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VIA EMAIL

Washington State Public Disclosure Commission
711 Capitol Way #206
P.O. Box 40908
Olympia, WA 98504-0908
pdc@pdc.wa.gov

Re: *Complaint by Glen Morgan Regarding Sister District Project*

To Whom It May Concern:

We write as counsel to the Sister District Project regarding the complaint filed by Glen Morgan. The complaint – which, we understand, was also submitted as a citizen action notice to the Attorney General’s office -- alleges that the Sister District Project violated state campaign finance disclosure laws by failing to register as a political committee with the Public Disclosure Commission (“PDC” or “Commission”), and seeks to impose criminal liability on our client as a result.

Mr. Morgan’s allegations, which are based on rank speculation, are false and should be immediately dismissed with prejudice. The Sister District Project is a national, primarily volunteer organization that only started paying a small number of staff members in July. It does not raise funds for use in connection with elections in any particular election and, until very recently, it did not make any contributions in Washington State. And, even though the Sister District Project’s major purpose is not influencing elections in Washington, out of a commitment to public disclosure, it registered a Washington State PAC less than 2 weeks after making a small in-kind contribution to the Manka Dhingra campaign. Accordingly, your office should dismiss the complaint, which is nothing more than a misguided attempt to abuse the Commission’s complaint process to chill the legitimate public participation of his political opponents.

FACTUAL BACKGROUND

The Sister District Project is a national grassroots political organization that was established to engage and empower volunteers across the country. It is organized as a California mutual benefit corporation, and is registered as a Section 527 organization with the Internal Revenue Service. The Sister District Project supports political campaigns by matching volunteers who live in traditionally Democratic areas with volunteer opportunities in more competitive electoral areas. It also engages in activities unrelated to particular election campaigns, such as by developing best practices for volunteers, conducting trainings, and studying the efficacy of different modes of civic and political engagement. The Sister District Project does not raise funds designated or earmarked for use in connection with any particular election.

Contrary to Mr. Morgan's unsubstantiated and baseless assertion that it "has a large paid staff,"¹ it did not have any compensated personnel until July 2017. It does not have a physical office, so it does not incur costs for expenses such as rent and utilities. It engages its volunteers primarily through internet communications, including email and its social media pages. The Sister District Project does not sponsor paid advertising supporting or opposing candidates.

So far, the Sister District Project has been active in at least 16 different elections across the country in four different states. In 2018, it plans to expand its activity to approximately 50 different races across the country. The Sister District Project's only activity in Washington state has been to support the candidacy of Manka Dhingra in the special election in Washington's 45th Senate District.

Beginning in July 2017, the Sister District Project began compensating three of its founders – none of whom had previously received compensation as political professionals - so that they could begin to dedicate their efforts to the project on a full-time basis. In order to ensure compliance with the campaign finance laws, the Sister District Project created a system to track the compensated time that its personnel spends helping candidates in each campaign where the organization is active. Between July 7 and the present, two compensated employees and one contractor to the Sister District Project spent a total of 6.25 hours notifying volunteers of opportunities to volunteer with the Dhingra campaign and coordinating those efforts with the campaign. The Sister District Project has instituted a process to report this time to the Dhingra campaign so it can be properly reported.

¹ Complaint at 2.

The Sister District Project is committed to transparency in the electoral process. Accordingly, even though Washington electoral activity comprises but a small percentage of its activity and it had not solicited any funds for use in connection with Washington elections, on July 20, less than two weeks after making its first contribution in Washington, it registered a PAC with the PDC. A copy of the PAC's Form c1-pc is attached to this letter.

LEGAL BACKGROUND AND ANALYSIS

Mr. Morgan alleges that the Sister District Project violated state campaign finance disclosure laws by failing to register as a political committee with the PDC. His allegations are procedurally flawed and false, and they should be rejected.

I. The Complaint Must Be Dismissed Because It Was Not Signed Under Penalty of Perjury.

Commission rules require that, in order to be valid, a complaint must be signed under penalty of perjury.² This is for good reason – in the world of electoral politics, which is subject to the most exacting constitutional protection,³ complaints can be used tactically to chill the expression of one's political opponents. Thus, the requirement that complaints be signed under penalty of perjury serves an important function: to help ensure that complaints brought before the Commission have some indicia of reliability.

Mr. Morgan's complaint, which is based almost solely on erroneous speculation, was not signed under penalty of perjury, as required under the Commission's rules. In fact, he could not sign it under penalty of perjury, as the Sister District Project does not have a "large paid staff" as he alleges, nor did it have *any* paid staff as of the date he filed the complaint. As it lacks any indicia of reliability and fails to meet the Commission's basic procedural requirements, the Commission should promptly dismiss it.

II. The Sister District Project Made Limited Contributions And Timely Registered As A Political Committee With The Commission.

The Complaint must also be dismissed on the merits, as the Sister District Project made only de minimis contributions to the Dhingra campaign and timely registered as a political committee with the Commission.

² W.A.C. § 390-37-040(2)(e).

³ See *Buckley v. Valeo*, 424 U.S. 1, 14 (1976) ("Discussion of public issues and debate on the qualification of candidates are integral to the operation of the system of government established by our Constitution.")

Mr. Morgan's complaint is based almost purely on speculation: his assumption that the Sister District Project "has a large paid staff," including "a full time paid staffer working with the Dhingra campaign."⁴ This is simply false. From its inception the Sister District Project was operated principally by uncompensated volunteers. Under Washington law, uncompensated volunteer services of the type typically performed by volunteer campaign workers – such as office and event staffing, phone banking, and campaign consulting and management – are exempt from the definition of contribution.⁵ In almost every case, the individuals working with the Sister District Project, including the Seattle district captain named in the complaint, have been uncompensated volunteers. Thus, while the Sister District Project has matched volunteers with opportunities to assist the Dhingra campaign, these efforts have, for the most part, not resulted in any contribution or expenditure.

Beginning in July 2017, three of the Sister District Project's founders (none of whom had previously worked as compensated political professionals) began receiving compensation from the organization. Accordingly, the Sister District Project instituted a system to track the time that each organizer spends in connection with each election where the Sister District Project is involved. Between July 7 and the present, two compensated employees and one consultant spent a small amount of time assisting the Dhingra campaign, and the Sister District Project will notify the Dhingra campaign of this time, so that it can be appropriately tracked and reported as an in-kind contribution.

Mr. Morgan's allegation that the Sister District Project failed to register as a political committee with the Commission is also incorrect – on July 20, less than 2 weeks after making its first contribution in Washington state, the Sister District Project registered a political committee with the Commission. A copy of its Form C1-pc is attached to this response.

While the Sister District Project registered voluntarily, out of the organization's commitment to transparency in the political process, we respectfully contend that registration was not required in this case. Washington defines a "political committee" as any person that has the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.⁶ An organization may become a political committee in two ways. First, an organization will become a political committee if it receives contributions for the purpose of engaging in

⁴ Complaint at 3.

⁵ R.C.W. § 42.17A.005(13)(b)(vi); W.A.C. § 390-17-405(1).

⁶ R.C.W. § 42.17A.005(37).

political activity in Washington.⁷ Second, an organization will become a political committee if it makes expenditures, but only if one of its primary purposes is to support or oppose candidates or ballot propositions.⁸

Under this test, the Sister District Project was not a Washington political committee. Prior to registering, it did not raise any funds for use in connection with political purposes in Washington and, therefore, was not a political committee under the “contribution” prong. And, though it has made small in-kind contributions to a Washington political committee, its “primary purpose” is plainly not to support or oppose candidates in Washington. It is a national organization that, during this year alone, has been involved in 16 different campaigns, both state and federal, in four different states, and has extensive programmatic activities unrelated to any particular campaigns. And its activity in Washington is *de minimis*. In one case, the Washington Supreme Court found that a gubernatorial committee whose political activity was limited to making a \$500 contribution to a Washington political committee did not meet the primary purpose test.⁹ A fortiori, the Sister District Project, which has spent less than this amount on Washington political activity, was not a political committee.

CONCLUSION

Mr. Morgan’s complaint is procedurally defective, false, and fails to identify any violation of the Washington state campaign finance laws. The Commission should promptly dismiss it with prejudice.

Sincerely,



Andrew Harris Werbrock

Attachment
(00314870)

cc: Tony Perkins, Washington Attorney General’s Office

⁷ See State ex rel. Evergreen Freedom Found. V. Wash. Educ. Ass’n, 49 P.3d 894, 904-05 (Wash. App. 2002)

⁸ See *id.* at 903 (citing State v. Dan J. Evans Campaign Comm., 546 P.2d 75 (Wash. 1976)). In *Buckley v. Valeo*, the United States Supreme Court imposed a similar requirement on the construction of an analogous federal statute, holding that, the constitution prohibited the government from imposing political committee status on an organization unless its “major purpose” was the election of a candidate. 424 U.S. at 76.

⁹ *Dan J. Evans Campaign Comm.*, 546 P.2d at 79.

Single Election Year Committee – Candidates to be Supported		
Candidate Name	Office Sought	Political Party Affiliation
Manka Dhingra	State Senate, Dist. 45	Democratic Party