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SUPERIOR COURT
THURSTON COUNTY, WA

<input type="checkbox"/> EXPEDITE <input type="checkbox"/> No Hearing Set <input checked="" type="checkbox"/> Hearing is Set Date: December 16, 2016 Time: 9:00 a.m. The Honorable Gary Tabor
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14-2-02381-0
ORGSJ
Order Granting Summary Judgment
930345



STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
 Plaintiff,
 v.
 FOOD DEMOCRACY ACTION! and
 FOOD DEMOCRACY ACTION!
 YES ON I-522 COMMITTEE TO
 LABEL GMOS IN WASHINGTON,
 Defendants.

NO. 14-2-02381-0

JUDGMENT SUMMARY, FINDINGS
OF FACT, CONCLUSIONS OF LAW
AND FINAL JUDGMENT

JUDGMENT SUMMARY (RCW 4.64.030)

- A. JUDGMENT CREDITOR: Plaintiff, STATE OF WASHINGTON
- B. JUDGMENT DEBTORS: FOOD DEMOCRACY ACTION! and FOOD DEMOCRACY ACTION! YES ON I-522 COMMITTEE TO LABEL GMOS IN WASHINGTON
- C. PRINCIPAL JUDGMENT: \$319,281.58 penalty in favor of the State
- D. INTEREST: No prejudgment interest is owed. Principal judgment amount(s) due and owing shall not bear interest unless the principal judgment is unpaid by the due date specified herein
- E. COSTS AND FEES: \$ 90,590.20 as Reasonable Attorneys Fees
\$ 325.00 as Costs of Trial
\$ 2,131.32 as Costs of Investigation

- 1 F. ATTORNEYS FOR ROBERT W. FERGUSON
JUDGMENT CREDITOR Attorney General
2 LINDA A. DALTON, WSBA No. 15467
Senior Assistant Attorney General
3 CHAD C. STANDIFER, WSBA No. 29724
Assistant Attorney General
4
5 G. ATTORNEYS FOR None appeared at trial
JUDGMENT DEBTORS

6 THIS MATTER came before the Court for trial on November 21, 2016. Plaintiff
7 STATE OF WASHINGTON, appeared by and through its counsel, ROBERT W.
8 FERGUSON, Attorney General, LINDA A. DALTON, Senior Assistant Attorney General,
9 and CHAD C. STANDIFER, Assistant Attorney General. Defendants Food Democracy
10 Action! (FDA) and Food Democracy Action! Yes on I-522 Committee to Label GMOs in
11 Washington (FDA PAC) did not appear. This matter was originally set for trial on September
12 19, 2016. Defendants counsel withdrew from the case effective August 20, 2016. Shortly
13 before trial, principals for the Defendants requested by email correspondence a continuance to
14 secure new counsel. The Court continued this matter to November 21, 2016. On the eve of
15 trial, the same individuals sought to continue the trial again but did not make any motion to
16 the court. The matter proceeded to trial on November 21, 2016 and no one appeared for
17 Defendants. The Court considered the exhibits admitted by the Court and evidence presented
18 by the State, the testimony of Tony Perkins and Evelyn Lopez for the State, and the State's
19 closing argument, along with the records and files in this case. Based on this evidence and
20 testimony, the Court issues the following Findings of Fact.

21 **I. FINDINGS OF FACT**

- 22 1. Defendant Food Democracy Action! (FDA) is registered with the Internal Revenue Service
23 as a 501(c)(4) non-profit organization. It was founded in April 2012. Its base of operations
24 is in Clear Lake, Iowa. (Trial Exhibit 9).

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26 ///

- 1 2. Defendant Food Democracy Action! Yes on I-522 Committee to Label GMOs in
2 Washington (FDA PAC) is a registered political committee in Washington. It filed its
3 registration form on November 13, 2013. (Trial Exhibit 7).
- 4 3. At all times relevant to this lawsuit, FDA's President and Treasurer was William D.
5 (David) Murphy.
- 6 4. At all times relevant to this lawsuit, FDA PAC's Campaign Manager/Media Contact and
7 Committee Chair was David Murphy. Its Secretary/Treasurer was Lisa Stokke. (Trial
8 Exhibit 7).
- 9 5. Prior to participating in the 2013 Initiative 522 election in Washington, FDA participated in
10 lobbying activities in the states of Connecticut and Maine as evidenced by their
11 solicitations to their members/supporters. (Trial Exhibit 5).
- 12 6. During 2012, FDA actively participated in supporting a California ballot measure (Prop 37)
13 that, if passed, would have required labeling packaged food products to identify GMOs
14 (genetically modified organisms).
- 15 7. FDA made at least two contributions in its own name totaling \$115,000 to support Prop 37.
16 These contributions were reported by the Yes on 37 for Your Right to Know political
17 committee as coming from FDA. (Trial Exhibit 2).
- 18 8. In November 2012, California voters rejected Prop 37. (Trial Exhibit 3).
- 19 9. On June 29, 2012, Chris and Leah McManus submitted Initiative 522 to the Washington
20 Secretary of State as an initiative to the legislature. Initiative 522 would have "require[d]
21 most raw agricultural commodities, processed foods, and seeds and seed stocks, if
22 produced using genetic engineering as defined, to be labeled as genetically engineered
23 when offered for retail sale."
- 24 10. Initiative 522 appeared on the November 2013 General Election statewide ballot.
25 Washington voters rejected Initiative 522.
- 26

1 11. In 2013, FDA and FDA PAC became aware of Initiative 522 in Washington. (Trial
2 Exhibit 5).

3 12. Starting in July 2013, FDA sent four newsletters seeking money from its members and
4 supporters to support the GMO labeling efforts in Washington, including Initiative 522.
5 FDA labeled these efforts as a fundraising campaign to raise and receive money to support
6 Initiative 522. (Trial Exhibits 5, 6)

7 13. FDA sent three solicitations for contributions in July 2013. (Trial Exhibit 5). It sent a
8 similar request in October 2013. (Trial Exhibit 6).

9 14. Based on the date of the first solicitation, FDA and FDA PAC should have registered a
10 political committee no later than August 13, 2013.

11 15. FDA members and supporters began sending FDA money on July 30, 2013 and continued
12 contributing money through November 1, 2013. (Trial Exhibit 10).

13 16. FDA raised \$295,661.58 in cash and in-kind contributions to support Initiative 522. (Trial
14 Exhibit 15).

15 17. Of the money received, FDA and FDA PAC contributed \$200,000 in cash contributions to
16 the Yes on I-522 political committee. Those contributions were made on the following
17 dates in the identified amounts:

18 a. August 16, 2013 - \$50,000

19 b. October 15, 2013 - \$50,000

20 c. October 24, 2013 - \$50,000

21 d. October 25, 2013 - \$25,000

22 e. October 30, 2013 - \$25,000.

23 (Trial Exhibits 12, 14, 15).

24 18. FDA reported itself as the source of these contributions. FDA received the money to make
25 these contributions as a result of a direct solicitation to its members and supporters. FDA
26 and FDA PAC received a total of \$250,036 in cash contributions. (Trial Exhibits 8, 9).

1 19. FDA and FDA PAC also eventually reported FDA's making and FDA PAC's receipt of
2 in-kind contributions in the amount of \$45,627.13 as data services. (Trial Exhibits 11, 12,
3 13, 14, 15).

4 20. FDA and FDA PAC did not file any reports of contributions received until November 22,
5 2013. On that day, they filed 12 such reports, known as Form C3 reports. (Trial Exhibit
6 10).

7 21. FDA and FDA PAC's C3 reports were a total of 541 days late.

8 22. FDA and FDA PAC did not file any summary reports of expenditures until January 15,
9 2014. On that day, they filed five such reports, known as Form C4 reports. (Trial Exhibits
10 11, 12, 13, 14, 15).

11 23. FDA and FDA PAC's C4 reports were a total of 491 days late.

12 24. FDA did not register with the PDC as a political committee until November 13, 2013.
13 (Trial Exhibit 7). Based on FDA's solicitation of contributions and the Court's decision on
14 when the committee was formed, FDA's committee registration form should have been
15 filed no later than August 13, 2013. FDA filed its committee registration form 120 days
16 late.

17 25. FDA and FDA PAC failed to timely file 18 registration and disclosure reports in
18 accordance with state law.

19 26. FDA and FDA PAC admitted their failure to comply with state campaign finance
20 disclosure laws. (Trial Exhibits 8, 9; Answer to Complaint filed February 17, 2014).

21 27. The Public Disclosure Commission (PDC) makes information available to filers about what
22 and how to file disclosure reports. That information is available through the PDC website
23 as well as PDC compliance staff available to answer questions.

24 28. The purpose of the state's campaign finance disclosure laws is established in RCW
25 42.17A.001 and includes the aim of complete disclosure to "assure continuing public
26 confidence of fairness of elections" and to protect the public interest.

1 29. During 2013, the state Public Disclosure Commission's (PDC) website recorded over
2 85,000 unique visitors to its website according to a report the PDC received from Google
3 Analytics. Those users accessed approximately 1.7 million pages on the PDC website in
4 2013; of those pages, approximately one million pages accessed were to the PDC
5 contribution and expenditure database.

6 30. Members of the public including candidates, political committee representatives, political
7 party representatives, members of the media, and others seek information from the PDC
8 website including about disclosure information. PDC staff instruct people on how to use
9 the website, how to find reporting materials, and about campaign finance data.

10 31. From July 2, 2013 to November 22, 2013, FDA and FDA PAC did not submit any political
11 committee finance disclosure reports that would have included and identified donors to
12 FDA PAC (Form C3 reports). Under state law, FDA and FDA PAC were obligated to file
13 reports of the contributions expected to and received from their members and supporters.
14 This amounted to at least 12 C3 reports that FDA and FDA PAC did not timely or properly
15 file.

16 32. FDA and FDA PAC did not disclose the contributors to FDA PAC until November 22,
17 2013.

18 33. Based on the reports eventually filed by FDA PAC, FDA and FDA PAC's contribution
19 reports were a cumulative total of 541 days late.

20 34. From July 2, 2013 to January 15, 2014, FDA and FDA PAC did not file any political
21 committee finance disclosure reports showing expenditures made from FDA PAC. Under
22 state law, FDA and FDA PAC should have filed summaries of financial activity (Form C4
23 reports) including five C4 reports through the end of December 2013. FDA and FDA PAC
24 did not file any reports for activity until January 15, 2014.

25 35. FDA and FDA PAC filed a final committee report with the state PDC on January 15,
26 2014.

1 36. Based on the reports eventually filed by FDA PAC, FDA and FDA PAC's expenditure
2 summary reports were a cumulative total of 491 days late.

3 37. FDA and FDA PAC failed to timely and properly disclose \$295,661.58 in contributions
4 received during 2013.

5 II. CONCLUSIONS OF LAW

6 Based on the Findings of Fact identified above, the Court makes the following
7 Conclusions of Law:

- 8 1. The totality of the record establishes under a preponderance of the evidence, as well as the
9 higher clear, cogent and convincing standard, that Defendants FDA and FDA PAC
10 solicited and received campaign contributions from its members and supporters, which they
11 used to fund contributions to support the 2013 Washington ballot measure, Initiative 522.
- 12 2. The totality of the record establishes under a preponderance of the evidence, as well as the
13 higher clear, cogent and convincing standard, that FDA formed a political committee as
14 defined by RCW 42.17A.005(37) as a receiver of contributions no later than July 30, 2013,
15 by creating an expectation of receiving contributions through the use of FDA's July
16 newsletters.
- 17 3. The totality of the record establishes under a preponderance of the evidence, as well as the
18 higher clear, cogent and convincing standard, that FDA and FDA PAC committed multiple
19 violations of Washington's campaign finance disclosure laws by:
 - 20 a. Failing to file a C1pc form and timely register FDA PAC with the PDC as a
21 political committee in violation of RCW 42.17A.205;
 - 22 b. Failing to timely identify a treasurer and bank account for FDA PAC in violation of
23 RCW 42.17A.210 and RCW 42.17A.215;
 - 24 c. Failing to timely and properly file 17 reports of contributions received from its
25 members and supporters and expenditures made from those contributions in
26 violation of RCW 42.17A.235 and .240; and

1 d. Concealing the true sources of the contributions received and expenditures made in
2 supporting Initiative 522 in violation of RCW 42.17A.435.

3 **III. ORDER**

4 Based on the foregoing Findings of Fact and Conclusions of Law, the Court hereby
5 ORDERS as follows:

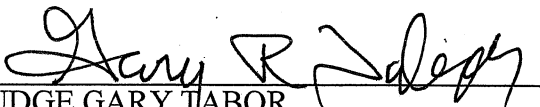
6 1. Defendants shall pay the amount of \$319,281.58 as a civil penalty for multiple violations of
7 the state campaign finance disclosure law, RCW 42.17A:

- 8 • \$295,661.58 for concealing both the amount accumulated in and source of
9 contributions received;
10 • \$18,000 for the 18 registration and disclosure reports that were not timely or
11 properly filed (\$1,000 per missing report); and
12 • \$5,620 for the number of days required reports were filed late (a total of 1,124
13 days at \$5 per day).

14 2. Defendants shall pay the State costs of investigation in the amount of \$2,131.32.

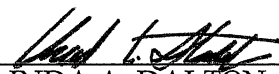
15 3. Defendants shall pay the State costs of trial, including its reasonable attorneys' fees, in an
16 amount of \$90,590.20 and costs of trial of \$325.

17 DONE IN OPEN COURT this 6th day of January, 2017.

18 
19 JUDGE GARY TABOR

20 PRESENTED BY:

21 ROBERT W. FERGUSON
22 Attorney General

23 
24 LINDA A. DALTON, WSBA No. 15467
25 Senior Assistant Attorney General
26 CHAD C. STANDIFER, WSBA No. 29724
Assistant Attorney General
Attorneys for State of Washington