

## **Executive Summary and Staff Analysis**

### **Tim Eyman, Jack Fagan, Mike Fagan, Barbara Smith, and *Bring Back Our \$30 Car Tabs – VWMC – 2016***

(45-Day Citizen Action Complaint)

PDC Case No. 5729

This summary highlights staff's findings, conclusions, and recommendations regarding the allegations contained in PDC Case No. 5729, a 45-Day Citizen Action Complaint (Complaint) filed on May 25, 2016 by Washingtonians for Ethical Government against the *Bring Back Our \$30 Car Tabs – VWMC – 2016* committee and its officers, Tim Eyman, Jack Fagan, Mike Fagan, and Barbara Smith.

#### **Background**

The Attorney General's Office referred the Complaint to the PDC on June 7, 2016 for investigation and possible action. On June 8, 2016, PDC staff sent a letter to *Bring Back Our \$30 Car Tabs – VWMC – 2016*, informing the respondents that staff had opened a formal investigation, and requesting a written response. On June 24, 2016, Mark Lamb, counsel to the respondents, provided a response to the allegations.

#### **Allegations**

The Complaint alleged that the respondents failed to properly disclose expenses incurred to sponsor 21 independent expenditure Web videos opposing 54 candidates for legislative office, alleged violations of RCW 42.17A.235 and RCW 42.17A.240. The notice further alleged that the communications at issue failed to comply with the sponsor identification requirement for independent expenditure political advertising under RCW 42.17A.320. Finally, the notice alluded to the C-6 independent expenditure disclosure requirement of RCW 42.17A.255, but did not contain a clear allegation regarding C-6 filing.

#### **Investigative Findings and Conclusion**

Based on the factors identified in the investigation, staff found and concluded as follows:

*Bring Back Our \$30 Car Tabs – VMWC – 2016* filed a C-4 Summary, Full Report of Receipts and Expenditures on April 11, 2016, disclosing more than \$45,000 in expenditures paid in March of 2016 to sponsor 21 Web videos that opposed 49 candidates for state legislative office. The initial C-4 did not disclose that the purpose of the expenditures was to oppose a candidate for office, as required by RCW 42.17A.240(6) and WAC 390-16-037(1), and did not describe the expenses as independent expenditures. That purpose and description was first disclosed 44 days late, on an amended C-4 report filed on May 25, 2016.

Based on the pro-rated value of these communications per candidate, it appears that ten of the 21 videos at issue met the statutory definition of "independent expenditure." Per RCW 42.17A.320(4) these ten videos were required to include the "No candidate authorized this ad" disclaimer; the sponsor's name, city and state; and accurate "Top 5 contributors" information. The sponsor ID statement in the videos contained an abbreviated version of the sponsor's name ("Voters Want More Choices") but did not

contain the committee's city or state. The videos also did not include the statement "No candidate authorized this ad." Finally, the videos listed incorrect "Top 5 Contributors" information.

C-1pc Political Committee Registrations currently on file for *Bring Back Our \$30 Car Tabs – VMWC – 2016* indicate the committee's sole purpose is to support Initiative 1421 in the 2016 general election. The committee's C-1pc registrations do not identify any candidate that the committee will support or oppose. Although the issue was not raised in the Citizen Action Notice, within ten days of sponsoring the committee's March 28, 2016 expenditures to oppose a candidate, or to support a ballot proposition other than I-1421, *Bring Back Our \$30 Car Tabs – VMWC – 2016* was required under RCW 42.17A.205(4) to file an amended C-1pc indicating the committee's updated purpose. This amendment, due no later than April 7, 2016, is 89 days late as of the date of this executive summary.

Finally, in their Citizen Action Notice, the complainants did not make a specific allegation concerning any alleged failure by *Bring Back Our \$30 Car Tabs – VMWC – 2016* to file C-6 Independent Expenditure reports. Nevertheless, PDC staff reviewed a possible C-6 filing requirement for the political committee, and found no such requirement under any of the relevant statutory provisions: RCW 42.17A.255, RCW 42.17A.260, and RCW 42.17A.305.

### **Recommendation**

For the reasons described above, staff recommends that the Commission find multiple apparent violations of RCW 42.17A.205, RCW 42.17A.240, and RCW 42.17A.320, and recommend to the Washington Attorney General that that office take appropriate action concerning the apparent failure of *Bring Back Our \$30 Car Tabs – VMWC – 2016* and its officers Tim Eyman, Jack Fagan, Mike Fagan, and Barbara Smith to supplement the committee's political committee registration by disclosing updated information, its failure to disclose expenses incurred to oppose candidates for legislative office in a complete and timely manner, and its failure to include complete and accurate sponsor identification and contributor information in the committee's independent expenditure political advertising.