

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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

AUTOMOTIVE UNITED TRADES
ORGANIZATION, in the name of the
STATE OF WASHINGTON,

Plaintiff,

vs.

FRIENDS OF BOB FERGUSON, a political
action committee,

Defendant.

No.

COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF FOR
VIOLATIONS OF WASHINGTON FAIR
CAMPAIGN PRACTICES ACT

NATURE OF THE ACTION

1. This is a citizen action brought to enforce the Washington Fair Campaign Practices Act ("FCPA") pursuant to RCW 42.17A.765 with respect to a campaign committee's receipt and expenditure of illegal contributions from tribal governments.

PARTIES

2. Automotive United Trades Organization ("AUTO") is a Washington non-profit corporation, headquartered in Olympia, Washington.

3. Defendant Friends of Bob Ferguson ("FBF") is a political committee with its headquarters and treasurer in King County at all times pertinent hereto.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to RCW 42.17.400(4).

1 5. Venue in this Court is proper pursuant to RCW 4.12.020 because part of the cause
2 of action arose in King County, including FBF's receipt of the illegal tribal government political
3 contributions at issue here.

4 STATEMENT OF FACTS

5 6. FBF, based in King County, filed C-3s with the Public Disclosure Commission in
6 2014, 2015, and 2016 reflecting deposits made into the committee's treasury of substantial
7 campaign contributions from tribal governments or agencies of tribal governments.

8 7. Washington law makes clear that governments in Washington may not use public
9 funds to support political campaigns. RCW 42.17A.550 states:

10 Public funds, whether derived through taxes, fees, penalties, or any other sources,
11 shall not be used to finance political campaigns for state or school district office.
12 A county, city, town, or district that establishes a program to publicly finance local
13 political campaigns may only use funds derived from local sources to fund the
14 program. A local government must submit any proposal for public financing of
15 local political campaigns to voters for their adoption and approval or rejection.

16 8. Similarly, RCW 42.17A.555 forbids the use of public facilities to assist political
17 campaigns:

18 No elective official nor any employee of his or her office nor any person appointed
19 to or employed by any public office or agency may use or authorize the use of any
20 of the facilities of a public office or agency, directly or indirectly, for the purpose
21 of assisting a campaign for election of any person to any office or for the promotion
22 of or opposition to any ballot proposition. Facilities of a public office or agency
23 include, but are not limited to, use of stationery, postage, machines, and equipment,
24 use of employees of the office or agency during work hours, vehicles, office space,
publications of the office or agency, and clientele lists of person served by the office
or agency.

9. The office of Attorney General is a state elective office.

10. Tribal governments are governments that expend public funds derived from taxes,
fees, penalties, and other sources. They have public facilities. In Washington, tribal governments
are accorded the status of governments under Washington and federal law, and are often treated

1 by other Washington governments and their agencies on a government-to-government basis. Even
2 if tribal governments are not governments under the FCPA (and they are), tribal governments
3 exercise the functional equivalent powers of governmental agencies, as that concept has been
4 developed in *Telford v. Thurston County Bd. of Commissioners*, 95 Wn. App. 149, 974 P.2d 886
5 (1999).

6 CITIZEN ACTION LETTERS

7 11. Through counsel, AUTO sent a 45-day notice letter pursuant to RCW
8 42.17A.765(4)(a)(i) on May 2, 2016 to the Attorney General and the King County Prosecutor. It
9 sent its 10-day notice letter pursuant to RCW 42.17A.765(4)(a)(ii) on June 20, 2016. The 45-day
10 notice letter alleged that FBF was a political committee that received and spent illegal campaign
11 contributions from tribal governments.

12 12. Both the Attorney General and the King County Prosecutor declined to take action
13 against FBF.

14 CLAIM OF VIOLATION OF THE FCPA

15 13. AUTO hereby incorporates the previous paragraphs as if fully set forth herein.

16 14. FBF has received contributions of tribal government funds, public funds under the
17 FCPA, for its campaign purposes.

18 15. FBF's receipt of such funds was and is illegal under RCW 42.17A.550 and .555.

19 PRAYER FOR RELIEF

20 WHEREFORE, AUTO, acting on behalf of the State of Washington, prays as follows:

21 1. For an accounting of all tribal government funds received and expended by FBF
22 since 2014;

23 2. For FBF's disgorgement of any contributions it has received from tribal
24

1 governments, and their return to those tribal governments, with interest;

2 3. For injunctive relief preventing FBF from receiving contributions from tribal
3 governments for Robert Ferguson's 2016 election campaign;

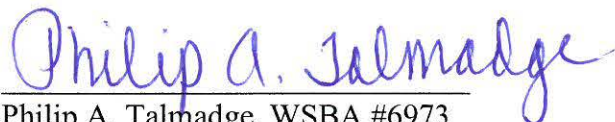
4 4. For such penalties as the Court deems appropriate under RCW 42.17A.750(2);

5 5. For a finding that the violations were intentional and a trebling of the amount of
6 judgment, which for this purpose shall include costs, as authorized by RCW 42.17A.765(5);

7 6. For all costs of investigation and trial, including reasonable attorney fees, as
8 authorized by RCW 42.17A.765(4)(b);

9 7. For such other relief that the Court deems equitable and proper.

10 DATED this 6th day of July, 2016.

11 

12 Philip A. Talmadge, WSBA #6973
13 Thomas M. Fitzpatrick, WSBA #8894
14 Sidney Tribe, WSBA #33160
15 Talmadge/Fitzpatrick/Tribe
16 2775 Harbor Avenue SW
17 3rd Floor, Suite C
18 Seattle, WA 98126
19 (206) 574-6661
20 Attorneys for Plaintiff Automotive
21 United Trades Organization
22
23
24