STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

May 29, 2015

PAUL PECK
1140 QUINCE ST NE
OLYMPIA WA 98506

Subject: Complaint filed against Protect Our Children, PDC Case No. 14-019

Dear Mr. Peck:

PDC staff has completed its investigation of your complaint received on December 26, 2013, alleging that Protect Our Children violated RCW 42.17A.205 by failing to indicate on its C-1pc Political Committee Registration that it was supporting Mike Volz and opposing Julie Hankins in their 2013 campaigns for Olympia City Council. Your complaint was consolidated with a complaint filed by Bob Jones on November 8, 2013, containing similar allegations against Protect Our Children. (In addition to the alleged violation of RCW 42.17A.205, Mr. Jones' complaint alleged that the committee violated RCW 42.17A.335[1][a] by sponsoring political advertising that contained alleged false statements of material fact about Julie Hankins, made with actual malice and constituting libel or defamation per se.)

The complaints were considered in light of the following statutes:

RCW 42.17A.205 requires the statement of organization filed by a political committee to include the name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing. Political committees are required to report any material change in information previously submitted in a statement of organization to the commission within the ten days following the change.

RCW 42.17A.335 states the following, in part:

> (1) It is a violation of this chapter for a person to sponsor with actual malice a statement constituting libel or defamation per se under the following circumstances:
>
> (a) Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office;
>
> ...
>
> (2) For the purposes of this section, "libel or defamation per se" means statements that tend (a) to expose a living person to hatred, contempt, ridicule, or obloquy, or to deprive him or her of the benefit of public confidence or social intercourse, or to injure him or her

> in his or her business or occupation, or (b) to injure any person, corporation, or association in his, her, or its business or occupation.
>
> ...
>
> (4) Any violation of this section shall be proven by clear and convincing evidence. If a violation is proven, damages are presumed and do not need to be proven.

RCW 42.17A.005(1) states that "actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

PDC staff reviewed your complaint, the complaint filed by Bob Jones, and preliminary and supplemental responses to the complaints submitted by Protect Our Children's officers and legal counsel. Staff reviewed media coverage of homelessness issues in the City of Olympia published in 2013, and coverage of the 2013 Olympia City Council race. Staff reviewed contribution and expenditure reports that Protect Our Children filed with the PDC in 2013. Staff reviewed agendas, meeting materials, minutes, and video footage from 2013 Olympia City Council meetings. As a result of staff's investigation, we found the following:

Alleged Failure by Protect Our Children to Disclose Purpose on C-1pc Registration

- Protect Our Children's original C-1pc registration and an amendment filed on October 18, 2013 did not indicate that the committee would support or oppose one or more candidates.

- Addressing the alleged incompleteness of the committee's initial registration, Protect Our Children's treasurer stated that the committee did not originally plan to focus on any particular city council race, but rather to organize and campaign around the issue of a low-barrier homeless shelter in Olympia, with the hope that "the issue would go away" as a result of the committee's pressure. (During 2013, faith organizations, local government, and non-profit agencies in Thurston County were considering a proposal for a low-barrier homeless shelter in Olympia. The proposal generated controversy because of concerns about the location of the shelter, and because the shelter would receive public funding.)

- From October 27 – 30, 2013, subsequent to Protect Our Children's October 18, 2013 amended registration, the committee sponsored printing and mailing expenditures for a postcard opposing Julie Hankins and supporting Mike Volz. The mailing was received by Olympia residents in early November 2013.

- On November 18, 2013, after the 2013 general election, Protect Our Children filed an amended C-1pc Political Committee Registration, indicating that the committee opposed Julie Hankins and supported Mike Volz.

- Protect Our Children did not amend its registration within ten days of its October 27, 2013 political advertising expenditures as required by RCW 42.17A.205(4), to indicate

the committee's purpose of supporting or opposing one or more candidates. However, a timely amendment could have been filed as late as November 6, 2013, after the 2013 general election. The committee's amended registration was filed later the same month.

Alleged Sponsorship of Political Advertising Containing False Statements Subject to RCW 42.17A.335(1)(a)

- Protect Our Children's mailing sponsored in late October 2013 contained statements purporting to describe Julie Hankins' support for a low-barrier homeless shelter in Olympia.

- As reflected by coverage of the low-barrier shelter issue in the *Daily Olympian*, and coverage of the 2013 Olympia City Council race, Ms. Hankins made public statements as early as the beginning of October 2013 indicating her opposition to the placement of a low-barrier shelter in Olympia.

- Under certain specified criteria, RCW 42.17A.335(1)(a) prohibits sponsorship of political advertising containing false statements of material fact about a candidate. To establish a violation of RCW 42.17A.335(1)(a), the PDC must find *clear and convincing evidence* that the statements in an advertisement were:
    - false statements of material fact;
    - about a candidate;
    - constituting libel or defamation per se; and
    - made with actual malice.

  Under Washington law, "actual malice" means to act with knowledge of falsity, or with reckless disregard as to truth or falsity.

- Staff's review indicated a reason to believe that the statements in Protect Our Children's mailing concerning Julie Hankins were not accurate or correct. However, staff found no evidence that the statements were false statements of material fact, made with actual malice.

- Protect Our Children's officers and legal counsel provided what the committee believed was a basis for the statements in its mailing, concerning Julie Hankins' purported support for a low-barrier homeless shelter. They stated that this belief was based in part on Ms. Hankins' participation in consensus as an Olympia City Council member to support funding a low-barrier shelter. The committee cited a January 15, 2013 Olympia City Council meeting during which Ms. Hankins joined the council in forwarding instruction to City Manager Steve Hall to find local homeless shelter providers and offer them a total of $35,000 in cash incentives to provide a low-barrier shelter.

- As a further basis for the statements in the committee's mailing, Protect Our Children stated that on September 17, 2013, the committee's officers hand-delivered a written statement to Olympia City Council members and city council candidates, asking them to

pledge to withhold support for any low-barrier homeless shelter placed in a residential neighborhood. The committee stated that it did not receive the signed pledge from Ms. Hankins, and accordingly believed that she supported the low-barrier shelter then under consideration.

After a careful review of the alleged violations and relevant facts, PDC staff have concluded our investigation. We found no evidence that Protect Our Children's amended C-1pc registration filed on November 18, 2013 was substantially out of compliance. Although Protect Our Children's political advertising did not reflect Julie Hankins' stated opposition to a low-barrier homeless shelter, we found insufficient evidence to meet the high evidentiary requirements for a violation of RCW 42.17A.335(1)(a).

Because staff's investigation has not revealed sufficient evidence to establish a material violation of any laws or regulations under the Commission's jurisdiction, I am dismissing the complaints against Protect Our Children with the concurrence of the Chair of the Public Disclosure Commission.

I sincerely regret how long it has taken to bring this matter to conclusion, and appreciate your patience as PDC compliance staff members have worked their way through the backlog of complaints from the 2013 and 2014 election seasons.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll-free at 1-877-601-2828 or by e-mail at phil.stutzman@pdc.wa.gov.

Sincerely,

Andrea McNamara Doyle
Executive Director

c: Protect Our Children, c/o Phil Cornell