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Via Electronic Mail

March 12, 2018

State Elections Enforcement Commission
Attn: Ms. Shannon Kief, Legal Program Director
20 Trinity Street
Hartford, CT 06106

RE: Request for Advisory Opinion on “Political” Activities of Non-Profit and Grassroots Organizations

Dear Ms. Kief:

This letter constitutes a request for an advisory opinion from the State Elections Enforcement Commission (SEEC) pursuant to Connecticut General Statutes Section 9-7b(a)(14). I represent numerous non-profit entities and unincorporated grassroots organizations. *Some* of these organizations - when otherwise permitted under state or federal law - do and (moving into the future) certainly will engage in activities that are partisan or candidate-focused and therefore deemed “political” in nature. Many of these organizations emerged following landmark state and federal elections and a dire concern over the direction both Connecticut and our nation are headed in. Without exception – all groups are issue-based, focusing on policy, but also with an earnest interest in engaging with candidates and their elected officials.

Out of an abundance of caution and increasing questions related to political activities, my clients are seeking formal guidance into their ongoing and future activities in order to ensure they remain compliant with Connecticut’s elections and campaign finance laws. While I am aware of SEEC AO-2008-01 (and perhaps parts of that AO could still be instructive) that guidance was withdrawn by the Commission in 2011. Therefore there is no current, practical or formal guidance available to non-profits and grassroots organizations at this time.

Please note – these entities are generally cognizant of triggering activities (requiring registration with SEEC) and they do not wish to become registered political committees because electoral activity and candidate support is not their primary purpose. That being the case, I am generally writing to *confirm* that my clients’ activities would fall under one or more of the *many* statutory exemptions listed under subsections of Conn. Gen. Stat. Sections 9-601a, 9-601b, etc. We also assert that many – if not all - of

the proposed activities are protected rights of free speech and association under the First Amendment of the United States Constitution and further enshrined in the Constitution of the State of Connecticut.

While considering and drafting your guidance, it will be important to note the structure of these entities. Some organizations I represent are or will be: (A) recognized 501(c)(4) tax-exempt organizations under the Internal Revenue Code (that is, “social welfare” organizations); while others are or will be (B) unincorporated grassroots organizations with no formal organization other than issue-based or ideological affiliations with other allied grassroots groups/coalitions. Without exception, both types of groups are composed entirely of volunteer members. In some instances, members might pay annual dues, but there is invariably an avenue to become a member without paying dues.

We would appreciate confirmative guidance on each of the following activities:

1. Confirm that these groups may disseminate partisan and candidate endorsement communications via email, Facebook, Twitter, and other social networking sites to the groups’ memberships. In most instances these groups utilize communications tools that are free and available to the general public. In limited instances an email service might be a paid service, but still *de minimis* in value.
2. Confirm that these groups may disseminate candidate *endorsement* communications beyond the groups’ memberships, in the methods mentioned above.
3. Confirm that these groups may recruit and inform their members of opportunities to volunteer for political committees (that is, parties and/or candidates), steering volunteers to events hosted and sponsored by a candidate or party committee.
4. Confirm that these groups may host phone-banking sessions out of any member’s home, with the caveat that attendance is optional, and members use their own phones.
5. Confirm that these groups may canvass for various party or candidate committees, with the caveat that while canvassing, volunteers may distribute party or candidate literature and/or collect pertinent supporter information.
6. Confirm that these groups may hold candidate forums, open to all or some candidates or all or some members of a particular political party or persuasion.
7. Confirm that these groups may hold policy and issue forums – *which are open to the public* - and which feature both elected officials *and* candidates as guests and speakers.
8. Confirm that these groups may hold fundraising events for party or candidate committees, with the caveat that attendance and contributions by members would be completely optional, and the benefiting political committee would pay for associated costs of the event (e.g. food, beverage, invites, venue rental, etc.).
9. Confirm that these groups may encourage *their members* to hold fundraising events for party or candidate committees, again with the caveat that attendance and contributions by members would be completely optional. And an additional caveat – members, who to remind you, are volunteers – would inform the recipient political committees of any in-kind contributions – made in the member’s individual capacity – for any costs associated with the event (e.g. food, beverage, invites, venue rental, etc.).

To reiterate – because of the nature of these organizations – in that they (a) have uncompensated leadership, (b) are composed of volunteer memberships, (c) utilize free or nearly free (*de minimis*) means

of disseminating communications, and (d) would in many instances merely be informing members of other entities' events, and attendance at any such event is purely optional – then we urge the Commission to advise that all of the above activities fall within exemptions enumerated in Conn. Gen. Stat. Sections 9-601a, 9-601b, etc. We also respectfully reiterate the Constitutional implications of impingement on these activities when the Commission provides its opinion.

We thank the Commission in advance for its transparent and informative guidance on the questions and issues raised above. Furthermore, due to the urgent timeliness of these proposed activities, we are requesting that the Commission issue advisory guidance as quickly as possible (with an appreciation for the hectic schedules and responsibilities of the Commission and its staff).

If you have any questions or need additional information please do not hesitate to contact me at Arnold@ctcomplianceandlaw.com or (203) 533-7171. Thank you very much for your prompt attention to this request for an advisory opinion.

Very Truly Yours,

/s/ *Arnold Skretta*

Arnold Skretta, Esq.