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NO. 89462-1

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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

Petitioners,

v.

BUILDING INDUSTRY ASSOCIATION OF WASHINGTON,

Respondent.

RESPONSE TO PETITION FOR REVIEW/CROSS-PETITION FOR REVIEW

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I. INTRODUCTION

The Court of Appeals determined that a citizen cannot pursue a lawsuit alleging campaign finance law violations on behalf of the State if the State already investigated and determined the claims are without merit. *Utter ex rel. State v. Building Industry Association of Washington*, __ Wn. App. __, 310 P.3d 829 (2013). By seeking review of this unremarkable decision, Petitioners advance a theory contrary to the language of the governing statute that would open the door to harassing litigation chilling First Amendment activities. This Court should deny review.

Division One withdrew an unpublished, 2:1 split decision, and published a unanimous opinion affirming entry of summary judgment against Petitioners. The Court concluded that Petitioners' suit against the Building Industry Association of Washington ("BIAW") alleging violations of the Fair Campaign Practices Act ("FCPA") was precluded because the Public Disclosure Commission ("PDC") (i) investigated Petitioners' allegations against BIAW and Member Services Corporation ("MSC"); (ii) determined the allegations against MSC merited a civil action, which the AG brought and later settled; but (iii) also determined that the allegations against BIAW, a different entity, lacked merit and did not warrant a civil action. 310 P.3 at 843-44. Because the central holding in *Utter* is correct, and no conflict exists between the courts of appeal

regarding the definition of "action" under RCW 42.17A.765(4), Petitioners do not satisfy RAP 13.4, and their request should be denied.

If this Court grants review, BIAW cross-petitions for review of the Court of Appeals' denial of BIAW's attorneys' fees and costs. BIAW is entitled to fees under RCW 42.17A.765 as the prevailing defendant in this saga of politically motivated litigation, designed to chill First Amendment activities. BIAW respectfully requests the Court accept review of the attorney fee issue and award it fees and costs.

II. IDENTITY OF RESPONDENTS/CROSS-PETITIONERS

Respondent and Cross-Petitioner is BIAW.

III. ISSUES PRESENTED

The primary question is whether the State "acts" for purposes of precluding a citizen suit under RCW 42.17A.765(4) where, as here, the State conducts an investigation of alleged FCPA violations, concludes that no violations occurred, and declines to file a civil action. If the Court answers this question in the affirmative, it need not address the remaining issues. If, however, the Court answers in the negative, it must then address four related questions:

• Whether the Court of Appeals erred in finding, in dicta, that a clerical error in a tax form, later corrected, created a triable issue of fact as to whether BIAW qualified as a "political committee." (Yes, it did.)

- Whether the Court of Appeals erred in ruling, in dicta, that a triable issue of fact existed as to whether BIAW qualified as a "political committee" based on statements made by representatives of MSC. (Yes, it did.)
- Whether the Court of Appeals correctly held that the "attribution" rules under RCW 42.17A.455 did not apply to the definition of a "political committee." (Yes, it did.)
- Whether the lower courts erred in refusing to award BIAW its attorneys' fees and costs when Petitioners' abandoned their central claim only after BIAW moved for summary judgment and conducted the litigation in a vexatious manner. (Yes, they did.)

IV. STATEMENT OF THE CASE

BIAW largely agrees with the facts as set out in Utter, 310 P.3d at

832-34, and does not repeat them. A more detailed summary of the

procedural history, however, is useful for consideration of the issues here.

During the 2008 gubernatorial campaign, Petitioners wrote to the

AG accusing BIAW and MSC of FCPA violations. The PDC investigated

and determined MSC violated the law but BIAW had not. CP 56-78.

Based on the PDC's recommendation, the AG filed a lawsuit against MSC

and not against BIAW. CP 109-114. The AG ultimately settled the

lawsuit against MSC. CP 116-120.

Although the State determined the claims against BIAW lacked merit, Petitioners filed their own lawsuit, in the name of the State, seeking nearly \$21 million in damages from BIAW. CP 1-16. Specifically, Petitioners alleged that BIAW coordinated with gubernatorial candidate Dino Rossi on a fundraising effort and that this alleged coordination converted roughly \$7 million in independent expenditures by BIAW into campaign contributions thereby exceeding allowable contribution limits. Petitioners also alleged BIAW qualified as a "political committee" under the FCPA and failed to register and report as such.

Arguing that a deposition of candidate Rossi was necessary to prove their central "coordination" claim, Petitioners obtained an *ex parte* order for expedited discovery without notice to BIAW despite a request from BIAW's counsel for notice of proceedings. CP 873, 801. That order was rescinded on BIAW's motion. CP 210. Petitioners then moved for expedited discovery, again arguing that it was imperative they depose Mr. Rossi *before* the election to prove their coordination claim and to support a motion for threatened pre-election injunctive relief. After hundreds of pages of motions, Petitioners' counsel deposed Mr. Rossi and conducted a press conference outside the deposition, just days before the 2008 election. CP 204-205. (Petitioners' counsel was ultimately admonished by the trial court for misconduct in that deposition. CP 906.)

Tellingly, after Petitioners got what they were after—a deposition of Mr. Rossi on the eve of the election—Petitioners (or their lawyers) lost interest in this case. Petitioners never filed the promised motion for preelection relief, which was the whole premise for the *ex parte* order and the

emergency motions and depositions. CP 204-205.

Two years later, *after* BIAW filed a motion for summary judgment on all claims, including the "coordination/excess contribution" claim, CP 17-43, Petitioners filed an opposition addressing only the "political committee" claim. CP 211-237. They did not brief the coordination claim, effectively conceding they had no evidence to support it after two years of litigation. The trial court granted BIAW's motion and dismissed all claims, but it denied BIAW's request for attorneys' fees and costs. CP 833-835; 1052-53. Petitioners appealed summary judgment on the "political committee" claim (but not the coordination/excess contribution claim), and BIAW cross-appealed its attorneys' fees claim. CP 1054-59.

In an unpublished split decision, the Court of Appeals reversed and remanded. *Utter ex rel. State v. Bldg. Indus. Ass'n of Wash.*, No. 66439-5-I, Unpublished Decision (Wash. Ct. App. Oct. 29, 2012) (Pet'r's Appendix 1-20). BIAW moved for reconsideration, repeating many of the arguments it made at trial and on appeal.¹ The Court of Appeals granted BIAW's motion and published a unanimous opinion affirming the trial court's summary judgment against Petitioners. *Utter*, 310 P.3d at 844. Despite BIAW's successful defense against all claims at trial and on

¹ The motion was supported by amici briefs from SEIU Healthcare 775NW, UFCW 21, the Washington Education Association, SEIU Healthcare 1199NW, SEIU Local 925, and the Washington State Labor Council, AFL-CIO, all of whom criticized the decision.

appeal (including the \$21 million in excess contribution/coordination claim at the center of the suit) and being forced to endure a meritless legal battle, the court refused to award BIAW attorneys' fees and costs. *Id.* at 844-45. This was an error contrary to the statute.

V. ARGUMENT & AUTHORITY

A. The State Acted, Precluding the Citizen Suit.

Division One affirmed summary judgment for BIAW, holding that a citizen action under Chapter 42.17A RCW is precluded where, as here, the State conducts an investigation into alleged wrongdoing, determines the allegations lack merit, and declines to file a lawsuit.² *Utter*, 310 P.3d at 843. The holding is consistent with the plain language of the statute and common sense. The petition should be denied.

Under the Fair Campaign Practices Act (FCPA), a citizen may proceed with a suit only after twice providing written notice of specific violations to the AG and only if the AG fails to commence "an action"

² Petitioners contend that the Division One reached the preclusion issue *sua sponte* and without the benefit of any briefing. Pet'r's Br. at 8. Petitioners are incorrect; BIAW briefed the preclusion issue before the trial court and before Division One. CP 27-30; BIAW's Answering Br. and Opening Cross-Appeal Br. at 34-36; BIAW's Mot. for Reconsideration at 19-20. Petitioners, however, failed to respond to the argument, *Utter*, Unpublished Decision at 6 n.4 (inexplicably declining to reach an issue merely because "Utter and Ireland [did] not respond"). By failing to respond, Petitioners waived the argument. *New Meadows Holding Co. v. Wash. Water Power Co.*, 34 Wn. App. 25, 29 (1983). In any event, the court may affirm summary judgment on any ground supported by the record. *Cheney v. City of Mountlake Terrace*, 87 Wn.2d 338, 347 (1976). Because the record supports summary judgment in favor of BIAW, the Court should deny Petitioners' request for review.

within the prescribed statutory deadlines. If those requirements are met, RCW 42.17A.765(4) provides that a citizen can "bring in the name of the state any of the *actions* ... *authorized under this chapter*." "[A]ctions ... authorized under this chapter" include:

(1) The attorney general and the prosecuting authorities of political subdivisions of this state may bring civil actions in the name of the state for any appropriate civil remedy, including but not limited to the special remedies provided in RCW 42.17A.750.

(2) The attorney general and the prosecuting authorities of political subdivisions of this state *may investigate or cause to be investigated* the activities of any person who there is reason to believe is or has been acting in violation of this chapter

RCW 42.17A.765 (emphasis added). See Utter, 310 P.3d at 842.

Thus, the statute permits the State to take action either by filing a civil action (as it did against MSC) or by investigating or causing to be investigated allegations of wrongful conduct (as it did against MSC and BIAW). As the Court of Appeals explained, "[w]here a 'citizen's action' refers to any of the actions authorized under chapter 42.17A RCW, we think it logical that an 'action' by the AG or the PDC also refers to any of the actions authorized under RCW 42.17A.765." *Utter*, 310 P.3d at 843. Thus, the Court of Appeals held that "[t]he State took an action against BIAW under RCW 42.17A.765 when it caused PDC to investigate the allegations that BIAW was a political committee and then declined to file

a lawsuit based on the PDC's conclusion that BIAW did not receive contributions or make expenditures to further electoral political goals and was not a political committee." *Id.* at 844.

That holding is correct. First, where the State investigates and, as here, determines a claim lacks merit, allowing plaintiffs to pursue the meritless claim does not advance the public interest or deter wrongdoing. Indeed, allowing the citizen suit to proceed would *cause* significant damage, as it did here, by forcing innocent defendants to endure lengthy, expensive, and meritless litigation.

Second, Petitioners urge a rule that would allow frivolous and harassing lawsuits in the name of the State on issues the State itself has concluded are without merit. Ordinarily the State would be equitably estopped from taking inconsistent positions. Such a rule is also "inconsistent with the notion that the citizen's action is brought 'in the name of the state." *Utter*, 313 P.3d at 844. The citizen suit provision does not allow "every watchdog group ... to demand that the PDC find the watchdog's allegations meritorious or ... sue in superior court." *Id.* at 843 (quoting *State ex rel. Evergreen Freedom Found. v. Wash. Educ. Ass 'n* (*EFF I*), 111 Wn. App. 586, 609 (2002)). If it did, the citizen suit provision would chill First Amendment activity because political opponents will, as they did here, use the threat of citizen enforcement to

punish those with whom they disagree, even when the PDC has determined there is no merit to the claims.

B. No Conflict Exists Between the Courts of Appeal as to the Meaning of the term "Action" in RCW 42.17A.765.

Division One's opinion is consistent with Division Two's cases. Petitioners' argument to the contrary stands or falls on whether Division One held in this case that a mere referral to the PDC is sufficient to preclude a citizen suit. That is not what happened and not what *Utter* held. *See* Section V.A., *supra*.

In addition, the holdings in the Division Two cases line up with Utter in logical progression. EFF I held a citizen suit is precluded when the PDC investigates allegations of FCPA violations and files an administrative proceeding based on those allegations. EFF I, 111 Wn. App. at 605; see also Utter, 310 P.3d at 843. The same court confirmed in State ex rel. Evergreen Freedom Foundation v. National Education Ass'n (EFF II), 119 Wn. App. 445 (2003), that the central holding of EFF I was still good law while clarifying that it never "intend[ed] to imply that the AG's customary referral to the PDC for initial review and investigation precludes a citizen's action." Id. at 453. Thus, neither Utter, EFF I, nor EFF II stands for the proposition that the mere referral of a citizen complaint to the PDC is sufficient to preclude a later suit under RCW

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42.17A.765(4). Rather, *EFF I* and *EFF II* support the rule that a plaintiff is "free to file a citizen's lawsuit on the issues that either the [PDC] or the AG did not act on," and that "where the PDC acted … by filing an administrative action based on those allegations, those specific allegations could not be included in … [the] citizen's action." *Utter*, 310 P.3d at 843 (quoting *EFF I*, 111 Wn. App. at 594).

Division Two, however, never addressed whether the AG or the PDC "'fail[s] to commence an action' under RCW 42.17A.765(4) when it takes action under RCW 42.17A.765(2) or (3) but decline[s] to bring a civil action under subsection (1)." *Id.* Division One addressed that question in this case, and it answered in the affirmative. Because no conflict exists between the Divisions, Petitioners fail to satisfy the standards of RAP 13.4 and review should be denied.

C. The Trial Court Properly Granted Summary Judgment On the Contribution, Expenditure, and Attribution Claims.

If the Court agrees with Division One that the State's action in this case precludes the citizen suit, it need not address the remaining issues. If, however, the Court decides to reach Petitioners' other claims, it should reject them for the reasons set out below and affirm the trial court's determination that BIAW did not qualify as a "political committee" or otherwise violate campaign disclosure laws.

1. In re WBBT is Inapposite.

The test for "political committee" status contains two alternative prongs: (1) the contribution prong and (2) the expenditure prong. *Utter*, 310 P.3d at 834. The Court of Appeals confirmed that BIAW was entitled to summary judgment on the "contribution prong" but that a factual dispute existed as to the "expenditure prong." *Id.* at 835, 836, 840. Petitioners claim that disputes of material fact existed under both prongs and therefore the trial court should be reversed. For support, Petitioners cite *In re Wash. Builders Benefit Trust (In re WBBT*), 173 Wn. App. 34 (2013), claiming that the facts found in the trial of that case precluded summary judgment in this case. Petitioners are wrong.

In re WBBT is a different case with different parties involving an entirely different legal matter. That case turned on whether retro program enrollment agreements created a "trust" for the benefit of certain employer participants and whether the trustees breached their fiduciary duties in the handling of those accounts. *Id.* at 51-52. The court held that, for purposes of the Trust and Estate Dispute Resolution Act (TEDRA), all defendants were trustees and owed fiduciary obligations to the beneficiaries. *Id.* at 71. But the court did not suggest that the definition of a trustee for TEDRA purposes has any bearing on the definition of a "political

committee" for FCPA purposes. Petitioners grossly mischaracterize In re WBBT and its significance here. Their argument should be rejected.³

2. The "Attribution Rule" Does Not Apply to Contributions Under the FCPA.

Petitioners' final claim is that BIAW "controlled" MSC's expenditures, thereby making MSC's expenditures attributable to BIAW under RCW 42.17A.455. Petitioners are wrong. RCW 42.17A.455 sets forth the aggregation and attribution rules for determining *campaign contribution caps*; it does not provide a basis for expanding the statutory definition of a political committee.

In brief, RCW 42.17A.455 allows contributions to be attributed to a parent entity when the parent entity "controls" contributions made by the subsidiary. The central tenet of Petitioners' claim is that this attribution rule should also apply to political committee test because RCW 42.17A.455 states that it applies "to this chapter."

This Court has already rejected the argument that "this chapter" always refers to the entire Act in which it appears. *Am. Legion Post # 149 v. Dep't of Health*, 164 Wn.2d 570, 587-91 (2008). Division One's interpretation (that the attribution rule applies only to contribution caps,

³ Petitioners cite no authority to support their claim that collateral estoppel operates to bar BIAW's defenses in this case. Absent citations to authority, the Court need not address this claim. *Eyman v. McGehee*, 173 Wn. App. 684, 699-700 (2013) (citing *State v. Johnson*, 119 Wn.2d 167, 171 (1992)).

not expenditures) is consistent with this Court's guidance.⁴ Utter, 310 P.3d at 838-39. Furthermore, the attribution section was adopted as part of a voter initiative on campaign contributions, separate from the adoption of the political committee test, and the voter guide for the initiative did not reflect any intent to apply the attribution rule beyond contributions. *Id.* at 839.⁵ And as the union and trade association Amici argued below, if Petitioners succeed in applying RCW 42.17A.455's attribution rule to the definition of "political committee," many trade associations, labor unions, and community groups would be turned into political committees in Washington, even if the entity did not make any political expenditures. *See* Brief of Amici at 4-10. *See also Utter*, 310 P.3d at 839-40. For these reasons, the Court should reject Petitioners' argument.

3. The Court of Appeal's Expenditure Prong Analysis is Dicta and Incorrect.

Division One made two errors in determining BIAW may be a political committee under the "expenditure" prong of the "political committee" test. Though those errors are dicta, this Court should correct them if it grants Petitioners' request for review. First, the court wrongly

⁴ Even if the statute is ambiguous, the Court should defer to the executive agencies charged with enforcing it. *Postema v. Pollution Control Hearings Bd.*, 142 Wn.2d 68, 77 (2000). Here, the PDC and the AG have consistently applied the statute to campaign contribution caps only. *See EFF I*, 111 Wn. App. at 594 n.3; *Political Committees; Campaign Disclosure Instructions* (PDC June 2012) at 6.

⁵ In addition, contributions caps apply to direct contributions to candidate committees only, not to independent expenditures like those made to ChangePAC. See RCW 42. 17A.405. RCW 42.17A.455 thus has no applicability to this case.

found that a clerical error on an IRS form, that was later corrected, created an issue of fact as to whether BIAW made an expenditure for purposes of qualifying as a "political committee." *Utter*, 310 P.3d at 836. The court also incorrectly concluded that issues of fact existed as to whether electoral activities were "a" primary purpose of BIAW. *Id.* at 841.⁶

a. No Dispute of a Material Fact Existed

According to the Court of Appeals, an organization satisfies the definition of "political committee" under RCW 42.17A.005(37) by expecting to make or by actually making expenditures to further electoral goals, *and* if the organization has "as its primary purpose, or one of its primary purposes, to affect, directly or indirectly, governmental decision making by supporting or opposing candidates or ballot propositions." *Utter*, 310 P.3d at 835 (citing *State v. (1972) Dan J. Evans Campaign Comm.*, 86 Wn.2d 503, 509 (1976)). Here, the only evidence BIAW (as opposed to MSC) made political expenditures in any amount was a 2008 IRS Form 990. That tax form contained a clerical error, listing \$165,214 as "Political expenditures." That form was amended and corrected in 2011 to show BIAW had not, in fact, spent any money on political

⁶ Division One stated that one of BIAW's main efforts was supporting Rossi's 2008 gubernatorial campaign. *Utter*, 310 P.3d at 832. This is misleading. BIAW had many purposes, CP 151-154, 158, 163-164, none of which include electoral activities, let alone make electoral activities "a" or "the" primary purpose. Further, all acts alleged to have constituted a FCPA violation were taken by MSC. *See, generally*, CP 55-78.

expenditures.⁷ See Appx. A (originally submitted with Motion for Reconsideration). An error on a tax form, later corrected, does not create a dispute as to what actually occurred, especially where, as here, it is undisputed that the PDC reviewed BIAW's actual expenditures and concluded that BIAW "does not contribute to candidates or political committees." *Utter*, 310 P.3d at 843.

In addition, the expenditure test is stated in the conjunctive: there must be expenditures *and* a primary purpose of the organization must be electoral activities. It follows that, where, as here, no evidence exists that any expenditures were made, the claim fails as a matter of law. But even if the \$165,214 was a political expenditure (it was not), that amount is not sufficient for any reasonable trier of fact to conclude that BIAW's primary purpose was electoral activity. BIAW is a statewide trade association affiliated with the National Association of Homebuilders. BIAW provides services to its 13,000 Washington members. BIAW serves as a clearinghouse of information of interest to small homebuilders; engages in a variety of communications with its members; publishes an awardwinning industry magazine; offers award-winning education programs on

⁷ The Court should consider and rely on the Corrected Form 990 under RAP 9.11. The form was not initially presented at the trial court because the error did not become known until late in the litigation. Additionally, there is no reason to doubt the veracity of the corrected form, and none is presented here. Considering that the corrected form resolves the issues on review, remand would be wasteful and unnecessary.

a wide range of topics; and offers members other benefits, including health insurance. See, e.g., CP 152-154.

And as to the statements attributed to BIAW presidents and board members, the uncontested evidence showed that such statements were made on behalf of MSC and not BIAW. It is not disputed that BIAW and MSC referred to themselves as "BIAW." CP 701 n.2; CP 156. Petitioners admit that the use of "BIAW" referred to both BIAW and MSC. CP 1041. And as Division One acknowledged elsewhere in the opinion, "BIAW" was used generically to refer to MSC, BIAW, or both, but this shorthand is not sufficient to cast doubt on the fact that MSC, not BIAW, managed the funds or engaged in electoral activity. *Utter*, 310 P.3d at 835. Because all the evidence showed that BIAW made no expenditures, Division One erred in determining this was a disputed factual issue.

b. The Court of Appeals Applied an Unconstitutional Standard.

Division One also applied an unconstitutional standard when it found that a question of fact existed as to whether "one" of BIAW's primary purposes included electoral activities, for purposes of the expenditure prong analysis. *Utter*, 310 P.3d at 840-841.

To avoid constitutional problems of vagueness and over breadth, the U.S. Supreme Court limited the definition of "political committees" in federal campaign finance laws to "organizations that are under the control of a candidate or *the* major purpose of which is the nomination or election of a candidate." *Buckley v. Valeo*, 424 U.S. 1, 79 (1976) (emphasis added). The same rule must also be used when determining political committee status under state laws as well. As the Fourth Circuit recognized, *Buckley* expressed "the Supreme Court's insistence that political committees can only be regulated if they have the support or opposition of candidates as their primary purpose." *N.C. Right to Life, Inc. v. Leake*, 525 F.3d 274, 289 (4th Cir. 2008). The court in *Leake* held that it was not enough to show that *one of* the organization's major purposes was the support of candidates. *But see Human Life of Wash., Inc. v. Brumsickle*, 624 F.3d 990 (9th Cir. 2010). Though BIAW is not a political committee under either formulation, this court should follow the *Buckley* and *Leake* formulation (applying the narrower "*the* primary purpose" test),⁸ as it is more protective of core First Amendment activity.

⁸ Independent expenditures in support of or in opposition to a candidate or issue constitute "core" political speech, protected from regulation and restriction by the First Amendment to the U.S. Constitution. *Colo. Republican Fed. Campaign Comm. v. F.E.C.*, 518 U.S. 604, 616 (1996). Statutes that require registration and disclosure burden political speech and impose burdens on core First Amendment activity. Such burdens must, therefore, survive "exacting" judicial scrutiny. *Brumsickle*, 624 F.3d at 1005. Requiring BIAW to register and report as a political committee cannot satisfy the "exacting scrutiny" required for burdening core First Amendment activity. Requiring a statewide trade association like BIAW, which provides a wide range of programs to thousands of its members, to disclose "all bank accounts, all deposits and donations, and all expenditures, including the names of each person contributing funds" even when unrelated to electoral campaign activity, would impose a substantial burden. Moreover, it

When the correct test is applied, BIAW does not qualify as a political committee, and it was error for the Court of Appeals to conclude otherwise, even in dicta.

VI. CROSS-PETITION

Petitioners accused BIAW of improper coordination with Mr. Rossi, sought treble damages of \$21 million, and argued BIAW was a "political committee" despite the contrary conclusion by the PDC. They pursued these claim aggressively, and then, after two years of litigation, lost on summary judgment (abandoning their central claim after BIAW filed its motion). Because the claims were frivolous and prosecuted unreasonably, BIAW is entitled to attorneys' fees and costs.

The campaign finance statute provides two separate standards authorizing an award to BIAW of its attorneys' fees and costs. First, RCW 42.17A.765(4)(b) states, "[i]n the case of a citizen's action that is dismissed and that the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all costs of trial and reasonable attorneys' fees incurred by the defendant."

Second, RCW 42.17A.765(5) provides, "If the defendant prevails, he or she shall be awarded all costs of trial, and may be awarded

is beyond dispute that contributions and expenditures at issue in this case have already been reported to the PDC by MSC, the entity that actually made them. Thus, the State gains nothing by requiring duplicative disclosures of the information already available.

reasonable attorneys' fees to be fixed by the court to be paid by the state of Washington." Unlike the former provision, this second provision does not require that the action was brought without reasonable cause, and a claim need not be facially invalid to subject a plaintiff to fees under RCW 42.17A.765. *EFF I*, 111 Wn. App. at 616 (granting fees to defendant on claim that survived summary judgment and was disposed of only at trial). A claim that fails for lack of proof merits an award of fees. *Id.* Furthermore, the citizen enforcement provision is constitutional in part because it provides fees to a defendant who, like BIAW, has been subject to a harassing suit. *Fritz v. Gorton*, 83 Wn.2d 275, 314 (1974).

An award for BIAW under either statutory provision is appropriate. BIAW successfully defended against all claims, including the central "coordination" claim that supposedly justified the demand for \$21 million in damages and emergency deposition. Petitioners lacked reasonable cause under the FCPA: they (or their counsel) knew from the start the PDC and AG had carefully investigated their political committee allegations and rejected them for lack of merit.⁹ And Petitioners never

⁹ Division One found that even though the PDC and AG determined that Petitioners' claims lacked merit, that fact did not warrant awarding BIAW fees in part because "Utter and Ireland disagree with the conclusion of the PDC and the AG." This remarkable reasoning should be rejected. If there is litigation, there is a disagreement, but that does mean the litigation is justified or reasonable. Further, under the court's logic, the deterrent of paying an opponent's fees evaporates in every case (or perhaps in every case in which the plaintiffs are respected public figures), leaving precious few safeguards in place to protect organizations like Planned Parenthood, WEA, WSTLA, BIAW or myriad

offered any evidence of improper coordination. Yet Petitioners waited to abandon their claim until the very end of the case and only *after* BIAW moved for summary judgment.

Petitioners' motives (or the motives of Petitioners' attorneys) also justify an award to BIAW because a fee award is designed to protect against harassing lawsuits. *EFF I*, 111 Wn. App. at 615; *see also Fritz v. Gorton*, 83 Wn.2d 274, 314 (1974). Here, it is clear the Petitioners' motives had little to do with enforcing the FCPA. CP 896 (Justice Utter's "sole reason for involvement in this matter was [his] great concern about the nature of the BIAW involvement in the 2006 election campaign involving a number of judges."); CP 901 (Justice Ireland's motivation "stems from the unfair judicial campaign against Chief Justice Alexander orchestrated by BIAW [in 2006]."); CP 851 (Mr. Lowney said his intent was to harass and embarrass Mr. Rossi on the eve of the election and to "taint the BIAW to the point that candidates will be 'returning their money.""). Of course, publicizing spurious allegations rejected by the PDC and AG that were later dismissed by the trial court does not further any of the policies identified in the FCPA. *See* RCW 42.17A.001.

Because BIAW prevailed in this litigation, and was compelled to endure years of vexatious and oppressive litigation, BIAW is entitled to

other trade associations, garden clubs, and community groups from abusive opponents (or their layers) all too willing to manipulate and abuse the judicial process.

attorneys' fees and costs at trial and on appeal. See RAP 18.1.

RESPECTFULLY SUBMITTED this 14th day of

November, 2013.

Davis Wright Tremaine LLP Attorneys for Respondent/Cross-Appellant

By

Harry J. F. Korrell, WSBA #23173 Robert J. Maguire, WSBA #29909 Davis Wright Tremaine LLP 1201 Third Avenue, Suite 2200 Seattle, WA 98101-3045 (206) 622-3150 Phone (206) 757-7700 Fax

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the state of

Washington that on November 14, 2013, I caused Respondent/Cross-

Appellant's Response to Petition for Review/Cross-Petition for Review to

be served in the above-captioned matter upon the parties herein via

messenger:

Knoll D. Lowney Smith & Lowney, PLLC 2317 East John Street Seattle, WA 98112-5412

Michael W. Withey Law Offices of Michael W. Withey 601 Union Street, Suite 4200 Seattle, WA 98101-4036

Stated under oath this 14th day of November, 2013.

Irrander

Donna Alexander

DWT 22964395v1 0030722-000011

APPX. A.

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NO. 66439-5-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON DIVISION I

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

Appellants,

BUILDING INDUSTRY ASSOCIATION OF WASHINGTON,

v. ·

Respondent and Cross-Appellant.

DECLARATION OF ART CASTLE

DWT 20672621v1 0030722-000011

- I, Art Castle, declare as follows:
 - I am the Executive Vice President of Respondent and Cross-Appellant Building Industry Association of Washington ("BIAW"). If called upon to testify as a witness, I could and would competently testify to the following.
 - 2. I make the following statements based on my personal knowledge and my review of BIAW's contemporaneous records kept in the ordinary course of business.
 - The IRS significantly redesigned Form 990 (the Return of Organization Exempt from Income Tax), effective with the 2008 tax year. See <u>http://www.irs.gov/pub/irs-prior/i990-2008.pdf</u>. As a result, for the 2008 tax year, BIAW filled out the redesigned Form 990 for the first time.
 - 4. After filing its 2008 Form 990, BIAW discovered that it had misunderstood the new form and mistakenly answered "yes" to Part IV, Line 3 of the form confusing lobbying activities with political activities. BIAW did not "engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office" and should have answered "no."
 - 5. BIAW subsequently filed an amended Form 990 correcting the mistake in Part IV, Line 3. The amended form explains the reason

DWT 20672621v1 0030722-000011

for the amendment on page 22 as follows: "The organization is amending the 2008 Form 990 to correctly answer Form 990, Part IV, Line 3. The organization only incurs lobbying expenditures, no political expenditures or activities, and, therefore, should have answered this question "no". As a Result, Schedule C, Part I-A is no longer completed. Schedule C, Part III-B remains the same to properly disclose lobbying expenditures and nondeductible dues information."

6. Attached as <u>Exhibit A</u> to this declaration is a true and correct copy of the amended Form 990 that I signed on June 22, 2011 and had filed with the IRS. Exhibit A bears a stamp showing it was received by the IRS's Ogden, Utah office. The copy of the amended Form 990 attached as Exhibit A was obtained from the website of the Foundation Center using their 990 Finder tool, available at <u>http://foundationcenter.org/findfunders/990finder/</u>. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED this <u>16</u> day of November, at <u>669M11A</u>, WA.

Art Castle

DWT 20672621v1 0030722-000011

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On November 19, 2012, I caused to be served in the manner noted below a copy of the document entitled DECLARATION OF ART CASTLE on the following:

BY LEGAL MESSENGER:

Knoll Lowney c/o Lonnie Lopez Smith & Lowney, PLLC 2317 East John Street Seattle, WA 98112 Michael E. Withey Law Offices of Michael Withey 601 Union Street, Suite 4200 Seattle, WA 98101-4036

I declare under penalty of perjury under the laws of the State of

Washington that the foregoing is true and correct.

Executed this 19th day of November, 2012, in Seattle,

Washington.

Barber

			• . EXTENSION GRANTED TO 11/15	/09	
	0.0		1		OMB No 1545-0047
Form	" 9 9		Return of Organization Exempt Fron		2008
			Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue (benefit trust or private foundation)	ode fexcept pisck lung	2000
	riment of t Izi Revenu	he Treesury a Service	The organization may have to use a copy of this return to satisfy st	ate reporting requirements	Open to Public Inspection
AF	or the	2008 caler	idar year, or tax year beginning and ending		
Вс	heck (f	Please C	Name of organization	D Employer identifi	cation number
-	pplicable.	use IRS B	UILDING INDUSTRY ASSOCIATION OF		
]Address]change	print or W	ASHINGTON		
	Name change	type	Doing Business As	91-6	087698
]mitum	See	Number and street (or P O box if mail is not delivered to street address) Room/s		
	Termin-		.O. BOX 1909	(360	352-7800
	Amende		City or town, state or country, and ZIP + 4	G Gross receipts \$	3,046,466.
	Applica- bon pending		LYMPIA, WA 98507-1909	H(a) is this a group re	
	bet ain B		and address of principal officer: ART CASTLE	for affiliates?	
			21ST AVE SE, OLYMPIA, WA 98501	H(b) Are all affiliates inc	
			X 501(c) (6) ◀ (insert no.) 4947(a)(1) or 527		list. (see instructions)
			.BIAW.COM	H(c) Group exemption	
		ganization		rear of formation 1966 N	State of legal domicile WA
Pa		Summar		000 000	CONFORTON
8			the organization's mission or most significant activities: \underline{SEE} FORM	990, PART II.	I, QUESTION
Activities & Governance	1				
- E		heck this b		1_1	272
ģ			oting members of the governing body (Part VI, line 1a)	3	272
			Idependent voting members of the governing body (Part VI, line 1b)		
Ĕ			r of employees (Part V, Ine 2a)	5	333
ž			r of volunteers (estimate if necessary)	73	8,020.
۲			Inrelated business revenue from Part VIII, ine 12, column (C) d business taxable income from Form 990-T, ine 34	· (/a)	<1,435.>
		ST UIII CIALE	5 DUSINESS (2220) 1100/18 110/11 FOITH 830-1, 1418 04	Prior Yeat	Current Year
	8 C	ontribution	s and grants (Part Vill; line 1h)		1,120,725.
Ž			vice revenue (Part VIII, line 2g)	1,526,730.	915,834.
Revenue		+	ncome (Part VIII, column (A), lines 3, 4, and 7d)	359,806.	360,603.
E			e (Part VIII, column (A), Ines 5, 6d, 8c, 9c, 10c, and 11e)	750,800.	8,020.
			e - add lines 8 through 11 (must equal Part Vill, Column (A), line 12)	2,637,336.	2,405,182.
			umilar amounts paid (Part IX, column as times tai VED		
			to or for members (Part IX, column (A), ine 4)		
8	15 Sa	laries, oth	er compensation, employee beforits (Part X, scolyma (A) direct 10)	604,708.	711,468.
š	16a Pr	ofessional	tunoralsing tees (Part IX, coluinn (A), line 11e)		
Expenses	b To	ital fundrai	sing expenses (Part IX, column (D); time 25)		
			ses (Part IX, column (A), lines 1=11日日日日, UT	659,063.	492,522.
	18 To	tal expens	es. Add lines 13-17 (must equal Part IX, column (A), line 25)	1,263,771.	1,203,990.
	19 Re	venue les	expenses. Subtract line 18 from line 12	1,373,565.	1,201,192.
ts or ances	~ ~			Beginning of Year	End of Year
600			(Part X, line 16)	8,731,108.	8,236,708.
تق ک			s (Part X, line 26)	43,052. 8,688,056.	40,656.
Pa		-	re Block	0,000,030.	8,196,052.
				te, and to the best of my knowledg	and ballet, it is true, correct.
-	a.	id complete (of perjury, I decide plat I have focus field they pairing, including accompanying schedules and statemet accession of pregnet (other blog afficie) restand on sit information of which preparer has any knowle	dge ///	
Sign			Mailkle,	6/22/70	//
Here		Signatu	re of officer		
	Í	ART	CASTLE, EXECUTIVE VP		
		Type or	print name and title		
Paid	P	reparer's	li anala 1		
Prepa	سبيبا واوهده	anature 📕	Manannen		
Use 0	inty yo	m's name (of urs d	MOSS ADAMS LLP		
		il-employed), dress, and	1301 A STREET, SUITE 60		
<u></u>	21	2+4	TACOMA, WA 98402-4205		
			is return with the preparer shown above? (see inst		
832001	12-18-0 FXH		For Privacy Act and Paperwork Reduction Act N - Page 4		
			· ••9~ ·		

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нь (с — — — — — — — — — — — —					
Hi (C	Code:				
-) (Expenses \$	including grants of \$) (Revenue \$	
Ī	NDUSTRY VIA	RMATION ON N NEWSLETTER,	EW DEVELOPMENTS AND ISS MEETINGS & CONFERENCES BOR & INDUSTRIES ISSUES	SUES REGARDING OF	THE NEW
S a	action 501 (c)(3) and 50	01(c)(4) organizations and a total expenses, and rev	d section 4947(a)(1) trusts are required to report renue, if any, for each program service reports 42,009 . including grants of \$	ort the amount of grants and ad.	2,405,182
11	"Yes", describe these	changes on Schedule O	significant changes in how it conducts, any p) each of the organization's three largest progra		🗌 Yes 🛣
ti If	ne prior Form 990 or 99 "Yes", describe these	90-EZ? new services on Schedu			Yes X
Ī	DEDICATED TO INDUSTRY FOR	ENSURING AN THE BENEFIT	D ENHANCING THE VITALIT OF ITS MEMBERS AND THE	E HOUSING NEEDS	ING

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BUILDING INDUSTRY ASSOCIATION OF WASHINGTON

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			Yes	No
1	is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)?			
	if "Yes," complete Schedule A	1		X
2	Is the organization required to complete Schedule B, Schedule of Contributors?	2		X
3	Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for			
	public office? If "Yes," complete Schedule C, Part I	3		X
° 4	Section 501(c)(3) organizations. Did the organization engage in lobbying activities? If "Yes," complete Schedule C, Part II	4		
5	Section 501(c)(4), 501(c)(5), and 501(c)(6) organizations. Is the organization subject to the section 6033(e) notice and		-	
	reporting requirement and proxy tax? If "Yes," complete Schedule C, Part III	5	X	
6	Did the organization maintain any denor advised funds or any accounts where denors have the right to provide advice			1
	on the distribution or investment of amounts in such funds or accounts? If "Yes," complete Schedule D, Part I	6		X
7	Did the organization receive or hold a conservation easement, including easements to preserve open space,			
	the environment, historic land areas, or historic structures? If "Yes," complete Schedule D, Part II	7		X
8	Did the organization maintain collections of works of art, historical treasures, or other similar assets? If "Yes," complete			
	Schedule D, Part III	8		X
9	Did the organization report an amount in Part X, line 21; serve as a custodian for amounts not listed in Part X, or provide			
	credit counseling, debt management, credit repair, or debt negotiation services? If "Yes," complete Schedule D, Part IV	9		X
10	Did the organization hold assets in term, permanent, or quasi-endowments? If "Yes," complete Schedule D, Part V	10		X
11	Did the organization report an amount in Part X, lines 10, 12, 13, 15, or 25?			
	If "Yes," complete Schedule D, Parts VI, VII, VII, IX, or X as applicable	11	X	
12	Did the organization receive an audited financial statement for the year for which it is completing this return that was			
	prepared in accordance with GAAP? If "Yes," complete Schedule D, Parts XI, XII, and XIII	12		X
13	Is the organization a school as described in section 170(b)(1)(A)(ii)? If "Yes," complete Schedule E	13		X
	Did the organization maintain an office, employees, or agents outside of the U.S.?	14a		X
Ь	Did the organization have aggregate revenues or expenses of more than \$10,000 from grantmaking, fundraising, business,			
	and program service activities outside the U.S.? If "Yes," complete Schedule F, Part I	14b		X
15	Did the organization report on Part IX, column (A), line 3, more than \$5,000 of grants or assistance to any organization or entity	r i		v
	located outside the United States? If "Yes," complete Schedule F, Part II	15		X
16	Did the organization report on Part IX, column (A), line 3, more than \$5,000 of aggregate grants or assistance to individuals			x
	located outside the United States? If "Yes," complete Schedule F, Part III	16		X
17	Did the organization report more than \$15,000 on Part IX, column (A), time 11e? If "Yes," complete Schedule G, Part I	17		X
18	Did the organization report more than \$15,000 total on Part VIII, lines 1c and 8a? If "Yes," complete Schedule G, Part II	18		X
19	Did the organization report more than \$15,000 on Part VIII, line 9a? If "Yes," complete Schedule G, Part III	19		X
20	Did the organization operate one or more hospitals? If "Yes," complete Schedule H	20		X
21	Did the organization report more than \$5,000 on Part IX, column (A), line 1? If "Yes," complete Schedule I, Parts I and II	21		X
22	Did the organization report more than \$5,000 on Part IX, column (A), line 2? If "Yes," complete Schedule), Parts I and III	22 23	X	
23	Did the organization answer "Yes" to Part VII, Section A, questions 3, 4, or 5? If "Yes," complete Schedule J	23		
6 48	Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than \$100,000 as of the last day of the year, that was issued after December 31, 2002? If "Yes," answer questions 24b-24d and complete Schedule K			
	If "No", go to question 25	24a	Í	X
h	Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?	24b		
	Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease	240		
U	any tax-exempt bonds?	24c		
d	Did the organization act as an "on behalf of" issuer for bonds outstanding at any time during the year?	24d		
	Section 501(c)(3) and 501(c)(4) organizations. Did the organization engage in an excess benefit transaction with a	~~~~		
	disqualified person during the year? If "Yes," complete Schedule L, Part I	25a		
Ь	Did the organization become aware that it had engaged in an excess benefit transaction with a disgualified person from a			
5	phor year? If "Yes," complete Schedule L. Part I	25b		
26	Was a loan to or by a current or former officer, director, trustee, key employee, highly compensated employee, or disqualified			
	person outstanding as of the end of the organization's tax year? // "Yes, " complete Schedule L, Part II-	26		Χ_
27	Did the organization provide a grant or other assistance to an officer, director, trustee, key employee, or substantial	1		
	contributor, or to a person related to such an individual? If "Yes," complete Schedule L, Part III	27		X

Form 990 (2008)

EXHIBIT A - Page 6 08440621 099308 58465

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Form 990 (2008)

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Part IV Checklist of Required Schedules

BUILDING INDUSTRY ASSOCIATION OF WASHINGTON

Form 990 (2008) Part IV Checklist of Required Schedules (continued)

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			Yes	No
28	During the tax year, did any person who is a current or formar officer, director, trustee, or key employee:			
. a	Have a direct business relationship with the organization (other than as an officer, director, trustee, or employee), or an			Į
	indirect business relationship through ownership of more than 35% in another entity (individually or collectively with other			ļ
	person(s) listed in Part VII, Section A)? If "Yes," complete Schedule L, Part IV	284		X
b	Have a family member who had a direct or indirect business relationship with the organization?			
	If "Yes," complete Schedule L, Part IV	285		X
C	Serve as an officer, director, trustee, key employee, partner, or member of an entity (or a shareholder of a professional			
	corporation) doing business with the organization? If "Yes," complete Schedule L, Part IV	28c		X
29	Did the organization receive more than \$25,000 in non-cash contributions? If "Yes," complete Schedule M	29		X
30	Did the organization receive contributions of art, historical treasures, or other similar assets, or qualified conservation			
	contributions? If "Yes," complete Schedule M	30		X
31	Did the organization liquidate, terminate, or dissolve and cease operations?			
	If "Yes," complete Schedule N, Part I	31		X
32	Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? If "Yes," complete			
	Schedule N, Part II	32		X
33	Did the organization own 100% of an entity disregarded as separate from the organization under Regulations			
	sections 301.7701-2 and 301.7701-3? If "Yes," complete Schedule R, Part I	33		X
34	Was the organization related to any tax-exempt or taxable entity?			
	If "Yes," complete Schedule R, Parts II, III, IV, and V, line 1	34	X	
35	is any related organization a controlled entity within the meaning of section 512(b)(13)?			
	If "Yes," complete Schedule R, Part V, line 2	35	X	
36	Section 501(c)(3) organizations. Did the organization make any transfers to an exempt non-chantable related organization?			
	If "Yes," complete Schedule R, Part V, line 2	36		
57	Did the organization conduct more than 5% of its activities through an entity that is not a related organization			
	and that is treated as a partnership for federal income tax purposes? If "Yes," complete Schedule R, Part VI	37		X

im 990 (2008)

832004 12-18-08 EXHIBIT A - Page 7 08440621 099308 58465

	BUILDING INDUSTRY ASSOCIATION OF WASHINGTON	91-608	7698	F	age (
Par	V Statements Regarding Other IRS Filings and Tax Compliance		·		1.5
1=	Enter the number reported in Box 3 of Form 1096, Annual Summary and Transmittal of	1		Yes	No
	U.S. Information Returns. Enter -0- if not applicable	18 1.	4		
	Enter the number of Forms W-2G included in line 1a. Enter -0- if not applicable	a second seco	อี	[[
	Did the organization comply with backup withholding rules for reportable payments to vendors and		7		
	gambling) winnings to prize winners?		10	x	1
	Enter the number of employees reported on Form W-3, Transmittal of Wage and Tax Statements,	1 1			<u> </u>
	filed for the calendar year ending with or within the year covered by this return	2a	D		
	If at least one is reported on line 2a, did the organization file all required federal employment tax ret		2b	[
	Note. If the sum of lines 1a and 2a is greater than 250, you may be required to e-file this return. (se				\vdash
	Did the organization have unrelated business gross income of \$1,000 or more during the year cove	•	3a	x	ł
	if "Yes," has it filed a Form 990-T for this year? If "No," provide an explanation in Schedule O		36	X	<u> </u>
	At any time during the calendar year, did the organization have an interest in, or a signature or othe	r authority over, a			<u> </u>
	inancial account in a foreign country (such as a bank account, securities account, or other financial	=	4a		X
	f "Yes," enter the name of the foreign country:				<u> </u>
	See the instructions for exceptions and filing requirements for Form TD F 90-22.1, Report of Foreign	Bank and			1
	Financial Accounts.				
	Nas the organization a party to a prohibited tax shelter transaction at any time during the tax year?	, .	5a		x
	Ind any taxable party notify the organization that it was or is a party to a prohibited tax shelter trans		5b		X
	f "Yes." to question 5a or 5b, did the organization file Form 8886-T. Disclosure by Tax-Exempt Entit				
	Fax Shelter Transaction?		5c		
	Did the organization solicit any contributions that were not tax deductible?		6a		X
	f "Yes," did the organization include with every solicitation an express statement that such contribution	utions or aifts			
	vere not tax deductible?		65		}
	Organizations that may receive deductible contributions under section 170(c).				
	Ad the organization provide goods or services in exchange for any quid pro quo contribution of mo	re than \$75?	7.		_
	"Yes," did the organization notify the donor of the value of the goods or services provided?		76		
	Id the organization sell, exchange, or otherwise dispose of tangible personal property for which it	was required			
	o file Form 8282?		7c		
dl	"Yes," indicate the number of Forms 8282 filed during the year	7d			
• [Id the organization, during the year, receive any funds, directly or indirectly, to pay premiums on a	personal			ŧ
t	penefit contract?		7.	_	
1 [nd the organization, during the year, pay premiums, directly or indirectly, on a personal benefit con	tract?	71		
g F	or all contributions of qualified intellectual property, did the organization file Form 8899 as required	12	79		
h F	or contributions of cars, boats, airplanes, and other vehicles, did the organization file a Form 1098	-C as required?	7h		
8 5	ection 501(c)(3) and other sponsoring organizations maintaining donor advised funds and se	ction 509(a)(3)			
5	upporting organizations. Did the supporting organization, or a fund maintained by a sponsoring of	organization, have			ļ
	xcess business holdings at any time during the year?		8		
9 S	ection 501(c)(3) and other sponsoring organizations maintaining donor advised funds.				
a C	id the organization make any taxable distributions under section 4966?		9a		
	id the organization make a distribution to a donor, donor advisor, or related person?		95		
	ection 501(c)(7) organizations. Enter. N/A	1 .1			:
	ntiation fees and capital contributions included on Part VIII, line 12	10a			
	iross receipts, included on Form 990, Part VIII, line 12, for public use of club facilities	10b		[
	ection 501(c)(12) organizations. Enter: N/A	1 1			
	iross income from members or shareholders	11a			
	iross income from other sources (Do not net amounts due or paid to other sources against		[]		
	mounts due or received from them)	11b			
	ection 4947(a)(1) non-exempt charitable trusts. Is the organization filing Form 990 in lieu of Form	1 1	128		
DI	"Yes," enter the amount of tax-exempt interest received or socrued during the year N/A	125) 086	

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	Internal Revenue Code)	nequired	o oy u	
Şec	ction A. Governing Body and Management			
			Yes	5
	For each "Yes" response to lines 2-7b below, and for a "No" response to lines 8 or 9b below, describe the circumstances,			
	processes, or changes in Schedule O. See instructions			
1a	Enter the number of voting members of the governing body 1a 27	72		
b	Enter the number of voting members that are independent 1b 27	72	1	
2	Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other			
	officer, director, trustee, or key employee?	2		
3	Did the organization delegate control over management duties customarily performed by or under the direct supervision		T	
	of officers, directors or trustees, or key employees to a management company or other person?	3		
4	Did the organization make any significant changes to its organizational documents since the prior Form 990 was filed?	4		
5	Did the organization become aware during the year of a material diversion of the organization's assets?	5		
6	Does the organization have members or stockholders?	6	X	
- 7a	Does the organization have members, stockholders, or other persons who may elect one or more members of the			
	governing body?	78	x	
b	Are any decisions of the governing body subject to approval by members, stockholders, or other persons?	70	X	
8	Did the organization contemporaneously document the meetings held or written actions undertaken during the year		<u>†</u>	
-	by the following:		1	
	The governing body?	8a	x	
	Each committee with authority to act on behalf of the governing body?	85	X	
	Does the organization have local chapters, branches, or affiliates?	98	+	
	If "Yes," does the organization have written policies and procedures governing the activities of such chapters, affiliates,			
	and branches to ensure their operations are consistent with those of the organization?	96		
10	Was a copy of the Form 990 provided to the organization's governing body before it was filed? All organizations must	- 90	┟──	
10		1.0	1	
11	describe in Schedule O the process, if any, the organization uses to review the Form 990	10	f	
••	Is there any officer, director or trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? If "Yes," provide the names and addresses in Schedule O	11		
Sec				
Sec	tion B. Policies		Yes	
	tion B. Policies		Yes	
122	tion B. Policies Does the organization have a written conflict of interest policy? <i>If "No," go to line 13</i>	123	Yes X	
122	tion B. Policies		_	
12a b	tion B. Policies Does the organization have a written conflict of interest policy? <i>If "No," go to line 13</i> Are officers, directors or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	12a	_	
12a b	tion B. Policies Does the organization have a written conflict of interest policy? <i>If "No," go to line 13</i> Are officers, directors or trustees, and key employees required to disclose annually interests that could give rise	12a 12b	_	
12a b	tion B. Policies Does the organization have a written conflict of interest policy? <i>If "No," go to line 13</i> Are officers, directors or trustees, and key employees required to disclose annually interests that could give rise to conflicts? Does the organization regularly and consistently monitor and enforce compliance with the policy? <i>If "Yes," describe</i> <i>in Schedule O how this is done</i>	12a 12b 12c	X	
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BUILDING INDUSTRY ASSOCIATION OF WASHINGTON

Part VII Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors

Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees

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Form 990 (2008)

1a Complete this table for all persons required to be listed. Use Schedule J-2 if additional space is needed

• List all of the organization's current officers, directors, trustees (whether individuals or organizations), regardless of amount of compensation, and current key employees. Enter -0- in columns (D), (E), and (F) if no compensation was paid.

• List the organization's five current highest compensated employees (other than an officer, director, trustee, or key employee) who received reportable compensation (Box 5 of Form W-2 and/or Box 7 of Form 1099-MISC) of more than \$100,000 from the organization and any related organizations.

• List all of the organization's former officers, key employees, and highest compensated employees who received more than \$100,000 of reportable compensation from the organization and any related organizations.

 List all of the organization's former directors or trustees that received, in the capacity as a former director or trustee of the organization, more than \$10,000 of reportable compensation from the organization and any related organizations.

List persons in the following order: individual trustees or directors; institutional trustees; officers; key employees; highest compensated employees; and former such persons.

Check this box if the organization did not compensate any officer, director, trustee, or key employee.

(A) Name and Title	(B) Average				C) ation)		(D) Reportable	(E) Reportable	(F) Estimated
	hours per	-	heci	k all	that	: apj	pily) T	compensation from	compensation from related	amount o other
	week	Indexedual Investme or datactor	extend innotation	Officer	Kay singlayee	Highest companying	fame	the organization (W-2/1099-MISC)	organizations (W-2/1099-MISC)	compensat from the organizatio and relate organizatio
DAIMON DOYLE PAST PRESIDENT	1.50			x				0.	0.	
KYLE LAPIERRE FIRST VICE PRESIDENT	1.50			x	-			0.	0.	
BRAD SPEARS PRESIDENT	1.50			x		\square		0.	0.	
LINDA MOSIER-VAUDT SECOND VICE PRESIDENT	1.50			x				0.	0.	
MATT CLARKSON TREASURER	1.50			x				0.	0.	
JULI BACON SECRETARY	1.50			X				0.	0.	
TOM MCCABE EXECUTIVE VP	15.00				x			0.	319,080.	26,23
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32007 12-18-08									F	Form 990 (20
EXHIBIT A - Page 10 10621 099308 58465	2008.	06	00	0	7 BU		DI	NG INDUSTRY	ASSOCIATI 5	58465

(A) Name and title	(B) Average			-	C) ation	1		(D) Reportable	(E) Reportable	(F) Estim
	hours				that		oly)	compensation	compensation	
	week	Individual Fuelon or chincler	trentutional tratto	Officer	Kay amployee	Highed compensated tradeum	Former	the organization (W-2/1099-MiSC)	from related organizations (W-2/1099-MISC	compen
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1b Total								<u> </u>	319,08	0. 26,
2 Total number of individuals (including th compensation from the organization	ose in 1a) who re	ceiv	n be	n078	tha	n \$1	00,0	100 in reportable		► Yet
3 Did the organization list any former offic line 1a? If "Yes," complete Schedule J fo	r such individual	I								3
 4 For any individual listed on line 1a, is the and related organizations greater than \$ 5 Did any person listed on line 1a receive of 	150,000? // "Yes, or accrue compe	," <i>coi</i> nsati	mple on f	ste S	Sche	duk	JI	or such individual		4 X
the organization? If "Yes," complete Sch Section B. Independent Contractors	edule J for such	pers	on							5 /
1 Complete this table for your five highest the organization NONE	compensated in	depe	nde	nt c	ontr	acto	vs th		\$100,000 of comp	
(A) Name and busine	ss address						_	(B) Description of s	ervices	(C) Compensati
							Ţ			
						·				
2 Total number of independent contractors from the organization	i (including those 0	9 IN 1) wh	o re	Ceiv	ed n	nore	than \$100,000 in com;	pensation	•

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2 a PROGRAM ASSESSMEN b EDUCATION PROGRAM c OTHER INCOME-ROYA d f All other program service revenue g Total_Add lines 2a-21 investment income (including divic other similar amounts) income from investment of tax-exe f Royalties 6 a Gross Rents b Less rental expenses c Rental income or (loss) d Net rental income or (loss) d Net rental income or (loss) f All other gain or (loss) d Net rental income or (loss) d Net gain or (loss) d Se Gross income from fundraising even including \$ contributions reported on line 1c). Part IV, line 18 b Less: clirect expenses c Net income or (loss) from gaming activitie Part IV, line 19 b Less: cost of goods sold c Net income or (loss) from gaming a 10 a Gross aales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from gaming a	nd 11				
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Total. Add lines 2a-21 Investment income (including divid other similar amounts) Income from investment of tax-exe Royalties Boyalties Berntal income or (loss) d Net rental income or (loss) d Net gain or (loss) from fundraising even including \$ contributions reported on line 1c). Part IV, line 18 b Less: direct expenses c Net income or (loss) from fundraising a divide Part IV, line 19 b Less: clirect expenses c Net income or (loss) from gaming a 10 a Gross aales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of inventory. Iss return and allowances b Less: cost of goods sold c Net income or (loss) from sales of inventory. Iss return and allowances b Less: cost of goods sold c Net income or (loss) from sales of inventory. Iss return and allowances b Less: cost of goods sold c Net income or (loss) from sales of inventory. Iss return and allowances b Less: cost of goods sold c Net income or (loss) from sales of inventory. Iss return and allowances b Less: cost of goods sold c Net income or (loss) from sales of inventory. Inventory test return and allowances b Less: cost of goods sold c Net income or (loss) from sales of inventory. Inv		9,758.	213,310.		9,7
 Investment income (including divident other similar amounts) Income from investment of tax-exe Royalties Boyalties G a Gross Rents Less rental expenses Rental income or (loss) Net rental income or (loss) Net rental income or (loss) Income the transition of transition of the transition of t					
other similar amounts) 4 income from investment of tax-axe 5 Royalties 6 a Gross Rents b Less rental expenses c Rental income or (loss) d Net rental income or (loss) 7 a Gross amount from sales of assets other than inventory b Less: cost or other basis and sales expenses c Gain or (loss) 8 a Gross income from fundraising even including \$ contributions reported on line 1c). 9 Part IV, line 18 b Less: direct expenses c Net income or (loss) from gaming activitie Part IV, line 19 b Less: cost of goods sold c Net income or (loss) from gales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of inventory, less return and allowances 11 a ADVERTISING	>	915,834.			
5 Royalties 6 = Gross Rents - b Less rental expenses - c Rental income or (loss) - d Net rental income or (loss) - 7 = Gross amount from sales of assets other than inventory - b Less: cost or other basis and sales expenses - c Gain or (loss) - d Net gain or (loss) - 8 = Gross income from fundraising even including \$ - contributions reported on line 1c). - Part IV, line 18 - b Less: clirect expenses - c Net income or (loss) from fundraisar 9 g Gross income from gaming activitie Part IV, line 19 - b Less: clirect expenses - c Net income or (loss) from gaming at 10 a Gross sales of inventory, less return and allowances - b Less: cost of goods sold - c Net income or (loss) from sales of in - 11 a ADVERTISING -	►	234,564.			234,5
b Less rental expenses c Rental income or (loss) d Net rental income or (loss) 7 a Gross amount from sales of (0) assets other than inventory b Less: cost or other basis and sales expenses c Gain or (loss) d Net gain or (loss) 8 a Gross income from fundraising even including \$ contributions reported on line 1c). Part IV, line 18 b Less: clirect expenses c Net income or (loss) from fundraisar 9 a Gross income from gaming activitie Part IV, line 19 b Less: clirect expenses c Net income or (loss) from gaming a 10 a Gross sales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of in <u>Miscelianeous Revenue</u> 11 a <u>ADVERTISING</u>	>				
c Rental income or (loss) d Net rental income or (loss) 7 a Gross amount from sales of assets other than inventory b Less: cost or other basis and sales expenses c Gain or (loss) d Net gain or (loss) 8 a Gross income from fundraising even including \$ contributions reported on line 1c). Part IV, line 18 b Less: direct expenses c Net income or (loss) from fundraising 9 a Gross income from gaming activitie Part IV, line 19 b Less: direct expenses c Net income or (loss) from gaming at 10 a Gross sales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of in <u>Miscelianeous Revenue</u> 11 a <u>ADVERTISING</u>	(i) Real (ii) Personal	-			
 7.a Gross amount from sales of assets other than inventory b Less: cost or other basis and sales expenses c Gain or (loss) d Net gain or (loss) 8 a Gross income from fundraising even including \$ contributions reported on line 1c). Part IV, line 18 b Less: direct expenses c Net income or (loss) from fundraisar 9 a Gross income from gaming activities Part IV, line 19 b Less: direct expenses c Net income or (loss) from gaming a 10 a Gross sales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of in Miscelianeous Revenue 11 a ADVERTISING 	· · · · · · · · · · · · · · · · · · ·	-			
b Less: cost or other basis and sales expenses 6 Gain or (loss) d Net gain or (loss) 8 Gross income from fundraising even including \$ contributions reported on line 1c). Part IV, line 18 b Less: direct expenses c Net income or (loss) from fundraisar 9 a Gross income from gaming activitie Part IV, line 19 b Less: direct expenses c Net income or (loss) from gaming a 10 a Gross sales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of in <u>Miscelianeous Revenue</u> 11 a <u>ADVERTISING</u>	Securities (ii) Other	_			
e Gain or (loss) 12 d Net gain or (loss) 8 e Gross income from fundraising even including \$ contributions reported on line 1c). Part IV, line 18 b Less: direct expanses c Net income or (loss) from fundraisar 9 a Gross income from gaming activitie Part IV, line 19 b Less: direct expenses c Net income or (loss) from gaming a 10 a Gross sales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of in <u>Miscelianeous Revenue</u> 11 a <u>ADVERTISING</u>	7,323.	4			
 8 Gross income from fundraising even including \$	6,039.				
 including \$	►►	126,039.	126,039.		
 c Net income or (loss) from fundraisar 9 a Gross income from gaming activitie Part IV, kine 19 b Less: direct expenses c Nat income or (loss) from gaming a 10 a Gross sales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of in <u>Miscellaneous Revenue</u> 11 a <u>ADVERTISING</u> 	of				
 c Net income or (loss) from fundraisar 9 a Gross income from gaming activitie Part IV, kine 19 b Less: direct expenses c Nat income or (loss) from gaming a 10 a Gross sales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of in <u>Miscelianeous Revenue</u> 11 a <u>ADVERTISING</u> 	a b	-			
 9 a Gross income from gaming activitie Part IV, ine 19 b Less: direct expenses c Net income or (loss) from gaming a 10 a Gross sales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of in <u>Miscelianeous Revenue</u> 11 a <u>ADVERTISING</u> 	nd events	1 1	. }		
b Less: direct expenses c Net income or (loss) from gaming a 10 a Gross sales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of ir <u>Miscellaneous Revenue 11 a ADVERTISING</u>	~				
c Nat income or (loss) from gaming a 10 a Gross sales of inventory, less return and allowances b Less: cost of goods sold c Net income or (loss) from sales of in <u>Miscellaneous</u> Revenue 11 a <u>ADVERTISING</u>	b	1			
10 a Gross sales of inventory, less return and allowances b Less: cost of goods sold c. Net income or (loss) from sales of in Miscellaneous Revenue 11 a ADVERTISING	ctivities	<u>ا ا</u>]		
b Less: cost of goods sold c Net income or (loss) from sales of in <u>Miscellaneous Revenue</u> 11 a <u>ADVERTISING</u>					
c Net income or (loss) from sales of in Miscellaneous Revenue 11 • ADVERTISING	· b	1 1			
Miscellaneous Revenue	nventory	1 1	1		
11 • ADVERTISING	Business Code	J			
	541800	8,020.	<u></u>	8,020.	
		}}			
d All other revenue		┟────┤			
e Total. Add lines 11a-11d	└── <u>─</u>	8,020.			·····
12 Total Revenue, Add lines 11, 20, 3, 4, 5, 6d	•	2,405,182.	339,357.	8,020.	027 00

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BUILDING INDUSTRY ASSOCIATION OF Form 990 (2008) WASHINGTON Part IX Statement of Functional Expenses

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	o not include amounts reported on lines 6b, , 8b, 9b, and 10b of Part VIII.	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraisi expense
1	Grants and other assistance to governments and				
	organizations in the U.S. See Part IV, line 21				
2	Grants and other assistance to individuals in				
	the U.S. See Part IV, line 22				
3	Grants and other assistance to governments,				
	organizations, and individuals outside the U.S.				
	See Part IV, lines 15 and 16				
4	Benefits paid to or for members		······		
5	Compensation of current officers, directors,	ļ			
	trustees, and key employees				
6	Compensation not included above, to disgualified	}			
	persons (as defined under section 4958(f)(1)) and]		1	
	persons described in section 495B(c)(3)(B)			·	
7	Other salaries and wages	592,148.			
8	Pension plan contributions (include section 401(k)				
	and section 403(b) employer contributions)	28,480.			
9	Other employee benefits	46,812.			
10	Payroli taxes	44,028.			
11	Fees for services (non-employees):				
8	Management	29,348.			
t	Legal			L	
C	Accounting	4,799.		I	
¢	Lobbying				
e	Professional fundraising services See Part IV, line 17				
f	Investment management fees		·		
9	Other				
12	Advertising and promotion	52,528.			
13	Office expenses	61,589.			
14	Information technology	8,438.			·
15	Royalties				
16	Occupancy				
17	Travel		·		
18	Payments of travel or entertainment expenses			1	
	for any federal, state, or local public officials				
19	Conferences, conventions, and meetings				
20	Interest		· · · · · · · · · · · · · · · · · · ·		
21	Payments to affiliates				
22	Depreciation, depletion, and amortization	581.			
23	Insurance		· · · · · · · · · · · · · · · · · · ·		
24	Other expenses itemize expenses not covered above (Expenses grouped together and labeled miscellaneous may not exceed 5% of total expenses shown on line 25 below)				
9	EDUCATION PROGRAM	189,078.			
ь	COMMITTEE & PROGRAM SER	114,331.			<u>.</u>
a	LEGIS POLICY STRATEGY	18,793.			
d	AREA 15 VP &1/MEMBER	13,037.			
f	All other expenses				
5	Total functional expenses Add lines 1 through 24f	1,203,990.			
	Joint Costs Check here				
-	SOP 98-2 Complete this line only if the organization	[ĺ		
	reported in column (B) joint costs from a combined	1		{	
	educational campaign and fundraising solicitation				
	0 12-18-08	······	<u></u>		Form 990

BUILDING INDUSTRY ASSOCIATION OF WASHINGTON

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Form 990 (2008)

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Cash - non-interest-bearing Savings and temporary cash investments Pledges and grants receivable, net Accounts receivable, net Receivables from current and former officers, directors, trustees, key employees, or other related parties. Complete Part II of Schedule L Receivables from other disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B). Complete Part II of Schedule L	1,309,001. 7,294,557. 125,516.	1 2 3 4 5	267,60 6,759,80 1,207,85
Savings and temporary cash investments Pledges and grants receivable, net Accounts receivable, net Receivables from current and former officers, directors, trustees, key employees, or other related parties. Complete Part II of Schedule L Receivables from other disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B). Complete	7,294,557.	3 4	6,759,80
Piedges and grants receivable, net Accounts receivable, net Receivables from current and former officers, directors, trustees, key employees, or other related parties. Complete Part II of Schedule L Receivables from other disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B). Complete		3 4	
Accounts receivable, net Receivables from current and former officers, directors, trustees, key employees, or other related parties. Complete Part II of Schedule L Receivables from other disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B). Complete	125,516.	4	1,207,85
Receivables from current and former officers, directors, trustees, key employees, or other related parties. Complete Part II of Schedule L Receivables from other disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B). Complete			
employees, or other related parties. Complete Part II of Schedule L Receivables from other disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B). Complete		5	
Receivables from other disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B). Complete			
4958(1)(1)) and persons described in section 4958(c)(3)(B). Complete			
		8	
Notes and loans receivable, net	·····	7	
Inventories for sale or use		8	······
		9	
Prepaid expenses and deferred charges			
	0 004		1 45
	2,034.		1,45
Investments - other secunties. See Part IV, line 11		12	
investments · program-related. See Part IV, line 11		13	
Intangible assets		14	
Other assets See Part IV, line 11		15	
Total assets. Add lines 1 through 15 (must equal line 34)		16	8,236,70
Accounts payable and accrued expenses	43,052.	17	40,65
Grants payable		18	
Deferred revenue		19	
Tax-exempt bond liabilities		20	
· · ·		21	
· · ·			······································
•			
		22	
	······································		
· •			
· · · · · · ·	12 052	_	40,65
	43,032.	20	40,05
- .	0 600 056		9 106 05
	0,000,030.		8,196,05
		29	
Organizations that do not follow SFAS 117, check here 🕨 🛄 and			
complete lines 30 through 34.		1	
Capital stock or trust principal, or current funds		30	
Paid in or capital surplus, or land, building, or equipment fund		31	
Retained earnings; endowment, accumulated income, or other funds	·	32	
Total net assets or fund balances	8,688,056.	33	8,196,05
Total liabilities and net assets/fund balances	8,731,108.	34	8,236,70
	Intangible assets Other assets See Part IV, line 11 Total assets. Add lines 1 through 15 (must equal line 34) Accounts payable and accrued expenses Grants payable Deferred revenue Tax-exempt bond liabilities Eacrow account liability. Complete Part IV of Schedule D Payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons. Complete Part II of Schedule L Secured mortgages and notes payable to unrelated third parties Unsecured notes and loans payable Other liabilities. Add lines 17 through 25 Organizations that follow SFAS 117, check here ▶ [X] and complete lines 27 through 29, and lines 33 and 34. Unrestricted net assets Permanently restricted net assets Organizations that do not follow SFAS 117, check here ▶ [] and complete lines 30 through 34. Capital stock or trust principal, or current funds Paid-in or capital surplus, or land, building, or equipment fund Retained earnings; endowment, accumulated income, or other funds Total net assets or fund balances	Less: accumulated depreciation. Complete 10b 22,872. 2,034. Investments - publicly traded securities 10b 22,872. 2,034. Investments - other securities. See Part IV, line 11 11 11 11 Investments - program-related. See Part IV, line 11 11 11 11 Investments - program-related. See Part IV, line 11 11 11 11 Intragible assets 64,731,108. 8,731,108. 10 Accounts payable and accrued expenses 43,052. 143,052. Grants payable Deferred revenue 22,872. 10 Tax-axempt bond liabilities Escrow account liability. Complete Part IV of Schedule D 20 20 Payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons. Complete Part II 5 5 Of Schedule L Secured mortgages and notes payable to unrelated third parties 20 43,052. Unsecured notes and boans payable 0 43,052. 43,052. Organizations that follow SFAS 117, check here X and complete 43,052. Organizations that follow SFAS 117, check here X and complete 8,688,	Less: accumulated depreciation. Complete Part VI of Schedule D Investments - publicly traded securities Investments - programmelated. See Part IV, line 11 Investments - programmelated. See Part IV, line 11 Intangible assets Other assets See Part IV, line 11 Intangible assets. Add lines 1 through 15 (must equal line 34) Accounts payable Deferred revenue Taxexempt bond liabilities Eacrow account liability. Complete Part IV of Schedule D Payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons. Complete Part II of Schedule L Secured mortgages and notes payable Unsecured notes and loans payable Other liabilities. Add lines 17 through 25 Total liabilities. Add lines 31 through 25 Organizations that follow SFAS 117, check here ▶ Ines 27 through 29, and lines 33 and 34. Unrestricted net assets Permanently restricted net assets Permanently restricted net assets Permanently restricted net assets Payables to current funds Payables to current funds Secured mortgages and notes payable Other liabilities. Add lines 33

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	Balitiaal Compaign	and Labby	na Activition	OMB No 1545-0047
SCHEDULE C (Form 990 or 990-EZ)	Political Campaign	-	- ,	0000
	For Organizations Exempt From Inco	•		2008
Department of the Treasury Internal Revenue Service	To be completed by a Attach to Form	nganizations describ n 990 or Form 990-E		Open to Public Inspection
	ared "Yes," to Form 990, Part IV, line 3, or F		line 46 (Political Campaign	Activities), then
•••••	nizations: Complete Parts I-A and B. Do not co han saction 501(c)(3)) organizations: Complete	•	w. Do not complete Part I-B	
• • •	iona: Complete Part I-A only.			
-	ered "Yes," to Form 990, Part IV, line 4, or Fo			
	nizations that have filed Form 5768 (election un nizations that have NOT filed Form 5768 (election under the second s		•	•
If the organization answe	ared "Yes," to Form 990, Part IV, line 5 (Prox			
	or (6) organizations: Complete Part III. BUILDING INDUSTRY ASSOC	IATION OF	Emp	loyer identification numbe
	WASHINGTON		<u> </u>	91-6087698
	mpleted by all organizations exem tructions for Schedule C for details.	pt under section	n 501(c) and section 5	27 organizations.
	of the organization's direct and indirect politic	al campaign activities	s in Part IV.	
2 Political expenditures			►s	
3 Volunteer hours				
Part I-B To be co	mpleted by all organizations exem	pt under section	501(c)(3).	
	Inuctions for Schedule C for details		.	
	iny excise tax incurred by the organization und my excise tax incurred by organization manag			······································
-	urred a section 4955 tax, did it file Form 4720	for this year?		
4a Was a correction mad b if "Yes," describe in F	-			Yes No
Part I-C To be co	mpleted by all organizations exem	pt under section	501(c), except sectio	n 501(c)(3).
See the ins	tructions for Schedule C for details.	· · · · · · · · · · · · · · · · · · ·		
	ctly expended by the filing organization for se			
exempt function activ	he filing organization's funds contributed to ot rities	ner organizations for a	securit og r	
	lirect exempt function expenditures. Add lines	1 and 2 and enter he	re and on	
Form 1120-POL, line 1 4 Did the filing organiza	17b tion file Form 1120-POL for this year?		►s	Yes No
	resses and employer identification number (El	N) of all section 527 p	olitical organizations to whic	h payments were made.
· · · · ·	I and indicate if the amount was paid from the delivered to a separate political organization, i	• •		
	sected, provide information in Part IV	encit as a sebutate se	Alegated into of a boundary	
(a) Nama	(b) Address	(c) EIN	(d) Amount paid from filing organization's funds. If none, enter -0	(e) Amount of political contributions received and promptly and directly delivered to a separate political organization. If none, enter -0-
				· · · ·
		1		
	d Paperwork Reduction Act Notice, see the	Instructions for For	m 990. Schedule C (Form 990 or 990-EZ) 2008
EXHIBITA - F 60621 099308 5	Page 15	12		

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•••	BUILDING	INDUSTRY AS	SOCIATION OF		
Schedule C (Form 990 or 990-EZ) 2008	WASHINGTO	N			087698 Pa
Part I-A To be completed b	y organizations	exempt under se		t filed Form 576	8
(election under se	tion 501(h)). See	the instructions for So	hedule C for details.		
A Check 🕨 🛄 if the filing organizi	tion belongs to an a	filiated group.			
B Check 🕨 🛄 if the filing organization	tion checked box A	and "limited control" p	rovisions apply.		·····
	ts on Lobbying Exp ditures" means amo	enditures ounts paid or incurred	L)	(a) Filing organization's totals	(b) Affiliated gro totals
1 a Total lobbying expenditures to inf	uence public opinion	(grassroots lobbying)			
b Total lobbying expenditures to infl	uence a legislative b	ody (direct lobbying)			
c Total lobbying expenditures (add i	nes 1a and 1b)				
d Other exempt purpose expenditur	85			· · · · · · · · · · · · · · · · · · ·	
e Total exempt purpose expenditure	is (add lines 1c and 1	d)			}
f Lobbying nontaxable amount Ent	er the amount from th	he following table in bo	oth columns.		
li the amount on line 18, column (2)	r (b) is. 👘 The lo	bbying nontaxable an	nount is:		
Not over \$500,000	20% 0	f the amount on line 1	R		}
Over \$500,000 but not over \$1,00		00 plus 15% of the ex			
Over \$1,000,000 but not over \$1,5			cess over \$1,000,000.		<u> </u>
Over \$1,500,000 but not over \$17		00 plus 5% of the exc	ess over \$1,500,000.		[
Over \$17,000,000	\$1,000	,000.			
g Grassroots nontaxable amount (er	ter 25% of line 1ft	· · · · · · · · · · · · · · · · · · ·			<u> </u>
h Subtract line 1g from line 1a. Ente		nan line a			
i Subtract line 1f from line 1c. Enter	•		1		
j If there is an amount other than ze			zation file Form 4720		
reporting section 4911 tax for this					<u>Yes</u>
	ations that made a		r Section 501(h) on do not have to comp a through 2f of the inst		
	Lobbying Expe	Inditures During 4-Ye	ar Averaging Period		·····
Calendar year (or fiscal year beginning in)	(a) 2005	(b) 2006	(c) 2007	(ď) 2008	(e) Total
2a Lobbying non-taxable amount					
b Lobbying ceiling amount (150% of line 2a, column(e))					
c Total lobbying experiditures					
d Grassroots non-taxable amount					
e Grassroots ceiling amount					
(150% of the 2d, column (e))	****				
f Grassroots lobbying expenditures					
		· · · ·		Schedule C (Form 1	90 or 990-EZ) 20

832042 12-18-08 EXHIBIT A - Page 16 08440621 099308 58465 •

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•	BUILDING INDUSTRI ASSOCIATION OF	
Schedule C (Form 990 or 990-EZ) 2008	WASHINGTON	91-6087698 Page
Part II-B To be completed by	organizations exempt under section 501(c)(3) that have	NOT filed Form 5768
(election under sec	tion 501(h)). See the instructions for Schedule C for details.	

	(*)	0	<u>×</u>
	Yes	No	Ame	ount
During the year, did the filing organization attempt to influence foreign, national, state or				
ocal legislation, including any attempt to influence public opinion on a legislative matter	1		Į	
or referendum, through the use of	ŧ			
/olunteers?				
Paid staff or management (include compensation in expenses reported on lines 1c through 1i)?		<u></u>	[
Nedia advertisements?				
vialings to members, legislators, or the public?				
Publications, or published or broadcast statements?				
Grants to other organizations for lobbying purposes?				
Direct contact with legislators, their staffs, government officials, or a legislative body?				
Rallies, demonstrations, seminars, conventions, speeches, lectures, or any other means?				
Other activities? If "Yes," describe in Part IV				
otal lines 1c through 1i				
Did the activities in line 1 cause the organization to be not described in section 501(c)(3)?				
"Yes," enter the amount of any tax incurred under section 4912				
I 'Yes,' enter the amount of any tax incurred by organization managers under section 4912				
I the filing organization incurred a section 4912 tax, did it file Form 4720 for this year?				
	section	501(c)(5)	, or sect	ion
501(c)(6). See the instructions for Schedule C for details.				
			Yes	No
Vere substantially all (90% or more) dues received nondeductible by members?				<u> </u>
Ad the organization make only in-house lobbying expenditures of \$2,000 or less?		the second s		<u> </u>
tid the organization agree to carryover lobbying and political expenditures from the prior year?				
II-B) To be completed by all organizations exempt under section 501(c)(4),	section	501(c)(5)	, or sect	ion
	t Part III-	A, ques	tion 3 is	
			1 120	775
• • • • • • • • • •			1,120	125.
	8			
			165	014
		23	100	. 2 14.
termine the second s			- 10	E 00
arryover from last year		26	<12	,538.>
otal		2c	<12 152	,538.2 ,676.
otal ggregate amount reported in section 6033(e)(1)(A) notices of nondeductible section 182(e) dues			<12 152	,538.3
otal	155	2c	<12 152	,538.2 ,676.
otal ggregate amount reported in section 6033(e)(1)(A) notices of nondeductible section 162(e) dues notices were sent and the amount on line 2c exceeds the amount on line 3, what portion of the exce loes the organization agree to carryover to the reasonable estimate of nondeductible lobbying and po		2c 3	<12 152	,538.2 ,676.
otal ggregate amount reported in section 6033(e)(1)(A) notices of nondeductible section 162(e) dues notices were sent and the amount on line 2c exceeds the amount on line 3, what portion of the exce		2c	<12 152 168	,538.2 ,676.
	bocal legislation, including any attempt to influence public opinion on a legislative matter w referendum, through the use of folunteers? and staff or management (include compensation in expenses reported on lines 1c through 1i)? Addings to mambers, legislators, or the public? "Publications, or published or broadcast statements? arants to other organizations for lobbying purposes? Next contact with legislators, their staffs, government officials, or a legislative body? Itallies, demonstrations, seminars, conventions, speeches, lectures, or any other means? Wher activities in line 1 cause the organization to be not described in section 501(c)(3)? "Yes," enter the amount of any tax incurred under section 4912 "Yes," enter the amount of any tax incurred under section 4912 "Yes," enter the amount of any tax incurred up organization managers under section 4912 "Yes," enter the amount of any tax incurred up organization managers under section 4912 "Yes," enter the amount of any tax incurred by organization managers under section 501(c)(4), 501(c)(6). See the instructions for Schedule C for details. Were substantially all (90% or more) dues received nondeductible by members? In the organization make only in-house lobbying expenditures of \$2,000 or less? In the organization make only in-house lobbying expenditures of \$2,000 or less? In the organization make only in-house lobbying expenditures from the pnor year? III-B. To be completed by all organizations exempt under section 501(c)(4), 501(c)(6) if BOTH Part III-A, questions 1 and 2 are answered "No" OR i answered "Yes." See Schedule C instructions for details. use, assessments and similar amounts from members ection 162(e) non-deductible lobbying and political expenditures (do not include amounts of political xpenses for which the section 527(f) tax was paid). When year	During the year, did the filing organization attempt to influence foreign, national, state or occal legislation, including any attempt to influence public opinion on a legislative matter is referendum, through the use of oldinteers? Paid staff or management (include compensation in expenses reported on lines 1c through 1i)? Addia advertisements? Aakings to members, legislators, or the public? Publications, or published or broadcast statements? Aakings to members, legislators, or the public? Publications, or published or broadcast statements? Sirents to other organizations for lobbying purposes? Insect contact with legislators, their staffs, government officials, or a legislative body? Lallies, demonstrations, seminars, conventions, speeches, lectures, or any other means? Ther activities? If 'Yes,' describe in Part IV otal lines to through 1i Id the activities in line 1 cause the organization to be not described in section 501(c)(3)? If 'Yes,' enter the amount of any tax incurred by organization managers under section 4912 If 'Yes,' enter the amount of any tax incurred by organization managers under section 501(c)(4), section 1 S01(c)(6). See the instructions for Schedule C for details. Nere substantially all (90% or more) dues received nondeductible by members? Id the organization make only in-house lobbying expenditures of \$2,000 or less? If 'Hes,'' To be completed by all organizations exempt under section 501(c)(4), section 1 S01(c)(6) if BOTH Part III-A, questions 1 and 2 are answered "No" OR if Part III- answered "Yes." See Schedule C instructions for details. Neres substantiar and amiliar amounts from members ection 162(e) non-deductible lobbying and political expenditures (do not include amounts of political xpenses for which the section 527(f) tax was paid).	During the year, did the filing organization attempt to influence foreign, national, state or or call egislation, including any attempt to influence public opinion on a legislative matter in referendum, through the use of following any attempt to influence public opinion on a legislative matter in referendum, through the use of following any attempt to influence public opinion on a legislative matter in referendum, through the use of following any attempt to influence public opinion on a legislative matter in referendum, through the use of following expension in expenses reported on lines 1c through 10? Add staff or management (include compensation in expenses reported on lines 1c through 10? Add staff or management (include compensation in expenses reported on lines 1c through 10? Add staff or management (include compensation in expenses reported on lines 1c through 10? Add staff or management (include compensation in expenses reported on lines 1c through 10? Add the gislators, or published or broadcast statements? Add the gislators, seminars, conventions, speeches, lectures, or any other means? Ather activities? If 'Yes,' describe in Part IV Italiaes, demonstrations, seminars, conventions, speeches, lectures, or any other means? Ather activities in line 1 cause the organization to be not described in section 501(c)(3)? I'Yes,' enter the amount of any tax incurred by organization managers under section 4912 ''Yes,' enter the amount of any tax incurred by organization managers under section 501(c)(4), section 501(c)(5) 501(c)(6). See the instructions for Schedule C for details. <td>During the year, did the filing organization attempt to influence foreign, national, state or coal legislation, including any attempt to influence public opinion on a legislative matter is referendum, through the use of folunteers? and staff or management (include compensation in expenses reported on lines 1c through 1i)? Addia advertisements? Addia advertise in line 1 cause the organization to be not described in section 501(c)(3)? 'Yes,' enter the amount of any tax incurred by organization managers under section 501(c)(4), section 501(c)(5), or section 501(c)(6). Areas ustatiatily all (90% or more) dues received nondeductible by members? Add the organization agree to carryover lobbying expenditures of \$2,000 or less? Add the organization adver induces obbying expenditures of \$2,000 or less? Add the organization agree to carryover lobbying and political expenditures from the prory year? Add the organization agree to carryover lobbying and political expenditures of \$2,000 or less? Add the organization agree to carryover lobbying and political expenditures action 501(c)(4), section 501(c)(5), or section 501(c)(6) if BOTH Part III-A, questions 1 and 2 are answered "No" OR if Part III-A, question 3 is answered "No" OR if Part III-A, question 3 is answered "No" or holical expenditures (do not include amounts of political xpenditures for which the section 527(f) tax was paid).</td>	During the year, did the filing organization attempt to influence foreign, national, state or coal legislation, including any attempt to influence public opinion on a legislative matter is referendum, through the use of folunteers? and staff or management (include compensation in expenses reported on lines 1c through 1i)? Addia advertisements? Addia advertise in line 1 cause the organization to be not described in section 501(c)(3)? 'Yes,' enter the amount of any tax incurred by organization managers under section 501(c)(4), section 501(c)(5), or section 501(c)(6). Areas ustatiatily all (90% or more) dues received nondeductible by members? Add the organization agree to carryover lobbying expenditures of \$2,000 or less? Add the organization adver induces obbying expenditures of \$2,000 or less? Add the organization agree to carryover lobbying and political expenditures from the prory year? Add the organization agree to carryover lobbying and political expenditures of \$2,000 or less? Add the organization agree to carryover lobbying and political expenditures action 501(c)(4), section 501(c)(5), or section 501(c)(6) if BOTH Part III-A, questions 1 and 2 are answered "No" OR if Part III-A, question 3 is answered "No" OR if Part III-A, question 3 is answered "No" or holical expenditures (do not include amounts of political xpenditures for which the section 527(f) tax was paid).

Schedule C (Form 990 or 990-EZ) 2008

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14 2008.06000 BUILDING INDUSTRY ASSOCIATI 58465__3

Schedule D (Form 990) Department of the Treesury Internal Revenue Service	Attach to Form 9	tal Financial Statemen 90. To be completed by organizations th form 990, Part IV, line 6, 7, 8, 9, 10, 11, o	hat	2008 Open to Publi
Name of the organizati				er identification nur
	WASHINGTON			91-6087698
		ised Funds or Other Similar Fun	ds or Accounts	- Complete if the
organizatio	n answered "Yes" to Form 990, Part IV,	line 6. (a) Donor advised funds	(b) Sunde a	nd other accounts
4 Total number at a	ad ad upper			
1 Total number at er 2 Ággregate contrib	utions to (during year)			
3 Aggregate grants		·····	+	
4 Aggregate value at				
		in writing that the assets held in donor ad	lvised funds	
	n's property, subject to the organization	•		🗌 Yes 🔚
6 Did the organizatio	n inform all grantees, donors, and dono	or advisors in writing that grant funds may	be used only	
		or or donor advisor or other impermissible		Yes
		organization answered 'Yes' to Form 990), Part IV, line 7.	·····
	ervation easements held by the organiz			
	of land for public use (e.g., recreation of		historically important	
	natural habitat	Preservation of cer	tified historic structu	re
	of open space	· · · · · · · · · · · · · · · · · · ·		A a a Al- Init day.
	20 if the organization held a qualified co	onservation contribution in the form of a c	onservation easeme	nt on the last day
of the tax year.			Hele	at the End of the
a Total number of to	nservation easements		28	
_	icted by conservation easements		25	
	vation éasements on a certified historic	structure included in (a)	20	
	vation easements included in (c) acquire		2d	
3 Number of conserv	ation easements modified, transferred,	released, extinguished, or terminated by	the organization duri	ng the taxable
year 🕨	میں میں نے ب			
4 Number of states v	where property subject to conservation	easement is located >	_	
5 Does the organizat	ion have a written policy regarding the j	periodic monitoring, inspection, violations	, and	<u> </u>
	conservation easements it holds?			Yes
		, and enforcing easements during the yea		
		nd enforcing easements during the year		-
		oove satisfy the requirements of section 1	/ U(I)(4)(D)(I)	Yes 🗔
and section 170(h) 9 In Part XIV, describ		ration easements in its revenue and expen	ise statement and h	
	÷ .	zation's financial statements that describe		
conservation easer	•			
		of Art, Historical Treasures, or	Other Similar A	ssets.
	the organization answered "Yes" to For	-		
· · · · · · · · · · · · · · · · · · ·				
		not to report in its revenue statement and		
treasures, or other	similar assets held for public exhibition,	education, or research in furtherance of p	ublic service, provid	e, in Part XIV, the te
	nancial statements that describes thes			
		to report in its revenue statement and bala		
	ets held for public exhibition, education	, or research in furtherance of public servi	ce, provide the follow	ving amounts relatin
these items:			• •	
	ded in Form 990, Part VIII, line 1		₹ <u>\$</u>	
	l in Form 990, Part X		 \$ _	·····
		reasures, or other similar assets for finance	iai gain, provide	
	nts required to be reported under SFAS In Form 990, Part VIII, line 1	n i e leisning re russa irarus:	b c	
b Assets included in f				·····
			· · ·	
HA For Privacy Act an	d Paperwork Reduction Act Notice, s	es the Instructions for Form 800		tule D (Form 990) 2
		Indu activity IAL LALIN 844		and to the state and the
2061 -23-08				
EXHIBITA - 0621 099308	Page 18	15 06000 BUILDING INDUST		_

BUILDI	NG INDUSTRY A	ASSOCIAT	ION OF				-
Schedule D (Form 990) 2008 WASHIN	GTON				91-	6087698	Page
Part III Organizations Maintaining	Collections of Art,	Historical T	reasures,	or Othe	r Similar A	ssets (continu	ued)
3 Using the organization's accession and ot							
that apply):							
Public exhibition	đ	Loan or ex	change prog	rams			
b Scholarly research		Other	• · ·				
c Preservation for future generations							
4 Provide a description of the organization's	collections and explain h	ow they further	the organizat	tion's exem	ni seconuci fa	Part XIV.	
5 During the year, did the organization solici							
to be sold to raise funds rather than to be						Yes	
Part IV Trust, Escrow and Custod reported an amount on Form 990, I	al Arrangements. C			vered "Yes"	' to Form 990,	Part IV, line 9,	or
1a is the organization an agent, trustee, custo	odian or other intermediar	y for contributio	ns or other a	issets not in	ncluded		
on Form 990, Part X?						Yes	N
b if 'Yes,' explain the arrangement in Part X	IV and complete the follow	ving table:				······	
						Amount	
c Beginning balance					10	·····	
d Additions during the year					· 1d		
 Distributions during the year 					10		
f Ending balance							_
2a Did the organization include an amount on	Form 990, Part X, line 21	7			•	Yes	L) N
b. If "Yes," explain the arrangement in Part X			· · · · · · · · · · · · · · · · · · ·			·····	
Part V Endowment Funds. Complete	e if organization answered	Yes' to Form	990, Part IV,	line 10.			
	(a) Current year	(b) Prior year	(c) Two yea	ars back (d	f) Three years b	ack (e) Four ye	ars bac
1a Beginning of year balance						· ·	
b Contributions							
c Investment earnings or losses							
d Grants or scholarships						·	
e Other expenditures for facilities			1				
and programs			I				_
f Administrative expenses							
g End of year balance			1			[
2 Provide the estimated percentage of the ye	ear end balance held as:	وي بي المراجعة مع من المسلم.					
a Board designated or guasi-endowment		i					
b Permanent endowment	%						
c Term endowment	%						
3a Are there endowment funds not in the post		n that are held a	and administr	ered for the	organization		
by:		,				Ye	s No
(i) unrelated organizations						3=()	
(ii) related organizations						3a(ii)	-1-
b if "Yes" to 3a(ii), are the related organizatio	os listed as required on S	chedula 82				35	1-
4 Describe in Part XIV the intended uses of th	-						
Part VI Investments - Land, Buildir			Part X. Ine	10.			
Description of investment	(a) Cost or other		orother		preciation	(d) Book vi	alue
	basis (investmen		(other)				
1a Land		-	·····				
b Buildings							
c Leasehold improvements							
d Equipment							
e Other			4,325.		22,872.	1.	453

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Schedule D (Form 990) 2008



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Part VII Investments - Other Securities. (a) Description of security or category	(b) Book valu		(c) Method of valu	ation:
(including name of security)		-	Cost or end-of-year ma	rket value
Financial derivatives and other financial products			····	
Closely-held equity interests Other				
Other				
•				
fotal. (Col (b) should equal Form 990, Part X, col (8) line 12)	>			
Part VIII Investments - Program Related.	See Form 990, Part >	, line 13.		
(a) Description of investment type	(b) Book valu	B	(c) Method of value Cost or end-of-year ma	
· · · · · · · · · · · · · · · · · · ·		· · · ·		
		 ;		
otal. (Col (b) should equal Form 990, Part X, col (B) line 13)				
Part IX Other Assets. See Form 990, Part X, II	a) Description			(b) Book valu
		·		
		······		
	<u> </u>			
	······································			
otal. (Column (b) should equal Form 990, Part X, col (B)) hne 15)		<u> </u>	
Part X Other Liabilities. See Form 990, Part : (a) Description of hability	X, line 25.	(b) Amount		
ederal income taxes				
	······································			
			-1	
		· · · · · · · · · · · · · · · · · · ·		
	line 25)			
otal. (Column (b) should equal Form 990, Part X, col (B)				
otal. (Column (b) should equal Form 990, Part X, col (B) Part XIV, provide the text of the footnote to the organ; nder FIN 48 2053		ments that reports the	organization's kability fo	r Uncertain tax pos

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ra	rt XI Reconciliation of Change in Net Assets from Form 9	90 to Financial	Statements	<u> </u>	
1	Total revenue (Form 990, Part VIII, column (A), line 12)				·
2	Total expenses (Form 990, Part IX, column (A), line 25)		2		
3	Excess or (deficit) for the year. Subtract line 2 from line 1		3		·
4	Net unrealized gains (losses) on investments				
5	Donated services and use of facilities		5		
6	Investment expenses		6		
7	Pror period adjustments				
8	Other (Describe in Part XIV)		8		
9	Total adjustments (net). Add lines 4-8				
10 Ba	Excess or (deficit) for the year per financial statements Combine lines 3 and 1 XII Reconciliation of Revenue per Audited Financial Sta	9	10	Detur	
1		Tainents Mini L	evenue per		
2	Total revenue, gains, and other support per audited financial statements Amounts included on line 1 but not on Form 990, Part VIII, line 12:		-		
	Net unrealized gains on investments	28			
	Donated services and use of facilities	26			
c		20			
d		2d		\neg	
e	Add lines 2a through 2d			20	
3	Subtract line 2e from line 1			3	
4	Amounts included on Form 990, Part VIII, line 12, but not on line 1:				
-	Investment expenses not included on Form 990, Part VIII, line 7b	4a			
b		45		-	
~	Add lines 4a and 4b	40		40	
5	Total revenue, Add lines \$ and 4c. (This should equal Form 990, Part I, line 1	2)		5	
Pa	t XIII Reconciliation of Expenses per Audited Financial Sta		Expenses p	er Return	·····
1	Total expenses and losses per audited financial statements			11	
2	Amounts included on line 1 but not on Form 990, Part IX, line 25:				
-	Donated services and use of facilities	2a			
Ь	Prior year adjustments	26			
C		20			
đ		2d			
e	Add lines 2a through 2d	_		2e	
3	Subtract line 2e from line 1 .			3	·
4	Amounts included on Form 990, Part IX, line 25, but not on line 1:				
a	Investment expenses not included on Form 990, Part VIII, line 7b	4a			
b	Other (Describe in Part XIV)	46		I.	
C	Add lines 4a and 4b			40	
5	Total expenses Add lines 3 and 4c. (This should equal Form 990, Part I, line	18.)		5	
omp	t XIV Supplemental Information blete this part to provide the descriptions required for Part II, lines 3, 5, and 9; It XI, line 8, Part XII, lines 2d and 4b; and Part XIII, lines 2d and 4b.	Part III, lines 1a and	4; Part IV, Imes	s 1b and 2b; Par	t V, line (
	· · · · · · · · · · · · · · · · · · ·				
				Schedule D (00

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SCHEDULE J	Compe	nsation Information	Ļ	OMB No	1545-00	JA7
Form 990)		ectors, Trustees, Key Employees, and Highest ompensated Employees		20	80	}
epartment of the Triasury Internal Revenue Service		0. To be completed by organizations that Yes" to Form 990, Part IV, line 23.		Ogen to Insipe		
lame of the organizati		Y ASSOCIATION OF	Employer i			mb
Part I Question	WASHINGTON		91-6	508769	8	
Parti Quesuon	s Regarding Compensation				Yes	N
1a Check the appropri	ate hovies) if the organization provided	any of the following to or for a person listed in Fo	TO 200		163	19
••••		relevant information regarding these items.				
First-class or c		Housing allowance or residence for per	sonat usa			
Travel for com		Payments for business use of personal				1
	ation and gross-up payments	Health or social club dues or initiation 1				
· · · · · · · · · · · · · · · · · · ·	spending account	Personal services (e.g., maid, chauffeu				
Uso clonary e	partialing account		, 0,04			
h if line to is checker	t did the organization follow a written or	blicy regarding payment or reimbursement or prov	/19JOD			
	es described above? If "No," complete F		131011	16		ł
	· · · · · · · · · ·	sing or allowing expenses incurred by all officers,	directors.			-
-	EO/Executive Director, regarding the iter			2	l	1
						1
3 Indicate which, if an	v, of the following the organization user	to establish the compensation of the organization	n's			
	octor. Check all that apply.					
Compensation		Written employment contract				
	compensation consultant	Compensation survey or study				
	ther organizations	Approval by the board or compensation	n committee			
	-					
	any person listed in Form 990, Part VII,					x
	e payment or change of control paymen	· · · · · · · ·		40		X
	ceive payment from, a supplemental non			4b 4c		X
	ceive payment from, an equity-based co			40		
If "Yes" to any of lin	es 4a-c, list the persons and provide the	a applicable amounts for each item in Part III.				
Only 501(c)(3) and	501(c)(4) organizations must complete	e lines 5-8.	•			
5 For persons listed in	Form 990, Part VII, Section A, line 1a, (did the organization pay or accrue any compensa	tion			
contingent on the re	avenues of:					
a The organization?				<u>5a</u>		
b Any related organiza	stion?			5b		
If "Yes," to line 5a o	r 5b, describe in Part III.					ĺ
8 For persons listed in	1 Form 990, Part VII, Section A, line 1a, c	did the organization pay or accrue any compensa	tion			l
contingent on the n	et earnings of:					ĺ
The organization?				62		
b Any related organiza	ation?	•		<u>6</u> 5		ļ
if 'Yes' to line 6a or	6b, describe in Part III.				ł	ł
7 For persons listed in	Form 990, Part VII, Section A, line 1a, c	did the organization provide any non-fixed payme	nts)	I
	is 5 and 6? If "Yes," describe in Part III			7		
B Were any amounts r	eported in Form 990, Part VII, paid or ac	ccrued pursuant to a contract that was subject to	the		ł	ĺ
ended a cohered over a	ption described in Regs. section 53.495	A ALL MANA REPORT OF A LANCE AND A STREET AND A		8		

EXHIBIT A - Page 22 08440621 099308 58465

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Schedule J (Form 990) 2008

91-6087698

Part II Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees. Use Schedule J-1 if additional space is needed

For each individual whose compensation must be reported in Schedule J, report compensation from the organization on row (i) and from related organizations, described in the instructions, on row (ii) Do not list any individuals that are not listed on Form 990, Part VII.

Note. The sum of columns (B)(i)-(iii) must equal the applicable column (D) or column (E) amounts on Form 990, Part VII, line 1a

WASHINGTON

		(B) Breakdown of	W-2 and/or 1099-M	ISC compensation	(C) Deferred	(D) Nontaxable	(E) Total of columns	(F) Compensation
(A) Name		(I) Base compensation	(II) Bonus & incentive compensation	(iii) Other compensation	compensation	benefits	(B)(I)-(D)	Form 990-EZ
· ·	Ø	0.	0.	0.	0.	0.	0.	0.
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Schedule J (Form 990) 2008

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EXHIBIT A - Page 23

 Supplemental Information to Form 990
 Attach to Form 990. To be completed by organizations to provide additional information for responses to specific questions for the form 990 or to envide manufacture information.

BUILDING INDUSTRY ASSOCIATION OF



Name of the organization BUILDING I WASHINGTON

SCHEDULE O

Department of the Treasury Internal Revenue Service

(Form 990)

Employer identification number 91-6087698

FORM 990, PART III, LINE 1, BESCRIPTION OF ORGANIZATION MISSION:

CITIZENS. TO ACCOMPLISH THIS PURPOSE, THE ASSOCIATION'S PRIMARY FOCUS IS TO INTERACT WITH THE LEGISLATIVE, REGULATORY, JUDICIAL AND EXECUTIVE

AGENCIES OF WASHINGTON'S GOVERNMENT. BIAW WILL OFFER ITS MEMBERSHIP

THOSE SERVICES WHICH CAN BE BEST PROVIDED ON A STATEWIDE BASIS AND WILL

DISSEMINATE INFORMATION CONCERNING THE BUILDING INDUSTRY TO ALL

ASSOCIATION MEMBERS AND THE PUBLIC.

FORM 990, PART VI, SECTION A, LINE 6: BIAW HAS MEMBERS OR STOCKHOLDERS WHO, PURSUANT TO A PROVISION OF THE ORGANIZATION'S GOVERNING DOCUMENTS OR APPLICABLE STATE LAWS, HAS THE RIGHT TO PARTICIPATE IN THE ORGANIZATION'S GOVERANCE, OR TO RECEIVE DISTRIBUTIONS OF INCOME OR ASSETS FROM THE ORGANIZATION.

FORM 990, PART VI, SECTION A, LINE 7A: AT ANY TIME DURING THE TAX YEAR, THERE WERE ONE OR MORE PERSONS THAT HAD THE RIGHT TO ELECT OR APPOINT ONE OR MORE MEMBERS OF THE ORGANIZATION'S GOVERNING BODY, WHETHER PERIODICALLY, AS VANCANCIES ARISE, OR OTHERWISE.

FORM 990, PART VI, SECTION A, LINE 7B: AT ANY TIME DURING THE TAX YEAR, THERE WAS ONE OR MORE PERSONS WHO HAD THE RIGHT TO APPROVE OR RATIFY DECISIONS OF BIAW'S GOVERNING BODY, SUCH AS APPROVAL OF THE GOVERNING BODY'S ELECTION OR REMOVAL OF MEMBERS OF THE GOVERNING BODY, OR APPROVAL OF THE GOVERNING BODY'S DECISION TO DISSOLVE THE ORGANIZATION.

FORM 990, PART VI, SECTION A, LINE 10: THE PROCESS THE ORGANIZATION USESLHA For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 990.Schedule O (Form 990) 2008\$221112-19-08\$21EXHIBIT A - Page 242108440621099308584652008.06000BUILDING INDUSTRY ASSOCIATI584653

SCHEDULE O (Form 990) Supplemental Information to Form 990

Attach to Form 990. To be completed by organizations to provide additional information for responses to specific questions for the Form 990 or to provide any additional information.



Department of the Treasury Internal Revenue Service Name of the organization

BUILDING INDUSTRY ASSOCIATION OF WASHINGTON Employer identification number 91-6087698

TO REVIEW THE FORM 990 IS AN ACCOUNTING REVIEW.

FORM 990, PART VI, SECTION B, LINE 12C: BIAW REGULARLY AND CONSISTENTLY MONITORS AND ENFORCE COMPLIANCE WITH THE POLICY THROUGH BOARD MEETINGS.

FORM 990, PART VI, SECTION C, LINE 18: THE FORM 990 IS AVAILABLE UPON

REQUEST BY MEMBERS.

FORM 990, PART VI, SECTION C, LINE 19: THE ORGANIZATION'S

GOVERNING/ORGANIZING DOCUMENTS AND CONFLICT OF INTEREST POLICY ARE

AVAILABLE TO THE PUBLIC UPON REQUEST BY MEMBERS.

EXPLANATION FOR AMENDING FORM 990 AND SCHEDULE C:

THE ORGANIZATION IS AMENDING THE 2008 FORM 990 TO CORRECTLY ANSWER FORM

990, PART IV, LINE 3. THE ORGANIZATION ONLY INCURS LOBBYING

EXPENDITURES, NO POLITICAL EXPENDITURES OR ACTIVITIES, AND, THEREFORE,

SHOULD HAVE ANSWERED THIS QUESTION "NO". AS A RESULT, SCHEDULE C, PART

I-A IS NO LONGER COMPLETED. SCHEDULE C, PART III-B REMAINS THE SAME TO

PROPERLY DISCLOSE LOBBYING EXPENDITURES AND NONDEDUCTIBLE DUES

INFORMATION.

LHA For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 990. 52211 12-18-08

Schedule O (Form 990) 2008

EXHIBIT A - Page 25 08440621 099308 58465

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SCHEDULE R (Form 990) Department of the Trassury Internet Payensue Service	Related Organizations and Unrelated Partnerships Attach to Form 990. To be completed by organizations that answered "Yes" to Form 990, Part IV, lines 33, 34, 35, 36, or 3 See separate instructions.	7.	OMB No 1545-0047 2008 Open to Public Inspection	
Name of the organizat	on BUILDING INDUSTRY ASSOCIATION OF WASHINGTON	Employer Ide 91-60	antification number 87698	

Part I Identification of Disregarded Entities

(A) Name, address, and EIN of disregarded entity	(B) Primary activity	(C) Legal domicile (state or foreign country)	(D) Total income	(E) End-of-year assets	(F) Direct controlling entity

Part II Identification of Related Tax-Exempt Organizations

(A) Name, address, and EtN of related organization	(8) Primary activity	(C) Legal domicile (state or foreign country)	(D) Exempt Code section	(E) Public chanty status (if section 501(c)(3))	(F) Direct controlling entity
	_				

LHA For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 990.

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Schedule R (Form 990) 2008

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EXHIBIT A - Page 26

BUILDING INDUSTRY ASSOCIATION OF WASHINGTON

Schedule R (Form 990) 2008

91-6087698 Page 2

Part III Identification of Related Organizations Taxable as a Partnership

(A) Name, address, and EiN of related organization	(B) Primary activity	(C) Legal domicile (stale or forsign country)	(D) Direct controlling entity	(E) Predominant income (related, investment, unrelated)	(F) Share of total Income	(G) Share of end-of-year assets	() Desproj ate slice		(I) Code V-UBI amount in box 20 of Schedule K-1 (Form 1085)	(J Gener mana partn	nul or
							Yes	No	K-1 (FORM 1003)	Tes	<u>NO</u>
		-									•
				-							-
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Part IV Identification of Related Organizations Taxable as a Corporation or Trust

(A)	(B)	(C)	(D)	(6)	(F)	(G)	(H)
Name, address, and EIN of related organization	Primary activity	Legal domucile (state or toreign country)	Direct controlling entity	Type of entity (C corp, S corp, or trust)	Share of total income	Share of end-of-year assets	Percentage ownership
BIAN MEMBER SERVICES CORPORATION - 91-1621123			BUILDING				
P.O. BOX 1909	WORKERS COMP PLAN	1	INDUSTRY				
OLYNFIA, WA 98507	ADMINISTRATION	WA	ASSOCIATION OF	C CORP	3098451.	1978742.	1000
WASKINGTON BUILDERS BENEPIT TRUST - 91-6368062			BUILDING				
111 21ST AVE SW]	1	INDUSTRY	{			
OLYNPIA, WA 98501	TRUST	WA	ASSOCIATION OF	TRUST	1584329.	32997347	1000
	-						
	-						
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Schedule R (Form 990) 2008 WASHINGTON

91-6087698 Page 3 -

Part V Transactions With Related Organizations				
Note. Complete line 1 if any entity is listed in Parts II, III, or IV			Yes	No
1 During the tax year, did the organization engage in any of the following transactions with one or more related organizations listed in Parts II-IV?				i
a Receipt of (i) interest (ii) annuities (iii) royalties (iv) rent from a controlled entity		1.		X
b Gift, grant, or capital contribution to other organization(s)		16		X
c Gift, grant, or capital contribution from other organization(s)		<u>1c</u>		X
d Loans or loan guarantees to or for other organization(s)		1d	X	L
e Loans or loan guarantees by other organization(s)		10		X
f Sale of assets to other organization(s)		11		X
g Purchase of assets from other organization(s)		1g		X
h Exchange of assets		11		X
Lease of facilities, equipment, or other assets to other organization(s)		11		X
j Lease of facilities, equipment, or other assets from other organization(s)		11		X
k Performance of services or membership or fundraising solicitations for other organization(s)		1k		X
Performance of services or membership or fundraising solicitations by other organization(s)		11		X
m Sharing of facilities, equipment, mailing lists, or other assets		1m		X
n Sharing of paid employees		<u>1n</u>	ļ	X
e Reimbursement paid to other organization for expenses		10		X
p Reimbursement paid by other organization for expenses		10		X
q Other transfer of cash or property to other organization(s)		19		X
r Other transfer of cash or property from other organization(s)		<u>1r</u>		X
2 If the answer to any of the above is "Yes," see the instructions for information on who must complete this line, including covered relationships and to	ransaction thresholds.	<u> </u>	·	
(A)	(B) Transaction	(C Amount		.
Name of other organization(s)	type (a-r)			
1) BIAW MEMBER SERVICES CORPORATION	D	1,20)7,8	151
2)		•		
(3)				
(4)				
`	1			
(5)				
<u>(6)</u> 12-23-08 25				
EXHIBIT A - Page 28	Sch	edule R (For	111 99 0	1200

Schedule R (Form 990) 2008 WASHINGTON

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Part Vi Unrelated Organizations Taxable as a Partnership

Provide the following information for each entity taxed as a partnership through which the organization conducted more than five percent of its activities (measured by total assets or gross revenue) that was not a related organization. See instructions regarding exclusion for certain investment partnerships.

(A)	(B)	(C)		(כ	(E)		F)	(G)	((H)
Name, address, and EIN of entity	Primary activity	Legal domicile (state or foreign	Are sil bection organiz				ropor- nsta itions?	Code V-UB1 amount in box 20 of Schedule K-1 (Form 1065)	Geni men	
		country)	Yes	No		Yes	No	(Form 1065)	Yes	N
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Schedule R (Form 990) 2008

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Form 4562		Deprec	iation and A	mortizatio	on 990))	2001
Department of the Treasury Internal Rovenue Service (99)			g Information on I		y)		Attachment Sequence No
Name(a) shown on return				usiness or activity to wh		45	Identifying number
BUILDING INDU WASHINGTON			F	ORM 990 P			91-60876
Part I Election To Exp	anse Certain Prop	erty Under Section 1	79 Note: If you have an	v listed property, o	omplete Parl	V before y	
1 Maximum amount. S		-				1	250,0
2 Total cost of section						2	800 (
3 Threshold cost of sec 4 Reduction in limitatio		•				4	800,0
5 Dollar lumitation for tax year						5	<u> </u>
6	(a) Decomption of p			usiness use only)	(c) Electr	d coet	
]
	······································						
			l				
7 Listed property. Enter				7			ł
8 Total elected cost of: 9 Tentative deduction.	•••	•	s in column (c), lines 6 a	nig 1		8	<u> </u>
 Carryover of disallow 			007 Form 4562			10	
11 Business income limit		•		zero) or line 5		11	
12 Section 179 expense			•	•		12	
13 Carryover of disallow				▶ 13			
Note: Do not use Part II o Part II Special Dep	or Part III below fo	or listed property.	Instead, use Part V				
	ection 168(l)(1) el Icluding ACRS) precistion (Do no	ection ot include listed pi	roperty) (See instruction Section A	ns)	tax year	14 15 16	5
15 Property subject to	ection 168(f)(1) el iciuding ACRS) preciation (Do no or assets placed	ection ot include listed pi in service in tax ye vice during the tex year	roperty) (See instruction Section A ears beginning before 2 who one or more general asset	ns) 008 secounts, check here	▶ [15 16 17	5
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Form 88	58 (Rev. 4-2009)					Page 2
■ If you	are filing for an Additional (Not Automatic) 3-Month Extension, complete only Part II and chec	k thus box	¢		▶ [X
	Thy complete Part II if you have already been granted an automatic 3-month extension on a previou	usly filed (Form 8	868.		
	J are filing for an Automatic 3-Month Extension, complete only Part I (on page 1).					····
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print	BUILDING INDUSTRY ASSOCIATION OF	13.4	•			
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Conception in the local distance in the loca	orm 990-BL. Form 990-PF Form 990-T (trust other than above) Form 472		_	rm 6069	For L	m 6670
				rm 6069		
STOPI	Do not complete Part II if you were not already granted an automatic 3-month extension on a	previous	ly file	d Form 88	68.	
	TOM MCCABE					
• The i	books are in the care of > P.O.BOX 1909 - OLYMPIA, WA 98507-19	909				
	phone No. ► (360) 352-7800 FAX No. ►					
	a organization does not have an office or place of business in the United States, check this box				▶ [
	s is for a Group Return, enter the organization's four digit Group Exemption Number (GEN)	. if the	s is for	the whole	group, chi	ick this
box 🕨	. If it is for part of the group, check this box > and attach a list with the names and E				• • • • •	
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6 if	this tax year is for less than 12 months, check reason: Initial return Final retu	ייי. היו		Change in	accounting	period
7 S	tate in detail why you need the extension					
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Under p	enatives of perjury, I declare that I have examined this form, including accompanying schedules and statements,	, and to the	best o	i my knowk	idge and beli	ef,
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OFFICE RECEPTIONIST, CLERK

From:	Alexander, Donna <donnaalexander@dwt.com></donnaalexander@dwt.com>
Sent:	Thursday, November 14, 2013 3:00 PM
То:	OFFICE RECEPTIONIST, CLERK
Cc:	knoll@igc.org; mike@witheylaw.com; Korrell, Harry; Maguire, Robert; Hodges-Howell, John; Alexander, Donna
Subject: Attachments:	Utter et al. v. Building Industry Association of Washington - Case No. 89462-1 Response to Petition for Review-Cross-Petition for Review.PDF

Please find attached the Respondent/Cross Appellant's Response to Petition for Review/Cross-Petition for Review.

Donna L. Alexander | Davis Wright Tremaine LLP Legal Assistant to Harry Korrell, Missy Mordy & Devin Smith 1201 Third Avenue, Suite 2200 | Seattle, WA 98101 Tel: (206) 757-8402 | Fax: (206) 757-7700 Email: donnaalexander@dwt.com | Website: www.dwt.com

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A little encouragement can spark a great accomplishment

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