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January 25, 2018

Tony Perkins
Washington State Attorney General's Office
1125 Washington St SE
Olympia, WA 98504

Re: Citizen Action Notice Complaint against Represent Okanogan County PAC
Our File No. 6569-001

Dear Mr. Perkins:

We are writing on behalf of Represent Okanogan County PAC with regard to the above-referenced matter, in response to the request for a response sent to it by your office on January 12, 2018.

Represent Okanogan County PAC has reviewed the allegations that have been made against it by Glen Morgan, and responds as follows:

1. Alleged failure to file accurate and timely C3 and C4 reports.

As a very small, volunteer-run political committee, Represent Okanogan County PAC has at all times since its decision to register with the PDC endeavored to meet all filing requirements, and it believes that it has done so in all material respects. Most of its expenditures and receipts were timely and accurately filed. In some cases, Represent Okanogan County PAC made modest and appropriate amendments, consistent with both the Fair Practices Campaign Act and PDC guidance. Mr. Morgan seeks to conflate an amendment with a late filing, which has no basis in law or reason. In still other cases, filing errors were the result of technical difficulties attributable to the ORCA system. If any viable allegations do exist, they are legally *de minimis*, more appropriate for resolution by the Public Disclosure Commission than the Superior Court. The Commission has jurisdiction over the allegations; as such, any decision on how to respond to these allegations should be left with the Commission.

2. Alleged failure to timely and accurately report debt.

We do not understand the basis for these allegations. Represent Okanogan County PAC pays very few vendors, and when it does, it promptly reports those payments. It pays for the goods and services that it acquires upon delivery or production. We do not believe that it has ever, within the time period relevant to this complaint, failed to pay for goods or services on the date payment was requested or due; thus, Represent Okanogan has had no debt to report and therefore obviously did not fail to report such.

Mr. Morgan appears to confuse “expenditures,” which were in fact properly reported subsequent to being made, and “debt,” which only occurs under very limited circumstances, e.g., where a commitment to pay has been made, with an agreement that payment be made on a specified date, yet payment is not made on that date, and the money is therefore now owed by the campaign committee (in the words of RCW 42.17A.240(8), the debt is now “outstanding”). *See, e.g., Caplan v. Sullivan*, 37 Wn. App. 289, 292–93, 679 P.2d 949 (1984) (“debt” refers to an obligation arising from contract or a sum of money owed which is fixed and certain).

None of the items listed by Mr. Morgan constitute what he refers to as a “debt obligation.” Instead, these items were expenditures that were reported appropriately (and in a timely fashion) subsequent to having been made.

3. Alleged failure to break down expenditures.

Mr. Morgan also alleges that Represent Okanogan County PAC violated campaign finance reporting laws by failing to sufficiently break down and describe its expenditures. To the extent his claims have merit, they allege *de minimis* violations and do not warrant further action.

Furthermore, Mr. Morgan cites a regulation, WAC 390-16-37, as a basis for finding a violation of the law, but that regulation merely provides *examples* of reports made for printing-related expenditures which include a quantity figure for the copies purchased. It does not mandate that such information be reported. His reliance on this illustrative regulation is flawed.

The Attorney General and the PDC have previously rejected Mr. Morgan’s contentions regarding his failure to break down expenditures claims. For instance, in March 2017, Mr. Morgan filed a complaint with the PDC and a corresponding 45-day notice with the Attorney General alleging that John Wilson, a 2015 candidate for King County assessor, committed various violations of the Act. *See* PDC Ticket No. 14854. Relying on WAC-390-16-37, Morgan claimed that Wilson failed to properly break down twenty-two expenditures. *Id.* Among these allegedly problematic expenditures were various payments Wilson made to Overnight Printing & Graphics and Fedex Office for printing services. *See id.*

While Wilson identified on the C-4s the amount and the purpose of the expenditures, he did not list the quantity of the copies he paid for. Despite this, the PDC and the Attorney General declined to take formal action. In so doing the PDC noted that, with the exception of one expenditure that fell outside of the limitations period, all of the expenditures Mr. Morgan flagged as unlawful were “sufficiently identified and accounted for.” *Id.*

The same is true here. The Attorney General should follow its past practice here and reject Mr. Morgan’s erroneous interpretation of the statute and accompanying regulations.

Mr. Morgan also alleges that the PAC failed on repeated occasions to identify subvendors, in violation of WAC 390-16-205. Putting aside the fact that no such absolute requirement is found in the statute or regulations, Mr. Morgan has not presented any evidence that any subvendors existed with respect to the expenditures regarding which he alleges violations of this purported requirement occurred.

Mr. Morgan has similarly failed to support his apparent belief that the requirement that a report “describe in detail the goods and/or services to be provided by the recipient of the expenditure,” WAC

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390-16-037(3), requires that the identity of the specific media outlet that the recipient of the expenditure uses in its communications be set forth.

For the reasons set forth above, Represent Okanogan County PAC urges the Attorney General to decline to initiate a formal action against it and refer the matter to the PDC for further investigation if the PDC sees fit.

Sincerely,



Dmitri Iglitzin
Counsel for Represent Okanogan County PAC

cc: Fox Blackhorn, PDC