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**BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON**

In re the Petition for a Declaratory Order for:

A BETTER SEATTLE,

Petitioner.

DECLARATORY ORDER OF  
THE PUBLIC DISCLOSURE  
COMMISSION

**I. INTRODUCTION**

This matter was heard remotely by the Washington State Public Disclosure Commission (PDC, Commission) on November 24, 2021, by audio and online streaming. The hearing was held pursuant to Chapter 34.05 RCW, Chapter 42.17A RCW, and Chapter 390-12 WAC.

Commissioners present both telephonically and online were Fred Jarrett, Commission Chair (presiding); Nancy Isserlis, Commission Vice-Chair; and Commissioners William Downing and Allen Hayward. Also present both telephonically and online were Assistant Attorney General John S. Meader representing the Commission; and Sean Flynn, General Counsel for the PDC. Petitioner, A Better Seattle, a political committee (ABS, Committee), was represented by its attorney, Kevin J. Hamilton. The Kshama Solidarity Campaign political action committee was represented by its attorney, Darin M. Dalmat. Notice of the proceedings was provided and the proceedings were open to the public as limited by Governor’s Order 20-

1 28 *et seq.* and recorded.

2 The hearing concerned a petition for a Declaratory Order suspending the contribution  
3 limits of RCW 42.17A.405(3) and (14) because ABS contends those limits are inapplicable to  
4 the Committee pursuant to federal law.

5 The Commissioners had before them the following materials:

- 6 ○ Petition for a Declaratory Order from A Better Seattle, dated November  
7 15, 2021;
- 8 ○ Letter of Objection from Dmitri Iglitzin, on behalf of the Kshama  
9 Solidarity Campaign, dated November 18, 2021;
- 10 ○ Response in opposition to the Petition for a Declaratory Order from Darin  
11 M. Dalmat, on behalf of the Kshama Solidarity Campaign, dated  
12 November 23, 2021;
- 13 ○ Stipulation as to Facts presented by PDC staff, dated November 23, 2021,  
14 and signed by Sean Flynn, General Counsel, for the PDC and Philip  
15 Lloyd, Treasurer, for A Better Seattle.

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17 **II. STIPULATION**

18 PDC staff and the Committee jointly submitted a signed Stipulation as to Facts  
19 (Stipulation). Mr. Flynn presented the Stipulation, reviewed the facts and summarized its  
20 contents. Mr. Dalmat responded with argument in opposition to the Stipulation and to approval  
21 of the Petition for a Declaratory Order and answered questions from the Commission. Mr.  
22 Hamilton argued in support of the Declaratory Order and also answered the Commission's  
23 questions. The Commission voted 4-0 to accept the Stipulation and to issue the Declaratory  
24 Order.

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### III. FINDINGS OF FACT

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3 1. On September 30, 2021, King County Elections certified the recall petition against  
4 Seattle City Councilmember Kshama Sawant, and set a date for the ballot proposition of  
5 December 7, 2021.

6 2. On October 21, 2021, A Better Seattle filed a political committee registration statement  
7 to support the ballot proposition seeking the recall of Councilmember Sawant from office. The  
8 Committee has filed a Cash Receipts, Monetary Contributions Report (Form C-3) each  
9 consecutive week from November 8, 2021, through November 22, 2021.

10 3. On November 15, 2021, the Committee submitted a petition for an expedited  
11 declaratory order to grant relief from the requirements of RCW 42.17A.405 (as well as RCW  
12 42.17A.125, and WAC 390-05-400), pertaining to contribution limits imposed in recall  
13 campaigns. The Commission had reviewed a similar request before issuing PDC Declaratory  
14 Order 17 in 2015 that suspended enforcement of RCW 42.17A.405(3) and (14) as applied to a  
15 recall committee. The basis for the Commission's actions was *Farris v. Seabrook*, 677 F.3d  
16 858 (9<sup>th</sup> Cir., 2012), a federal case that found Washington State's application of contribution  
17 limits to a recall committee was unconstitutional under circumstances in which the limits do  
18 not further the important interest of preventing corruption or the appearance of corruption.

19 4. As of the date of the Stipulation, and based on the standard established in Declaratory  
20 Order 17, the Committee and its officers and directors, and principal decision-makers  
21 (including any person who has provided input to the Committee), stipulated that they:

- 22 a. Have not solicited or accepted any contribution that exceeds the applicable limit  
23 set forth in RCW 42.17A.405(3) and (14);  
24  
25  
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1           1.     Enforcement of any monetary and in-kind contributions that exceed  
2                     contribution limits as established under RCW 42.17A.405(3) and (14) for this  
3                     pro-recall campaign are SUSPENDED from the date of this order with the  
4                     following conditions:

5                     a.       Should the Committee, through its officers and directors, and  
6                     principal decision-makers (including any person who has provided  
7                     significant input to the Committee), become aware of the identity of any  
8                     candidate for Seattle City Council; or if any person, when contacted,  
9                     indicates an intent to run for the office in the future, the Committee, its  
10                    officers, directors, and principal decision-makers (including any person  
11                    who has provided significant input to the Committee), will not: i)  
12                    coordinate any campaign expenditures with such a candidate or their  
13                    campaign committee, ii) solicit or accept contributions from such a  
14                    candidate or their campaign committee, or iii) solicit any donations or  
15                    support, whether in support of or in opposition to such a candidate or his  
16                    or her candidate committee.

17                    b.       The Committee will not include any members of the Seattle City  
18                    Council or its staff in Committee decision-making, including decisions  
19                    concerning Committee expenditures, and the solicitation or receipt of  
20                    contributions.

21           2.     If the conditions set forth above in paragraph 1 are found not to have been met,  
22                     the Committee may be subject to potential enforcement for any violation(s) of  
23                     RCW 42.17A.405(3) and (14) including those prior to or subsequent to this  
24                     order.

25           3.     The Committee, its officers, and its principal decision-makers shall continue to  
26                     comply with all campaign finance laws and requirements of Chapter 42.17A

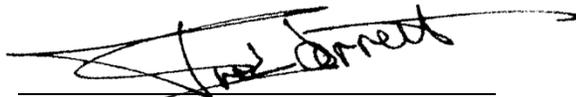
1 RCW and Title 390 WAC, other than the limitations of RCW 42.17A.405(3)  
2 and (14) and its implementing regulations, subject to the requirements  
3 proscribed in this Order. This includes requirements applicable to the  
4 coordination of expenditures with a candidate or political committee, and  
5 requirements applicable to the disclosure of contributions and expenditures.

- 6 4. The conditions for suspension of enforcement shall remain in effect until the  
7 dissolution of the Committee.  
8

9 So ORDERED this 26th day of November, 2021.

10 WASHINGTON STATE PUBLIC  
11 DISCLOSURE COMMISSION

12 FOR THE COMMISSION:

13 

14 Fred Jarrett,  
15 Chair, Public Disclosure Commission

16 *Copy of this Order mailed and/or emailed to:*

17 Kevin J. Hamilton, Attorney, for A Better Seattle,  
18 [khamilton@perkinscoie.com](mailto:khamilton@perkinscoie.com)

19 Darin M. Dalmat, Attorney, for Kshama Solidarity Campaign;  
20 [dalmat@workerlaw.com](mailto:dalmat@workerlaw.com)

21 Sean Flynn, General Counsel, for PDC Staff,  
22 [Sean.flynn@pdc.wa.gov](mailto:Sean.flynn@pdc.wa.gov)

23 I, \_\_\_\_\_, certify that I mailed or e-mailed a copy of this order to the  
24 Respondent/ Applicant at his/her respective address postage pre-paid on the date stated  
25 herein.

26 \_\_\_\_\_  
Signed

\_\_\_\_\_  
Date