

FILED  
MAY 09 2017  
SUPERIOR COURT  
CLATSOP COUNTY  
TALMAGE, OREGON

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

STATE OF WASHINGTON  
THURSTON COUNTY SUPERIOR COURT

STATE OF WASHINGTON,  
  
Plaintiff,  
  
v.  
  
JERRY MOBERG, individually and  
acting as GRANT COUNTY  
CONCERNED VOTERS and as a  
principal in MOBERG &  
ASSOCIATES; KEN GREENE,  
individually and acting as GRANT  
COUNTY CONCERNED VOTERS;  
and GRANT COUNTY CONCERNED  
VOTERS,  
  
Defendants.

NO. 17-2-02517-34  
  
COMPLAINT FOR CIVIL  
PENALTIES AND FOR INJUNCTIVE  
RELIEF FOR VIOLATIONS OF  
RCW 42.17A

I. NATURE OF ACTION

1.1 The State of Washington (State) brings this action to enforce the State's campaign finance and disclosure law, RCW 42.17A. One fundamental principle of our State's campaign finance and disclosure system is implicated by this case. The public, including voters, should know who is actually paying for political advertising that supports or opposes candidates for public office. The State brings this action to hold Defendants accountable for a scheme to circumvent this fundamental rule.

1.2 In 2014, Defendants Ken Greene and Jerry Moberg opposed Garth Dano, a candidate for Grant County Prosecutor. They devised and implemented a plan to produce and distribute political advertising opposing Dano and supporting his opponent, the incumbent

1 prosecutor. Defendant Moberg gave Defendant Greene \$4,000 to cover the cost of a political  
2 mailer. Defendant Greene contracted with a South Dakota printing company to produce the  
3 mailer. Both Defendants worked with the printing company, and on or about October 11, 2014,  
4 the mailer began appearing in Grant County voters' mailboxes. Defendants identified the  
5 source of the mailer as "Grant County Concerned Voters." No such group registered or  
6 reported with the State Public Disclosure Commission as the source of the mailer, and "Grant  
7 County Concerned Voters" was not the true sponsor of the mailer or the source of its funding.  
8 Defendants set out to hide their identities and involvement in this scheme.

9 1.3 Defendants' execution of this scheme violated provisions of RCW 42.17A by  
10 intentionally a) concealing the true source of the funds that paid for the mailer, b) concealing  
11 the identity of the sponsor of the mailer, c) concealing the identity of the person to whom the  
12 funds were paid to produce the mailer, and d) failing to include a statement of sponsor  
13 identification on the mailer. They also failed to register and report as a political committee in  
14 filings with the Public Disclosure Commission. Finally, Defendants should have filed an  
15 electronic C-6 report within 24 hours of the date of the mailing, disclosing the funding of the  
16 mailer as an electioneering communication.

17 1.4 The State seeks relief under RCW 42.17A.750 and .765, including civil  
18 penalties, costs of investigation, costs of trial, reasonable attorneys' fees, and injunctive relief.

## 19 II. PARTIES

20 2.1 Plaintiff is the State of Washington. Acting through the Washington State  
21 Public Disclosure Commission, Attorney General, or a local prosecuting attorney, the State  
22 enforces the State campaign finance disclosure laws contained in RCW 42.17A.

23 2.2 Defendant JERRY MOBERG (Moberg) is a resident of Grant County,  
24 Washington. During 2014, he was a principal in the law firm Moberg and Associates. He  
25 obtained and then transferred funds from his law firm, Moberg and Associates, to Defendant  
26 Greene to pay for a mailer to support the incumbent and oppose the challenger in the 2014

1 Grant County Prosecutor race.

2 2.3 Defendant KEN GREENE (Greene) is currently a resident of Moses Lake,  
3 Grant County, Washington. During the 2014 election, he opposed a candidate for Grant County  
4 Prosecutor. He received funds from Defendant Moberg which he then used to fund a mailer to  
5 oppose the candidate. He identified the source of the mailer as "GRANT COUNTY  
6 CONCERNED VOTERS." He did not register or file any reports with the State Public  
7 Disclosure Commission which were required by law to be filed in Olympia, Thurston County,  
8 Washington.

9 **III. JURISDICTION AND VENUE**

10 3.1 This Court has subject matter jurisdiction over the present case, in accordance  
11 with RCW 42.17A. The Attorney General has authority to bring this action pursuant to RCW  
12 42.17A.765.

13 3.2 This Court has personal jurisdiction over the Defendants, residents of the State  
14 of Washington. Additionally, the acts alleged below occurred, in whole or in part, in Thurston  
15 County, Washington in that, as a result of Defendants' actions alleged below, no disclosure  
16 reports required to be filed with and obtainable from the Public Disclosure Commission were  
17 available in Olympia, Washington. Thus, this inaction left the voting public without access to  
18 accurate information about the sponsors of a political mailer.

19 3.3 Venue is proper in this Court pursuant to RCW 4.12.020(1).

20 **IV. FACTUAL ALLEGATIONS**

21 4.1 RCW 42.17A declares as a matter of public policy "[t]hat political campaign  
22 and lobbying contributions and expenditures be fully disclosed to the public and that secrecy is  
23 to be avoided." RCW 42.17A.001(1). Further, the statute provides that the provisions of the  
24 law "shall be liberally construed to promote complete disclosure of all information respecting  
25 the financing of political campaigns. . . ."

26 ///

1 4.2 Washington's campaign finance and disclosure law prohibits the concealment  
2 of a source of political contributions or recipient of expenditures. "No contribution shall be  
3 made and no expenditure shall be incurred, directly or indirectly, in a fictitious name,  
4 anonymously, or by one person through an agent, relative, or other person in such a manner as  
5 to conceal the identity of the source of the contribution or in any other manner so as to effect  
6 concealment." RCW 42.17A.435.

7 2014 Race for Grant County Prosecutor

8 4.3 Two candidates ran for Grant County Prosecutor in 2014.

9 4.4 One candidate was the incumbent Grant County Prosecutor, Angus Lee.

10 4.5 The opposition candidate was local Moses Lake criminal defense attorney Garth  
11 Dano.

12 4.6 During the August 5, 2014 primary election, candidate Dano received 58.39%  
13 of the vote, with the incumbent receiving 41.61%.

14 4.7 On November 4, 2014, candidate Dano defeated the incumbent by receiving  
15 53.42% of the vote.

16 Defendants' Role in Community

17 4.8 Defendant Moberg is a local attorney in Grant County. He has practiced in that  
18 community for over 40 years. He also held the elected position of Superior Court judge for  
19 Grant County.

20 4.9 Defendant Greene is a local business owner in Grant County. He owns the True  
21 Step shoe repair business.

22 4.10 Defendants Moberg and Greene knew and were friends with candidate Dano for  
23 many years. Both defendants opposed candidate Dano's election as Grant County Prosecutor in  
24 2014.

25 4.11 As early as May 2014, both Defendants Moberg and Greene told candidate  
26 Dano that they would not be supporting his campaign.

1           Contracting and Dissemination of Mailing

2           4.12   After the 2014 primary election, Defendant Greene became concerned about the  
3 manner in which candidate Dano was conducting his campaign and the results of the primary  
4 election. Defendant Greene sent letters to the Editor of the Columbia Basin Herald opposing  
5 candidate Dano and wrote blog posts expressing the same opposition.

6           4.13   In September 2014, Defendant Greene decided to sponsor a political mailer  
7 which was sent to voters in Grant County. Defendant Greene obtained the name of a printer in  
8 South Dakota—Borns Group—to prepare and disseminate the mailer (Dano mailer). He  
9 obtained the printer's name from Defendant Moberg. Defendant Moberg obtained the printer's  
10 name by doing an internet search through a national organization named Buyer Zone.

11          4.14   Defendant Greene contacted the Borns Group and entered into an agreement for  
12 the Borns Group to print and mail the flyer Defendant Greene designed. Part of the reason he  
13 did so was to specifically use a printer outside of Grant County.

14          4.15   Defendant Greene designed the copy for the Dano mailer. Defendants then sent  
15 the copy to the Borns Group. Defendant Greene did the research for the information contained  
16 in the Dano mailer. The Dano mailer opposed candidate Dano and supported the incumbent.

17          4.16   Defendant Greene attributed the Dano mailer to a group called the "Grant  
18 County Concerned Voters." Defendant Greene did not want his name associated with the  
19 content of the mailer. He invented the name "Grant County Concerned Voters" to be the source  
20 of the Dano mailer to ensure that his name was not associated with its content.

21          4.17   The Dano mailer did not include proper, accurate and complete sponsor  
22 identification as required by state law. It was sent with the assumed name of "Grant County  
23 Concerned Voters."

24          4.18   During the course of the Dano mailer's production, Defendant Moberg had the  
25 majority of the contact with and direction to the Borns Group staff. The Borns Group printed  
26 the copy as a two-sided, tri-fold document. Once completed, the Borns Group sent the Dano

1 mailer to 14,000 voters in Grant County. The Dano mailer began arriving in Grant County  
2 voters' mailboxes on or about October 11, 2014.

3 4.19 The Borns Group charged \$3,872.10 for the printing and dissemination of the  
4 Dano mailer.

5 Payment for the Dano Mailer

6 4.20 On September 30, 2014, Defendant Moberg obtained and cashed a check from  
7 his law firm's checking account in the amount of \$4,000 made payable to himself.

8 4.21 That same day, Defendant Moberg gave Defendant Greene the \$4,000 to cover  
9 the costs of the Dano mailer.

10 4.22 Also, on September 30, 2014, Defendant Greene wrote and sent a check in the  
11 amount of \$3,872.10 to the Borns Group. The memo line on the check states "GCCV," the  
12 initials for Grant County Concerned Voters.

13 4.23 On October 1, 2014, Defendant Greene deposited \$4,000 to his bank account.

14 4.24 Defendant Greene's check to the Borns Group cleared his account on October 3,  
15 2014.

16 Public Disclosure Commission Investigation

17 4.25 On or about October 14, 2014, the State Public Disclosure Commission began  
18 receiving complaints concerning the Dano mailer. In particular, the complaints addressed the  
19 fact that the identity of the sponsor of the Dano mailer was not publicly available and that no  
20 group called "Grant County Concerned Voters" was registered with the Public Disclosure  
21 Commission.

22 4.26 Commission staff located the Borns Group as the printer of the Dano mailer  
23 based on the stamp on the Dano mailer's address side. Despite resistance to provide  
24 information, the Borns Group ultimately identified Defendant Greene as the person who paid  
25 for the mailer. The Borns Group also identified Defendant Moberg as the individual with  
26 whom most of its contact about the Dano mailer occurred.

1 4.27 Initially, through counsel, Defendants stated that Defendant Greene was solely  
2 responsible for the Dano mailer and supplied his check for payment to the Borns Group.

3 4.28 In their statements under oath to the Commission staff on July 15, 2016,  
4 Defendants reasserted that Defendant Greene was solely responsible the production and  
5 payment for the Dano mailer. They both denied that anyone but Defendant Greene paid for the  
6 Dano mailer. When asked if he had helped Defendant Greene “pay for the flier,” Defendant  
7 Moberg said “No.” Defendant Greene likewise stated that “It was my money,” “Nobody  
8 offered to help me,” and it was totally “my expense.”

9 4.29 On September 28, 2016—after Commission staff sought copies of Defendant  
10 Greene’s banking records—Defendants finally admitted that Defendant Moberg had given  
11 Defendant Greene the money used to pay for the Dano mailer. They then produced banking  
12 records to substantiate the exchange from Defendant Moberg to Defendant Greene to the Borns  
13 Group for the Dano mailer.

14 **V. CLAIMS**

15 The State re-alleges and incorporates by reference all the factual allegations contained  
16 in the preceding paragraphs, and based on those allegations, makes the following claims:

17 5.1 First Claim: The State reasserts the factual allegations made above and further  
18 asserts that Defendants, in violation of RCW 42.17A.435, acted to conceal the 1) true identity  
19 of the sponsor of the Dano mailer, 2) true source of funding for the Dano mailer, 3) identity of  
20 the person who received the funds to pay for the Dano mailer, 4) who produced and  
21 disseminated the Dano mailer, and 5) the amount of money received and spent on the Dano  
22 mailer which supported and opposed candidates for the 2014 Grant County Prosecutor.

23 5.2 Second Claim: The State reasserts the factual allegations made above and  
24 further asserts that Defendants, in violation of RCW 42.17A.205, .210, .215, .235, and .240,  
25 failed to register Grant County Concerned Voters as a political committee within two weeks of  
26 the date Defendants first had the expectation of receiving contributions and making

1 expenditures to support and oppose candidates for Grant County Prosecutor in 2014, and failed  
2 to report campaign finance activity. In addition, Defendants failed to identify a treasurer for the  
3 political committee and establish a depository for its funds.

4 5.3 Third Claim: The State reasserts the factual allegations made above and further  
5 asserts that Defendants, in violation of RCW 42.17A.320, used the assumed name of "Grant  
6 County Concerned Voters" instead of their own names as the sponsors of an electioneering  
7 communication political advertising, namely, the Dano mailer, and failed to use their own  
8 names as the actual sponsors, along with the other required identifying information concerning  
9 sponsorship.

10 5.4 Fourth Claim: The State reasserts the factual allegations made above and further  
11 asserts that Defendants, in violation of RCW 42.17A.305, failed to file a C-6 report of an  
12 electioneering communication for direct mail political advertising supporting and opposing the  
13 2014 candidates for Grant County Prosecutor as well as the required disclosures under RCW  
14 42.17A.305.

15 5.5 Fifth Claim: The State reasserts the factual allegations made above and  
16 further asserts that Defendants, in committing the violations alleged above, acted in a negligent  
17 and/or intentional manner.

## 18 VI. REQUEST FOR RELIEF

19 WHEREFORE, the State requests the following relief as provided by law:

20 6.1 Assess a penalty against Defendants for their failures to timely and properly  
21 comply with provisions of RCW 42.17A as those remedies are outlined in RCW 42.17A.750,  
22 including but not limited to imposition of a civil penalty, all to be determined at trial;

23 6.2 Compel Defendants to file all required disclosures with the state Public  
24 Disclosure Commission as required by RCW 42.17A;

25 6.3 Order Defendants to pay all costs of investigation and trial, including reasonable  
26 attorneys' fees, as authorized by RCW 42.17A.765(5);

