

EXHIBIT A

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, *ex rel.*
WASHINGTON STATE PUBLIC
DISCLOSURE COMMISSION,

Plaintiff,

v.

WASHINGTON STATE
REPUBLICAN PARTY,

Defendant.

NO. 08-2-34030-9 SEA

FIRST AMENDED COMPLAINT FOR
CIVIL PENALTIES AND FOR
INJUNCTIVE RELIEF FOR
VIOLATIONS OF CHAPTER 42.17
RCW

The Plaintiff, for causes of action against the Defendant, alleges as follows:

I. PARTIES

1.1 Plaintiff is the State of Washington, standing in relation to the Washington State Public Disclosure Commission. The Washington State Public Disclosure Commission ("Commission") was established by RCW 42.17.350 and is charged by RCW 42.17.360 - .370 with, among other responsibilities, enforcing the state public disclosure laws contained in RCW 42.17. The Commission's office is located in Olympia, Washington.

1.2 The Washington State Republican Party ("WSRP") is a bona fide political party as defined by RCW 42.17.020(6) and operates as the statewide Republican party in Washington State. It is registered as a continuing political committee with the Commission

1 pursuant to RCW 42.17.040.

2 II. JURISDICTION AND VENUE

3 2.1 This Court has subject matter jurisdiction over the WSRP, pursuant to
4 RCW 42.17, and the Attorney General has authority to bring this action pursuant to
5 RCW 42.17.400, RCW 42.17.395(3) and RCW 42.17.360(5).

6 2.2 The WSRP carried out the violations alleged below, in whole or in part, in King
7 County.

8 2.3 Venue is proper in this Court pursuant to RCW 4.12.

9 III. FACTUAL ALLEGATIONS

10 3.1 The WSRP maintains two accounts subject to state statute from which it funds
11 its state and local level operations and electoral activities, namely, an exempt account and a
12 non-exempt account. These accounts were set up to conform to the requirements of
13 RCW 42.17 and WAC 390-17-065. The WSRP receives separate contributions for its
14 "exempt" and "non-exempt" accounts.

15 3.2 Contributions to the WSRP non-exempt account are subject to contribution
16 limits specified in RCW 42.17.640 and may be used for any purpose including the promotion
17 of or political advertising for clearly identified candidates.

18 3.3. Contributions to the WSRP exempt account are not subject to the contribution
19 limits specified in RCW 42.17.640. However, RCW 42.17.640(15) explicitly details the
20 purposes for which these contributions may be used: (1) voter registration, (2) absentee ballot
21 information, (3) precinct caucuses, (4) get-out-the-vote campaigns, (5) precinct judges or
22 inspectors, (6) sample ballots, (7) ballot counting, (8) internal organization or (9) fund raising.
23 The first seven activities must be either without the promotion of or political advertising for
24 individual candidates and the last two activities must be without direct association with
25 individual candidates.
26

1 3.4 Between July 21, 2008, and the Washington State election primary on
2 August 19, 2008, the WSRP made three mailings which it funded with contributions
3 previously deposited into its exempt account. Each mailing constituted the promotion of or
4 political advertising for its 2008 gubernatorial candidate.

5 3.5 On July 28, 2008, the WSRP filed with the Commission a 21 day pre-primary
6 report which is a campaign summary of its receipts and expenditures (Form C-4) for its exempt
7 account. In the Schedule A to that report, the WSRP reported an expenditure dated July 18,
8 2008, to a company called On Target in the amount of \$25,000. It characterized this
9 expenditure as "microtargeting." The WSRP later amended this C-4 and Schedule A form
10 identifying this expenditure as actually made on July 21, 2008, and attributing the expense to
11 "consulting fee."

12 3.6 On August 12, 2008, the WSRP filed with the Commission its 7 day pre-
13 primary report which summarized its receipts and expenditures (Form C-4) for its exempt
14 account. In the Schedule A to that report, the WSRP reported two expenditures to On Target
15 in the amount of \$62,655.55 each. These expenditures were dated July 31, 2008, and
16 August 6, 2008, and were characteratized as "membership communications."

17 3.7 On September 10, 2008, the WSRP filed with the Commission its post-primary
18 report of which summarized its receipts and expenditures (Form C-4) for its exempt account.
19 In the Schedule A to that report, the WSRP reported one expenditure to On Target in the
20 amount of \$62,655.55. This expenditure was dated August 18, 2008, and was characterized as
21 "membership communications."

22 3.8 The WSRP made the four expenditures to On Target totaling \$212,966.65 from
23 its exempt account to pay for the three mailings referenced in paragraph 3.4 above and 3.9
24 below.

25 3.9 Each of the three mailings that the WSRP made with the exempt funds were
26

1) four pages long, 2) critical of the gubernatorial record of Governor Christine Gregoire on the first three pages, and 3) on the fourth page had a picture of and quote from gubernatorial candidate Dino Rossi with the instruction to "Vote for Dino Rossi and our entire State Republican Team in the August 19 primary." Each mailer focused on a separate topic; one on taxes, one on crime and sex offenders, and one on government spending. A copy of each mailing is attached to this complaint at A, B, and C.

3.10 The mailings do not fit any of the statutorily-identified activities or purposes for which exempt account funds may be used and thus are impermissible uses as defined by state statute and regulations.

3.11 To date, the WSRP has claimed that its expenditures to On Target from its exempt account did not violate the law. By letter dated October 2, 2008, a copy of which is attached at D, the WSRP has stated that it "will not be making membership communications that are similar in kind to those that are the subject of the pending dispute with exempt funds for the balance of the election cycle."

IV. AMENDED FACTUAL ALLEGATIONS

4.1 On January 16, 2008, two newspapers owned by Sound Publishing, the South Whidbey Record and the Whidbey News Times, published political issue advertisements which the WSRP paid for with funds from its exempt account. Both political issue advertisements criticized Senator Mary Margaret Haugen.

4.2 On January 16, 2008, the Whidbey Examiner, owned by Cascadia Publishing, published the political issue advertisement referenced in paragraph 4.1. The WSRP also paid for this political issue advertisement with funds from its exempt account.

4.3 On March 6, 2008, the WSRP filed with the Commission its monthly report summarizing its receipts and expenditures (Form C-4) for its exempt account. In the Schedule A to that report, the WSRP reported two expenditures, one to Sound Publishing in the amount

1 of \$1,745.80, and another to Cascadia Publishing in the amount of \$850.00. Both expenditures
2 were dated January 14, 2008, and were both characterized as "issue ads."

3 4.4 The WSRP made the two expenditures, one to Sound Publishing the other to
4 Cascadia Publishing, totaling \$2,595.80 from its exempt account to pay for the political issue
5 advertisements referenced in paragraph 4.1 and 4.2 above as well as 4.5 below.

6 4.5 The political issue advertisement that was published in the South Whidbey
7 Record, Whidbey News Times and the Whidbey Examiner focused on the topic of ferry
8 service disruption, was critical of Senator Mary Margaret Haugen, and urged readers to contact
9 Senator Haugen. A copy of this advertisement is attached to the complaint at E.

10 4.6 Payment for political issue advertisements are not statutorily authorized
11 activities or purposes for which exempt account funds may be used and thus are impermissible
12 uses as defined by state statute and regulations.

13 V. CLAIMS

14 Based on the foregoing allegations, Plaintiff makes the following claims:

15 5.1 First Claim - Plaintiff reasserts all allegations made above and further asserts
16 that Defendant violated RCW 42.17.640, WAC 390-17-060, and WAC 390-17-065, when it
17 used its exempt account funds for purposes not authorized under RCW 42.17.640(15).

18 5.2 Second Claim - Plaintiff reasserts the allegations made above and further asserts
19 that the actions of the Defendant stated in the above claims were negligent and/or intentional.

20 VI. REQUEST FOR RELIEF

21 WHEREFORE, the Plaintiff requests the following relief as provided by statute:

22 6.1 For such remedies as the court may deem appropriate under RCW 42.17.390,
23 including but not limited to imposition of a civil penalty, all to be determined at trial;

24 6.2 For all costs of investigation and trial, including reasonable attorneys' fees, as
25 authorized by RCW 42.17.400(5);


26 6.3 For any temporary and permanent injunctive relief that may be necessary, as
authorized by RCW 42.17.390(6); and

1 6.4 For such other relief that the Court deems appropriate.

2 DATED this 12 day of December, 2008.

3 ROBERT M. McKENNA
4 Attorney General

5
6 
7 LINDA A. DALTON, WSBA No. 15467
8 Senior Assistant Attorney General

9 
10 GORDON P. KARG, WSBA No. 97178
11 Assistant Attorney General
12 Attorneys for Plaintiff
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Attachment A



The Gregoire To-Do List

RECEIVED

AUG 18 2010

Public Disclosure
Commission

- ☒ Increase taxes by \$500 million
- ☒ Raise gas tax 9.5 cents with no real benefits
- ☒ Reinstate the death tax
- ☒ Increase state spending by 33%
- ☒ Turn a record surplus into a \$2.7 billion deficit
- ☐ Implement state income tax

EXHIBIT #3
of 4

Despite raising taxes by nearly led Washington from a record

RECEIVED
AUG 18 2008
Public Disclosure
Commission

Gregoire's Record on Taxes

When she ran for Governor in 2004, Christine Gregoire promised she wouldn't raise taxes. But in her very first session in Olympia, Gregoire raised taxes by half a billion dollars, not including a 9.5-cent gas tax hike. In less than 4 years, Gregoire's record on taxes is a sad reminder of why we need change in Olympia:

- X Increased taxes nearly \$500 million
- X 9.5-cents per gallon gas tax increase, but no congestion relief
- X Reinstated the death tax
- X Turned a record surplus into a \$2.7 billion deficit

Worse yet, Gregoire already has plans to raise our taxes again! **Gregoire supports a state income tax²**. Washington families and small businesses can't afford four more years of Christine Gregoire.

Paid for and authorized by the Washington State Republican Party
2840 Northup Way, Suite 140 | Bellevue, WA 98004

EXHIBIT #3

2 of 4

Gov. Gregoire has surplus to a \$2.7 billion deficit¹

VED

Even While She Raised Our Taxes...

AUG 18 2008

Public Disclosure
Commission

Christine Gregoire Turned a Record Surplus into a Deficit

Even after raising our taxes nearly \$500 million, Gov. Gregoire's fiscal mismanagement has turned a record surplus into a deep deficit.

Gregoire inherited a strong, growing economy and by March of 2007, state coffers were bursting with a \$2 billion surplus. But after three years of reckless, unrestrained spending, our state is on the verge of financial crisis.

According to the Senate Ways and Means Committee, Washington faces a \$2.7 billion deficit in the coming year.



How did we get in this mess? Christine

Gregoire. Since taking office, Christine Gregoire has increased state spending by 33%. That adds up to \$5.7 million every day in new spending.

When our families face tough economic times, they roll up their sleeves and make the tough choices to make ends meet. Not Christine Gregoire. She simply goes to the people for more tax revenue. And when even that's not enough to fund her spending spree, she pushes our state deeper and deeper into debt.

Washington can't afford four more years of Christine Gregoire.

¹ Seattle Times, 7/20/2008; ² Spokesman-Review, 4/29/2007

EXHIBIT #3

3 of 4

RECEIVED

AUG 18 2008

Public Disclosure
Commission



"I understand just how much higher taxes impact our families and our small businesses. I've balanced a checkbook, made payroll, and run a small business. As Governor I will take my background in the private sector to balance the budget without raising taxes on Washington's hardworking families."

--Dino Rossi

**Vote for Dino Rossi and our entire State
Republican Team in the August 19 Primary**



Paid for by the Washington State Republican Party
2840 Northup Way
Suite 140
Bellevue, WA 98004

NON PROFIT
US POSTAGE
PAID
Permit #231
Seattle, WA

*****AUTO**5-DIGIT 98595

P-6 P18

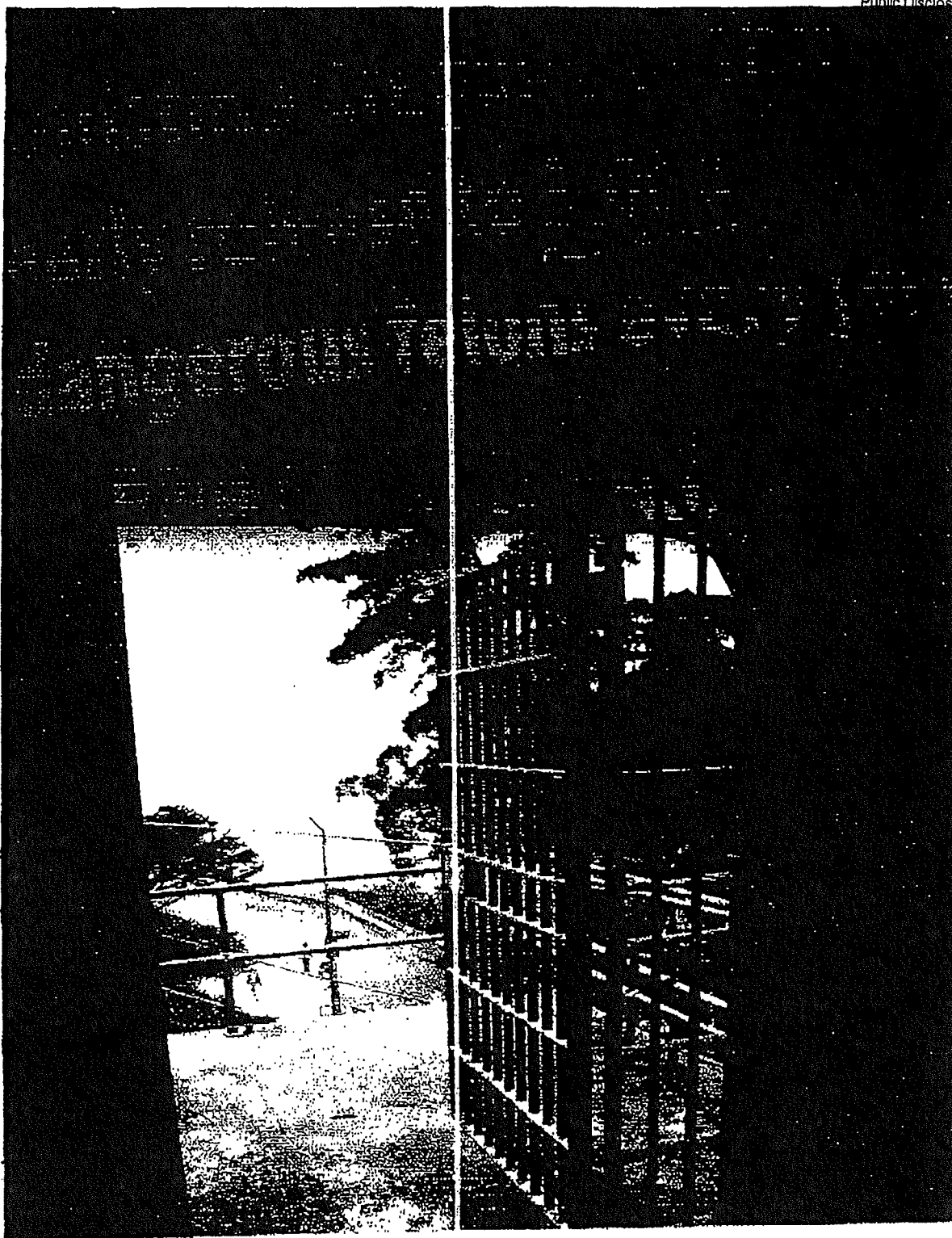
EXHIBIT #3
4 of 4

Attachment B

RECEIVED

AUG 18 2008

Public Disclosure



www.GregoireFailures.com

EXHIBIT #4
1 of 4

Under Christine Gregoire, let out into our neighb



Gov. Gregoire

Seattle Post-Intelligencer State routinely gambles on early release of prisoners

Seattle Post-Intelligencer, March 1, 2007

RECEIVED

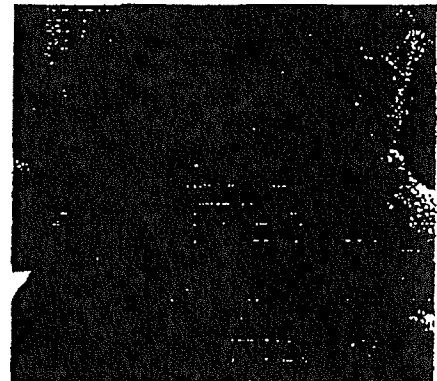
Sexual Predators On The Loose

AUG 18 2008

Public Disclosure
Commission

Sex offenders are supposed to register their home address with police, ensuring that parents know when a predator has moved into their neighborhood. But in Christine Gregoire's Washington there's a loophole...

Under Christine Gregoire, more than 500 sex offenders at a time have been allowed to register as homeless.³ Now sex predators can anonymously roam through schools, playgrounds and other places our children congregate. Worse yet, parents receive no notice.



Once again, Gov. Gregoire has turned her back on our children and our families.

Paid for and authorized by the Washington State Republican Party

EXHIBIT #4
2 of 4

RECEIVED

AUG 18 2008

Public Disclosure
Commission

are
hoods early every year

GREGOIRE'S RECORD ON CRIME

By the numbers...

3,000 Dangerous felons released early every year

1,311 Sex offenders whose whereabouts are unknown, at any given time³

564 Sex offenders allowed to register as homeless with the state, at any given time³

82 Felons granted early release on a single day in King County⁴

3 Police officers killed by convicted felons on post-release supervision¹

Sadly, Christine Gregoire cannot keep our children and families safe from dangerous felons and violent sexual offenders. **We need a change in Olympia.**

Seattle Post-Intelligencer, 3/01/2007 2. The Olympian, 7/19/2007 3. USA Today, 11/19/2007 4. Seattle Times, 4/05/200

To learn more visit www.GregoireFailures.com

EXHIBIT #4
3 of 4

RECEIVED

AUG 18 2008

Public Disclosure
Commission



*Washington to
be the worst state
in America to
commit a crime
and the best state
in America to
start a business."*

--Dino Rossi

**Vote for Dino Rossi and our entire State
Republican Team in the August 19 Primary**



Paid for by the Washington State Republican Party
2840 Northup Way
Suite 140
Bellevue, WA 98004

NON PROFIT
US POSTAGE
PAID
Permit #231
Seattle, WA

P-6 P18

EXHIBIT#4
4 of 4

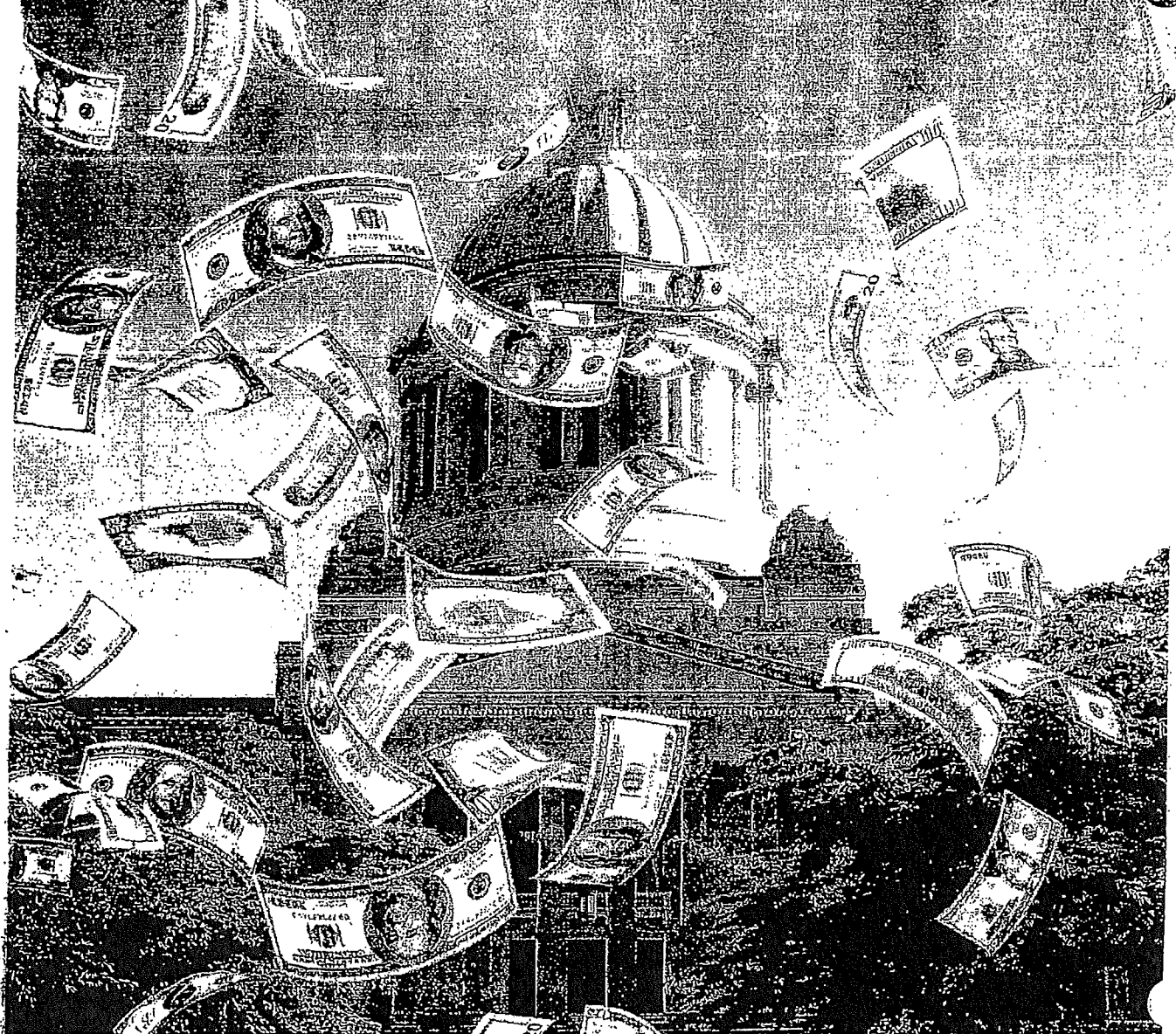
Attachment C

**Even as Washington families struggle
to make ends meet, in Christine
Gregoire's office...**

RECEIVED
AUG 18 2008

Public Disclosure
Commission

It's Raining Money!



www.GregoireFailures.com

EXHIBIT #5

1 of 4

Thanks to Christine Gregoire has gone from a record sur

The Seattle Times How state spending rose \$8 billion under Gregoire

July 20, 2008

RECEIVED

AUG 18 2008

Public Disclosure
Commission



Christine Gregoire's Record on Spending

Christine Gregoire inherited a strong, growing economy and by March of 2007, state coffers were bursting with a \$2 billion surplus.

After three years of reckless spending, Washington now faces a \$2.7 billion deficit. That's after Gregoire raised taxes nearly \$500 million on the citizens of our state.

Here's a look at Christine Gregoire's spending spree:

- X Gregoire doubled the budget for her own personal staff to \$73 million
- X Authorized sex change operations for convicted felons
- X Earmarked \$1 million for artists' lofts in downtown Seattle

Christine Gregoire isn't finished with her reckless spending spree. Now Gregoire supports enacting a state income tax to fund her out of control spending habits.²

Paid for and authorized by the Washington State Republican Party
2840 Northup Way, Suite 140 | Bellevue, WA 98004
(425) 460-0570 | www.wsrp.org
Not Authorized by any Candidate or candidate committee

EXHIBIT #5
2 of 4

spending spree Washington plus to a

GREGOIRE'S SPENDING SPREE

By the numbers...

RECEIVED

AUG 18 2008

Public Disclosure
Commission

33%↑ Gregoire's increase in state spending since taking office

\$480 million Tax increases signed by Gregoire, not including a 9.5-cent gas tax hike

\$73 million Gregoire doubled the budget for her own personal staff in just 3 years

\$5.7 million New state spending each day of the Gregoire Administration

\$417 Portion of the state deficit owed by each Washington citizen thanks to Gregoire

1. Seattle Times, 7/20/2008. 2. Spokesman Review, 4/28/2007

To learn more visit www.GregoireFailures.com

EXHIBIT #45
3 of 4



"It's time to return sanity to our state budget. I have the experience and determination to get our state's fiscal health back in order. Together, we'll set priorities, meet the needs of our state, and balance the budget without increasing taxes on our citizens. It's what I did in the State Senate, and it's what I'll do as Governor."

--Dino Rossi

**Vote for Dino Rossi and the entire Republican
Slate in the August 19 Primary**



Paid for by the Washington State Republican Party
2840 Northup Way
Suite 140
Bellevue, WA 98004

NON PROFIT
US POSTAGE
PAID
Permit #231
Seattle, WA

EXHIBIT #5
4 of 4

P-6 P352

Attachment D

LAW OFFICES

LIVENGOOD, FITZGERALD & ALSKOG

A PROFESSIONAL LIMITED LIABILITY COMPANY

JAMES S. FITZGERALD*
DAVID A. ALSKOG
DAVID B. JOHNSTON
JOHN J. WHITE, JR.
DAVID J. SEELEY**
KEVIN B. HANSEN
THOMAS K. WINDUS+
GREGORY A. McBROOM
HUGH W. JUDD, P.S.+

PHILIP L. CARTER, RETIRED
ROBERT P. TOSSEM, RETIRED

121 THIRD AVENUE
POST OFFICE BOX 908
KIRKLAND, WASHINGTON 98083-0908

PHONE: (425) 822-9281
FAX: (425) 828-0908
E-Mail: white@lfb-law.com

*ALSO ADMITTED IN OREGON
**ALSO ADMITTED IN CALIFORNIA
+OF COUNSEL

GORDON A. LIVENGOOD (1921 - 2001)

October 2, 2008

Via electronic mail: LindaD@ATG.WA.GOV

Linda Dalton
Office of the Attorney General
P.O. Box 40100
Olympia, WA 98504-0100

Re: **Membership communications**

Dear Ms. Dalton:

In view of the PDC's determination that the WSRP's communications to its members with exempt funds constituted an apparent violation and an apparent intentional violation of Washington law, the WSRP will not be making membership communications that are similar in kind to those that are the subject of the pending dispute with exempt funds for the balance of the election cycle. The WSRP continues to believe that it acted in accord with Washington law and its rights under the federal and state constitutions.

As we discussed earlier today, the WSRP will likely continue to communicate with its members via electronic mail and such communications may reference candidates for state office, and the WSRP reserves the right to communicate with its members for the remainder of the election cycle using "non-exempt" funds.

Rather than face the prospect of additional penalties, the WSRP will be filing an action in the United States District Court challenging the State's action and seeking a permanent injunction against enforcement of the statute.

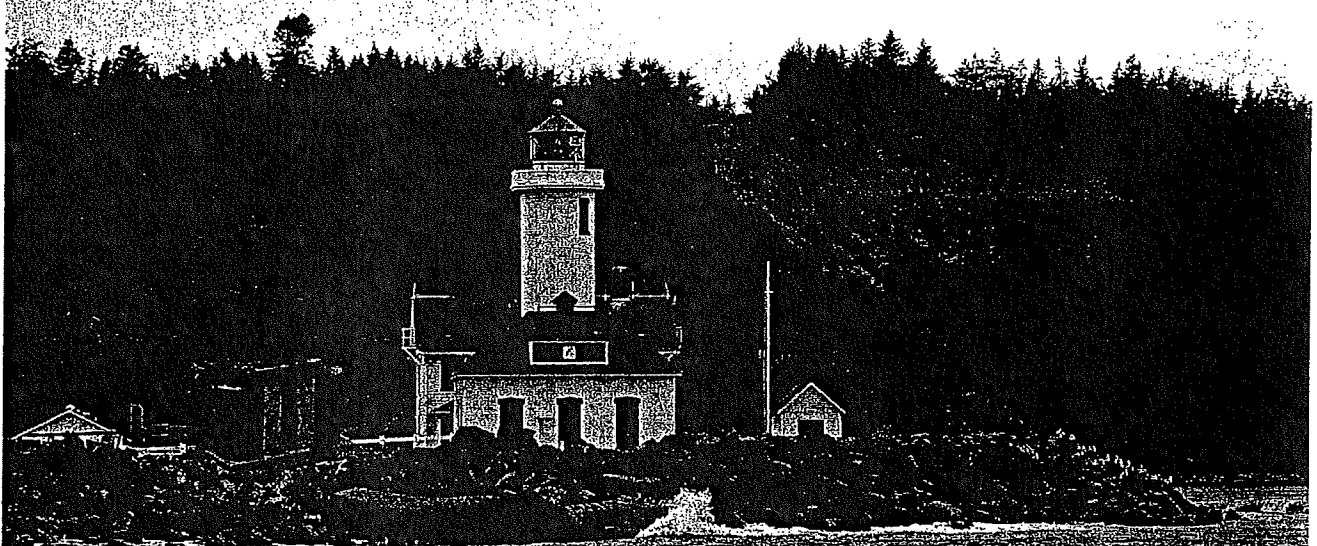
Very truly yours,

LIVENGOOD, FITZGERALD
& ALSKOG, PLLC


John J. White, Jr.

Attachment E

When our ferries were pulled from service, political leaders reacted quickly and added an emergency run ...



... from Seattle to Port Townsend.

When the Department of Transportation abruptly pulled the 80-year-old steel electric ferries from service, outraged military families, merchants and commuters asked for some relief.

In response, the ferry system added a special ferry run between Port Townsend

and Seattle, to help store owners there during Christmas. Whidbey Island was left with small, passenger-only tourist boats.

To learn more about this staggering failure of political leadership, click on www.electricferries.com and learn what you can do to make your voice heard.

**Call Senator Mary Margaret Haugen (360) 786-7618
and tell her to start paying attention to her district**

EXHIBIT B

Honorable Jeffrey Ramsdell

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

STATE OF WASHINGTON, *ex rel.*
WASHINGTON STATE PUBLIC
DISCLOSURE COMMISSION,

Plaintiff,

vs.

WASHINGTON STATE REPUBLICAN
PARTY,

Defendant.

NO. 08-2-34030-9 SEA

WASHINGTON STATE
REPUBLICAN PARTY'S
ANSWER, AFFIRMATIVE
DEFENSES, COUNTERCLAIMS
and THIRD PARTY COMPLAINT

WASHINGTON STATE REPUBLICAN
PARTY,

Third Party Plaintiff,

vs.

WASHINGTON STATE PUBLIC
DISCLOSURE COMMISSION; BILL
BRUMSICKLE, KEN SCHELLBERG,
DAVE SEABROOK, JANE NOLAND, and
JIM CLEMENTS, Commissioners of the
Washington State Public Disclosure
Commission in their individual capacities;
and VICKI RIPPIE, Executive Director of the
Washington State Public Disclosure
Commission, in her individual capacity,

Third Party Defendants.

LIVENGOOD, FITZGERALD & ALSKOG
121 THIRD AVENUE
P.O. BOX 908
KIRKLAND, WASHINGTON 98083-0908
PHONE: (425) 822-9281 FAX (425) 828-0908

1 TO: Plaintiff above named; and
 2 TO: Robert M. McKenna, Attorney General of Washington, Linda A. Dalton,
 3 Senior Assistant Attorney General and Gordon P. Karg, Assistant Attorney
 4 General of the Washington State Attorney General's office, attorneys of record
 5 TO: Washington State Public Disclosure Commission; Bill Brumsickle, Ken
 6 Schellberg, Dave Seabrook, Jane Noland, and Jim Clements, Commissioners
 7 of the Washington State Public Disclosure Commission in their individual
 capacities; and Vicki Rippie, Executive Director of the Washington State
 Public Disclosure Commission, in her individual capacity, Third Party
 Defendants

8 Defendant answers Plaintiff's First Amended Complaint as follows:

9 **I. PARTIES**

10 1.1 Admits.

11 1.2 Admits.

12 **II. JURISDICTION AND VENUE**

13 2.1 Admits that the Court has subject matter jurisdiction and that the cited statutes
 14 generally authorize the Attorney General to bring actions to enforce RCW 42.17. Denies that
 15 the Attorney General has authority to bring this action because the action by the State and
 16 Third Party Defendants constitutes violations of the First Amendment of the United States
 17 Constitution, violates federally protected civil rights of the Defendant under 42 U.S.C. § 1983
 18 *et seq.*, violates the Washington Constitution, and is unsupported by the statute itself.

19 2.2 Admits that the WSRP actions occurred in whole or in part in King County.
 20 Denies the balance of the allegation.

21 2.3 Admits.

22 2.4 This Court has jurisdiction and venue is proper to decide WSRP's civil rights
 23 action and other claims. The challenged provisions of state law and the State's and Third
 24 Party Defendants' actions establish an "actual controversy," entitling Plaintiff to a declaratory
 25 judgment and supplemental relief.

26
 27
 28

III. FACTUAL ALLEGATIONS IN THE AMENDED COMPLAINT

3.1 Denies the first sentence and alleges that state law requires the maintenance of more than two accounts and further alleges that federal law governs how many expenses that relate to state and local operations and activities are funded. Denies the second sentence to the extent that RCW 42.17 or WAC 390-17-065 exceeds the constitutional authority of the Public Disclosure Commission and the State to regulate political speech and association. Further denies to the extent that WAC 390-17-065 expands the scope of limitations under Washington law beyond the provisions of RCW 42.17. Admits the third sentence.

3.2 Paragraph 3.2 contains only a conclusion of law. To the extent an answer is required, it is denied.

3.3 Admits the first sentence. Denies the second and third sentences.

3.4 Admits the first sentence. The second sentence constitutes a legal conclusion. To the extent an answer is required, it is denied.

3.5 Admits.

3.6 Admits.

3.7 Admits.

3.8 Denies to the extent that paragraph 3.8 incorporates the second sentence of paragraph 3.4. Admits the remaining allegations.

3.9 Admits.

3.10 Denies.

3.11 Admits.

IV. AMENDED FACTUAL ALLEGATIONS

4.1 Admits the first sentence. The second sentence mischaracterizes the content and nature of the issue-oriented political speech and is therefore denied. The document speaks for itself. To the extent that the first sentence contains a legal conclusion that the issue-oriented speech in question constitutes political advertising subject to state regulation, it is

1 denied.

2 4.2 Admits the first sentence except to the extent of any legal conclusion that the
3 issue-oriented speech constitutes political advertising subject to state regulation, which
4 allegation is a legal conclusion. To the extent an answer is required, it is denied. Admits that
5 the Washington State Republican Party paid for the issue-oriented political speech from its
6 exempt account.

7 4.3 Admits.

8 4.4 Denies to the extent that this paragraph characterizes the issue-oriented political
9 speech as political advertising subject to state regulation. Admits that the WSRP made
10 expenditures from its exempt account for issue-oriented political speech.

11 4.5 Denies and alleges that the issue-oriented speech attached to the Complaint at
12 Attachment E speaks for itself.

13 4.6 Denies.

14 V. CLAIMS

15 5.1 Denies.

16 5.2 Denies.

17 VI. FACTS RELATING TO AFFIRMATIVE DEFENSES, COUNTERCLAIMS 18 AND THIRD PARTY COMPLAINT

19 By way of further answer to the Amended Complaint the WSRP alleges and states as
20 following:

21 6.1 Third Party Defendant Public Disclosure Commission ("PDC") is a state agency
22 established under RCW 42.17.350. The PDC's mailing address is 711 Capital Way, Room
23 206, P.O. Box 40908, Olympia, Washington, 98504-0908.

24 6.2 Third Party Defendants Bill Brumsickle, Ken Schellberg, Dave Seabrook, Jane
25 Noland, and Jim Clements are Commissioners of the PDC and are sued herein in their
26 individual capacity while acting under the color of state law.

27 6.3 Third Party Defendant Vicki Rippie is Executive Director of the PDC and is
28

1 sued herein in her individual capacity while acting under color of state law.

2 6.4 Washington does not register voters by political party affiliation. Party
3 membership is a private matter. Since 1998, the Washington State Republican Party has
4 formally defined its membership. In May 1998, the WSRP adopted Policy Statement 98-1,
5 defining the membership of the WSRP to be made up of (1) members of the State Committee
6 and State Executive Board; (2) Republican Precinct Committee Officers and Precinct
7 Chairmen; (3) individuals who have contributed to the WSRP in the last three calendar years;
8 (4) individuals who self-describe themselves as always voting for the Republican candidate
9 for partisan elected office; (5) participants in the biennial convention process within the
10 preceding four years, including precinct caucus attendees, delegates and alternates to county
11 conventions, delegates and alternates to the state convention and delegates and alternates to
12 the national convention; (6) other individuals who have affirmatively stated their intentions to
13 become members of the Washington State Republican Party, and who have demonstrated
14 support of the party, its candidates and programs; (7) elected Republican officials; and (8)
15 recognized Republican Auxiliary Organizations.

16 6.5 Over the years, the WSRP has communicated with its members on candidates
17 and political issues. The principal means of communication with Party members has been
18 through the mail. In recent years, electronic communications, including e-mail and internet,
19 have also become important means of communicating with members of the Republican Party.
20 Communications by the Party to its members regularly include references to public issues,
21 political matters and identified candidates, both state and federal.

22 6.6 Party candidates for state and federal office are a key method by which the
23 Republican vision for government and society are conveyed to the public. It is through the
24 election of candidates that the Republican vision for government is implemented. Washington
25 regulates political and campaign-related communications through the provisions of Ch. 42.17
26 RCW.

27
28

1 6.7 In 2004, Washington's voters adopted Initiative 872. The State has maintained
2 that Initiative 872 impliedly repealed provisions of law that were inconsistent with language
3 or intent. The State has also maintained that Initiative 872 returned regulation of political party
4 nominating processes to the law as it existed in 1889. The State and Third Party Defendants,
5 in implementing state law, have permitted persons not authorized by the Republican Party to
6 appropriate its name and symbols to advance their political campaigns.

7 6.8 In 2008, Dino Rossi was the Republican nominee for governor.

8 6.9 Under the primary election system used by the State this past August, the "top
9 two" candidates advanced to the general election, regardless of their political party affiliation.
10 Nothing on the primary election ballot distinguished the Republican Party nominee from other
11 candidates who had appropriated the names or symbols traditionally associated with the
12 Republican Party. The PDC requires the WSRP to identify the party on all political
13 advertising with any candidate who has declared a preference for the Republican Party. In
14 August 2008, the WSRP sent mailed communications solely to individuals who were
15 members of the Party regarding the upcoming primary, discussing candidates for governor,
16 and urging members to identify and support the party's gubernatorial nominee and the rest of
17 the Republican slate. The WSRP made no special solicitation of funds from any person to
18 finance the communication.

19 6.10 The PDC issued a decision on September 25, 2008, finding that WSRP
20 committed an apparent violation of the statute and referred the matter to the Attorney General
21 for prosecution. The State's implementation of RCW 42.17 and the provisions of I-872
22 materially impairs the First Amendment rights to speech and association of the WSRP, its
23 members and candidates.

24 6.11 Under state law, corporations are expressly permitted to communicate with their
25 shareholders or members regarding candidates, including express advocacy of the election or
26 defeat of candidates for state office. There is no limit placed on the source of funds that may
27
28

1 be used to engage in express advocacy directed to shareholders or members, and no limit on
2 the amount that may be spent on these political communications. No reporting of the fact of
3 the communication nor the amount expended is required.

4 6.12 Under state law, associations are expressly permitted to communicate with their
5 members regarding candidates, including express advocacy of the election or defeat of
6 candidates for state office. There is no limit placed on the source of funds that may be used
7 to communicate with members, including express advocacy directed to members, and no limit
8 on the amount that may be spent on these political communications. No reporting of the fact
9 of the communication nor the amount expended is required under Washington's campaign
10 finance laws.

11 6.13 Under state law, labor organizations are expressly permitted to communicate
12 with their members regarding candidates, including express advocacy of the election or defeat
13 of candidates for state office. There is no limit placed on the source of funds that may be used
14 to communicate with members, including express advocacy directed to members, and no limit
15 on the amount that may be spent on these political communications. No reporting of the fact
16 of the communication nor the amount expended is required under Washington's campaign
17 finance laws.

18 6.14 Under state law, political committees from outside Washington are permitted
19 to communicate with their members who reside in Washington regarding candidates, including
20 express advocacy of the election or defeat of candidates for state office. There is no limit
21 placed on the source of funds that may be used to communicate with members, including
22 express advocacy directed to members, and no limit on the amount that may be spent on these
23 political communications. No reporting of the fact of the communication nor the amount
24 expended is required under Washington's campaign finance laws.

25 6.15 Under RCW 42.17, communications to members of an organization are
26 expressly exempted from regulation as "contributions," "independent expenditures," and
27
28

1 “electioneering communications.” Communications by an organization to its members are
2 subject to no restrictions regarding amount or source of funds.

3 6.16 Communications by the WSRP to its members from non-candidate funds pose
4 neither a risk of corruption nor an appearance of corruption. The State and Third Party
5 Defendants have no valid interest in subjecting the WSRP to greater restrictions on political
6 communications to its members than are imposed on corporations, associations or labor
7 organizations. Through their application of state law to the Republican Party, the State and
8 Third Party Defendants have imposed asymmetric burdens on political speech and political
9 association of the WSRP and its members.

10 6.17 The interpretation and application of RCW 42.17.640(15) by the State and
11 Third Party Defendants would materially impair the ability of the WSRP to conduct its caucus
12 and convention system and nominate candidates for public office in violation of the First
13 Amendment to the U.S. Constitution. Political actors in Washington other than political
14 parties may conduct endorsement proceedings through their convention or meeting processes
15 without limitation on amount expended or source of funds used.

16 6.18 Attachment E to the Amended Complaint contains no words of express
17 advocacy.

18 6.19 Attachment E to the Amended Complaint was published more than 120 days
19 from Washington’s Primary and General Elections in 2008.

20 6.20 Attachment E to the Amended Complaint does not constitute “express
21 advocacy” as that term is defined under Washington law. Attachment E to the Amended
22 Complaint does not constitute an “electioneering communication” as that term is defined in
23 RCW 42.17. Attachment E to the Amended Complaint does not constitute an “independent
24 expenditure” as that term is defined in RCW 42.17.

25 **VII. VIOLATION OF CIVIL RIGHTS AND U.S. CONSTITUTION**

26 The following is alleged as an Affirmative Defense, Counterclaim and Third Party
27
28

1 Claim:

2 7.1 The facts alleged in paragraphs 6.1 through 6.20 above are incorporated herein
3 by reference. WSRP's communication to its members is protected speech under the First
4 Amendment to the U.S. Constitution. WSRP's public communication in the form of
5 Attachment E to the Amended Complaint is protected under the First Amendment to the
6 United States Constitution.

7 7.2 WSRP is entitled under the Fourteenth Amendment to equal protection under
8 the law, which it was denied by RCW 42.17, as applied by the State.

9 7.3 The Commissioners and Executive Director of the PDC, acting in their official
10 and individual capacities under color of state law, have violated WSRP's constitutional rights
11 to freedom of speech and equal protection.

12

13 **VIII. VIOLATION OF WASHINGTON STATE CONSTITUTION**

14 The following is alleged as an Affirm Defense, Counterclaim and Third Party Claim:

15 8.1 The facts alleged in paragraphs 6.1 through 7.3 above are incorporated herein
16 by reference. WSRP's communication to its members is protected speech under Article, 1 §
17 5 of the Washington State Constitution. WSRP's publication of Attachment E to the Amended
18 Complaint is protected speech under Article 1, § 5 of the Washington State Constitution.

19 8.2 The enforcement action brought by the State and the actions by the third party
20 defendants violate Article 1 § 5 of the Washington State Constitution.

21 8.3 RCW 42.17 permits corporations, labor unions and other membership-based
22 organizations to communicate with their members on political matters with funds exempt from
23 regulation or limitation. The enforcement action brought by the plaintiff and the Third Party
24 Defendants violates Article, 1 § 12 of the State Constitution by granting to other organizations
25 the ability to communicate with their members regarding campaigns and elections free of
26 regulation of content or source of funds under RCW 42.17.

27

28

1 8.4 Under state law, corporations, associations, labor organizations and individuals
2 are permitted to prepare, publish and disseminate communications in the form of Attachment
3 E to the Amended Complaint without restriction as to source or amount of funds and without
4 report to the government.

5 8.5 Attachment E to the Amended Complaint would not be subject to regulation
6 if paid for by a corporation, union, or association. The bringing of an enforcement action
7 against the WSRP for speaking out on a matter of public concern where the same conduct
8 would not expose others to civil penalties violates Article 1, § 12 of the Washington
9 Constitution.

10 **IX. AFFIRMATIVE DEFENSES**

11 9.1 Plaintiff has failed to state a claim on which relief can be granted.

12 9.2 The State's and Third Party Defendants' actions are not within the scope of
13 RCW 42.17.640(15) or the authority granted to enforce RCW 42.17.

14 **X. PRAYER FOR RELIEF**

15 WHEREFORE, WSRP prays for judgment:

16 1. Declaring RCW 42.17.640(15) to be unconstitutional under the First
17 Amendment, as applied to political communications limited to members of the Washington
18 State Republican Party and in violation of the free speech and equal protection guarantees of
19 the federal and state constitutions;

20 2. Declaring RCW 42.17.640(15) (the "Statute") to be unconstitutional, under the
21 First Amendment as applied to the caucus and convention system of the Washington State
22 Republican Party, including but not limited to its nomination of candidates for public office
23 and in violation of the free speech and equal protection guarantees of the federal and state
24 constitutions;

25 3. Declaring RCW 42.17.640(15) unconstitutional, as applied, under Article 1, §
26 5 and Article 1, § 12 of the Washington State Constitution;

8 6. Awarding WSRP its reasonable attorneys' fees and costs under 42 U.S.C. §
9 1988, RCW 42.17.400 and any other applicable statutes; and

11 DATED this 22nd day of January, 2009.

17 121 Third Avenue
P.O. Box 908
18 Kirkland, WA 98083-0908
Tel: 425-822-9281
19 Fax: 425-828-0908
E-mail: white@lfa-law.com

1 **DECLARATION OF SERVICE**

2 The undersigned certifies under penalty of perjury under the laws of the State
3 of Washington that on January 22, 2009, I caused service of the foregoing to all counsel of
4 record as follows:

<p>5 <i>Attorneys for Plaintiff:</i> 6 Robert M. McKenna, Attorney General Linda A. Dalton, WSBA #15467 7 Senior Assistant Attorney General Gordon P. Karg, WSBA #37178 8 Assistant Attorney General 1125 Washington Street S.E. 9 P.O. Box 40100 Olympia, WA 98504-0100 10 Tel: 360-664-9006 Fax: 360-664-0229</p>	<p><input type="checkbox"/> via Messenger ■ U.S. Mail, postage prepaid <input type="checkbox"/> via Facsimile <input type="checkbox"/> via Overnight Mail ■ via electronic mail: lindad@atg.wa.gov</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

11
12 Dated: January 22, 2009.

13
14
15 Rebecca L. Petruzzo
16 Rebecca L. Petruzzo
121 Third Avenue
17 P.O. Box 908
Kirkland, WA 98083-0908
18 Tel: 425-822-9281
Fax: 425-828-0908
E-mail: petruzzo@lfa-law.com

EXHIBIT C

The Honorable Jeffrey Ramsdell
Hearing Date: October 9, 2009 @ 10 a.m.

FILED
KING COUNTY, WASHINGTON

DEC 23 2009

**SUPERIOR COURT CLERK
KIRSTIN GRANT
DEPUTY**

**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON, *ex rel.*
WASHINGTON STATE PUBLIC
DISCLOSURE COMMISSION,

Plaintiff,

v.

WASHINGTON STATE
REPUBLICAN PARTY,

Defendant.

NO. 08-2-34030-9SEA

ORDER ON
PARTIAL SUMMARY JUDGMENT

~~PROPOSED~~ *pm R*

Re: The "Rossi Mailings"

THIS MATTER having come on regularly for hearing on October 9, 2009 before the undersigned Judge of the above-entitled Court on the State's Motion for Partial Summary Judgment, and the State of Washington, *ex rel.* Washington State Public Disclosure Commission (State), appearing through their counsel, LINDA A. DALTON, Senior Assistant Attorney General, and GORDON KARG, Assistant Attorney General, and the Washington State Republican Party (WSRP) appearing through its counsel, JOHN J. WHITE, JR., of Livengood, Fitzgerald & Alskog, and the Court having considered the entire file in the above entitled cases including all pleadings filed in support or opposition to the summary judgment pleading filed herein, and the Court having heard and considered the argument of the parties to these actions and having issued an oral opinion, concluding that the WSRP, by paying for activities not statutorily enumerated in RCW 42.17.640(15) with funds from its exempt

ORDER ON
PARTIAL SUMMARY JUDGMENT

1

ORIGINAL

ATTORNEY GENERAL OF WASHINGTON
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100
(360) 664-9006

1 account, violated RCW 42.17.640 and WAC 390-17-065(1), a copy of which is attached to this
2 Order, the Court hereby orders as follows:

- 3 1. The State's Motion for Partial Summary Judgment filed in case number No. 08-2-
4 34030-9SEA is granted, *as to the "Ross: Mailings" only.* *amr*
5 2. The only remaining issue is the appropriate penalty against the WSRP under
6 RCW 42.17.390 and shall be argued on the trial date set this matter on March 10,
7 2010.

8 DONE IN OPEN COURT this *22nd* day of *December* ~~October~~, 2008.

9
10 
11 JUDGE/COURT COMMISSIONER

12 PRESENTED BY:

13 Office of the Attorney General
14 State of Washington

15 _____
16 LINDA A. DALTON, WSBA #15467
17 Senior Assistant Attorney General

18 _____
19 GORDON KARG, WSBA #37178
20 Assistant Attorney General

21 Attorneys for Plaintiff, State of
22 Washington, ex rel. Public Disclosure
23 Commission
24
25
26

RCW 42.17.640**Limits specified — Exemptions.**

(1) The contribution limits in this section apply to:

- (a) Candidates for state legislative office;
- (b) Candidates for state office other than state legislative office;
- (c) Candidates for county office in a county that has over two hundred thousand registered voters;
- (d) Candidates for special purpose district office if that district is authorized to provide freight and passenger transfer and terminal facilities and that district has over two hundred thousand registered voters;
- (e) Persons holding an office in (a) through (d) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;
- (f) Caucus political committees;
- (g) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office or county office that in the aggregate exceed seven hundred dollars or to a candidate for a public office in a special purpose district or a state office other than a state legislative office that in the aggregate exceed one thousand four hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, or public official in a special purpose district during a recall campaign that in the aggregate exceed seven hundred dollars if for a state legislative office or county office or one thousand four hundred dollars if for a special purpose district office or a state office other than a state legislative office.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) seventy cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed thirty-five cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, county official, or a public official in a special purpose district during a recall campaign that in the aggregate exceed (i) seventy cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of the official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or

legislative district committees would in the aggregate exceed thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(6) For purposes of determining contribution limits under subsections (4) and (5) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed seven hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed three thousand five hundred dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate or of an official specified in subsection (1) of this section against whom recall charges have been filed is considered to be a contribution to the candidate or official.

(9) A contribution received within the twelve-month period after a recall election concerning an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in an office specified in subsection (1) of this section. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the official.

(14) No person may accept contributions that exceed the contribution limitations provided in this section.

(15) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates.

[2006 c 348 § 1; 2005 c 445 § 11. Prior: 2001 c 208 § 1; 1995 c 397 § 20; 1993 c 2 § 4 (Initiative Measure No. 134, approved November 3, 1992).]

390-17-060 << 390-17-065 >> 390-17-070

WAC 390-17-065

Agency filings affecting this section

Recordkeeping and reporting of exempt contributions accounts.

(1) Any political committee that receives exempt contributions as defined by RCW 42.17.640 and WAC 390-17-060 shall keep the contributions in a separate bank account. Exempt contributions commingled with contributions subject to contribution limits are presumed to be subject to the limits. Expenditures to promote candidates or which are made for purposes other than those specified in RCW 42.17.640 shall not be made with funds from the exempt contributions account.

(2)(a) Separate campaign disclosure reports shall be completed and filed for an exempt contributions account.

(b) Political committees maintaining an exempt contributions account shall make known the existence of the account by filing a statement of organization for the account pursuant to RCW 42.17.040.

(c) Political committees maintaining an exempt contributions account shall be subject to the provisions of chapter 42.17 RCW and file the disclosure reports required by this chapter for the account pursuant to RCW 42.17.080.

(3) Contributors shall not use a single written instrument to make simultaneous contributions to an exempt contributions account and any other committee account; separate written instruments must be used to make contributions to an exempt contributions account.

[Statutory Authority: RCW 42.17.370. 07-07-005, § 390-17-065, filed 3/8/07, effective 4/8/07. Statutory Authority: RCW 42.17.370(1). 96-05-001, § 390-17-065, filed 2/7/96, effective 3/9/96. Statutory Authority: RCW 42.17.370. 93-24-003, § 390-17-065, filed 11/18/93, effective 12/19/93.]

EXHIBIT D

WSR 10-12-114

EMERGENCY RULES

PUBLIC DISCLOSURE COMMISSION

[Filed June 2, 2010, 9:38 a.m. , effective June 30, 2010]

Effective Date of Rule: June 30, 2010.

Purpose: Adoption of new WAC 390-05-274 to clarify the term "party affiliation" and reference to "party," "political party," and similar terms in TITLE 390 WAC.

Statutory Authority for Adoption: RCW 42.17.370.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: In March of 2008, the United States supreme court upheld Washington's top two primary system which voters enacted by approving I-872 in 2004. Under the new primary system, chapter 29A.20 RCW which has been relied on to distinguish bona fide political parties from other political committees has been effectively repealed. Section 101, chapter 204, Laws of 2010 (effective January 1, 2012) amends chapter 42.17 RCW to remove the reference to chapter 29A.20 RCW and confirm the secretary of state's ability to recognize minor political parties. To preserve the general welfare and given the timing restriction for rule making in RCW 42.17.370(1), the new rule is needed for the 2010 election season to clarify the term "party affiliation" found in two sections of chapter 42.17 RCW and TITLE 390 WAC.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: May 27, 2010.

Lori Anderson

Communications and

Training Officer

OTS-1714.2

NEW SECTION

WAC 390-05-274 Party affiliation, party preference, etc. (1) "Party affiliation" as that term is used in chapter 42.17 RCW and TITLE 390 WAC means the candidate's party preference as expressed on his or her declaration of candidacy. A candidate's preference does not imply that the candidate is nominated or endorsed by that party, or that the party approves of or associates with that candidate.

(2) A reference to "political party affiliation," "political party," or "party" on disclosure forms adopted by the commission and in TITLE 390 WAC refers to the candidate's self-identified party preference.

□

© Washington State Code Reviser's Office