



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 12, 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

RE: Advisory Opinion Request 2012-25 (American
Future Fund/American Future Fund Political
Action/McIntosh)

Dear Messrs. Torchinsky and Bayes:

This letter responds to your letter received on April 11, 2012, and your emails received on June 19, July 24, and October 1, 2012, requesting an advisory opinion on behalf of American Future Fund, American Future Fund Political Action, David McIntosh, and David McIntosh For Indiana. 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.

On September 28, 2012, the Commission released for public comment Agenda Documents No. 12-69 and 12-69-A, which contained Drafts A, B, and C of an advisory opinion in response to your request. At its Open Session of October 4, 2012, the Commission considered but did not vote on Agenda Documents 12-69 and 12-69-A. On October 12, 2012, the Commission considered Drafts D and E of an advisory opinion in response to your request.

Under the Federal Election Campaign Act of 1971, as amended, the affirmative vote of four members of the Commission is required in order for the Commission to render an advisory opinion. *See* 2 U.S.C. 437c(c), 437d(a)(7); *see also* 11 CFR 112.4(a). The Commission voted 3-3 on Draft D. The Commission voted 3-3 on Draft E. Thus, the Commission was unable to render an opinion in this matter.

Letter to Jason Torchinsky, Esq. and
Michael Bayes, Esq.

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Agenda Documents No. 12-69 and 12-69-A, and Drafts D and E are enclosed for your convenience. Please keep in mind that these documents should not be considered to contain an advisory opinion under the Federal Election Campaign Act, because these documents were not approved by the affirmative vote of at least four Commissioners.

If you have any questions, please contact Neven Stipanovic, an attorney in this Office, at 202-694-1650.

Sincerely,

(signed)
Kevin Deeley
Acting Associate General Counsel

Enclosures