

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

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

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

Allegations & Results of Investigation

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

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

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

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

Applicable Statutes, Rules, and Interpretations

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

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

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

Summary of Detailed Staff Findings

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

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

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

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

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

Recommendation

PDC staff recommends that the Commission:

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

Enclosures:

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