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*Original via U.S. First Class mail  
and via e-mail to: pdc@pdc.wa.gov*

November 26, 2018

Phil Stutzman  
Sr. Compliance Officer  
PO Box 40908  
Olympia, WA 98504-0908

RE: Active in Democracy  
PDC Case 43017  
SCBIL File No. 4563-001

Dear Mr. Stutzman:

We write in response to Citizen Complaint 43017, originally filed on October 29, 2018 of this year by Glen Morgan. Many of Mr. Morgan's allegations are absolutely unfounded, as described herein. Several of them seem to be based on a fundamental misunderstanding of campaign finance law, or even of the basic facts regarding reporting requirements. Active in Democracy respectfully requests that the PDC dismiss Mr. Morgan's complaint.

Mr. Morgan alleges in Exhibit A that since 2015, the PAC has reported C-3 reports late 28 times for a total of 437 cumulative days late, and 22 C-4 reports late for a total of 404 cumulative days late. As explained, most of these examples involve reports that were not late at all, or involve isolated and de minimis instances when compared to the PAC's overall very successful track record of reporting.

First, Mr. Morgan identifies several instances of *amended* reports that supplemented or clarified information previously reported in a timely fashion. Specifically, of the 43 alleged violations, seven involve reports that were not late at all but rather were amended after their original filing date to correct information. Three of these amended reports were C-3 reports, and four were C-4 reports. In one such instance, a contribution of \$350 to Julie Door (Report No. 100866971) was amended to change that receipt of funds from being listed as a contribution to a "statement of miscellaneous receipts" – information that did not materially change the public disclosure to voters and more properly characterized as a technical change. In two other instances (Report Nos. 100821863 and 100808996), the reports *were* amended, but no information was actually changed when the amended report was transmitted (the apparent result of technical difficulties).

As of today, just as it was at the time of the amendments, there was no law holding that the mere act of amending a report thereby made it a *de facto* late filing. To the contrary, the

PDC has advised PACs that the correct course of action when a PAC realizes that an amendment is necessary is to promptly amend the original report, and that such an action will generally not result in a conclusion that the PAC has filed a “late” report. The allegations regarding allegedly late reports should be dismissed, as the law does not and did not support Mr. Morgan’s suggestion that an amended report is de facto a late report.

Another 24 instances in Exhibit A concern alleged violations that occurred more than two years beyond the statutory period during which a citizen action may be pursued and are not properly included in Mr. Morgan’s complaint. RCW 42.17A.775(5).

In yet another instance, the allegedly late report involved such a small dollar amounts as to constitute a de minimis violation (Report 100798321, alleged to have been filed ten days late, reported a deposit of just \$7.02).

Further, for the vast majority of reports, even according to Mr. Morgan’s Exhibit A, the reports were filed shortly after the due date. For instance, twenty-five allegedly late reports are listed as having been filed within ten days of the due date. And, in almost every single instance (all but two, according to Exhibit A), the allegedly late reports were ultimately filed *before* the relevant election. In some instances, reports were filed shortly after the due date as a result of a technical issue with ORCA that has made it impossible to use the “group contribution” function and has instead required manually entering approximately 360 individual contributors (PDC staff has referred questions about how to resolve this issue to IT staff and the PAC hopes to soon be able to use the much more expeditious group contribution feature in the future).

Finally, the nature of any non-compliance was isolated in nature and limited in scope. While the PAC *has* filed a handful of PDC reports late, it has overall been successful. Of the 14 reports alleged to have been late filed in 2017 (not including three reports Mr. Morgan characterizes as “late” based on the fact that those reports were later amended), totaling 135 cumulative days late. Five more reports were alleged to have been filed late in the 2018 election cycle (again, not counting the two reports that are only characterized as “late” based on a later amendment), for a cumulative total of 35 days late. The examples of the allegedly late reports are minimal in light of the fact that the PAC filed 28 reports in 2017 and 27 reports in 2018.

Active in Democracy has been registered with the PDC and reporting since 1996 and takes its reporting obligations seriously. Any instances of late filings were never done intentionally or willfully, and were certainly not so widespread as to merit any economic sanction. While the PAC in no way intends to suggest that *any* late reporting is acceptable, the extent of Mr. Morgan’s manipulation and over exaggeration of any late reporting bears emphasizing.

In conclusion, Active in Democracy concedes that it has made some minor mistakes and failed to timely file reports in limited instances. The PAC takes these issues very seriously and has taken steps to ensure it is successful in reporting in the future.

Phil Stutzman  
November 26, 2018  
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Sincerely,

A handwritten signature in black ink, appearing to read "Danielle Franco-Malone". The signature is fluid and cursive, with the first name being the most prominent.

Danielle Franco-Malone  
*Counsel for Active in Democracy PAC*