannot, organizations like GMA will most certainly become conduits to pour their members'
2 money into Washington political campaigns without anyone knowing the true source.

3 **B. GMA Cannot Hide Its Campaign Contributions Merely By Coupling Them With**
4 **Other Spending.**

5 GMA asks this Court to create a sizeable loophole in Washington's disclosure laws.
6 GMA argues that, because it solicited contributions from its members both to oppose Initiative
7 522 and for other non-electoral purposes, Washington cannot constitutionally require it to
8 disclose any of these contributions. GMA cites no case applying such a rule. To prevail on
9 this claim in this motion for judgment on the pleadings, GMA must prove both that (1) there
10 was no way it could have structured its activities to avoid having to disclose spending
11 unrelated to Initiative 522, and (2) even if it could not structure its activities to avoid reporting
12 spending unrelated to Initiative 522, the incidental burden of this non-Initiative 522 reporting
13 renders Washington's law unconstitutional. GMA can show neither.
14

15 On the first point, GMA claims that it "could have safely participated in Washington
16 elections only by publicly disclosing and accounting for millions of dollars of non-
17 Washington, non-electoral transactions." MJP 16. But if GMA had maintained a separate
18 fund solely for money it intended to spend on Initiative 522, it would not have had to report a
19 dime of other spending. At this stage, accepting all hypothetical facts and inferences in the
20 State's favor, GMA cannot establish that this was impossible. In other words, even if GMA's
21 own choices forced it to disclose contributions unrelated to Initiative 522, GMA cannot show
22 that those choices were its only option.
23

24 Even if GMA could prove that Washington law necessarily required it to disclose
25 spending unrelated to Initiative 522, GMA cannot establish that such an incidental burden
26

1 would render Washington's campaign finance disclosure laws unconstitutional. GMA
2 concedes that this disclosure requirement is subject to exacting scrutiny. MJP 15. Thus, there
3 must be only "a substantial relation between the disclosure requirement and a sufficiently
4 important governmental interest." *Doe v. Reed*, 130 S. Ct. at 2818.

5
6 Washington has "an important (and even compelling) informational interest in
7 requiring ballot measure committees to disclose information about contributions." *Family*
8 *PAC*, 685 F.3d at 806. GMA contends, however, that Washington has no legitimate interest in
9 disclosure of contributions to its Defense of Brand Strategic Account because some of the
10 money was spent on "non-Washington, non-electoral activities." MJP 19. But accepting that
11 argument would mean that an organization could always avoid disclosure simply by mingling
12 contributions with minimal funds to be used for other purposes. GMA's own activities
13 highlight this problem. GMA contributed \$11,000,000 of the \$13,480,500 (81.6%) collected
14 into the Account to the No on 522 committee. Complaint ¶¶ 28, 31. Yet in GMA's view, the
15 State cannot constitutionally require GMA to disclose any of this money. This viewpoint
16 cannot be the law.

17
18 GMA also argues that there is no substantial relationship between the State's disclosure
19 requirements and its legitimate interests because the State could simply require that GMA
20 report its members' contributions after GMA has already used them to influence a Washington
21 election. MJP 21. But when voters consider campaign messages, "being able to evaluate who
22 is doing the talking is of great importance." *Family PAC*, 685 F.3d at 808 (internal quotation
23 marks omitted). Washington's law is specifically designed to prevent the exact secrecy that
24 the "springing" of additional monies late in the election season creates. *See, e.g.*,
25
26

1 RCW 42.17A.235 (2), .265 (requiring more frequent reporting as election day approaches).
2 Washington need not sacrifice these important interests to convenience GMA. This is
3 especially so because GMA has shown no meaningful burden, as all reporting occurs *after*
4 GMA decides how to spend the money, *after* it receives the contributions from its members,
5 and *after* it makes contributions to another political committee. These are among the many
6 reasons why courts have specifically concluded that Washington's "disclosure requirements
7 are not unduly onerous, and their timing and particular informational requirements are
8 substantially related to the government's informational interest." *Human Life of Washington*,
9 624 F.3d at 1013.
10

11 Finding no traction elsewhere, GMA implies that it would be absurd to require it to
12 register a political committee before Initiative 522 qualified for the ballot on April 28, 2013.
13 MJP 17. But the No on 522 committee had registered four months before that, on January 15,
14 2013, as had five committees supporting Initiative 522. Complaint ¶¶ 9-11.⁹ If all of these
15 groups could comply, it is hard to see why GMA could not. GMA became a political
16 committee when it had the expectation of receiving contributions to oppose Initiative 522,
17 RCW 42.17A.005 (37), not, as GMA facetiously suggests, when GMA first considered "being
18 involved in the Initiative 522 campaign" in some unspecified way, MJP 17. GMA was
19 certainly aware well before April 28, 2013, that it was soliciting contributions to be used to
20 oppose Initiative 522, as it had sent in March an invoice to members for an account to be used
21 to fight Initiative 522. Complaint ¶ 21; MJP 17.
22
23

24
25 ⁹Label It Now registered on May 4, 2012; GMO Right to Know registered on August 6, 2012; Yes on
26 522 registered on February 11, 2013; EWG Yes registered on February 20, 2013; and Organic Consumers Fund
registered on March 20, 2013.

1 In short, GMA chose the method by which it would fund its opposition to
2 Initiative 522. It may now regret that choice, but a state law does not become unconstitutional
3 merely because an organization claims that its own poor choices make it too onerous to
4 comply.

5
6 **C. Washington's 10 voters/\$10 Requirement Is Closely Drawn To Address The
7 State's Important Interest In Transparency**

8 Washington law requires that before one political committee may contribute to another
9 political committee, the contributing committee must have "received contributions of ten
10 dollars or more each from at least ten persons registered to vote in Washington state."
11 RCW 42.17A.442. Lacking any viable argument that its conduct complied with this statute,
12 GMA instead attacks the statute as unconstitutional. Its argument fails.

13 **1. The 10-\$10 rule is not subject to strict scrutiny.**

14 GMA claims that the 10-\$10 rule is subject to strict scrutiny because it allegedly
15 "disfavors certain speakers," especially "[g]roups that gain support exclusively from for-profit
16 companies . . . and out-of-state citizens." MJP 22. GMA confidently proclaims that "[t]he law
17 is demonstrably unconstitutional," because it purportedly "allow[s] speech by some but not
18 others." *Id.* at 22-23. Not true.

19
20 The 10-\$10 rule does not prohibit any speech. A political committee that wants to
21 support or oppose a candidate or ballot measure is free to use its money to do so directly by
22 engaging in unlimited independent expenditures, regardless of whether it has 10 contributors or
23 not. The 10-\$10 rule is merely a prerequisite to the making of *contributions*, not expenditures.
24 And "[g]oing back to *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976),
25 restrictions on political contributions have been treated as merely 'marginal' speech
26

1 restrictions subject to relatively complaisant review under the First Amendment, because
2 contributions lie closer to the edges than to the core of political expression.” *Beaumont*, 539
3 U.S. at 161. For that reason, “restrictions on contributions require less compelling justification
4 than restrictions on independent spending,” *id.* at 158-59, and need only be “closely drawn to
5 match a sufficiently important interest,” *id.* at 162.
6

7 That the 10-\$10 rule requires contributions from Washington voters, not corporations
8 or non-residents, does nothing to change the level of scrutiny. The *Beaumont* Court considered
9 a statute that flatly banned campaign contributions by most corporations. The plaintiff
10 organization argued that “the ban on its contributions should be subject to a strict level of
11 scrutiny” because the statute “does not merely limit contributions, but bans them on the basis
12 of their source.” *Id.* at 161. The Court rejected this argument, holding that the “degree of
13 scrutiny turns on the nature of the activity regulated,” and because the statute regulated
14 contributions rather than expenditures, strict scrutiny did not apply. *Id.* at 162. This holding
15 disposes of GMA’s argument for applying strict scrutiny here.
16

17 **2. The 10-\$10 rule is a response to a well-documented problem and serves**
18 **important public interests.**

19 The Legislature enacted RCW 42.17A.442 as part of a package of reforms intended to
20 address a very specific problem. As described above, in a 2010 state Senate race, a political
21 consultant created a series of sham political committees and made contributions between them
22 to hide the true source of funds for advertisements designed to help the consultant’s candidate.
23 *See n. 1 supra.* The ruse worked, and the consultant’s preferred candidate won the election.
24 *See n. 2 supra.* The Legislature seriously considered refusing to seat the winning candidate,
25 but instead decided to amend the law to prevent similar chicanery in the future. *Id.* The
26

1 Legislature unanimously enacted ESSB 5021, which included a naming convention for
2 political committees (RCW 42.17A.005 (42), .205 (3, 5)); a lowering of the reporting
3 thresholds for electioneering communications (RCW 42.17A.245); stronger penalties (RCW
4 42.17A.750 (2), .755(4)); and the 10-\$10 rule contained in RCW 42.17A.442.

5
6 By requiring that a political committee receive at least \$10 from at least 10 voters
7 before contributing to another committee, RCW 42.17A.442 imposes a roadblock to the sort of
8 malfeasance that prompted its enactment. A person seeking to obscure the real source of
9 campaign contributions can no longer simply move money around between organizations he
10 has created himself. Instead, he must obtain modest contributions from at least 10 others,
11 exposing any attempt at fraud to at least some daylight. The 10-\$10 rule thus helps ensure that
12 each political committee stands on its own and minimizes layering of political committees
13 designed to conceal who is really funding the message.

14
15 Courts have uniformly recognized that laws like this, seeking to expose the true source
16 of funds being used in election campaigns, serve vitally important interests. “[T]he State has a
17 strong interest in ‘helping citizens make informed choices in the political marketplace,’” *Farris*
18 *v. Seabrook*, 677 F.3d 858, 868 (9th Cir. 2012) (quoting *Citizens United*, 130 S. Ct. at 914),
19 including by preventing “the wolf from masquerading in sheep’s clothing,” *Family PAC*, 688
20 F.3d at 808 (internal quotation marks omitted). And as the U.S. Supreme Court has held,
21 “restricting contributions by various organizations hedges against their use as conduits for
22 ‘circumvention of [valid] contribution limits.’” *Beaumont*, 539 U.S. at 155 (quoting *FEC v.*
23 *Colorado Republican Federal Campaign Comm.*, 533 U.S. 431, 456 & n. 18, 121 S. Ct. 2351,
24 150 L. Ed. 2d 461 (2001)).
25
26

1 GMA's only contrary argument is that the law does not actually promote transparency
2 because "the token in-state contributors do not even need to be identified." MJP 24. While
3 this is an error to assert,¹⁰ the point of the law is not to expose those who contribute \$10;
4 rather, it is to throw a roadblock in front of those who would otherwise set up sham political
5 committees. Forcing disclosure of the \$10 contributors' names is not crucial to that purpose,
6 for an organization would have to lie about having ten such donors in order to circumvent the
7 rule.
8

9 **3. The 10-\$10 Rule is closely drawn to ensure transparency and prevent**
10 **subterfuge.**

11 Having established that Washington has an important governmental interest in
12 RCW 42.17A.442, the next question is whether the regulation is closely drawn to achieve that
13 interest. "A campaign contribution limitation is 'closely drawn' if it focus[es] on the narrow
14 aspect of political association where the actuality and potential for corruption have been
15 identified—while leaving persons free to engage in independent political expression, to
16 associate actively through volunteering their services, and to assist in a limited but nonetheless
17 substantial extent in supporting the candidates and committees with financial resources."
18 *Montana Right to Life Ass'n v. Eddleman*, 343 F.3d 1085, 1093-94 (9th Cir. 2003) (internal
19 citations removed). All of these requirements are met here.
20

21 First, the 10-\$10 rule focuses on the precise problem the Legislature identified—the
22 creation of sham political committees to hide the true source of campaign contributions. This
23 is a valid purpose recognized by the U.S. Supreme Court. *See, e.g., Beaumont*, 539 U.S. at 155
24

25 ¹⁰ While donors who give less than \$25 to a campaign do not have to be disclosed by name and address
26 on public filings (RCW 42.17A.240 (2)(c)), a committee is required to keep this information and disclose the
identity to anyone who requests to examine a committee's books. RCW 42.17A.235(4).

1 (“restricting contributions by various organizations hedges against their use as conduits for
2 circumvention of [valid] contribution limits”) (internal quotation marks omitted). Second, the
3 rule leaves everyone “free to engage in independent political expression,” as it imposes no
4 limits whatsoever on the independent expenditures of political committees. *Montana Right to*
5 *Life*, 343 F.3d at 1096 (citing *Buckley*, 424 U.S. at 28). The rule also allows individuals and
6 organizations to support candidates and ballot measures by donating directly to their
7 campaigns. *Id.* The only limitation is that, before a political committee can donate to another
8 political committee, it must meet the 10-\$10 threshold. But once it does so, the committee
9 may donate an unlimited amount to support or oppose a ballot measure. Thus, if anything, the
10 10-\$10 requirement is even less burdensome than true contribution limits, and should pass
11 muster more easily.
12

13
14 Considering GMA as an example demonstrates why. The 10-\$10 rule did not limit
15 GMA’s ability to make its own independent expenditures against Initiative 522. The rule did
16 not prohibit GMA members from making independent expenditures or from donating
17 unlimited amounts to the No on I-522 committee themselves—they simply chose not to do so
18 because they feared negative publicity. Complaint ¶ 17. And, as evidenced by GMA’s own
19 actions, the rule was easy to comply with, as GMA did so in less than a week from registration.
20 Dalton Decl., Att. Q, S. All the rule seeks to hinder is what GMA attempted to do here—
21 hiding the true source of campaign contributions.
22

23 In sum, the Legislature should be given great deference to fashion a regulatory system
24 that responds to actual deceptive practices and protects the integrity of the electoral process.
25 *See, e.g., Beaumont*, 539 U.S. at 155 (“deference to legislative choice is warranted particularly
26

1 when Congress regulates campaign contributions"). Here, the Legislature acted to preserve
2 that integrity with great care and with minimal imposition on First Amendment rights.
3 Washington's 10-\$10 rule meets constitutional muster and should be affirmed.

4 III. CONCLUSION

5 Having violated Washington's campaign finance laws, GMA now seeks a quick escape
6 from the consequences by invoking the First Amendment. But GMA cannot show that no set
7 of facts exists that would render the challenged laws constitutional by simply requiring GMA
8 to register a political committee and comply with the 10-\$10 requirement. On the contrary,
9 GMA funneled \$11 million into a Washington election campaign in an attempt to "shield[]
10 individual companies from attack for providing funding." Complaint ¶¶ 13, 17. The First
11 Amendment provides no defense for such subterfuge. The State, therefore, respectfully
12 requests that this Court deny GMA's motion for judgment on the pleadings.
13
14

15 DATED this 17th day of March, 2014.

16 ROBERT W. FERGUSON
17 Attorney General

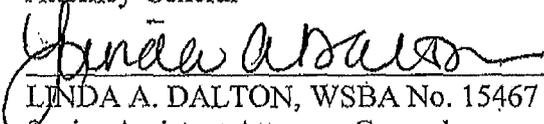
18 
19 LINDA A. DALTON, WSBA No. 15467
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21 CALLIE A. CASTILLO, WSBA No. 38214
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23 Attorneys for Defendants
24
25
26

Exhibit C

Executive Summary and Staff Analysis
Food Democracy Action! (FDA) and Food Democracy Action! Yes on
I-522 Committee to Label GMOs in Washington (FDA-WA State PAC)
PDC Case No. 14-007

This summary highlights PDC staff's investigation, and makes a recommendation concerning the allegations contained in PDC Case No. 14-007, a 45-day Citizen Action Complaint (Complaint) filed with the Attorney General on October 25, 2013, by Rob Maguire, an attorney with Davis, Wright, Tremaine, PLLC, a Seattle law firm, against Food Democracy Action! (FDA) and Food Democracy Action! Yes on I-522 Committee to Label GMOs in Washington (FDA-WA State PAC).

On October 28, 2013, the Attorney General referred the Complaint against FDA and FDA-WA State PAC to the PDC for investigation and possible action, and on December 4, 2013, staff opened a formal investigation into these allegations.¹

Allegations & Results of Investigation

The Citizen Action Complaint alleged that FDA and FDA-WA State PAC violated RCW 42.17A as follows:

- A. **Failed to register as a political committee (RCW 42.17A.205).** The complaint alleged that FDA and FDA-WA State PAC failed to register with the PDC as a political committee in support of I-522, a statewide initiative concerning the labeling of genetically modified foods and beverages on the November 5, 2013 general election ballot in Washington State.
- B. **Failed to file reports of contribution and expenditure activities as a political committee (RCW 42.17A.235 and .240).** The complaint alleged that FDA and FDA-WA State PAC failed to file Cash Receipts Monetary Contributions reports (C-3 reports), and Campaign Summary Receipts & Expenditures reports (C-4 reports) disclosing contribution and expenditure activities undertaken as a political committee in its support of I-522.

PDC staff investigated and determined that FDA-WA State PAC failed to register as a political committee or report any of its \$295,662 in monetary and in-kind contribution and expenditure activities until after the November 5, 2013 general election. FDA-WA State PAC's registration was filed more than three months late and a week after the election; each of FDA-WA State PAC's 11 required contribution reports were filed between two weeks and more than three months late; and each of FDA-WA State PAC's five required expenditure reports were between one and five months late.

¹ The Complaint also contained allegations against other entities. Those allegations are being separately investigated and will be presented to the Commission separately as they are completed.

Applicable Statutes, Rules, and Interpretations

RCW 42.17A.005(39) defines "political committee" as "any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition."

RCW 42.17A.205 requires political committees to file a Committee Registration report (C-1pc report) with the PDC if they have the expectation of receiving contributions or making expenditures in support of or in opposition to any candidate or ballot proposition.

RCW 42.17A.235 and .240 require political committees to timely and accurately file reports of contributions and expenditures. Under the full reporting option, until five months before the general election, Campaign Summary Receipts and Expenditures reports (C-4 reports) are required monthly when contributions or expenditures exceed \$200 since the last report. C-4 reports are also required 21 and 7 days before each election, and in the month following the election, regardless of the level of activity. Contribution deposits made during this same time period must be disclosed weekly on Cash Receipts Monetary Contributions reports (C-3 reports) on the Monday following the date of deposit.

Summary of Detailed Staff Findings

Failure to timely file C-1pc Report during 2013 Election (RCW 42.17A.205)

1. FDA sent out regular electronic newsletters to its members and supporters. As early as July 2013, the newsletters were encouraging readers to support labeling efforts in Washington State by helping FDA reach a \$150,000 fundraising goal by July 31. FDA received its first contribution for I-522 on July 31, 2013, which required it to register as a political committee no later than August 13, 2013. FDA stated that it began inquiring into Washington State's reporting requirements in October 2013, and was in the process of gathering information to file its Committee Registration (C-1pc) when the Complaint was sent to the PDC.
2. On November 13, 2013, eight days after the November 5, 2013 general election, and 92 days late, FDA registered FDA-WA State PAC as a first-time political committee.

Failure to timely file C-3 and C-4 Reports during 2013 Election (RCW 42.17A.235 and 42.17A.240)

3. The Yes on I-522 Committee reported receiving five monetary contributions totaling \$200,000 from FDA during the period August 16 through October 30, 2013. The contributions included:

- A \$50,000 monetary contribution received on August 16, 2013;
 - A \$50,000 monetary contribution received on October 15, 2013;
 - A \$50,000 monetary contribution received on October 24, 2013;
 - A \$25,000 monetary contribution received on October 25, 2013; and
 - A \$25,000 monetary contribution received on October 30, 2013.
4. On November 22, 2013, FDA-WA State PAC filed 11 C-3 reports disclosing the receipt of \$250,036 in monetary contributions received during the period July 30 through October 30, 2013. These monetary contributions were reported between 18 and 109 days late, and more than two weeks after the November 5, 2013 general election.
 5. The \$250,036 in monetary contributions included 3,069 monetary contributions of more than \$25 each, and an additional \$52,917 in non-itemized contributions of \$25 or less from 4,326 contributors.
 6. The C-3 reports disclosed the receipt of thirteen contributions of \$1,000 or more, including a \$10,000 contribution from a Washington individual (Richard Clise), and 12 contributions from nine out-of-state individuals totaling over \$22,000.
 7. On January 15, 2014, FDA-WA State PAC filed five C-4 reports disclosing contribution and expenditure activity during the period July 1 through November 30, 2013. Expenditures totaling \$295,662 were disclosed on C-4 reports filed between 36 and 158 days late.
 8. The post-general election C-4 report included two in-kind contributions totaling \$45,627 from Food Democracy Action for committee staffing and data services, received on November 5, 2013.

Recommendation

PDC staff recommends that the Commission:

1. Find that FDA and FDA-WA State PAC committed multiple apparent violations of RCW 42.17A as described above;
2. Conclude that the Commission's penalty authority is inadequate to address these apparent violations, given the amount of late reported activity and the lateness of the committee's registration and reporting; and
3. Refer the matter to the Attorney General for appropriate action against Respondents.

Enclosures:

- FDA and FDA-WA State PAC Report of Investigation and Exhibits; and Notice of Administrative Charges

Exhibit D

Executive Summary and Staff Analysis
PDC Case No. 09-008
Master Builders Association of King & Snohomish Counties

Allegations

On July 25, 2008 a Citizen's Action Letter was filed with the Office of the Attorney General under RCW 42.17.400(4) and then forwarded to the Public Disclosure Commission for investigation. The letter alleges that the Master Builders Association of King & Snohomish Counties (MBA-K&S) satisfies the definition of a political committee in chapter 42.17 RCW because it solicited and received contributions for the "Just 10%" program and used those funds to support or oppose candidates and/or ballot measures.

The letter alleges that MBA-K&S failed to register as a political committee and report contribution and expenditure activities in violation of RCW 42.17.

Political Committee Definition

RCW 42.17.020(38): *"Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.*

Investigative Findings

The Master Builders Association of King and Snohomish Counties, founded in 1909, is a trade association representing more than 4,100 members in the housing industry. It provides its members with state and local governmental representation, accredited builders' education programs, vocational and college scholarship programs, health and workers' compensation insurance, and other activities for homebuilding professionals.

MBA-K&S' funding is derived from annual dues, income from its health insurance program, unit dues and a marketing assistance fee it receives from the Return on Industrial Insurance (ROI) program, commonly known as the "Retro" program.

The Retro program is a voluntary workers' compensation insurance program that is administered by private organizations in cooperation with the State Department of Labor and Industries (L&I). Participants in the program pay insurance premiums to L&I based on predicted workers' compensation claims for a three-year period. Companies whose L&I claims are fewer than the anticipated number of claims for which they obtained insurance receive Retro refunds from L&I.

Eighty percent of all premium refunds is distributed to the individual member companies participating in the Retro program, ten percent is returned to local builder associations, such as MBA-K&S, as a marketing assistance fee, and ten percent is retained by the BIAW Member Services Corporation which administers the Retro program for the building industry.

Solicitation and Expenditure of Political Contributions by MBA-K&S

Contributions

Since 1996, MBA-K&S has solicited contributions from its members for political campaign activity through a program called the "Just 10%" program.

The "Just 10%" program has two funding sources:

- 1) unit dues paid by member companies for every finished housing unit sold during a given period of time (for January 2006-June 2008, unit dues funds totaled \$382,293 or 54% of "Just 10%" program funds); and
- 2) voluntary contributions solicited and received from MBA-K&S members at the time Retro refunds are distributed (for January 2006-June 2008, contributions generated \$325,657 or 46% of the "Just 10%" program dollars).

Solicitation letters and other promotional materials produced by MBA-K&S state that contributions to the "Just 10%" program will be used to elect industry-friendly candidates and defeat no-growth incumbents.

MBA-K&S members are asked to make contribution checks out to "MBA – Just 10 Percent Fund" or simply "Master Builders Association" and the funds are deposited into the MBA-K&S general treasury. A general ledger line item is maintained as a separate part of the financial records to record funds received and expended for the "Just 10%" program.

Expenditures

From January 2006-June 2008, MBA-K&S has spent \$411,670 from its "Just 10%" funds. Approximately 88% of these expenditures, or \$360,695, has been for monetary contributions to various political committees. The remaining twelve percent, or \$50,975, has paid for campaign-related polling and survey research.

In addition to the "Just 10%" budget expenditure line item, the MBA-K&S makes campaign expenditures through other budget categories for monetary and in-kind contributions to candidates and political committees. This latter activity is typical corporate campaign activity and does not make the association a political committee.

Disclosure

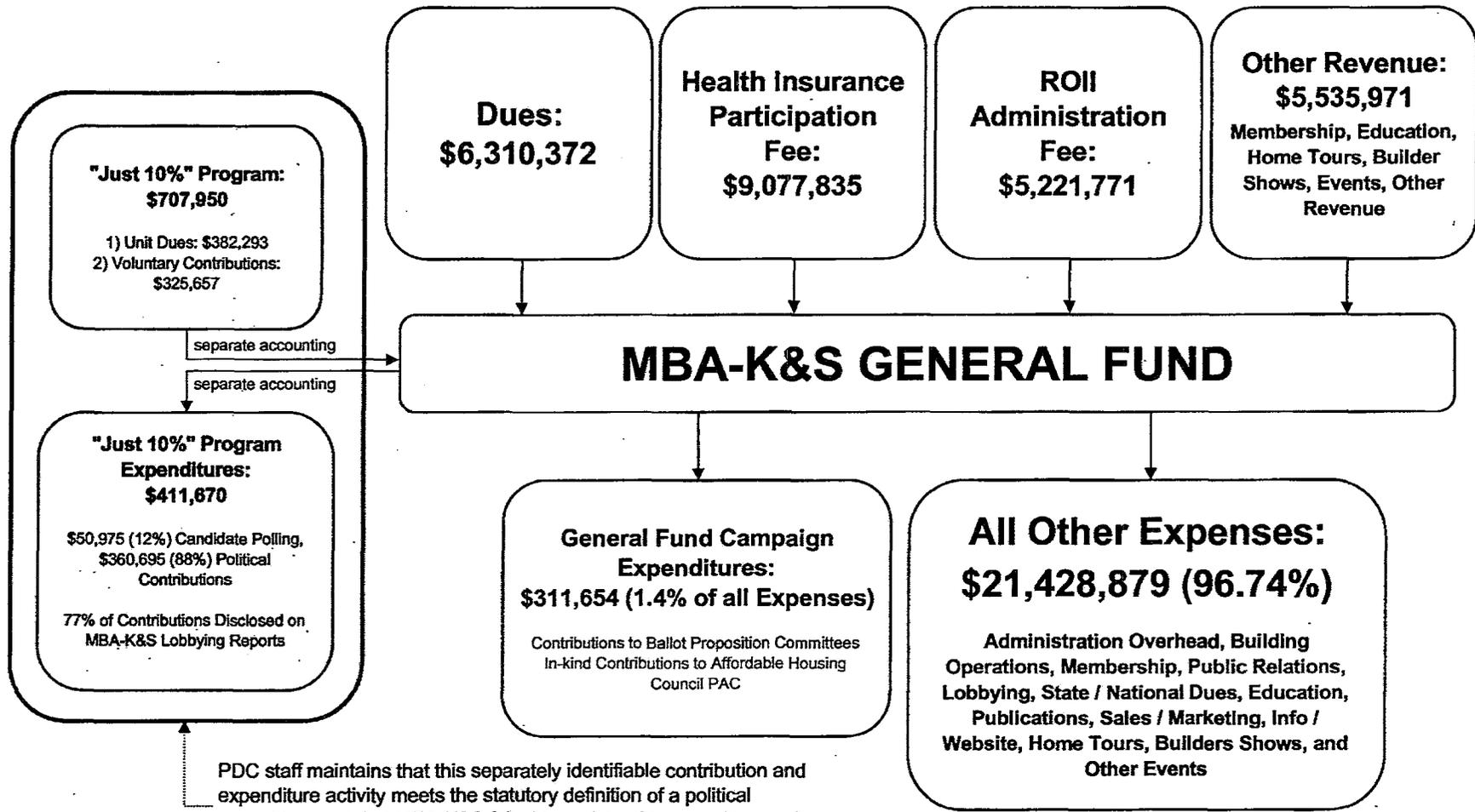
None of the original sources of funds raised through the "Just 10%" program have been disclosed and MBA-K&S does not inform recipients of contributions of the original sources of the funds. All contributions are attributed to MBA-K&S.

Conclusion:

PDC staff believes the MBA-K&S' "Just 10%" program qualifies as a political committee pursuant to RCW 42.17.020(38) and MBA-K&S failed to register and report contributions and expenditures as required under chapter 42.17 RCW.

Regarding PDC Case No. 09-008, staff suggests the Commission advise the Office of the Attorney General that the evidence of the investigation supports the allegation that the MBA-K&S' "Just 10%" program failed to register and report contributions and expenditures required under state law and committed multiple apparent violations of chapter 42.17 RCW.

MBA-K&S Revenue and Expense Summary, January 2006 - July 2008



PDC staff maintains that this separately identifiable contribution and expenditure activity meets the statutory definition of a political committee, and that MBA-K&S failed to register this committee and report its activity pursuant to RCW 42.17.

OFFICE RECEPTIONIST, CLERK

To: Jessie Sherwood
Cc: Knoll Lowney
Subject: RE: Utter v. BIAW, no. 89462-1

Received 9-23-14

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Jessie Sherwood [mailto:jessie.c.sherwood@gmail.com]
Sent: Tuesday, September 23, 2014 2:55 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: Knoll Lowney
Subject: Utter v. BIAW, no. 89462-1

Good afternoon. Please find attached the Petitioner's Second Statement of Additional Authorities for filing in Robert Utter and Faith Ireland in the name of the State of Washington v. Building Industry Association of Washington, Case number 89462-1, on behalf of Knoll Lowney, WSBA 23457 (knoll@igc.org), 2317 E. John, Seattle, WA 98112.

Yours very truly,

--

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