

**IN THE BANKRUPTCY COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF WASHINGTON**

IN RE:
TIMOTHY DONALD EYMAN,

Debtor.

CASE NO. 18-14536-MLB

STATE OF WASHINGTON,

Plaintiff,

ADVERSARY NO.

vs.

COMPLAINT TO DETERMINE
DISCHARGEABILITY OF DEBT

TIMOTHY DONALD EYMAN,

Defendant.

Plaintiff, the State of Washington, for the purpose of having this court determine the dischargeability of the debt due and owing to the plaintiff by the defendant, hereby states and alleges as follows:

I. PARTIES

1. The plaintiff is the State of Washington, a creditor in this Chapter 11 bankruptcy proceeding.

2. The defendant, Timothy Donald Eyman, is the debtor in this Chapter 11 bankruptcy who has been individually assessed civil penalties, attorney fees, and court costs under *State of Washington v. Tougher to Raise Taxes, et al.*, Thurston County Superior Court case no. 16-2-03891-34 (“Tougher to Raise Taxes”). The defendant is currently, and at all relevant times has been, a resident of the state of Washington.

1 **II. JURISDICTION**

2 3. This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C.
3 § 1334(b) because the issues arise under Title 11 of the United States Code.

4 4. This case arises under 11 U.S.C. § 523(a) (2), (4) and (7).

5 5. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).

6 6. Plaintiff consents to entry of final orders or judgment by the bankruptcy court.
7

8 **III. COMPLAINT TO DETERMINE DISCHARGEABILITY**

9 7. The State of Washington (“State”) is a creditor of Defendant Timothy Donald
10 Eyman by virtue of its judgment entered in Tougher to Raise Taxes on April 12, 2019 under
11 Thurston County Superior Court case no. 16-2-03891-34. Under this judgment, the defendant
12 currently owes the State \$40,533.53. Specifically, Defendant Eyman owes \$22,340 for civil
13 penalties, \$17,827.28 for reasonable attorney’s fees and \$366.25 for court costs. Edison Declaration
14 (“Decl.”) Ex. 1, April 12, 2019 Superior Court Judgment.

15 8. Tougher to Raise Taxes is a consolidated case. The State initiated three separate
16 lawsuits against political committees for which Eyman served as an officer (Tougher to Raise
17 Taxes, Bring Back Our \$30 Car Tabs, and 2/3rds-for-Taxes Constitutional Amendment). The
18 State also named as defendants Eyman, the committees’ two other officers, and the committees’
19 treasurer. One of these cases was later amended to include a fourth Eyman-sponsored political
20 committee and additional alleged violations (We Love Our Cars – VWMC 2016). By order of
21 the state court, these cases were consolidated and styled *State of Washington v. Tougher to Raise*
22 *Taxes, et al.*, Thurston County Superior Court case no. 16-2-03891-34 (order signed on Nov. 3,
23 2017 and filed Nov. 7, 2017). Edison Decl. Ex. 2, Consolidated Complaints in Tougher to Raise
24 Taxes.

25 9. The Tougher to Raise Taxes consolidated complaints document violations of state
26 law for campaign disclosure reporting by Eyman-sponsored political committees over a number

1 of years. The claims include (1) defendants' failure to timely and accurately file reports of
2 campaign finance contributions and expenditures; (2) failure to properly disclose loan interest
3 payments and to execute written loan agreements; and (3) failure to report the purpose of
4 expenditures.

5 10. The Plaintiff State of Washington's Motion for a Default Judgment filed in
6 Tougher to Raise Taxes supported by the declarations of Tony Perkins, Linda Dalton, Kelly
7 Harmon, Todd Sipe and Chad Standifer establishes the basis for entry of the Superior Court
8 default judgment and this adversary action. This motion and supporting documents are
9 incorporated by reference into this complaint. Edison Decl. Ex. 3, Motion for Default Judgment
10 and Supporting Declarations. These documents provide the following facts, which form the basis
11 for the State's adversary action and which establish that these debts are nondischargeable:

12 a. Defendants Eyman and Tougher to Raise Taxes disclosed the receipt of four loans
13 directed to Tougher to Raise Taxes in November and December 2015 in reports filed with the
14 Public Disclosure Commission ("PDC"), including a \$250,000 loan from Defendant Tim
15 Eyman, but failed to execute written loan agreements for any of those loans when they were
16 made. Based on this conduct, Defendants Eyman and Tougher to Raise Taxes violated WAC
17 390-16-226 by repaying these loans without first having executed written loan agreements at the
18 time the loans were made.

19 b. Different Eyman political committees—with the same treasurer and officers—
20 made interest payments on Defendant Eyman's loan to Tougher to Raise Taxes, but in
21 contravention of RCW 42.17A.235 and .240 and WAC 390-16-207, those interest payments
22 were not reported by Defendants Eyman and Tougher to Raise Taxes as in-kind contributions on
23 Tougher to Raise Taxes disclosure reports filed with the PDC.

24 c. Defendants Eyman and Bring Back Our \$30 Car Tabs failed to report the source
25 of \$109,556.79 in funds that the committee received in violation of RCW 42.17A.235 and .240.
26 Defendants Eyman and Bring Back Our \$30 Car Tabs also failed to properly describe loan

1 interest expenditures for a loan that Defendant Tim Eyman made to a different committee in
2 violation of RCW 42.17A.235 and .240 and WAC 390-16-207. Defendants Eyman and Bring
3 Back Our \$30 Car Tabs also failed to timely amend its political committee registration to show
4 a change in the committee’s purpose, in violation of RCW 42.17.205(4). Finally, Defendants
5 Eyman and Bring Back Our \$30 Car Tabs failed to properly report expenditures made in
6 opposition to candidates for state legislative office in violation of RCW 42.17A.235 and .240
7 and WAC 390-16-037.

8 d. Defendants Eyman and 2/3rds-For-Taxes Constitutional Amendment failed to
9 report the source of \$188,848.76 in funds that the committee received in violation of RCW
10 42.17A.235 and .240. Defendants Eyman and 2/3rds-For-Taxes Constitutional Amendment also
11 failed to properly describe a loan interest expenditure for a loan that Defendant Tim Eyman made
12 to a different committee in violation of RCW 42.17A.235 and .240 and WAC 390-16-037 and
13 WAC 390-16-207.

14 e. Defendants Eyman and We Love Our Cars – VWMC – 2017 failed to report the
15 source of \$143,947.61 in funds that the committee received in violation of RCW 42.17A.235
16 and .240. Defendants Eyman and We Love Our Cars – VWMC – 2017 also failed to properly
17 describe a loan interest expenditure for a loan that Defendant Tim Eyman made to a different
18 committee in violation of RCW 42.17A.235 and .240 and WAC 390-16-037 and WAC 390-16-
19 207.

20 f. As officer for each of these committees, Defendant Eyman shared responsibility
21 for and contributed to all the violations by the committees set forth above. Here, the person
22 designated as the treasurer of the four Defendant Committees was listed as ministerial. Perkins
23 Decl. ¶¶ 10, 31, 52, 59, 73. In this circumstance, WAC 390-05-243, the regulation that defines
24 ministerial functions for treasurers, provides that treasurer shall file reports with the PDC “that
25 have been reviewed and approved for filing by the . . . political committee officer[.]” See WAC
26 390-05-243(1)(b).

1 11. Based upon the above facts, the defendant's liability to the State for civil penalties,
2 attorney fees and costs are not dischargeable under 11 U.S.C. § 523(a)(2) because they are a
3 liability for money or property obtained by false pretenses, a false representation, or actual fraud.

4 12. Based upon the above facts, the defendant's liability to the State for civil penalties,
5 attorney fees and costs are not dischargeable under 11 U.S.C. § 523(a)(4) because they are a
6 liability for money or property obtained by fraud or defalcation while acting in a fiduciary capacity.

7 13. The entire judgment amount owed to the State is not dischargeable under 11 U.S.C.
8 § 523(a)(7) because it constitutes a fine, penalty, or forfeiture payable to and for the benefit of a
9 governmental unit and not compensation for actual pecuniary loss.

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11 **IV. RELIEF REQUESTED**

12 WHEREFORE, the plaintiff, State of Washington prays for judgment against Timothy
13 Donald Eyman finding as follows:

14 1. That the defendant's debt to the State for civil penalties, attorney fees and costs
15 in the amount of \$40,533.53 be adjudged non-dischargeable pursuant to 11 U.S.C. § 523(a)(2),
16 (4) and (7);

17 2. That the State maintains all statutory powers to collect said debt against the
18 defendant; and

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1 3. That the State be granted costs herein, and such other and further relief as the court
2 may deem just and proper.

3 DATED this __9th__ day of May, 2019.

4 ROBERT W. FERGUSON
5 Attorney General

6 /s/ Susan Edison

7 _____
8 SUSAN EDISON, WSBA No. 18293
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