

LAWRENCE G. WASDEN
ATTORNEY GENERAL

BRIAN KANE, ISB #6264
Assistant Chief Deputy Attorney General

STEVEN L. OLSEN, ISB #3586
Chief of Civil Litigation
MICHAEL S. GILMORE, ISB #1625
Deputy Attorney General
954 W. Jefferson Street, 2nd Floor
P.O. Box 83720
Boise, ID 83720-0010
Telephone: (208) 334-4130
Facsimile: (208) 854-8073
mike.gilmore@ag.idaho.gov
Attorney for Plaintiff

NO. _____
FILED
A.M. _____ P.M. _____

OCT 24 2012

CHRISTOPHER D. RICH, Clerk
By TARA THERRIEN
DEPUTY

COPY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

SECRETARY OF STATE BEN YSURSA,)	
Plaintiff,)	Case No. CV OC 1219280
)	
v.)	MEMORANDUM IN SUPPORT OF
EDUCATION VOTERS OF IDAHO, INC., an)	PLAINTIFF'S MOTION FOR A
Idaho Non-Profit Corporation, and its Board of)	TEMPORARY RESTRAINING
Directors, DEBBIE FIELD, PHIL REBERGER,)	ORDER OR A PRELIMINARY
and MARK DUNHAM, in their official capaci-)	INJUNCTION
ties,)	
)	
Defendants.)	

The Secretary of State of the State of Idaho, the Hon. Ben Ysursa, by and through his counsel in the Office of the Attorney General of Idaho, files this Memorandum in Support of his Motion for a Temporary Restraining Order or Preliminary Injunction that:

1. Declares that Defendant Education Voters of Idaho, Inc., is a political committee subject to the requirements of the Sunshine Initiative, Idaho Code §§ 67-6601 *et seq.*;
2. Orders the Board of Directors of Education Voters of Idaho, Inc., namely Defendants Debbie Field, Phil Reberger, and Mark Dunham, to appoint a political treasurer for Defendant Education Voters of Idaho, Inc.; and

3. Orders the political treasurer of Defendant Education Voters of Idaho, Inc., to file the reports of contributions and expenditures due under Idaho Code § 67-6607 as follows:

a. The report due on October 10, 2012, pursuant to Idaho Code § 67-6607(4) and that was not filed on or before October 10, 2012, must be filed with and received by the Secretary of State's Office as promptly as possible, but no later than (i) seven calendar days after the entry of the Court's Temporary Restraining Order or Preliminary Injunction or (ii) Friday, November 2, 2012, whichever comes first; and

b. The report due between October 23, 2012, and October 30, 2012, pursuant to Idaho Code § 67-6607(5), must be filed with and received by the Secretary of State's Office as required by that section, or if not filed by those deadlines, no later than (i) seven calendar days after the entry of the Court's Temporary Restraining Order or Preliminary Injunction or (ii) Friday, November 2, 2012, whichever comes first.

This Memorandum refers to facts contained in the Verified Complaint for Declaratory and Injunctive Relief Under the Sunshine Initiative, Idaho Code §§ 67-6601 *et seq.* (the Verified Complaint). For the convenience of the District Court, a copy of the Verified Complaint is attached to this Memorandum.

I. STANDARDS FOR ISSUANCE OF A TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION

Idaho Rule of Civil Procedure 65 authorizes the District Court to issue Temporary Restraining Orders and Preliminary Injunctions. Rule 65(e) provides that Preliminary Injunctions may be issued to prevent several kinds of harms that cannot be undone without prompt action that cannot await the District Court's entry of final judgment:

Rule 65(e). Grounds for preliminary injunction.

A preliminary injunction may be granted in the following cases:

(1) When it appears by the complaint that the plaintiff is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of the acts complained of, either for a limited period or perpetually.

(2) When it appears by the complaint or affidavit that the commission or continuance of some act during the litigation would

produce ... great or irreparable injury to the plaintiff.

(3) When it appears during the litigation that the defendant is ... suffering to be done, some act in violation of the plaintiff's rights, respecting the subject of the action, and tending to render the judgment ineffectual.

Although the Idaho Supreme Court has not issued an opinion setting forth further standards for considering a motion for a Temporary Restraining Order or a Preliminary Injunction, there are widely accepted standards used in the Federal Courts, and the Secretary of State willingly accepts the burden of meeting those standards. The standards are: "A plaintiff seeking a preliminary injunction must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest." *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20-21, 129 S. Ct. 365, 374-375 (2008). "The Ninth Circuit has treated the standard for determining whether a temporary restraining order should be granted as the same as a preliminary injunction. *Golden Gate Restaurant Ass'n v. City and County of San Francisco*, 512 F.3d 1112, 1115 (9th Cir. 2008)" *Labossiere v. GMAC Mortg.*, 2010 WL 2836107, 1 (Judge Lodge, D. Idaho 2010). The Argument below contends that the Secretary of State meets the four criteria for issuance of a preliminary injunction or temporary restraining order. First, however, the Secretary of State reviews the facts contained in his Verified Complaint and the law to be applied to those facts.

II. REVIEW OF THE FACTS

There are three referenda on the Idaho general election ballot for the 2012 general election. They are known as Propositions 1, 2 and 3. The general election is now under way with absentee and early voting and will conclude on Tuesday, November 6, 2012. Verified Complaint, ¶¶ 9-10.

Defendant Education Voters of Idaho, Inc. (EVI), is an Idaho non-profit corporation that filed its Articles of Incorporation on August 16, 2012. EVI's street address for its registered office is 950 West Bannock Street, Suite 520, Boise, Idaho. EVI's mailing address is P.O. Box

9925, Boise, Idaho 83707. Defendants Debbie Field, Phil Reberger, and Mark Dunham are EVI's Board of Directors. Verified Complaint, ¶ 2-3 and Ex. A.

On September 25, 2012, forty days after it was incorporated as a non-profit corporation, EVI donated \$200,350 to a political committee called Parents for Education Reform/Debbie Field (PER/DF). On that same day PER/DF spent \$200,318 with Sandler-Innocenzi, Inc., of Alexandria, Virginia, on broadcast advertising. PER/DF is registered with the Secretary of State as a political committee for ballot measures on the general election ballot; it reported the donation and expenditure described in this paragraph. Verified Complaint, ¶¶ 11-12 and Ex. B. On the other hand, Defendant EVI has not registered as a political committee and has not reported any contributions or expenditures to the Secretary of State. *Id.*, ¶ 14.

Defendant Debbie Field, one of EVI's Board of Directors, is the same person whose name appears in the political committee called Parents for Education Reform/Debbie Field. EVI and PER/DF have the same mailing address: P.O. Box 9925, Boise, Idaho 83707. PER/DF spent \$200,318 on political advertising on the same day that Defendant EVI donated \$200,350 to PER/DF, which were the total of all funds that PER/DF reported receiving. Verified Complaint, ¶¶ 11-12 and Exhibit B.

The Secretary of State infers from these uncontested facts, and asks the District Court to infer from these uncontested facts, that:

(1) in the forty days between Defendant EVI's incorporation as a non-profit corporation and its donation of over \$200 thousand to PER/DF, the Defendant EVI received contributions from one or more persons, and

(2) the contributions to EVI and PER/DF's expenditures of moneys supplied by EVI were made, directly or indirectly, in a fictitious name, anonymously, or through an agent or other person in such a manner as to conceal the identity or identities of the source(s) of the contribution(s) to EVI, which were in turn immediately spent for political purposes by PER/DF.

III. REVIEW OF THE APPLICABLE LAW

The Complaint and this Motion are brought under the Sunshine Initiative, Idaho Code

§§ 67-6601 through 67-6630. “The purpose of this act [the Sunshine Initiative] is: ... (b) To promote openness in government and avoiding secrecy by those giving financial support to state election campaigns and those promoting or opposing legislation” Idaho Code § 67-6601.

To effectuate the purpose of avoiding secrecy by those giving financial support to legislation, whether that legislation be by act of the Legislature or by initiative or referendum of the people, the Sunshine Initiative’s definitional section includes “measures,” which are defined as “any proposal, to be voted statewide, submitted to the people for their approval or rejection at an election, including any initiative, referendum, ... or revision of or amendment to the state constitution.” Idaho Code § 67-6602(m). “Political committee” is defined to take into account measures. It means: “(1) Any person specifically designated to support or oppose any candidate or measure; or (2) Any person who receives contributions and makes expenditures in an amount exceeding five hundred dollars (\$500) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures.” Idaho Code § 67-6602(p). The long and short of this is that organizations that receive \$500 or more in contributions and spend \$500 more in support of or opposition to measures are political committees.

Idaho Code § 67-6603(a) requires a political committee to appoint a political treasurer. Idaho Code § 67-6603(c) prohibits political committees from receiving or spending contributions before the political committee “appoints a political treasurer and certifies the name and address of the political treasurer to the Secretary of State.” Idaho Code § 67-6604(a) requires political treasurers of political committees to “keep detailed accounts, current within not more than seven (7) days after the date of receiving the contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a statement filed under this act.” The contributions that must be reported include all contributions from a person that exceed in aggregate \$50 in a calendar year. Idaho Code § 67-6610 and § 67-6612.

The detailed accounts that political treasurers must keep are necessary for the political treasurer’s reports required by Idaho Code § 67-6607. Two such reports are at issue in this

Motion, and a third report may become at issue before this case proceeds to final judgment. Subsection 67-6607(a)(4) addresses the first report at issue in this Motion. It was due no later than October 10, 2012, approximately two weeks ago, and had to report as follows:

(4) Not later than October 10 immediately preceding a general election in which the ... political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the ... political committee since and including the eleventh day after the date of the primary election and to and including September 30;

Subsection 67-6607(a)(5) addresses the second report at issue in this Motion. It requires a report filed within the window of Tuesday, October 23, 2012, through Tuesday, October 30, 2012, i.e., fourteen days before and seven days before the general election of Tuesday, November 6, 2012, as follows:

(5) Not more than fourteen (14) days and not less than seven (7) days before the date of a general election in which the ... political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the ... political committee since and including October 1 and to and including the sixteenth day before the general election [October 21, 2012, for the 2012 general election], together with a cumulative statement showing all such contributions and expenditures or encumbrances to and including the sixteenth day before the general election;

Subsection 67-6607(a)(6) lastly requires a report within a month after the general election. Its report is not addressed by this Motion because it is not yet due:

(6) Not more than thirty (30) days after the date of a general election in which the ... political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the ... political committee to cover the period since the fifteenth day before the general election to and including the tenth day after the general election.

Political committees that comply with the reporting requirements of § 67-6607(4)-(6) vindicate § 67-6601(b)'s promotion of openness in government and avoidance of "secrecy by those giving financial support to state election campaigns and those promoting or opposing legislation." Political committees that refuse to report as required by § 67-6607(4)-(6) do just the

opposite. They promote secrecy by those giving financial support to state election campaigns and those promoting or opposing legislation and avoid openness in government.

The Sunshine Initiative prohibits gamesmanship by which nested political committees string together a daisy chain of contributions and expenditures that hide the true contributors. Idaho Code § 67-6614 provides:

§ 67-6614. Identification of source of contributions and expenditures. — No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one (1) person through an agent, relative or other person in such a manner as to conceal the identity of the source of the contribution.

When political committees flout the Sunshine Initiative, the law is not toothless. Idaho Code § 67-6623 charges the Secretary of State with enforcement of the Sunshine Initiative. Idaho Code § 67-6626 gives any citizen of Idaho and the Secretary of State the right to sue for injunctive relief to enforce the provisions of the Sunshine Initiative, although the District Court may require a citizen first to file a written complaint with the Secretary of State. Given the provisions of § 67-6626, the District Court may infer that when the Secretary of State sues for injunctive relief under § 67-6626, he is vindicating not only his Office's interest that the law be followed, but also the interests of every citizen of the State. After all, it was the citizenry itself that created the Sunshine Initiative and gave the powers of injunctive relief to both citizens and the Secretary of State.

With the law and the facts in mind, let us turn to the standards for injunctive relief.

IV. THE SECRETARY OF STATE MEETS THE STANDARDS FOR ISSUANCE OF A TEMPORARY RESTRAINING ORDER OR A PRELIMINARY INJUNCTION

A. The Secretary of State Is Likely to Succeed on the Merits

Defendant EVI is a non-profit corporation that raised over \$200 thousand in forty days. Defendant EVI gave over \$200 thousand to a political committee called PER/DF which on the same day that it received the money used all but \$32 of that amount to purchase broadcast advertising. Defendant EVI and PER/DF have a common post office box and at least one common

officer or principal: Defendant Debbie Field. Based on these and other facts earlier recited, the Secretary of State is likely to succeed on the merits of his contention that Defendant EVI raised contributions that it did not report to the Secretary of State, that those contributions were given to PER/DF, that PER/DF used those contributions to purchase political advertising, and that those contributions were made “directly or indirectly, in a fictitious name, anonymously, or by one (1) person through an agent, relative or other person in such a manner as to conceal the identity of the source of the contribution,” contrary to Idaho Code § 67-6614. The Secretary of State is also likely to succeed on the merits of his contention that Defendant EVI is a political committee that should have reported its contributions and expenditures as required by Idaho Code § 67-6607.

B. The Secretary of State and the Citizens of Idaho Are Likely to Suffer Irreparable Harm in the Absence of Preliminary Relief

Idaho Code § 67-6626 gives every Idaho citizen and the Secretary of State the right to sue for injunctive relief to enforce the Sunshine Initiative, but slightly favors the Secretary of State bringing suit by its provision that the District Court “may in its discretion require the citizen plaintiff to file a written complaint with the Secretary of State prior to seeking injunctive relief.”

One implication of this section is that efficiency may be better served by steering citizen complaints through the Secretary of State’s Office. Another implication is that the Secretary of State is doing the people’s business when he sues for disclosure under the Sunshine Initiative. The people’s business that the Secretary of State is doing is set forth succinctly in § 67-6601(b): “To promote openness in government and avoiding secrecy by those giving financial support to state election campaigns and those promoting or opposing legislation”

Both the Secretary of State and the people will be irreparably harmed if the secrecy of the identity of the donors of over \$200 thousand of political advertising regarding three ballot measures is maintained until after the general election concludes on Tuesday, November 6, 2012. The purpose of pre-election disclosure requirements in § 67-6607(4)-(5) is to inform the people before they vote on the measures of the sources of the money being spent for and against the measures. The harm of hiding that information until after the election cannot be undone by post-

election disclosure. At that point it is too late for the voter to take such information into account. Indeed, given the statutory scheme of the Sunshine Initiative, the District Court should rule as a matter of law that the absence of pre-election disclosure is irreparable harm.

C. The Balance of Equities Is in the Secretary of State's Favor

Defendant EVI has already achieved what it wanted — the purchase of over \$200 thousand of political advertising for measures on the Idaho general election ballot. The bell of political advertising already purchased cannot be unrung. That bell is EVI's free speech right under Idaho law that cannot be taken away and is not intended to be taken away by the Sunshine Initiative. The only issue left is whether EVI gets an additional benefit — the benefit of secrecy of its donors — to which it is not entitled under Idaho law. EVI must take the sour with the sweet when it enters the political arena. The equities sharply favor the Secretary of State, who asks nothing more than EVI follow the law and before the election disclose its contributors after already having gotten the benefits of their contributions — the purchase of political advertising.

D. The Injunction Is in the Public Interest

The Sunshine Initiative tells us what the public interest is. It is in the public interest to “avoid[] secrecy by those giving financial support to state election campaigns and those promoting or opposing legislation.” Idaho Code § 67-6601(b). It is in the public interest to file pre-election reports detailing the sources of political committees' spending for and against measures. Idaho Code § 67-6607(4)-(5). It is in the public interest that “No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one (1) person through an agent, relative or other person in such a manner as to conceal the identity of the source of the contribution.” Idaho Code § 67-6614. The public interest favors issuing a temporary restraining order or preliminary injunction declaring that Defendant EVI is a political committee and requiring Defendant EVI to file its pre-election reports required by Idaho Code § 67-6607(4)-(5).

V. CONCLUSION

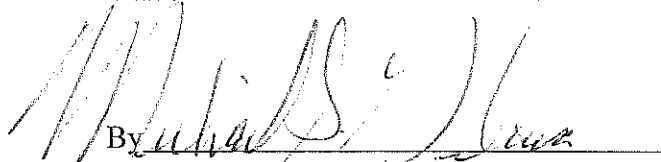
For all of the reasons stated above, the District Court should grant the Secretary of State's Motion for a Temporary Restraining Order or Preliminary Injunction. The Secretary of State's Motion did not contain a date certain for filing the necessary reports because it is not now known when the District Court will issue a written Order. The Secretary of State suggested deadlines for filing reports in his Motion, but recognizes that the selection of deadlines is in the District Court's discretion. The Secretary of State explains the rationales for the deadlines that he proposed in the following paragraph.

The Secretary of State suggested alternative deadlines for reporting: (i) within seven days of the Court's issuance of a Temporary Restraining Order or a Preliminary Injunction, or (ii) Friday, November 2, 2012, whichever comes first. The first alternative allows some time for EVI's political treasurer to gather information and file, but the first alternative would be trumped by a hard deadline of Friday, November 2, 2012, the close of the business week preceding the general election of Tuesday, November 6, 2012. The Secretary of State proposes this hard deadline so that reports would be available on Friday, November 2, 2012, allowing them to be reported in the media in the weekend before the general election and to be accessible to the public on the Secretary of State's website in the days immediately preceding the general election.

For all of these reasons, the Secretary State requests that the District Court grant his Motion for a Temporary Restraining Order or Preliminary Injunction.

DATED this 24th day of October, 2012.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By 
MICHAEL S. GILMORE
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October, 2012, I caused to be served a true and correct copy of the foregoing by the following method to:

Education Voters of Idaho, Inc.
c/o Susan Buxton
950 W. Bannock Street, Suite 520
Boise, ID 83702

- ☐ U.S. Mail
- ☒ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile:
- ☐ Statehouse Mail

Phil Reberger
806 W. Bannock Street, 10th Floor
Boise, ID 83702

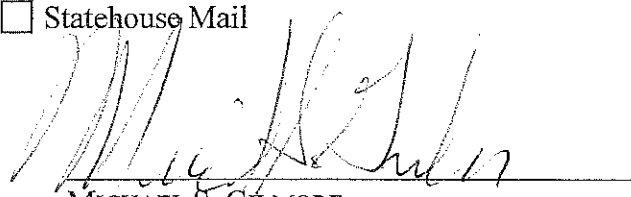
- ☐ U.S. Mail
- ☒ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile:
- ☐ Statehouse Mail

Mark Dunham
3265 Agate Court
Boise, ID 83705

- ☐ U.S. Mail
- ☒ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile:
- ☐ Statehouse Mail

Debbie Field
3673 S. Basilica Way
Meridian, ID 83642

- ☐ U.S. Mail
- ☒ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile:
- ☐ Statehouse Mail


MICHAEL S. GILMORE
Deputy Attorney General

ATTACHMENT

Verified Complaint

LAWRENCE G. WASDEN
ATTORNEY GENERAL

STEVEN L. OLSEN, ISB #3586
Chief of Civil Litigation

MICHAEL S. GILMORE, ISB #1625
Deputy Attorney General
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Telephone: (208) 334-4130
Facsimile: (208) 854-8073
mike.gilmore@ag.idaho.gov
Attorney for Plaintiff

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A.M. _____ P.M. _____

OCT 22 2012

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

SECRETARY OF STATE BEN YSURSA,
Plaintiff,

v.

EDUCATION VOTERS OF IDAHO, INC., an
Idaho Non-Profit Corporation, and its Board of
Directors, DEBBIE FIELD, PHIL REBERGER,
and MARK DUNHAM, in their official capaci-
ties,

Defendants.

Case No.

CV OC 1219280

VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF UNDER THE SUNSHINE
INITIATIVE, IDAHO CODE §§ 67-
6601 *et seq.*

The Secretary of State of the State of Idaho, the Hon. Ben Ysursa, by and through his counsel in the Office of the Attorney General of Idaho, hereby sues for declaratory and injunctive relief to order disclosure of the identities of persons who have contributed \$50 or more to Defendant Education Voters of Idaho, Inc., and the amount of their contributions, for contributions that in whole or in part funded Education Voters of Idaho, Inc.'s donation of \$200,350 to the political committee known as Parents for Education Reform. This Complaint is brought under an Initiative enacted by the voters of the State of Idaho, as amended by the Idaho Legislature, and codified at Idaho Code §§ 67-6601 through 67-6630, commonly known as the Sunshine Law for Political and Lobbyist Activity (the Sunshine Initiative). The Secretary of State alleges as follows:

PARTIES

1. Plaintiff Secretary of State Ben Ysursa is a constitutional executive officer of the State of Idaho. See Idaho Constitution, Article IV, § 1. The Secretary of State is the chief election officer of the State of Idaho. Idaho Code § 34-201. The Secretary of State “is charged with enforcement of the provisions of [the Sunshine Initiative.]” Idaho Code § 67-6623. The Secretary of State is authorized to seek injunctive relief to enforce the Sunshine Initiative. Idaho Code § 67-6626.

2. Defendant Education Voters of Idaho, Inc. (EVI), is an Idaho non-profit corporation that filed its Articles of Incorporation on August 16, 2012. The street address of EVI’s registered office is 950 West Bannock Street, Suite 520, Boise, Idaho 83702. EVI’s mailing address is P.O. Box 9925, Boise, Idaho 83707. See Exhibit A, a copy of EVI’s Articles of Incorporation on file with the Office of the Secretary of State.

3. Defendants Debbie Field, Phil Reberger and Mark Dunham are EVI’s Board of Directors. See Exhibit A. They are sued in their official capacities.

ALLEGATIONS OF FACT AND RELATED STATUTORY REFERENCES

4. In the general election of 1974 the people of the State of Idaho approved an initiative, popularly known as the Sunshine Initiative, codified at Idaho Code §§ 67-6601 *et seq.*, as amended, one of whose stated purposes was and continues to be: “To promote openness in government and avoiding secrecy by those giving financial support to state election campaigns and those promoting or opposing legislation” Idaho Code § 67-6601(b), as initiated by the people on November 5, 1974, in Initiative Measure 1, § 1.

5. Idaho Code § 67-6602(p) defines the term “political committee” as:

(p) “Political committee” means:

- (1) Any person specifically designated to support or oppose any candidate or measure; or
- (2) Any person who receives contributions or makes expenditures in an amount exceeding five hundred dollars (\$500) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures. Any entity registered with the federal election commission shall not be considered a political committee for purposes of this chapter.

6. Idaho Code § 67-6602(m) defines “measure” to include “any proposal, to be voted statewide, submitted to the people for their approval or rejection at an election, including any initiative, referendum, ... or amendment to the state constitution.”

7. Political committees are required to appoint a political treasurer and to certify to the political treasurer’s name and address to the Secretary of State. Idaho Code § 67-6603(a). Political treasurers of political committees that support or oppose measures must submit not later than October 10 preceding the general election at which the measure will be on the ballot “a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the measure.” Idaho Code § 67-6607(a)(3)-(4). The political treasurer for a political committee must file additional statements between fourteen days and seven days before the general election and within 30 days after the general election. Idaho Code § 67-6607(a)(5)-(6).

8. The original Sunshine Initiative provided and still provides: “No contribution shall be made and no expenditures shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one (1) person through an agent, relative or other person in such a manner as to conceal the identity of the sources of the contribution.” Idaho Code § 67-6614.

9. The State of Idaho is conducting a general election in 2012. Early voting and absentee voting are currently under way. Voting will conclude with the closing of the polls on Tuesday, November 6, 2012, after which time the County Clerks will begin counting votes cast in the general election, including votes for and against all measures.

10. The general election of 2012 includes three referenda referred to on the ballot and in voter information provided by the Secretary of State as Propositions 1, 2 and 3. See Idaho Constitution, Article III, § 1 (“The people reserve to themselves the power to approve or reject at the polls any act or measure passed by the legislature”); Idaho Code §§ 34-1801 through 34-1823 (statutes implementing the people’s referendum and initiative powers). These three referenda are measures within the meaning of the Sunshine Initiative.

11. Parents for Education Reform/Debbie Field (PER/DF) is a political committee that supports or opposes one or more of the measures known as Propositions 1, 2 and 3. On

October 12, 2012, PER/DF, through its political treasurer Cordell Chigbrow, filed a Campaign Finance Disclosure Report (the PER/DF Disclosure Report) for the period beginning May 28, 2012, and ending September 30, 2012. PER/DF and its political treasurer both listed the same mailing address: P.O. Box 9925, Boise, Idaho 83707. See Exhibit B, a copy of Parents for Education Reform/Debbie Field's Campaign Disclosure Report (PER/DF's Report). The Debbie Field of Parents for Education Reform/Debbie Field is the same Debbie Field who is a Defendant in her official capacity as a member of the Board of Directors of Defendant EVI.

12. PER/DF's Report showed that it received contributions of \$200,350.00, made expenditures of \$200,318.00, and retained a balance of \$32.00. PER/DF's Report listed only one contributor: Defendant EVI, which on September 25, 2012, gave PER/DF all \$200,350.00 in contributions that PER/DF reported. EVI shares PER/DF's mailing address of P.O. Box 9925, Boise, Idaho 83707. PER/DF's Report listed only one expenditure: \$200,318 to Sandler-Innocenzi, Inc., of Alexandria, Virginia, spent on September 25, 2012, for broadcast advertising. See Exhibit B.

CLAIM FOR DECLARATORY AND INJUNCTIVE RELIEF UNDER THE SUNSHINE INITIATIVE

13. Defendant EVI has, directly or indirectly, accepted contributions exceeding \$500.00 from persons opposing or supporting one or more ballot measures on the 2012 general election in Idaho and has made expenditures exceeding \$500.00 that opposed or supported one or more ballot measures on the 2012 general election in Idaho. Defendant EVI is thus a political committee under Idaho law.

14. Defendant EVI has not filed with the Secretary of State's Office any Campaign Finance Disclosure Reports for the 2012 general election in Idaho as required of a political committee by Idaho Code § 67-6606. Defendant EVI has not appointed and certified a political treasurer to the Secretary of State's Office as required by Idaho Code § 67-6603.

PRAYERS FOR RELIEF

Wherefore, Secretary of State Ben Ysursa prays that:

A. This Court declare that Defendant Education Voters of Idaho, Inc., is a political committee subject to the Sunshine Initiative, Idaho Code §§ 67-6601 *et seq.*

B. This Court temporarily restrain, preliminarily enjoin, and permanently enjoin Defendant Education Voters of Idaho, Inc., and its Board of Directors Debbie Field, Phil Reberger and Mark Dunham in their official capacities by ordering them to appoint a political treasurer and to certify Education Voters of Idaho, Inc. and its political treasurer to the Office of the Secretary of State.

C. This Court temporarily restrain, preliminarily enjoin, and permanently enjoin Defendant Education Voters of Idaho, Inc., and its political treasurer to file all Campaign Finance Disclosure Reports required by Idaho law, and in particular by Idaho Code § 67-6606, with regard to the 2012 general election.

D. For such other relief to which Plaintiff is entitled in law and equity.

DATED this 22nd day of October, 2012.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By 

MICHAEL S. GILMORE
Deputy Attorney General

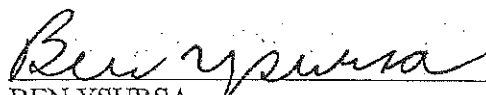
VERIFICATION

STATE OF IDAHO)
)ss.
County of Ada)

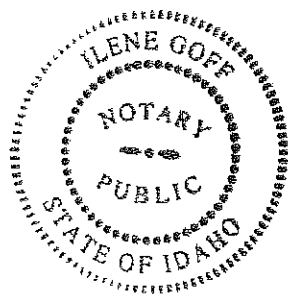
Ben Ysursa, Secretary of State, State of Idaho, being first duly sworn, deposes and says:

I have read the foregoing Verified Complaint and know the contents thereof, and the same are true to the best of my knowledge and belief.

DATED this 22nd day of October, 2012.


BEN YSURSA

SUBSCRIBED AND SWORN to before me this 22 day of October, 2012.



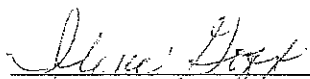

Notary Public for Idaho
Residing at: Canyon County
My Commission Expires: 10/9/13

EXHIBIT A

Verified Complaint

Secretary of State v. Education Voters of Idaho, Inc. et al



ARTICLES OF INCORPORATION

(Non-Profit)

(Instructions on back of application)

FILED EFFECTIVE

2012 AUG 16 AM 9:53

The undersigned, in order to form a Non-Profit Corporation under the provisions of Title 30, Chapter 3, Idaho Code, submits the following articles of incorporation to the Secretary of State.

SECRETARY OF STATE
STATE OF IDAHO

Article 1: The name of the corporation shall be:
Education Voters of Idaho, Inc.

Article 2: The purpose for which the corporation is organized is:
promote and advocate for education reform in Idaho in accordance with IRC section 501(c)(4)

Article 3: The street address of the registered office is: 950 W. Bannock Street, Ste 520, Boise, ID 83702
and the registered agent at such address is: Susan Buxton

Article 4: The board of directors shall consist of no fewer than three (3) people. The names and addresses of the initial directors are:

Debbie Field, 3673 S. Basilica Way, Meridian, ID 83642

Phil Reberger, 806 W. Bannock Street, 10th Floor, Boise, ID 83702

Mark Dunham, 1849 W. Shoreline Drive, Ste 100, Boise, ID 83702

Article 5: The name(s) and address(es) of the incorporator(s):

Susan Buxton

950 W. Bannock Street, Ste 520

Boise, ID 83702

Article 6: The mailing address of the corporation shall be:

PO Box 9925, Boise, ID 83707

Article 7: The corporation (☐ does ☒ does not) have voting members.

Article 8: Upon dissolution the assets shall be distributed:

to organizations which are exempt from federal income tax under IRC section 501(c)(4) (or the corresponding provision of any future United States Internal Revenue Law), or otherwise as

Signatures of all incorporators:

Susan Buxton

Customer Acct #:

(If using pre-paid account)

Secretary of State use only

group/borme/ncorp form/articlesofincorporation
Revised 07/2002

IDAHO SECRETARY OF STATE
08/16/2012 05:00
CX: 1851 CT: 273355 IN: 1336172
1 @ 38.00 = 38.00 INC NONP 12

Web Form

C195682

EXHIBIT B

Verified Complaint

Secretary of State v. Education Voters of Idaho, Inc. et al



**CAMPAIGN FINANCIAL DISCLOSURE REPORT
SUMMARY PAGE**
(Please Print or Type)

C-2
Rev. 5/11

12 OCT -9 AM 10:16

Section I

Name of Candidate or Political Committee and Chairperson PARENTS FOR EDUCATION REFORM / DEBBIE FIELD		Office Sought (if candidate) STATE OF IDAHO	
Mailing Address PO BOX 9925	City and Zip BOISE 83707	Home Phone (208) 867-5556	Work Phone
Name of Political Treasurer CORDELL CHIGBROW			
Mailing Address PO BOX 9925	City and Zip BOISE 83707	Home Phone (208) 384-1040	Work Phone (208) 384-1040

Change of address for: Candidate or Political Committee ☐ Political Treasurer ☐

Section II

TYPE OF REPORT

This filing is an: ☒ Original ☐ AmendmentThis report is for the period from 05 / 26 / 2012 through 09 / 30 / 2012☐ 7 Day Pre-Primary Report ☐ 30 Day Post-Primary Report ☒ October 10 Pre-General Report☐ 7 Day Pre-General Report ☐ 30 Day Post-General Report ☐ Annual Report☐ Semi-Annual Report (Statewide Candidates Only)Is this a Termination Report: ☐ Yes ☒ No

Section III

STATEMENT OF NO CONTRIBUTIONS OR EXPENDITURES

Directions: If you had no contributions or expenditures during this reporting period, check the box next to the statement below and sign this report.
Be sure to carry forward the appropriate "Calendar Year to Date" figures in Column II, Section IV.

☐ I hereby certify that I have received no contributions and have made no expenditures during this reporting period.

Section IV

SUMMARY

To reach your Calendar Year to Date figure: Add this report's Column I figures to the Column II figures of your previous report (except on line 6).

	COLUMN I This Period	COLUMN II Calendar Year to Date
Line 1: Cash on Hand January 1, This Calendar Year*	\$ XXXXXX	\$ 0.00
Line 2: Enter Beginning Cash Balance**	\$ 0.00	\$ XXXXXX
Line 3: Total Contributions (Enter amount from line 5, page 2)	\$ 200,350.00	\$ 200,350.00
Line 4: Subtotal (Add lines 1, 2 and 3)	\$ 200,350.00	\$ 200,350.00
Line 5: Total Expenditures (Enter amount from line 11, page 2)	\$ 200,318.00	\$ 200,318.00
Line 6: Enter Ending Cash Balance (Subtract line 5 from line 4)	\$ 32.00	\$ 32.00
Line 7: Outstanding Debt to Date (Enter amount from line 18, page 2)	\$	

*This same figure should be entered on line 1 of all reports filed this calendar year.

**This is the figure on line 6 of the last Campaign Financial Disclosure Report filed. If this is your first report, this amount is 0.

Note: The closing cash balance for the current reporting period appears on the next report as the beginning cash on hand.

Section V

Return This Report To:

Ben Ysursa
Secretary of State
PO Box 83720
Boise ID 83720-0080
Phone: (208) 334-2852
Fax: (208) 334-2282

I, CORDELL CHIGBROW, hereby certify that the information in this
Name of Political Treasurer
report is a true, complete and correct Campaign Financial Disclosure Report as required by law.

Signature of Political Treasurer

DETAILED SUMMARY

Name of Candidate or Committee: PARENTS FOR EDUCATION REFORM

			Total This Period
Contributions			
①	Unitemized Contributions (\$50 and less)	# of Contributors	+ \$
②	Itemized Contributions (Total of all Schedule A sheets)		+ \$ 200,350.00
③	In-Kind Contributions (Total of all Contribution amounts from Schedule C sheets)		+ \$
④	Loans (Total of all New Loan amounts from Schedule D sheets)		+ \$
⑤	Total Contributions (Transfer this figure to page 1, Section IV, Line 3)		= \$

Expenditures			
⑥	Unitemized Expenditures (Less than \$25)	# of Expenditures	+ \$
⑦	Itemized Expenditures (Total of all Schedule B sheets)		+ \$ 200,318.00
⑧	In-Kind Expenditures (Total of all Expenditure amounts from Schedule C sheets)		+ \$
⑨	Loan Repayments (Total of all Loan Repayment amounts from Schedule D sheets)		+ \$
⑩	Credit Card and Debt Repayments (Total of all Repayment amounts from Schedule E sheets)		+ \$
⑪	Total Expenditures (Transfer this figure to page 1, Section IV, Line 5)		= \$

Loans, Credit Cards and Debt			
⑫	Outstanding Balance from previous reporting period		+ \$
⑬	New Loans received during this reporting period (Total of all New Loan amounts plus Accrued Interest from Schedule D sheets)		+ \$
⑭	New Credit Card and Debt Incurred this reporting period (Total of all New Incurred Debt amounts from Schedule E sheets)		+ \$
⑮	Subtotal		= \$
⑯	Repayments of Loans made during this reporting period (Total of all Loan Repayment amounts from Schedule D sheets)		- \$
⑰	Repayments of Credit Card and Debt this reporting period (Total of all Debt Repayment amounts from Schedule E sheets)		- \$
⑱	Total Outstanding Balance at close of this period (Transfer this figure to page 1, Section IV, Line 7)		= \$

Pledged Contributions			
⑲	Unitemized Pledged Contributions (\$50 and less)	# of Pledges	+ \$
⑳	Itemized Pledged Contributions this Period (Total of all Schedule F sheets)		+ \$
㉑	Total Pledged Contributions this period		= \$

SCHEDULE A
ITEMIZED CONTRIBUTIONS
 of more than Fifty Dollars (\$50.00) this period

Page	of
1	1

Name of Candidate or Committee: PARENTS FOR EDUCATION REFORM		
Date Received	Full Name, Mailing Address and Zip Code of Contributor	Cash or Check
09 / 25 / 12	1. EDUCATION VOTERS OF IDAHO PO BOX 9925 BOISE, ID 83707	\$ 200,350.00
<input type="checkbox"/> Primary <input checked="" type="checkbox"/> General		\$ 200,350.00 Calendar Year-To-Date
/ /	2.	\$
<input type="checkbox"/> Primary <input type="checkbox"/> General		\$ Calendar Year-To-Date
/ /	3.	\$
<input type="checkbox"/> Primary <input type="checkbox"/> General		\$ Calendar Year-To-Date
/ /	4.	\$
<input type="checkbox"/> Primary <input type="checkbox"/> General		\$ Calendar Year-To-Date
/ /	5.	\$
<input type="checkbox"/> Primary <input type="checkbox"/> General		\$ Calendar Year-To-Date
/ /	6.	\$
<input type="checkbox"/> Primary <input type="checkbox"/> General		\$ Calendar Year-To-Date
/ /	7.	\$
<input type="checkbox"/> Primary <input type="checkbox"/> General		\$ Calendar Year-To-Date
/ /	8.	\$
<input type="checkbox"/> Primary <input type="checkbox"/> General		\$ Calendar Year-To-Date
/ /	9.	\$
<input type="checkbox"/> Primary <input type="checkbox"/> General		\$ Calendar Year-To-Date
/ /	10.	\$
<input type="checkbox"/> Primary <input type="checkbox"/> General		\$ Calendar Year-To-Date
Total This Page:		\$ 200,350.00

Transfer the combined total of all Schedule A pages to the Detailed Summary on page 2 line 2.

SCHEDULE B ITEMIZED EXPENDITURES

Twenty-Five Dollars (\$25.00) or more this period

Page 1 of 1

Name of Candidate or Committee: PARENTS FOR EDUCATION REFORM

Purpose Codes

- | | |
|--|---|
| A All Travel Expenses (Airfare, Fuel, Lodging & Mileage) | N Newspaper & Other Periodical Advertising |
| B Broadcast Advertising (Radio, TV & Internet) | O Other Advertising (Yard Signs, Buttons, etc.) |
| C Contributions to Candidates & PAC's | P Postage |
| D Donations & Gifts | S Surveys & Polls |
| E Event Expenses | T Tickets (Events) |
| F Food & Refreshments | U Utilities |
| G General Operational Expenses | W Wages, Salaries, Benefits & Bonuses |
| L Literature, Brochures, Printing | Y Petition Circulators |
| M Management Services | Z Preparation & Production of Advertising |

Date Spent	Full Name, Mailing Address and Zip Code of Recipient	Purpose Code	Cash or Check
09 / 25 / 12	1. SANDLER-INNOGENZI INC 705 PRINCE STREET ALEXANDRIA, VA 22314	B	\$ 200,318.00
	2.		\$
	3.		\$
	4.		\$
	5.		\$
	6.		\$
	7.		\$
	8.		\$
	9.		\$
	10.		\$
Total This Page:			\$ 200,318.00

Transfer the combined total of all Schedule B pages to the Detailed Summary on page 2 line 7.