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*Original via email to  
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November 10, 2017

Linda Dalton  
Senior Assistant Attorney General  
Campaign Finance Unit  
PO Box 40100  
Olympia, WA 98504-0100

Re: Glen Morgan Citizen Complaints, Washington State Democratic Party Central  
Committee  
Our File No. 6552-008

Dear Linda:

On behalf of the Washington State Democratic Party Committee (“the Committee”), we are addressing the multiple 45-day letters filed by Mr. Morgan.

Many of Mr. Morgan’s allegations are unfounded, and should be dismissed outright. To the extent that any of Mr. Morgan’s allegations might have merit, the appropriate sanction would fall well within the jurisdiction of the Washington State Public Disclosure Commission (“PDC”). We therefore ask the State to either dismiss the allegations against the Committee outright or, at most, refer to the PDC for review of the few errors that may have occurred.

This approach is the appropriate way for your office to ensure that the purposes of the Fair Campaign Practices Act (“FCPA”) are fairly and properly effectuated. In this way, the Committee may formally, efficiently and fairly resolve these issues with the State of Washington. We do not believe this will occur if Mr. Morgan takes action on behalf of the State here.

We address the specific claims that were made against the Committee by Mr. Morgan in turn, as follows:

**1. Failure to Report the Addresses of Donors, In Alleged Violation of RCW 42.17A.240(2)**

Mr. Morgan alleges that Committee accepted donations from “Donors with illegal hidden Addresses.” However, this is simply not the case.

The majority of the missing addresses identified were from one week's worth of C3 reporting (covering May-June of 2016). The Committee's software crashed during the transmission to the PDC of the Non-Exempt reports. The Committee then emailed the PDC to advise it that the Committee's software had crashed, and that we were attempting to file using alternate software (with possible delays). The Committee then utilized "NGP VAN" compliance reporting software to transmit the reports. When these reports were ultimately submitted successfully, the Committee did not know that some of the address information had not been included in the filings.

Two of the missing addresses were due to human error, a mistake made by a former Washington State Democratic Party employee that has now been corrected.

The Committee, at all times, worked to correct errors and worked closely with the PDC to keep them apprised of the situation. Ultimately, we have filed amended C-3 and C-4 forms that fixed the above-referenced problems, and, as of the filing of this letter, the addresses of the donors are now correctly reflected. Mr. Morgan's allegations here should be dismissed outright.

## **2. Failure to Report the Occupation for Donors Who Gave In Excess of \$100, In Alleged Violation of WAC 390-16-034**

Software errors caused a discrepancy in the filings that Mr. Morgan incorrectly identifies as "Illegal Unreported Occupation For Donors." These errors have been corrected, and therefore Mr. Morgan's allegations here should be dismissed.

For the most part, donor occupations were gathered by the Committee via the Party's website, but this information did not transfer into the database as a result of a syncing error. Furthermore, contributions during the State Party Convention were run through EventBrite and not through the Committee's regular webpage. The Committee's solicitations specifically requested employer information, but due to an error in the EventBrite software, it was treated as an optional category in some circumstances. One question field, if answered, would take the purchaser to a space requiring employer and occupation information. However, if that answer was skipped, it failed to require that information be entered before proceeding to the next question. The software ultimately allowed the donors to proceed without providing the required information. A smaller number of contributions were simply missing information.

Ultimately, the Committee has identified all issues that led to this inadvertent omission of information, tracked down missing information, and amended all identified C3 reports over the course of the past two weeks. The Committee was able to populate over 98% of the missing employer/occupation/employer city/employer state information using several search avenues (including through the PDC, FEC, LinkedIn, Google, and OpenSecrets.org). The Committee also sent out letters to donors who did not provide us with the information, in order to make every effort to update the information. Again, these errors were inadvertent and have been corrected, and Mr. Morgan's allegations here should be dismissed.

**3. Use of exempt funds for non-exempt activities, In Alleged Violation of RCW 42.17A.405**

Mr. Morgan’s allegations here are simply incorrect in their totality. WAC 390-17-060 defines “exempt activities” as activities referenced in RCW 42.17A.405(15)(a) that do not promote, or constitute political advertising for, one or more clearly identified candidates qualify as exempt activities. *Id.* at (3). It also includes “internal organization expenditures,” such as referenced in RCW 42.17A.405(15)(b) that are for internal organization and fundraising purposes, as long as they are done without direct association with individual candidates. *Id.* at (5)(a). It expressly includes legal and accounting services. *Id.*

Here, the “violations” identified by Mr. Morgan are the definition of exempt activities—either used specifically for internal organization expenditures and legal services or other such exempt activities. And the Committee has ensured that it was permitted to make such expenditures out of its exempt account before proceeding to do so. For example, the Committee has discussed with the PDC its understanding that its contribution for a portion of the Governor’s Inauguration—which is *not* a contribution to any candidate—is a Party-building expense and therefore properly an “internal organization expenditure” as contemplated by the statute. This approach was approved by the PDC.

Likewise, the contributions to the Washington State Labor Council, NARAL Pro-Choice America, and the Northwest Progressive Institute were *not* contributions to any candidates, done in direct association with individual candidates, or done in support of any candidates. They supported sponsorships for a mural, an event, and a fundraiser for an organization that does not conduct any candidate support, respectively. These contributions were properly made from exempt funds.

The contribution for backpacks for the homeless was made to a charity to honor the legacy of a Party leader who had passed away. It clearly did not have any association or support for any candidate, and was properly paid from exempt funds.

Finally, the remaining contributions Mr. Morgan identified (to the Young Democrats, Pierce County, King County, Snohomish County, Spokane County, 32nd Dist., and Clark County) were *all* for exempt activities, and had nothing to do with any direct association with/promotion of/political advertising for individual candidates. This is the definition of an exempt expenditure.

Mr. Morgan’s allegations here do not survive scrutiny, and should therefore be dismissed.

**4. Failure to file accurate, timely C3 and C4 reports, In Alleged Violation of RCW 42.17A.235**

Mr. Morgan’s allegation here identifies 16 instances of *amended* reports, supplementing or clarifying information previously reported in a timely fashion (as is even admitted by Mr. Morgan’s “Amended Y/N” column in his spreadsheet entitled “Exhibit A”). There is no law

holding that the mere act of amending a report thereby makes it a de facto late filing, nor would such an application of the FCPA uphold the goal of transparency outlined within the law.

Only one of Mr. Morgan's allegations in this category refers to an actual late filing, identified as Report # 100786703. Without conceding this allegation, Mr. Morgan has at most identified one late filing out of many.

Mr. Morgan has failed to find anything beyond one late filing, which does not merit any further investigation or prosecution by either the PDC or the Court.

### **Conclusion**

With respect to Mr. Morgan's utterly unfounded claim that any of the above actions, if found to be violations of the law, were "almost certain[ly]" committed with malice, as contemplated by RCW 42.17A.750(2)(c), let the record be clear: there has been absolutely *no* malicious action undertaken by the Committee in *any* of its actions or reports. The baseless allegation that there exists "the almost certain possibility" that violations have been committed—with the serious multiplier of allegations of malice—does not amount to grounds for the criminal prosecution that Mr. Morgan is seeking.

For the foregoing reasons, we believe that it would be appropriate for the AG's office to dismiss these allegations outright. If the AG believes the issues here warrant closer review, the Committee requests that such issues be referred to the PDC. This approach would ensure that the purposes of the FCPA would be upheld in the most appropriate and straight-forward way possible. We respectfully ask your office to so conclude.

Sincerely,  
  
Dmitri Iglitzin  
Laura Ewan  
*Counsel for the Washington State Democratic Party  
Central Committee*

cc: Tina Podlodowski  
Karen Deal