

**BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON**

In the Matter of Enforcement Action
Against:

One America Votes

Respondent.

Case No. 11-035

STIPULATION AS TO FACTS AND
VIOLATIONS

The parties hereto, the Public Disclosure Commission Staff, through its Interim Executive Director, Doug Ellis, and Respondent One America Votes, through its Counsel, James D. Oswald, submit this Stipulation as to Facts and Violations in this matter.

JURISDICTION

The Public Disclosure Commission has jurisdiction over this proceeding pursuant to Chapter 42.17 RCW, the Public Disclosure Act; Chapter 34.05 RCW, the Administrative Procedure Act; and Title 390 WAC.

FACTS

1. One America Votes (OAV) was established in 2010 by One America, a Seattle-based immigrants' rights advocacy organization. OAV states that its mission is, in part, to *"elect candidates that promote democracy and justice in immigrant communities at the local, state and federal levels."* Of five stated "principles" that guide the organization's activity, all refer to electoral politics.

Alleged Failure to Timely Register as a Political Committee (RCW 42.17.040)

2. From July 2010 through December 31, 2010, OAV received contributions and made expenditures for the purpose of conducting postcard mailings, radio advertising, newsprint advertising, phone banking, and canvassing in support of and opposition to federal and state legislative candidates, and in support of and opposition to statewide initiatives.

3. On July 30, 2010, OAV received its earliest contributions, a total of \$12,500 from One America and the Tides Center. Two weeks later, or no later than August 13, 2010, OAV's political committee registration was due. On December 15, 2010, 124 days after it was required to register and begin reporting, OAV disclosed its activities to PDC staff.¹

Alleged Failure to Timely Report as a Political Committee (RCW 42.17.080 & .090)

4. From July 2010 through December 31, 2010, OAV received contributions totaling \$156,303. The contributions included the following major contributions:
 - Campaign for Community Change - \$46,000
 - One America - \$38,392
 - Protect Our Communities PAC - \$50,000
 - SEIU Healthcare 775NW - \$5,000
 - The Tides Center - \$5,000
 - Tides Advocacy Fund - \$3,500
 - UFCW 21 PAC - \$5,000
5. OAV also received contributions totaling \$2,705 from individuals, some of whom contributed via a secure donation page on the OAV web site.
6. OAV owed C-3 reports on at least five occasions between August 2, 2010 and the November 2, 2010 general election. The contributions were disclosed to PDC staff on December 17, 2010, between 7 and 137 days late.²
7. From July 2010 through December 31, 2010, OAV made expenditures totaling \$134,143. This amount included \$76,441 that supported or opposed Washington State initiatives or state legislative candidates. The majority of this amount, approximately \$43,254, was spent to oppose Initiatives 1100 and 1105, competing

¹ OAV formally registered as a political committee by filing a C-1pc on March 1, 2011. The delay from December 15, 2010 to March 1, 2011 occurred because of PDC staff advice to wait to register until it was clear that registration was required.

² On March 4, 2011, OAV filed C-3 reports of monetary contributions, formally reporting the activity disclosed to PDC staff on December 17, 2010. The delay from December 17, 2010 to March 4, 2011 occurred because of PDC staff advice to wait to report until it was clear that reporting was required.

proposals that would have privatized the distribution and sale of liquor in Washington State. An example of OAV's expenditures to support or oppose 2010 Washington State Initiatives is the creation of a multi-lingual ballot initiative guide.

8. OAV was required to file an initial C-4 disclosing all contributions and expenditures prior to its registration, a post-primary C-4 due on September 10, 2010, the 21-day and 7-day pre-general election C-4 reports due on October 12 and October 26, 2010, and a post-general election C-4 due on December 10, 2010. The activity disclosed to PDC staff on December 15, 2010, between 5 and 124 days late, included contributions totaling \$156,303 and expenditures totaling \$112,555.³

Alleged Failure to File Special Reports of Large Last Minute Contributions [RCW 42.17.105(1)]

9. OAV failed to file special reports of large Last Minute Contributions made during the 21-day period before the 2010 general election (October 12, 2010 – November 1, 2010). During this special reporting period, OAV made in-kind contributions to the committees formed to oppose Initiatives 1053, 1082 and 1107, and to the committee formed to support Initiative 1098, totaling approximately \$3,000 in the aggregate for each committee. During this special reporting period, contributions to each initiative committee first exceeded \$1,000 in the aggregate on October 15, 2010, making four special large Last Minute Contribution (LMC) reports due on October 18, 2010. The LMC reports were not filed. OAV continued to make in-kind contributions to the four committees throughout the special reporting period, and was required to file, but did not file, LMC reports on October 19, 2010, October 25, 2010, and November 1, 2010.

MITIGATING FACTORS

10. Tony Guevin, Program Manager for One America Votes, stated in a declaration dated March 1, 2011, that on September 12, 2010, OAV consulted with civic engagement

³ On March 4, 2011, OAV filed C-4 summary reports of contributions and expenditures, formally disclosing the activity disclosed to PDC staff on December 15, 2010. The delay from December 15, 2010 to March 4, 2011 occurred because of PDC staff advice to wait to report until it was clear that reporting was required.

consultant Erin Haick to discuss its anticipated 2010 election work and seek guidance regarding best practices.

11. Mr. Guevin stated that Ms. Haick recommended retaining an accountant with PDC experience to advise OAV regarding PDC registration and reporting requirements, and identified Richard Yang of EJK Accounting and Tax Services as an accountant who filed PDC reports for other organizations involved in election activities in Washington State.
12. On September 18, 2010, Mr. Guevin contacted Mr. Yang via email. In a responsive email dated September 20, 2010, Mr. Yang represented to Mr. Guevin that his services included "PDC reporting."
13. On October 1, 2010, Mr. Yang contacted PDC staff via email to determine the extent of OAV's reporting requirements. Mr. Yang explained to PDC staff that he was calling on behalf of an unnamed entity that was tax exempt under federal law as a 501(c)(4) organization, and asked whether, on that basis, reporting was required. PDC staff stated that if a 501(c)(4) organization was making an expenditure to a PAC they don't have to file anything unless the 501(c)(4) group reports as a PAC as well. In a later email on the same day, PDC staff explained that if the 501(c)(4) group meets the definition of a political committee, it would file campaign reports as well.
14. Mr. Guevin stated that also on October 1, 2010, Mr. Yang met with Mr. Guevin and advised Mr. Guevin that, based on his research, and on an email exchange with the PDC staff, OAV did not have an obligation to file with the PDC. Mr. Guevin stated that based on this advice, OAV did not register and report to the PDC.
15. OAV contends that its failure to report with the PDC was the result of its inexperience as a first-year organization, coupled with confusion regarding its filing responsibilities and mistaken information it received from Mr. Yang.
16. OAV contends it made a good-faith attempt to determine the extent of its disclosure requirement, and failed to file with the PDC after being advised that there was no requirement, advice OAV contends it had good reason to believe.

LEGAL AUTHORITY

17. **RCW 42.17.020(39)** defines a “political committee” as “any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.”
18. **RCW 42.17.040** states, in part, “(1) Every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission.”
19. **RCW 42.17.080 and .090** state, in part, that political committees are required to file timely, accurate reports of contributions and expenditures. The reports are due monthly if contribution or expenditure activity exceeds \$200, except that during the five months before the election, summary reports of receipts and expenditures are required to be filed 21 days and 7 days before each election in which the committee is participating. Any contributions received and expenditures made prior to the date of registration must be disclosed on the day the registration is filed.
20. **RCW 42.17.105(1)** states, in part, “(1) Campaign treasurers shall prepare and deliver to the commission a special report regarding any contribution or aggregate of contributions which: Is one thousand dollars or more; is from a single person or entity; and is received during a special reporting period. Any political committee making a contribution or an aggregate of contributions to a single entity which is one thousand dollars or more shall also prepare and deliver to the commission the special report if the contribution or aggregate of contributions is made during a special reporting period. For the purposes of subsections (1) through (7) of this section: (a) Each of the following intervals is a special reporting period: ... (ii) the interval composed of the twenty-one days preceding a general election.”

VIOLATIONS

Respondent One America Votes violated provisions of the state campaign finance disclosure laws as follows:

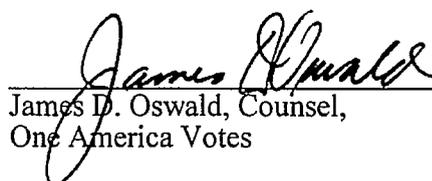
- a. RCW 42.17.040 by failing to timely register as a political committee on PDC form C-1pc within two weeks of receiving contributions for the purpose of supporting candidates or ballot propositions;
- b. RCW 42.17.080 and .090 by failing to timely file reports of contributions and expenditures on PDC forms C-3 and C-4 between August 13, 2010 and December 10, 2010; and
- c. RCW 42.17.105(1) by failing to file special reports of large Last Minute Contributions made during the 21-day period before the 2010 general election (October 12, 2010 – November 1, 2010) for contributions in excess of \$1,000 in the aggregate in support of or in opposition to statewide initiatives campaigns.

Respondent affirms its intention to comply in good faith with the provisions of RCW 42.17 in the future.



Doug Ellis, Interim Executive Director
Public Disclosure Commission

6/20/2011
Date Signed



James D. Oswald, Counsel,
One America Votes

6/20/11
Date Signed