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Original via email

August 15, 2024

Peter Frey Lavallee
Executive Director
Public Disclosure Commission
711 Capitol Way S, Suite 206
Olympia, WA 98504
peter.lavallee@pdc.wa.gov

Re: Ongoing Violations of the FCPA and FCPC by Let's Go Washington (Sponsored by
Brian Heywood)
BIL File No. 6676-002

Dear Director Lavallee:

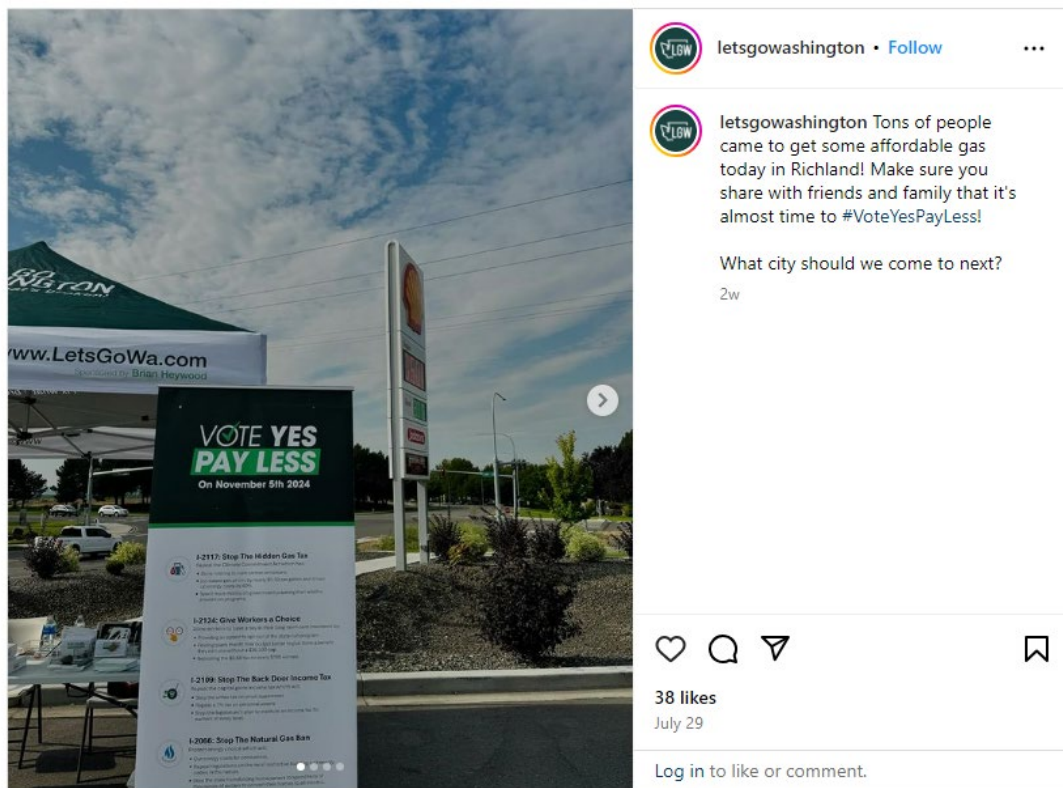
We are writing on behalf of Defend Washington to report violations of both the Fair Campaign Practices Act (FCPA), RCW 42.17A, and the Fair Campaign Practices Code, WAC 390-32-010, by Let's Go Washington (Sponsored by Brian Heywood) occurring in the immediate aftermath of the Commission's July 25 meeting.

At that meeting, the Commission considered the request by SEIU 775, Washington Conservation Action, Civic Ventures, and Planned Parenthood Alliance Advocates that the PDC's ongoing investigation into Let's Go Washington be referred to the Attorney General, including on the basis that Let's Go Washington's conduct had violated state criminal law. The Commission declined to refer the investigation, instead tentatively scheduling a hearing for the Commission's August meeting.

Just four days after the Commission's deliberations, Let's Go Washington once again engaged in the conduct that gave rise to the request for referral: offering discounted gas to voters to induce them to vote for Let's Go Washington-backed initiatives. Under the banner "Vote Yes, Pay Less," Let's Go Washington offered discounted gasoline to drivers at a Jacksons Shell in Richland on July 29 with the undeniable objective of encouraging them to vote yes on Initiative 2117 and the rest of the Let's Go Washington slate.



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¹ <https://www.instagram.com/letsgowashington/p/C98QI98y5qK/>.

² https://www.instagram.com/letsgowashington/p/C-BAY6cS7g4/?img_index=1

This conduct violates RCW 29A.84.250(4), making it a misdemeanor to “[g]ive[] or offer[] any consideration or gratuity to any person to induce him or her to sign or not to sign or to vote for or against any initiative or referendum measure.” On August 9, Let’s Go Washington again offered discounted gasoline to drivers at a Shell Gas Station in Burien.³ On August 10, Let’s Go Washington offered \$5 off vouchers at the food truck Burger Buds during a campaign event in Enumclaw, once again instructing voters: “Vote Yes, Pay Less.”⁴ Let’s Go Washington has indicated that future discount events are planned as part of the campaign’s “Vote Yes, Pay Less Tour.”⁵

This conduct implicates criminal provisions that are beyond the scope of the Commission’s authority and that continue to justify referral of this investigation to the Attorney General. However, Let’s Go Washington has also violated the FCPA by failing to report the July 29 gas station event on its August 12 C-4 report and the FCPC by offering financial incentives to voters in order to sway their votes.

I. Let’s Go Washington failed to report expenditures made by or to benefit the campaign in violation of RCW 42.17A.225 and .240.

Under the FCPA, continuing committees must report all expenditures and contributions received at least monthly. RCW 42.17A.225(2), .240. RCW 42.17A.005(22) defines “expenditure” to include “a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of . . . assisting in furthering or opposing any election campaign.” This would include the costs associated with a discounted gas promotion that attracted people to a location for purposes of securing their support for I-2117. RCW 42.17A.005(15)(a) defines “contribution” to include a gift, donation, payment, or “transfer or funds, or anything of value, including personal and professional services for less than full consideration.” It also includes an “expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political or incidental committee, the person or persons named on the candidate’s or committee’s registration form who direct the expenditures on behalf of the candidate or committee, or their agents.” And WAC 390-05-210 further provides that the term contribution includes “furnishing services, property or rights on an unequal basis or at less than their fair market value . . . for the purpose of assisting any candidate or political committee.” This does not require that services, property, or rights be furnished to the committee, merely that they be furnished for the purpose of assisting the committee.

Let’s Go Washington may have paid directly for the gas discount and other costs associated with the promotional event at Jacksons Shell in Richland. Or, as with Let’s Go Washington’s previous discounted gas event, it may have received an in-kind contribution from another entity. In either case, Let’s Go Washington failed to report the expenditure or the contribution on its August 12 C-4 report, in violation of RCW 42.17A.225 and .240 requiring timely disclosure of expenditures and contributions.⁶

³ <https://www.instagram.com/letsgowashington/p/C-S4J8lvIRO/>.

⁴ <https://www.instagram.com/letsgowashington/p/C-YCQq9vyle/>.

⁵ See <https://letsgowashington.com/events/>.

⁶ See Let’s Go WA C-4 Report No. 110238125.

II. Let's Go Washington's conduct corrupts our system of free election in violation of WAC 390-32-010(5).

The FCPC prohibits campaign practices by political committees “which tend to corrupt or undermine the system of free election or which hamper or prevent the free expression of the will of the voters.” WAC 390-32-010(5). Let's Go Washington's repeated offering of financial incentives to voters to encourage them to sign and vote for initiatives does just that. By giving voters discounts on gas and food, Let's Go Washington seeks to buy support rather than win it through the strength of the initiatives themselves. With voters standing in the shoes of legislators, these discounts have a corrupting influence on their ability to fairly evaluate whether the initiatives are good policy and should be enacted. That is precisely why such practices contravene the FCPC and are prohibited by Washington criminal law. *See* RCW 29A.84.250(4); RCW 29A.84.620.

Defend Washington requests that this complaint be processed as one arising under both RCW 42.17A and WAC 390-32-010. *See* WAC 390-32-030(2). Given Let's Go Washington's continued disregard for the Commission's ongoing investigation and Washington's campaign finance laws, Defend Washington also requests that the Commission make good on its stated intention of holding a hearing on the numerous allegations against Let's Go Washington later this month.

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 Defend Washington

Cc: Kim Bradford, kim.bradford@pdc.wa.gov