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March 23, 2006

By Email Distribution Only

David Kolker, Colleen Sealander, Harry Summers,

Benjamin Streeter III & Steve N. Hajjar

Federal Election Commission

999 E Street, NW

Washington, DC 20463

Re: *WRTL v. FEC*, 04-1260

Dear Counsel:

This letter is to offer agreements to (1) stay all proceedings and (2) settle this case. Conditions are set out below.

The FEC has published Notice 2006-4, entitled "Rulemaking Petition: Exception for Certain 'Grassroots Lobbying' Communications From the Definition of 'Electioneering Communication.'" 71 Fed. Reg. 13557. The petition was from a broad-spectrum coalition of groups asking for an expedited rulemaking

to revise 11 C.F.R. 100.29(c) to exempt from the definition of "electioneering communication" certain "grassroots lobbying" communications that reflect all of the following principles: 1. The "clearly identified federal candidate" is an incumbent public officeholder; 2. The communication exclusively discusses a particular current legislative or executive branch matter; 3. The communication either (a) calls upon the candidate to take a particular position or action with respect to the matter in his or her incumbent capacity, or (b) calls upon the general public to contact the candidate and urge the candidate to do so; 4. If the communication discusses the candidate's position or record on the matter, it does so only by quoting the candidate's own public statements or reciting the candidate's official action, such as a vote, on the matter; 5. The communication does not refer to an election, the candidate's candidacy, or a political party; and 6. The communication does not refer to the candidate's character, qualifications or fitness for office.

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While we do not believe that this rule goes as far as the U.S. Constitution would extend protection to grassroots lobbying, we believe that the proposed rule is a very good rule that balances the concerns of all sides and provides a workable test. It would provide the ability to engage in useful grassroots lobbying, and it would eliminate any realistic concerns about such grassroots lobbying being employed as the functional equivalent of express advocacy. Therefore, we are willing to compromise and make the following offers.

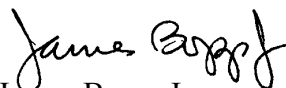
(1) We offer to agree to stay all proceedings in the district court while the FEC decides whether to do a rulemaking if the FEC promptly adopts and publishes in the Federal Register a temporary statement of policy excluding from the definition of “electioneering communication” all communications having all the characteristics set out in the quoted, proposed rule. Moreover, we would agree to continue the stay until a rulemaking is completed if the FEC agrees to a rulemaking as proposed¹ and the statement of policy is officially extended to apply until the completion of the rulemaking.

(2) We then offer to dismiss this case if the FEC adopts the proposed rule when the rulemaking is completed.

Please advise us as soon as possible regarding this proposal.

Sincerely,

BOPP, COLESON & BOSTROM



James Bopp, Jr.

Richard E. Coleson

email copy: M. Miller Baker, Michael S. Nadel

¹The FEC has often employed such a statement of policy as a temporary (pending a rulemaking) or indefinite measure. *See, e.g.*, Notice 2003-25, 68 Fed. Reg. 70426, as an example. The FEC has previously adopted a policy of not enforcing subpart (b) of its definition of “expressly advocating” at 11 C.F.R. 100.22 in the First and Fourth Circuits. *See Virginia Society for Human Life v. FEC*, 263 F.3d 379, 382, 386, 388 (4th Cir. 2001).