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Kurt Young
Compliance Officer
Public Disclosure Commission
711 Capitol Way S #206
Olympia, WA 98504

Re: Response to Let's Go Washington in Complaint No. 140213
BIL File No. 3263-331

Dear Mr. Young:

We are writing on behalf of Heather Weiner to respond to Let's Go Washington's reply in PDC Complaint Number 140213. As the Committee's amended filings do not adequately address the underlying issues raised in our complaint, and new issues have emerged since our initial filing, we ask the PDC to initiate an investigation as soon as possible.

I. The Public Has an Established Present Interest in Disclosure Related to Efforts to Qualify Ballot Propositions.

At the outset of his reply, Let's Go WA's campaign treasurer Conner Edwards asserts that deficiencies in reporting related to propositions that have not yet qualified for the ballot "have no material impact to the public." This is plainly false. "Ballot proposition" is defined to include measures, initiatives, recall, or referendum propositions to be submitted to the voters "from and after the time when the proposition has been initially filed with the appropriate election officer . . . before its circulation for signatures." RCW 42.17A.005(4). Thus, the obligation to report contributions and expenditures in support or opposition to a state ballot proposition begins when it is filed with the Secretary of State. *See State v. Evergreen Freedom Found.*, 192 Wash. 2d 782, 796 (2019) (en banc). In *State v. Evergreen Freedom Foundation*, the state Supreme Court found that the state has an "important governmental interest in informing the public about the influence and money behind ballot measures," and that the Fair Campaign Practices Act (FCPA) plays a "vital role" in advancing that interest, including by requiring early disclosure. *Id.* at 801. The court observed that "[t]he high stakes of the ballot context only amplify the crucial need to inform the electorate." *Id.* at 800 (citing *Cal. Pro-Life Council, Inc. v. Getman*, 328 F.3d 1088, 1106 (9th Cir. 2003)). Here, where Let's Go WA is rapidly approaching seven-digits of spending to qualify ballot propositions touching on numerous areas of intense public concern, any violations of the FCPA do immediate harm to public transparency.

II. Let's Go WA Cannot Avoid Disclosure by Relying on In-Kind Contributions.

Throughout Let's Go WA's reply, Mr. Edwards also asserts that various provisions of the FCPA and accompanying regulations are not applicable because they deal with expenditures and not in-kind contributions. However, the cited provisions must be interpreted broadly in this particular case where: 1) the Committee is wholly reliant on in-kind support; and 2) greater disclosure would be required if these same expenditures were made directly by the Committee (rather than its Sponsor/Chair) or were reported as independent expenditures. Washington's campaign reporting requirements "shall be liberally construed to promote complete disclosure of all information respecting the financing of political campaigns." RCW 42.17A.001. Thus, the PDC should interpret the Act based on its "history, purpose, and the particular facts of [the] case," and avoid narrow readings that would create unexpected inconsistencies or loopholes for the very wealthy to exploit. *See State v. Evergreen Freedom Found.*, 192 Wash. 2d at 796.

If the PDC seeks an additional textual basis to require more detailed reporting related to Mr. Heywood's in-kind spending, it may be found in WAC 390-16-205. This rule provides that "[e]xpenditures made on behalf of a . . . political committee by any person, agency, consultant, firm, organization, etc., employed or retained for the purpose of organizing, directing, managing or assisting the . . . committee's efforts shall be deemed expenditures by the . . . committee" and must be reported as if made or incurred by the committee directly. WAC 390-16-205(1). This language does not strictly require that the person or other entity be employed or retained *by the committee*, merely that they be employed or retained for the purpose of advancing its efforts and that they make expenditures on its behalf. Both Mr. Heywood and Ms. Hanek, as governors of TDM Strategies, have been retained (by Mr. Heywood) to make expenditures on behalf of the Committee to conduct paid signature gathering. Thus their expenditures should be reported with the same level of detail as would be required if they had been directly incurred by the Committee.

III. Let's Go WA Has Failed to Adequately Report the Ballot Proposition(s) Supported by Specific In-Kind Expenditures (Allegation #1).

In response to our complaint, Mr. Edwards argues that the ballot propositions supported by the Committee have been adequately identified in the Committee's statements of organization. But Mr. Edwards adopts an overly narrow reading of the language of WAC 390-16-037, one that would undermine the purpose of the rule to allow voters to track the spending in support of or opposition to specific propositions. WAC 390-16-037 provides that associated ballot propositions must be identified for individual expenditures "unless such . . . ballot proposition(s) have been previously identified in a statement of organization." In keeping with a liberal construction in favor of broad disclosure, such language should be read to require reporting at the expenditure level unless there is a total match between the propositions identified on the committee's statement of organization and those supported by a given expenditure. Where a committee has been formed to support or oppose a single ballot proposition, there can be little doubt that any expenditures relate to that proposition, and a committee would have no need to further report at the expenditure level. However, in the case of a committee like Let's Go WA, which is currently supporting six ballot propositions (and previously supported eleven ballot propositions in 2022), regular expenditure-level reporting is necessary to effectuate the language and purpose of WAC 390-16-037.

In calling attention to Let's Go WA's earlier-filed statements of organizations available through the PDC's Open Data program, Mr. Edwards provides further evidence of the need for expenditure-level reporting and of past infirmities in the Committee's disclosures to the PDC. The FCPA requires every political committee to file a statement of organization "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."¹ RCW 42.17A.205(1). That statement must include the ballot proposition(s) supported or opposed by the committee. RCW 42.17A.205(2)(g). Let's Go WA first registered with the PDC on April 14, 2022, and listed "#TBD" as the ballot proposition it would be supporting or opposing.² The Committee further revised its statement of organization on April 16, 2022³ and April 19, 2022,⁴ but did not update the "#TBD." Meanwhile, according to the Committee's own reporting, Brian Heywood began spending on the Committee's behalf on March 28, 2022. Fully two months later, on May 31, 2022, the Committee finally revised its statement of organization to include the eleven ballot propositions it would be supporting that year.⁵ None of these propositions were successfully submitted by the December 30, 2022, deadline to go before the legislature.

Despite its failures in 2022, Let's Go WA continued to receive significant in-kind support from Brian Heywood throughout the first half of 2023. But it appears that its statement of organization was only updated to reflect the six propositions it is supporting this year on July 7.⁶ Thus, for many months, the public could not in fact refer to the Committee's statement of organization to at least narrow down to six the field of potential ballot proposition(s) being supported by a particular expenditure. The timely filing of a statement of organization is required by the FCPA and failure to do so is a violation in its own right. *See* 42.17A.205(1), (2)(g). But Let's Go WA's delay in updating its statement of organization from one year to the next, and the sheer number of propositions it has supported over the last two years, also underscores the importance of expenditure-level disclosure under WAC 390-16-037.

IV. Let's Go WA Has Failed to Adequately Report Work Performed by Research Mom (Allegation #2A-B).

Let's Go WA's stated willingness to accurately report the name of a consultant that has received nearly \$150,000 and counting in the future does not remedy its past violations. While sole proprietorships can register trade names with the state Department of Revenue, and Ms. Hanek has registered several trade names associated with Research Mom Consulting Service (including "Let's Go Washington"), she has not registered any trade name involving the abbreviation "RM." The fact that other campaigns have

¹ "Election campaign" is defined as "any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition." RCW 42.17A.005(19).

² https://apollo.pdc.wa.gov/public/registrations/registration?registration_id=48759.

³ https://apollo.pdc.wa.gov/public/registrations/registration?registration_id=48780.

⁴ https://apollo.pdc.wa.gov/public/registrations/registration?registration_id=48814.

⁵ https://apollo.pdc.wa.gov/public/registrations/registration?registration_id=49383. This delay cannot be excused by the timing of the issuance of the relevant ballot titles, the first of which became public on April 13 and all of which were public by May 19, 2022.

https://www2.sos.wa.gov/elections/initiatives/initiatives.aspx?y=2022&t=l&_gl=1*usvmcp*_ga*NjEwODI2ODYyLjE2ODkxODI5ODg.*_ga_7B08VE04WV*MTY5MjY2NDA2MC43LjEuMTY5MjY2NDcwMy4wLjAuMA.

⁶ https://apollo.pdc.wa.gov/public/registrations/registration?registration_id=54053. Once again, the relevant ballot titles were issued between May 5 and June 27, 2023. <https://www2.sos.wa.gov/elections/initiatives/initiatives.aspx?y=2023&t=l>.

inaccurately reported the name of Ms. Hanek's sole proprietorship does not excuse the Committee from its own errors. And because those cases were ones in which Ms. Hanek's name was already associated with the committee, the impact on public knowledge and transparency was less consequential.

More significantly, Mr. Edwards' argument that the Committee has no obligation to report services provided by Research Mom from June to November of 2022 pursuant to WAC 390-17-405 must fail. Research Mom's services cannot be excused as volunteer in nature both because Ms. Hanek otherwise receives compensation for the services rendered and because they are not of the kind commonly performed by volunteer campaign workers. Though the Committee's lack of disclosure makes it difficult to know what exactly Ms. Hanek was doing for the campaign from June to November, Mr. Edwards' reply suggests that there was no substantive difference between the "volunteer" services provided during that period and subsequent services for which Ms. Hanek was compensated through her sole proprietorship.

These later payments of well over \$100,000 for "consulting services" and "initiative outreach and distribution services" show that Ms. Hanek's work on behalf of the campaign was both work for which she is otherwise compensated and beyond the scope of work typically performed by campaign volunteers. Indeed, as Mr. Edwards noted, Research Mom has been paid for work on other campaigns. Ms. Hanek registered her sole proprietorship with the State of Washington precisely because she uses it to make money, including by providing campaign services. And her website accepts payment "for accounting, consulting and research" and states that "Research Mom is a private business," not a volunteer undertaking.⁷

Examples of services commonly performed by volunteers include doorbelling, setting up yard signs, and transporting voters to polling places on election day. *See* WAC 390-17-405(1). They also include "campaign consulting and management services"; however, only if "the individual does not ordinarily charge a fee or receive compensation for providing the service." *Id.* The sheer amount of money that Ms. Hanek has now been paid for her services to the Committee should dispel any illusion that they were ever volunteer in nature.

V. Let's Go WA Has Failed to Adequately Report Work Performed by TDM Strategies (Allegation #2D).

Mr. Edwards states that "TDM Strategies was only formed in late April of 2023, and TDM Strategies has not rendered any services to LGW, nor does LGW have any reportable debts owed to TDM Strategies." This simply cannot be the case. As early as April 25, TDM Strategies began advertising paid signature gathering opportunities on behalf of Let's Go WA. By June 30, 2023, it had sought and obtained a minor work permit to employ people under the age of eighteen and registered with the Washington Department of Revenue. Throughout, its website stated that it was hiring for positions with a start date of July 1. In a mid-July interview, Brian Heywood said that the Committee was seeking to hire 200 people and described paid signature gathering that had already taken place during the All-Star Game, from July 7–11.⁸ Though the Committee has now reported an \$89,632 debt to TDM Strategies, that debt is listed as being first incurred on June 30, well after TDM Strategies was formed and first embarked on its

⁷ <http://www.researchmom.org/contact.html>.

⁸ https://www.youtube.com/watch?v=suxEzOue_tk.

considerable hiring efforts. It appears highly likely that at least some of these expenses were reportable many weeks earlier.

VI. Let's Go WA Has Failed to Adequately Report Planned Spending (Allegation #3).

Mr. Edwards characterizes Brian Heywood's continued spending on behalf of Let's Go WA as "a general desire to continue to support a committee" that does not give rise to reportable pledges. However, this significantly downplays both the relationship between Mr. Heywood, Let's Go WA, and various campaign vendors, and Mr. Heywood's apparently longstanding commitment to financing a paid signature gathering effort after his all-volunteer efforts fell short in 2022. Because there is no separation between Let's Go WA's decision to use paid signature gatherers and Mr. Heywood's plan to pay for those signature gatherers, they were reportable as a pledge far earlier than they appeared as a campaign debt.

PDC Interpretation 12-01, which Mr. Edwards cites, provides that "[t]o be considered a pledge for purposes of reporting requirements . . . the promise must be for a specific amount if a monetary pledge *or for specific goods or services if an in-kind pledge.*" (Emphasis added). Mr. Heywood established a new entity, TDM Strategies, specifically for the purpose of providing signature gathering services to the Committee. Thus, when Mr. Heywood formed TDM Strategies in April, 2023, it was clear that he had already committed to purchase paid signature gathering services on the Committee's behalf. Mr. Heywood's later announcement that the Committee was seeking to hire around 200 people at \$18-20 per hour shows how concrete those plans likely were.⁹

Mr. Edwards also greatly mischaracterizes Mr. Heywood's reporting obligations under the FCPA by suggesting that Mr. Heywood has registered as a political committee and filed C3 and C4 reports voluntarily and in the interest of greater transparency. The definition of political committee in the FCPA excepts "an individual dealing with the . . . individual's own funds or property"; however, it nonetheless includes "any person . . . having the expectation of receiving contributions or making expenditures in support of" any ballot proposition. RCW 42.17A.005(41). As Let's Go WA has received in-kind contributions from entities other than Brian Heywood, it was nonetheless required to register as a political committee under state law.

Moreover, even if Mr. Heywood had spent purely his own money to advance the supported ballot propositions, the alternative to registering as a political committee and filing C3 and C4 reports is not no reporting whatsoever, as Mr. Edwards seems to imply. Rather, Mr. Heywood would be subject to the reporting requirements of RCW 42.17A.255 and WAC 390-16-063 governing independent expenditures. Indeed, pursuant to RCW 42.17A.255(5)(b), Mr. Heywood would be required to report the name and address of each person to whom an independent expenditure was made in support of a ballot proposition, and the amount, date, and purpose of the expenditure—the level of disclosure we have argued is appropriate all along.

VII. Brian Heywood Is Sponsoring Multiple Committees Supporting the Same Ballot Propositions, in Violation of RCW 42.17A.205(5) (New Allegation).

⁹ See https://www.youtube.com/watch?v=suxEzOue_tk.

In preparing our response to Mr. Edwards' reply, it has come to our attention that Mr. Heywood is now sponsoring multiple political committees in support of the same ballot propositions. Mr. Heywood is not only the sponsor of Let's Go WA, supporting 2023 ballot propositions I-2081, I-2109, I-2111, I-2113, I-2117, and I-2124, but the below committees as well:

- Taxpayers Accountability Alliance – Sponsored by Brian Heywood (supporting I-2109, I-2111, I-2117, and I-2124)¹⁰
- Safer Streets for All Sponsored by Brian Heywood (supporting proposition I-2113)¹¹

RCW 42.17A.205(5) states that “[a] person may sponsor only one political committee for the same elected office or same ballot proposition per election cycle. Mr. Heywood is in clear violation of this limitation.

Mr. Edwards' reply has not alleviated the concerns raised in our initial letter and further research has only revealed additional violations of the FCPA by Let's Go WA and Mr. Heywood. As Mr. Heywood's spending continues apace and has begun to attract greater public attention,¹² we urge the Commission to initiate an investigation into both our initial allegations and those now raised in this response.

Please do not hesitate to contact us if you have any questions, or if we can be of further assistance.

Sincerely,



Abby Lawlor
Dmitri Iglitzin

Counsel for Heather Weiner

¹⁰ https://apollo.pdc.wa.gov/public/registrations/registration?registration_id=54322.

¹¹ https://apollo.pdc.wa.gov/public/registrations/registration?registration_id=54321.

¹² See Danny Westneat, *The great debate about climate and gas prices is only heating up*, *Seattle Times* (Aug. 9, 2023) <https://www.seattletimes.com/seattle-news/politics/the-great-debate-about-climate-and-gas-prices-is-only-heating-up/>.