



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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

IN RE COMPLIANCE)	PDC CASE NO: 12-001
WITH RCW 42.17)	
)	
Mike Hope)	
100 Ideas Washington State)	
)	REPORT OF INVESTIGATION
)	
Respondents.)	
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I.

BACKGROUND

- 1.1 Mike Hope is a State Representative serving Washington State's 44th Legislative District, which covers the cities of Snohomish, Mill Creek, Lake Stevens, and parts of unincorporated Snohomish County. In the 2004 and 2006 elections, Mr. Hope sought the office of State Representative position one in the 44th Legislative District, but was defeated in both elections by Representative Hans Dunshee. In the November 4, 2008 general election, Mr. Hope faced Liz Loomis in the race for 44th Legislative District Representative position two, and defeated Ms. Loomis by 138 votes in a hand recount.
- 1.2 On December 6, 2010, Mike Hope filed a C-1 Candidate Registration statement with the Public Disclosure Commission, registering his campaign for Snohomish County Executive in the 2011 election. Mr. Hope and the incumbent Snohomish County Executive, Aaron Reardon, will appear on the August 16, 2011 primary and November 8, 2011 general election ballots.
- 1.3 Mike Hope was a co-chair of Citizens for the Lakewood Law Enforcement Memorial Act, a political committee. **(Exhibit 1.)** The committee was organized to campaign to promote passage of ESHJR 4220, an amendment to the Washington State Constitution on the ballot for voter approval or rejection in the November 2, 2010 general election.

- 1.4 Finally, Mr. Hope is the Executive Director of 100 Ideas Washington State (hereafter, 100 Ideas). Mr. Hope formally announced the creation of 100 Ideas in a press release dated March 23, 2011; the press release stated that 100 Ideas was a nonpartisan, statewide initiative with plans to collect policy ideas from Washington State residents, and publish the best ideas in book form as a "road map" for policy makers. **(Exhibit 2.)**

II.

ALLEGATIONS IN COMPLAINT

- 2.1 On April 8, 2011, a complaint against Mike Hope was received from William Ferrell of Olympia. **(Exhibit 3.)** The complaint alleged that a primary purpose of 100 Ideas was electoral political activity, through expenditures promoting Mr. Hope's candidacy for Snohomish County Executive in the 2011 general election, and that 100 Ideas was a receiver of contributions reportable under RCW 42.17. The complaint alleged that these facts, independently and together, meant that 100 Ideas met the definition of a "political committee" under RCW 42.17.020(39). Mr. Ferrell alleged that 100 Ideas failed to register and report its activity as a political committee, as he alleged was required. He alleged that 100 Ideas had accepted contributions that exceeded the limits in RCW 42.17.640 on contributions to candidates for county-wide office, and that violated the prohibition in RCW 42.17.710 on fundraising by state officials during the legislative "session freeze" period. Finally, Mr. Ferrell's April 8, 2011 complaint alleged that 100 Ideas was conducting a campaign to lobby the legislature through public action, and had failed to report as the sponsor of a grass roots lobbying campaign after exceeding the expenditure thresholds in RCW 42.17.200.¹
- 2.2 On June 30, 2011, a 45-day Citizen Action Letter of complaint against Mike Hope was received from Mr. Ferrell. **(Exhibit 4.)** In his second complaint, Mr. Ferrell alleged that Mr. Hope failed to disclose travel occasions, paid for by Citizens for the Lakewood Law Enforcement Memorial Act, on his Personal Financial Affairs Statement filed on April 7, 2011.
- 2.3 Mr. Ferrell stated in his 45-day letter that he had notified the Washington Attorney General and Snohomish County Prosecutor of his intent to commence a citizen action under RCW 42.17.400 regarding the allegations

¹ During the course of this investigation, PDC staff received information alleging that Mr. Hope used the facilities of the legislature (e.g. legislative staff and email accounts) to conduct the business of 100 Ideas Washington State. Such activities are under the jurisdiction of the Legislative Ethics Board, and these allegations were not investigated by PDC staff.

in his first and second complaints. Accordingly, the complaints received from Mr. Ferrell on April 8, 2011 and June 30, 2011 were combined and investigated under one case number.

III.

FINDINGS

100 Ideas Washington State

- 3.1 **Evidence Submitted with Complaint:** The April 8, 2011 complaint by William Ferrell stated that 100 Ideas was a political committee with the expectation of receiving contributions to support a candidate, specifically Mike Hope in his race for Snohomish County Executive. However, the complaint provided no particular information or evidence that any contributions, or other funds, had been received.
- 3.2 The complaint further alleged that as the founder and Executive Director of 100 Ideas, Mr. Hope was uniquely positioned to benefit from the exposure the organization's activity would give him as a candidate for Snohomish County Executive in the November 2011 general election. Mr. Ferrell discussed activity that 100 Ideas planned to undertake—e.g., the aforementioned book containing policy ideas submitted by the public. However, at the time of the complaint, the only evidence of 100 Ideas' activity were the March 23, 2011 press release announcing the formation of the organization, and the 100 Ideas Web site, www.100ideaswa.org.
- 3.3 PDC staff reviewed the press release and 100 Ideas Web site for evidence of expenditures for electoral political activity that could be considered in the "primary purpose" analysis recommended by courts in applying the definition of "political committee" in RCW 42.17. Staff found that the Web site and press release identified Mr. Hope, but that neither mentioned his candidacy for Snohomish County Executive, or the executive race generally. Staff found that in addition to identifying Mr. Hope, the communications identified numerous other elected leaders at the state and local levels. The officials participating in 100 Ideas include State Representatives Kevin Parker of Spokane and Christopher Hurst of Enumclaw, King County Councilmember Reagan Dunn, Snohomish County Councilmember Dave Gossett, Snohomish County Treasurer Kirke Slevers, and multiple city elected officials.

- 3.4 **Response from Mike Hope:** On May 25, 2011, a preliminary response to Mr. Ferrell's April 8, 2011 complaint was received from Mike Hope. (**Exhibit 5.**) In his response, Mr. Hope stated that 100 Ideas was separate and distinct from his campaign for Snohomish County Executive. In response to PDC staff's question, Mr. Hope recognized that 100 Ideas had vendors in common with his executive campaign; however, he stated that no expenses paid for by his county executive campaign were related to 100 Ideas Washington State, and that the specific expenses that his campaign paid to the shared vendors were solely related to the Snohomish County Executive race.
- 3.5 On July 15, 2011, responses to both Mr. Ferrell's April 8, 2011 complaint and the June 30, 2011 Citizen Action Letter were received from Mike Hope. In his response to the April 8, 2011 complaint (**Exhibit 6**), Mr. Hope stated that 100 Ideas was a statewide, nonpartisan organization that could not and would not participate in any campaign activity for or against candidates. He stated that 100 Ideas' funds were deposited and accounted for separately from funds for his county executive race. He stated that as of the date of his response, 100 Ideas had received two contributions totaling \$5,000, and had incurred expenditures totaling \$4,750. He stated that the expenditures paid for the 100 Ideas Web site, and for the creation of a video that had not been broadcast. He stated that in compliance with the 2010 PSA law (RCW 42.17A.575), he was not included or identified in the video.
- 3.6 Concurrent with Mr. Hope's response, on July 15, 2011, financial records of 100 Ideas were delivered to the PDC by Mike O'Connell, Counsel to the Washington State Legislative Ethics Board, who obtained them in the course of a legislative ethics investigation. (**Exhibit 7.**) The records that were provided included bank statements, and copies of checks received and paid by 100 Ideas. The receipts, totaling \$5,000, consisted of a \$2,500 check from Jeffrey Swickard of Austin, Texas, and a \$2,500 check from Edward and Kathleen Eissmann of Snohomish, Washington. The payments, which totaled \$4,750, consisted of two checks for \$2,250 and \$2,500, made out to "100 Ideas Institute" or "Lance Cargill – 100 Ideas Institute."
- 3.7 In his response to Mr. Ferrell's April 8, 2011 complaint, Mr. Hope stated that the funds received by 100 Ideas were not subject to the "legislative session freeze" because they were donations to a private non-profit organization, rather than campaign contributions as defined in PDC law.
- 3.8 Finally, Mr. Hope stated that the purpose of 100 Ideas was not to lobby specific legislation through the general public, and that the organization thus had no requirement to report under RCW 42.17.200. He stated that 100 Ideas was more accurately described as a "think-tank."

- 3.9 PDC staff's review of the 100 Ideas press release dated March 23, 2011, the 100 Ideas Web site, and other public information such as media reports, indicates that 100 Ideas seeks to obtain policy ideas from members of the public, compile those ideas into a book, and present the ideas in that form directly to policymakers. Staff found no evidence that 100 Ideas was conducting, or planned to conduct, a "call to action," urging members of the general public to contact state officials in order to influence legislation.
- 3.10 **100 Ideas Videos:** On May 19, 2011, PDC staff visited the 100 Ideas Web site, 100ideaswa.org, and reviewed the two videos that were posted there. The videos are described below:
1. *"100 Ideas WA – KOMO Interview"* – an audio clip approximately five minutes in duration, consisting of a March 25, 2011 interview with Mike Hope, conducted by journalist Ken Schram. (**Exhibit 8, p 1.**) The audio recording plays against a static visual background that resembles the 100 Ideas Web site, with a legend that reads "100 Ideas – Audio Edition." In the interview, Mr. Hope is identified as the speaker. However, neither the race for Snohomish County Executive nor Mr. Hope's candidacy are discussed in the interview.
 2. *"100 Ideas WA Public Service Announcement"* – a 31 second spot featuring and narrated by Sara Hope, the wife of Mike Hope. The video (**Exhibit 9, p 1**) gives a basic description of the purpose of 100 Ideas Washington State, and invites viewers to visit the 100 Ideas Web site to suggest policy ideas. As stated by Mr. Hope in his response to Mr. Ferrell's complaint, the video does not include Mr. Hope or specifically identify him, and does not mention or discuss the race for Snohomish County Executive. However, in the video Ms. Hope does refer to her husband without using his name, describing him as a police officer, a state legislator, and a founder of 100 Ideas.
- 3.11 On March 28, 2011, Shane Cowherd, the Webmaster for 100 ideas, established a YouTube "channel" with the name "*100IdeasWA*."² On March 28, 2011 and May 10, 2011, respectively, Mr. Cowherd uploaded the videos discussed above to the 100IdeasWA YouTube channel; on March 28, 2011 and May 13, 2011, he placed links to the videos on the 100ideaswa.org Web site, making the videos viewable through the site.

² A YouTube "channel" is a page on the YouTube video hosting site that is established by a particular user and reserved for videos uploaded by that user. Channels and the videos posted to them are usually viewable by the public, and depending on the channel's privacy settings, may include public comments left on particular videos. However, only a YouTube user who possesses the user name and password for a channel may add or delete videos to that channel, or modify a video that is posted there.

- 3.12 In PDC staff's initial review of the 100 Ideas "KOMO Interview" and "Public Service Announcement" YouTube videos, staff noted that both videos were tagged with search terms related to the Snohomish County Executive Race, including "*Mike Hope*," "*Snohomish County*," and "*County Executive*." (**Exhibit 8, p 2, Exhibit 9, p 2.**) Recognizing that such tags could serve to drive campaign-related Internet traffic to the 100 Ideas videos, PDC staff performed a Google search using the terms "Mike Hope for Snohomish County Executive," and found that the top two search results were the videos by 100 Ideas Washington State.
- 3.13 In his preliminary response to Mr. Ferrell's April 8, 2011 complaint (**Exhibit 5**), Mr. Hope stated that after consulting with his legislative staff, and the staff and consultants for 100 Ideas and for his county executive campaign, he was unable to determine who was responsible for uploading 100 Ideas videos to the 100IdeasWA YouTube channel, and for tagging the videos with search terms related to the county executive race. However, in an interview under oath with Shane Cowherd, Mr. Cowherd stated that, as discussed above, he was responsible for establishing the 100IdeasWA YouTube channel and uploading the videos in question. He stated that while he did not add the campaign-related search terms to the videos, there were several individuals associated with 100 Ideas and with Mr. Hope's campaign who possessed the user name and password needed to access the 100IdeasWA YouTube account, and that any of these individuals could have logged in and tagged the videos.
- 3.14 Accordingly, on August 11, 2011, PDC staff recommended to Mike Hope that he log in to the 100IdeasWA YouTube channel and remove the search tags that could serve to drive campaign-related internet traffic to the 100 Ideas videos that are posted there. Staff recommended that Mr. Hope institute a policy of requiring different secure user names and passwords for online resources related to 100 Ideas and to his campaign for Snohomish County Executive.
- 3.15 Within 24 hours of PDC staff's recommendation, the campaign-related tags had been removed from the 100 Ideas videos. Staff again performed a Google search using the terms "Mike Hope for Snohomish County Executive," and found that the videos sponsored by 100 Ideas were no longer included in the search results.

F-1 Reporting by Mike Hope

- 3.16 **Evidence Submitted with Complaint:** In his Citizen Action Letter received June 30, 2011, Mr. Ferrell pointed to expenses reported by Citizens for the Lakewood Law Enforcement Memorial Act for air travel on September 13 and September 17, 2010, and for lodging in Spokane on October 12, 2010. **(Exhibit 4.)** He stated that comments by Mr. Hope on his campaign Facebook page demonstrated that he travelled to Spokane to support the Lakewood Law Enforcement Memorial Act on these dates. He alleged that the 2010 travel expenses were reportable by Mr. Hope as gifts in the form of paid travel occasions, and that Mr. Hope failed to disclose the expenses on his F-1 Personal Financial Affairs Statement filed on April 7, 2011.
- 3.17 **F-1 Reporting by Mike Hope:** PDC staff reviewed Mr. Hope's April 7, 2011 F-1 filing and found that he did not disclose any travel occasion sponsored by Citizens for the Lakewood Law Enforcement Memorial Act. **(Exhibit 10.)** In notifying Mr. Hope of the complaint, staff asked him to state whether the committee expenditures noted in the complaint did in fact pay for his travel, and if so, to address their alleged reportability on the F-1 statement.
- 3.18 In his July 15, 2011 response to Mr. Ferrell's June 30, 2011 Citizen Action Letter **(Exhibit 6, p 3)**, Mr. Hope confirmed that Citizens for the Lakewood Law Enforcement Memorial Act furnished airfare for two trips to Spokane in September and October of 2010, and that both were under \$250. In addition, he confirmed that the campaign also paid for his lodging, an expense of \$97.20. Mr. Hope stated that the September and October 2010 travel occasions were not undertaken in his official capacity as a Washington State Representative, but rather in his capacity as a co-chair of a political committee formed in support of a ballot proposition, and so were not required to be disclosed on the F-1 report. He pointed out that the relevant section of law specifies "*Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity.*"
- 3.19 PDC staff reviewed PDC filings and the Web site of Citizens for the Lakewood Law Enforcement Memorial Act political committee. **(Exhibits 11, 1.)** Staff noted that the committee's officers and steering committee included multiple state executive and legislative officials in addition to Mr. Hope, as well as at least one local official, King County Council Member Reagan Dunn. In reviewing expenditure reports filed by Citizens for the Lakewood Law Enforcement Memorial Act, PDC staff noted a payment by the committee to reimburse Mr. Dunn for travel on October 15, 2010. Staff then reviewed Mr.

Dunn's March 30, 2011 F-1 filing and noted that, like Mr. Hope, he did not report travel occasions sponsored by the political committee.

- 3.20 Staff reviewed Legislative Ethics Board *Advisory Opinion 2002 No. 1*, which established when travel by a state legislator is conducted in the legislator's official capacity, and thus is exempt from the definition of "gift" in RCW 42.52.010(10)(d) when paid for by a third party. The Opinion (**Exhibit 12**) states that the Legislative Ethics Board will consider that legislative travel and lodging expenses were incurred in a legislator's official capacity when: 1) the travel occasion involves the performance of legislative duties; 2) payment for the travel would be viewed as a proper expenditure, if requested from legislative funds; and 3) when the legislative purpose of the trip is substantive, as evidenced by identification of substantial services on behalf of the state or the legislature. The Opinion cites two non-exclusive factors that help determine that the legislative purpose of a travel occasion is substantive and not minor: (a) an invitation, itinerary, or agenda which shows that the legislator is given assignments in advance or required to attend or make presentations at official functions; and (b) the legislator performs substantial services on behalf of the state or the legislature.
- 3.21 In his July 15, 2011 response to the Citizen Action Letter, Mr. Hope stated that his September 2010 trip to Spokane was made for the purpose of attending an editorial board meeting for the Remember Lakewood ballot proposition campaign. He stated that the October trip was made to participate in radio and television interviews for the campaign. PDC staff found no evidence that these campaign activities constituted legislative duties, that the associated travel expenses would be viewed by the legislature as a proper expenditure of legislative funds, that in his travel Mr. Hope was assigned or required to attend or make presentations at official functions, or that he performed substantial services on behalf of the state or the legislature.

IV.

SCOPE

4.1 PDC staff reviewed the following documents:

1. A complaint against Mike Hope, received from William Ferrell on April 8, 2011;
2. A 45-Day Citizen Action complaint against Mike Hope, received from William Ferrell on June 30, 2011;

3. A preliminary response to Mr. Ferrell's complaints, received from Mike Hope on May 25, 2011;
4. Formal responses to Mr. Ferrell's April 8, 2011 and June 30, 2011 complaints, received from Mr. Hope on July 15, 2011;
5. Correspondence and documents regarding 100 Ideas Washington State, received from Mike O'Connell, Counsel to the Washington State Legislative Ethics Board, on July 15, 2011;
6. Additional email correspondence from Mr. Hope, received on August 12, 2011;
7. Public information concerning 100 Ideas Washington State, including the organization's Web site, press releases, print and radio news interviews, other news coverage, and videos sponsored by the organization;
8. Campaign finance reports and data filed by the Friends of Mike Hope 2011 campaign for Snohomish County Executive;
9. Reports and data filed by the Citizens for the Lakewood Law Enforcement Memorial Act political committee;
10. The April 7, 2011 Personal Financial Affairs Statement filing by Mike Hope;
11. The March 30, 2011 Personal Financial Affairs Statement filing by Reagan Dunn; and
12. Legislative Ethics Board *Advisory Opinion 2002 No. 1*.

4.2 Shane Cowherd, Web designer for 100 Ideas Washington State, was interviewed under oath on August 11, 2011.

V.

LAW

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.*"

PDC Interpretation 07-02, *Primary Purpose Test Guidelines*, distills relevant case law and other legal guidance (AGO 1973 no. 14, *State v. Dan Evans*

Committee, and Evergreen Freedom Foundation v. Washington Education Association) concerning the definition of "political committee" in RCW 42.17.020(39). As discussed in the Interpretation, a person is a political committee if that person becomes a "receiver of contributions" for electoral political activity, or if the person's expenditures for electoral political activity make such activity one of the person's primary purposes.

RCW 42.17.050(3) prohibits any candidate from knowingly establishing, using, directing, or controlling more than one political committee for the purpose of supporting that candidate during a particular election campaign.

RCW 42.17.040 requires every political committee to timely register with the Public Disclosure Commission.

RCW 42.17.080 and 090 require political committees to file timely, accurate reports of contributions and expenditures. The reports are filed monthly following an excess of \$200 in contribution or expenditure activity, except during the five months before the election, during which time summary reports of receipts and expenditures are required to be filed 21 days and again 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. Reports of contributions must include the name and address of any contributor who has given more than \$25 in the aggregate.

RCW 42.17.640 limits contributions to candidates for county-wide office. The limits for individuals, unions, corporations, political committees and all other entities (other than a bona fide political party committee or legislative caucus committee) is \$800 for each election in which the candidate is on the ballot or appears as a write-in candidate.

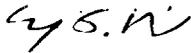
RCW 42.17.710 prohibits a state official, or a person employed by or acting on behalf of a state official or state legislator, from soliciting or accepting a contribution to a candidate or a candidate's authorized committee during the period beginning on the thirtieth day before the beginning of a regular legislative session, continuing through the date of final adjournment, and for the duration of a special legislative session.

RCW 42.17.200 requires any person who has made expenditures not reported by a registered lobbyist, candidate, or political committee that exceed one thousand dollars in the aggregate within any three-month period, or that exceed five hundred dollars in the aggregate within any one-month period, in presenting a program addressed to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation, to register and report as a sponsor of a grass roots lobbying campaign.

RCW 42.17.241 requires officials to disclose in their annual Personal Financial Affairs Statement each occasion at which items specified in RCW 42.52.010(10)(d) were accepted, specifying the date, donor, and amount accepted.

RCW 42.52.010(10)(d) specifies, in applying the definition of a "gift" in State Ethics Law, and items excluded from that definition, "*[p]ayments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity.*"

Respectfully submitted this 18th day of August, 2011.



Tony Perkins
Lead Political Finance Specialist
Public Disclosure Commission

EXHIBIT LIST

- Exhibit 1** A screen shot of the Citizens for the Lakewood Law Enforcement Memorial Act political committee's Web site.
- Exhibit 2** A press release issued on March 23, 2011 by 100 Ideas Washington State.
- Exhibit 3** Complaint against Mike Hope, received on April 8, 2011 from William Ferrell.
- Exhibit 4** A 45-day Citizen Action Letter of complaint against Mike Hope, received from William Ferrell on June 30, 2011.
- Exhibit 5** A preliminary response to Mr. Ferrell's April 8, 2011 complaint, received from Mike Hope on May 25, 2011.
- Exhibit 6** Responses to Mr. Ferrell's April 8, 2011 complaint and June 30, 2011 Citizen Action Letter, received from Mike Hope on July 15, 2011.
- Exhibit 7** Financial records of 100 Ideas Washington State, delivered to the PDC on July 15, 2011 by Mike O'Connell, Counsel to the Washington State Legislative Ethics Board.
- Exhibit 8** A screen shot of the "100 Ideas WA – KOMO Interview" video, as it appears on the Web site 100ideaswa.org, and as uploaded to YouTube.
- Exhibit 9** A screen shot of the "100 Ideas WA Public Service Announcement" video, as it appears on the Web site 100ideaswa.org, and as uploaded to YouTube.
- Exhibit 10** PDC F-1 filing submitted by Mike Hope on April 7, 2011.
- Exhibit 11** PDC C-4 expenditure filings submitted by Citizens for the Lakewood Law Enforcement Memorial Act on October 26, 2010.
- Exhibit 12** Legislative Ethics Board *Advisory Opinion 2002 No. 1*.