



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 1, 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas J. Josefiak, Esq.
Michael Bayes, Esq.
Holtzman Vogel PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

RE: Advisory Opinion Request 2011-23

Dear Messrs. Josefiak and Bayes:

This letter responds to your letter dated October 28, and your email dated November 3, 2011, requesting an advisory opinion on behalf of American Crossroads. The purpose of this letter is to inform you that the Commission has concluded its consideration of your advisory opinion request without issuing an advisory opinion.

The Commission released five public drafts of an advisory opinion in response to your request. On November 23, 2011, the Commission released for public comment Agenda Document No. 11-68, containing four of the drafts, and on November 30, 2011, the Commission released Agenda Document No. 11-68-A, which contains a revised version of one of the draft advisory opinions.

At its Open Meeting of December 1, 2011, the Commission considered but did not approve any draft. Under the Federal Election Campaign Act of 1971, as amended, the affirmative vote of four members of the Commission is required for the Commission to render an advisory opinion. *See* 2 U.S.C. 437c(c) and 437d(a)(7); *see also* 11 CFR 112.4(a). The Commission voted 3-3 on Agenda Document No. 11-68-A and did not vote on the drafts in Agenda Document 11-68. Thus, the Commission was unable to render an opinion in this matter.

Agenda Document Nos. 11-68 and 11-68-A are enclosed for your information and convenience. Please keep in mind that none of the drafts contained in either document is an advisory opinion under the Federal Election Campaign Act, because no draft was approved by the affirmative vote of at least four Commissioners.

Letter to Thomas J. Josefiak, Esq. and Michael Bayes, Esq.

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If you have any questions, please contact Jessica Selinkoff or Esther Heiden, attorneys in this Office, at 202/694-1650.

Sincerely,

(signed)

Rosemary C. Smith

Associate General Counsel

Enclosures