



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: 13-101
WITH RCW 42.17A)	
)	
Citizens for Two-Thirds)	
)	
)	REPORT OF INVESTIGATION
)	
Respondent.)	
_____)	

I.

BACKGROUND

- 1.1 Citizens for Two-Thirds is a political committee formed to support Proposition 1, a ballot proposition in the November 5, 2013 general election in the City of Yakima. If passed by voters, Proposition 1 would amend the Yakima City Charter to require the affirmative vote of at least five city council members to assess, levy or increase any tax in the city.
- 1.2 Citizens for Two-Thirds registered with the Public Disclosure Commission by filing a Political Committee Registration (C-1pc Report) on April 30, 2013. **(Exhibit 1.)** The registration listed Ben Shoal as Citizens for Two-Thirds' treasurer, and indicated the committee's choice of the Mini Reporting option, which limited the committee to \$5,000 in aggregate contributions and expenditures, and \$500 in aggregate contributions from any one source for the duration of the Proposition 1 campaign. By selecting the Mini Reporting option, Citizens for Two-Thirds was not required to file the ongoing reports of contributions and expenditures required of committees under the Full Reporting option.
- 1.3 On June 21, 2013, the Washington Public Disclosure Commission (PDC or Commission) received a complaint from Paul George alleging that Citizens for Two-Thirds violated the state's campaign disclosure and contribution laws. **(Exhibit 2.)**

- 1.4 On July 5, 2013, Citizens for Two-Thirds submitted sufficient qualifying signatures to place Proposition 1 on the ballot. Media reports indicated that these signatures were collected through a combination of paid workers and volunteers.

II.

ALLEGATIONS IN COMPLAINT

- 2.1 Paul George's complaint alleged that Citizens for Two-Thirds violated RCW 42.17A.205, .235, and .240, and WAC 390-16-125 by exceeding the limits of the Mini Reporting option, and by failing to properly change to the Full Reporting option before exceeding the limits of the Mini Reporting option.

III.

FINDINGS

- 3.1 **Application to Change Reporting Options:** On June 12, 2013, Citizens for Two-Thirds submitted an amended C-1pc report, Cash Receipts Monetary Contributions reports (C-3 Reports), and Campaign Summary Receipts and Expenditures reports (C-4 Reports) as part of an application to change to the Full Reporting option. The reports (**Exhibit 3**) indicated that the committee had accepted contributions that exceeded the \$500 limit of the Mini Reporting option on contributions from one source. As of May 30, 2013, Yakima Valley Publishing had provided in-kind contributions of advertising to the committee valued at \$2,305, including a full-page advertisement to reproduce the signature petition for the charter amendment. (**Exhibit 4.**) As of June 12, 2013, contributions (including loans) from the personal funds of Ben Shoval totaled \$3,000.
- 3.2 The reports submitted on June 12, 2013 indicated that as of that date, Citizens for Two-Thirds had raised \$5,930 and spent \$5,227, exceeding the \$5,000 limit of the Mini Reporting option on aggregate contributions and expenditures.
- 3.3 On June 18, 2013, PDC staff sent an email to Mr. Shoval, informing him that in order for Citizens for Two-Thirds' application to change reporting options to be processed or approved, it would be necessary for the committee to return to compliance with the Mini Reporting limits, for example by cancelling outstanding orders and obtaining refunds of vendor payments in order to bring the committee's total expenditures below \$5,000, and to free sufficient

cash to make refunds and payments to contributors who had contributed more than \$500 in the aggregate. **(Exhibit 5.)**

- 3.4 **Attempt to Return to Compliance with Mini Limits:** On July 9, 2013, Citizens for Two-Thirds submitted reports indicating that from June 12 – 30, 2013, the committee conducted refunds of certain contributions. **(Exhibit 6.)** However, during this period the committee also accepted and retained \$3,935 in new contributions, bringing the committee's aggregate contributions to \$6,865 and further exceeding the \$5,000 limit of the Mini Reporting option on aggregate contributions. The new contributions included \$5,000 accepted on June 17, 2013, and attributed jointly to Bruce and Ginger Smith, again exceeding the \$500 limit of the Mini Reporting option on contributions from one source. (Mr. Smith is a registered officer of Citizens for Two-Thirds.)
- 3.5 The reports that Citizens for Two-Thirds submitted on July 9, 2013 indicate that on June 12, 2013, the committee received a full refund of \$2,922 paid to Evergreen Petition Management, LLC between May 30, 2013 and June 7, 2013 for signature gathering services. However, in an email to PDC staff sent on July 17, 2013, Sharon Hanek, a CPA assisting the committee, stated that Evergreen Petition Management, LLC did perform services for Citizens for Two-Thirds, and expected payment from the committee, indicating that payments for signature gathering services could not properly be deducted from the committee's expenditure totals. **(Exhibit 7.)**
- 3.6 Ms. Hanek further stated that Citizens for Two-Thirds determined it would pay Yakima Valley Publishing for \$2,305 in advertising reported as an in-kind contribution on June 12, 2013. She stated that the committee had requested an invoice from the company. This promise to pay for the advertising added \$2,305 in expenditures to the committee's expenditure totals. Together with payments owed to Evergreen Petition Management, LLC and \$233 in additional expenditures, as of June 30, 2013, Citizens for Two-Thirds' aggregate expenditures stood at \$5,460, exceeding the \$5,000 limit of the Mini Reporting option on aggregate expenditures.
- 3.7 On July 18, 2013, PDC staff sent a letter to Citizens for Two-Thirds, notifying the committee that because it exceeded the limits of the Mini Reporting option prior to applying for a change in reporting options, PDC staff was unable to process or approve the committee's application to change to the Full Reporting option. **(Exhibit 8.)**
- 3.8 **Response to Complaint / Additional Filings:** On August 12, 2013, a response to the complaint filed by Paul George was received from Dan Brady, counsel to Citizens for Two-Thirds. **(Exhibit 9.)** In his response, Mr. Brady stated that when Citizens for Two-Thirds registered on April 30, 2013, the committee fully intended to operate completely within the limits of the Mini Reporting option. He stated that when the committee realized that the

contributions and expenditures required for professional signature gathering services would cause it to exceed the limits of the Mini Reporting option, on May 28, 2013, Ben Shoval left voicemails with PDC staff seeking guidance on how to transition to Full Reporting.

- 3.9 Mr. Brady stated that after receiving written guidance from PDC staff on June 3, 2013, the committee retained Sharon Hanek, an accountant who represented herself as familiar with PDC laws and rules, to guide the committee through the switch to Full Reporting, in addition to filing any PDC forms going forward. He stated that Ms. Hanek was confused by PDC staff's instruction that the committee could return contributions, cancel orders, and obtain refunds of expenses in order to return to compliance with the Mini Reporting limits. He stated that she did not understand that goods or services already received would remain expenditures, unpaid obligations, or in-kind contributions/expenses at the time they were ordered regardless of what the campaign bank account indicated. He stated that Ms. Hanek erroneously believed and maintained that as long as actual funds in the account were less than \$5,000, and the committee didn't make actual cash outlays exceeding \$5,000, Citizens for Two-Thirds was compliant with the Mini Reporting option.
- 3.10 Mr. Brady stated that during this period of confusion, payments for signature gathering and estimates for services not yet rendered were never reported. However, he stated that the committee's largest payments and obligations, including for advertising and signature gathering, were at least partially disclosed when Citizens for Two-Thirds filed its early request to change reporting options on June 12, 2013. He stated that the committee's full obligation for signature gathering services was disclosed in draft C-4 reports attached to his response.
- 3.11 Mr. Brady stated although Citizens for Two-Thirds had made expenditures in excess of the \$5,000 Mini Reporting limit, the committee had incurred less than \$200 in expenditures or other obligations since June 30, 2013, and none following the committee's receipt of PDC staff's July 18, 2013 letter informing the committee that its request to change to Full Reporting could not be processed or approved. He stated that the only exception were obligations for legal counsel and professional compliance services to resolve this complaint. He stated that the committee had received only one \$200 monetary contribution since June 30, 2013, and had refunded that contribution. He stated that the committee had refunded all contributions above \$500 from a single source.
- 3.12 The draft reports submitted with Mr. Brady's response to the complaint were submitted in a final, electronic form on August 20, 2013. **(Exhibit 10.)** The reports disclosed that as of July 31, 2013, Citizens for Two-Thirds had accepted and retained \$4,960 in monetary and in-kind contributions, and had incurred \$15,851 in aggregate expenditures, including \$877 in actual cash

payments and in-kind expenditures, and \$14,974 in unpaid obligations. **(Exhibit 10, pp 1 - 36.)** The reports included the following expenditures, disclosed for the first time:

Date	Vendor	Description	Amount
5/10/2013	Smith, Phillips & DiPietro Advertising	Banners, Logo Development (est. obligation)	\$657.54
5/19/2013	Ben Shoval	Website Expenses (est. obligation)	\$99.00
6/17/2013	Yakima Bindery	Copies	\$11.52
6/18/2013	Democracy Engine, LLC	Credit card fees	\$17.27
6/18/2013	Evergreen Petition Management	Signature gathering (est. obligation)	\$1,306.00
6/19/2013	Ben Shoval	Website Expenses (est. obligation)	\$99.00
6/21/2013	Evergreen Petition Management	Signature gathering (est. obligation)	\$3,179.75
6/25/2013	Democracy Engine, LLC	Credit card fees	\$34.17
6/28/2013	Evergreen Petition Management	Signature gathering (est. obligation)	\$4,292.75
6/28/2013	Evergreen Petition Management	Signature gathering	\$121.00
6/30/2013	Yakima National Bank	Bank service charge	\$10.00
7/3/2013	Big R Stores	Tent	\$108.19
7/5/2013	Square, Inc.	Credit card fees	\$5.50
7/15/2013	Sharon Hanek	Professional Services (In-kind contribution)	\$400.00
7/19/2013	Ben Shoval	Website Expenses (est. obligation)	\$113.00
TOTAL			\$10,455

3.13 The reports filed on August 20, 2013 disclosed that the only contribution and expenditure activity Citizens for Two-Thirds conducted after August 1, 2013 was to accept a \$500 in-kind contribution of legal services, and to incur \$1,500 in obligations for legal services, and \$500 in obligations for other compliance services. **(Exhibit 10, pp 38 - 41.)**

IV.

SCOPE

4.1 PDC staff reviewed the following documents:

1. A complaint against Citizens for Two-Thirds, received from Paul George on June 21, 2013;
2. Correspondence received from Mr. George on June 28, 2013; July 15, 2013, July 22, 2013, July 24, 2013; and July 29, 2013;
3. An article published in the *Yakima Herald* on July 6, 2013, titled *"Two-Thirds tax increase measure makes Yakima ballot"*;
4. PDC correspondence to Citizens for Two-Thirds, mailed on July 18, 2013;

5. A formal response to Mr. George's complaint, received from Dan Brady on August 12, 2013, including draft filings;
6. Additional email correspondence from Dan Brady, received on August 6, 2013; August 13, 2013, August 15, 2013, and August 16, 2013;
7. Email correspondence received from Ben Shoval on June 3, 2013; June 24, 2013; July 11, 2013; July 15, 2013; July 15, 2013; July 22, 2013; July 23, 2013; and July 26, 2013;
8. Email correspondence received from Sharon Hanek on June 28, 2013; July 17, 2013; and July 18, 2013;
9. Email correspondence received from Bruce Smith on August 7, 2013; August 11, 2013; and August 13, 2013;
10. Email correspondence received from Sonya Claar Tee, Yakima City Clerk, on August 14, 2013;
11. A C-1pc Political Committee Registration for Citizens for Two-Thirds, received on April 30, 2013;
12. An amended C-1pc registration for Citizens for Two-Thirds, received on June 12, 2013; and
13. C-3 and C-4 contribution and expenditure reports for Citizens for Two-Thirds, received on June 12, 2013; July 9, 2013; and August 20, 2013.

V.

LAW

RCW 42.17A.205 requires every political committee to file a statement of organization with the commission. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier.

RCW 42.17.235 and .240 require political committees to file timely, accurate reports of monetary and in-kind contributions, including contributions pledged but not received, and monetary and in-kind expenditures, including debts, orders placed and obligations. 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. The reports must disclose any debt, obligation, note, unpaid loan, or other liability valued at more than \$250, or valued at more than \$50 that has been outstanding for over thirty days. 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.

WAC 390-16-105 exempts political committees from the requirement to comply with the C-3 and C-4 reporting requirements of RCW 42.17A.225 through 42.17A.240, when neither aggregate contributions nor aggregate expenditures exceed five thousand dollars and no contribution or contributions from any person exceed five hundred dollars.

WAC 390-16-115 states, in part: "The exemptions allowed in WAC 390-16-105 shall be granted to a candidate or political committee ... only upon compliance with the following conditions. ... (2) A political committee shall, within fourteen days after its organization or after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, file the C1-pc registration statement with the commission. (3) The statement filed under subsection (2) of this section shall declare that the political committee will not exceed the contribution or expenditure limits set out in WAC 390-16-105."

WAC 390-16-125 states that in order to be processed or approved, a complete application to change reporting options must be delivered to the PDC on or before thirty business days prior to the date of the election, and before a political committee exceeds the limits of the Mini Reporting option. The rule states that exceeding the Mini Reporting limits in WAC 390-16-105 without complying with the provisions of WAC 390-16-125 shall constitute one or more violations of the PDC's laws and rules.

Respectfully submitted this 29th day of August, 2013.



Tony Perkins
Lead Political Finance Specialist

EXHIBIT LIST

- Exhibit 1** Citizens for Two-Thirds' C-1pc Political Committee Registration, received on April 30, 2013.
- Exhibit 2** A complaint from Paul George against Citizens for Two-Thirds, received on June 21, 2013.
- Exhibit 3** An amended C-1pc, C-3 and C-4 reports received from Citizens for Two-Thirds on June 12, 2013 as part of the committee's application to change to the Full Reporting option.

- Exhibit 4** A full-page advertisement for Citizens for Two-Thirds, published in the May 31 – June 14, 2013 edition of the *Yakima Business Times*, and received from Paul George on July 24, 2013.
- Exhibit 5** PDC staff email to Ben Shoal sent on June 18, 2013.
- Exhibit 6** C-3 and C-4 reports received from Citizens for Two-Thirds on July 9, 2013.
- Exhibit 7** Email to PDC staff from Sharon Hanek, received on July 17, 2013.
- Exhibit 8** PDC correspondence to Citizens for Two-Thirds, mailed on July 18, 2013.
- Exhibit 9** A response to the complaint filed by Paul George, received on August 12, 2013 from Dan Brady, counsel to Citizens for Two-Thirds, with email correspondence attachments.
- Exhibit 10** C-3 and C-4 reports received from Citizens for Two-Thirds on August 20, 2013.