



1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
MCLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wileyrein.com

June 28, 2010

Carol A. Laham
202.719.7301
claham@wileyrcin.com

VIA FAX TO (202) 208-3333 AND (202) 219-3923

Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, DC 20463

Re: Comments on Advisory Opinion Request 2010-11

Dear Commissioners:

On behalf of our client, the Club for Growth, we offer the following two comments on Advisory Opinion Request 2010-11, which was submitted by Commonsense Ten.

First, it is clear that Commonsense Ten, as an independent expenditure-only political committee, may accept unlimited corporate donations. The Supreme Court of the United States expressly permitted unlimited corporate independent expenditures in *Citizens United v. FEC*, 130 S.Ct. 876 (2010), and the U.S. Court of Appeals for the D.C. Circuit expressly permitted special, registered political committees to aggregate unlimited funds for the purpose of engaging in unlimited independent expenditures, *SpeechNow.org v. FEC*, 2010 WL 1133857 (D.C. Cir. 2010). Together, these two opinions establish the rule that, outside of disclosure and disclaimer obligations, an independent political speaker may not be burdened any greater when the speaker bands with other independent speakers than when the speaker undertakes the independent speech on its own. See Advisory Opinion Request 2010-09 5 n.1 (filed by the Club for Growth on May 21, 2010).

Second, the question about affiliation posed by Federal Election Commission ("FEC") staff in the email chain appended to AOR 2010-11 is irrelevant to the Commission's analysis of AOR 2010-11. Whether the independent expenditure-only political committee is affiliated with another federal PAC does not matter since independent expenditure-only political committees are not limited in either the amount they receive or in the amount that they may spend. As long as no funds are passed from the independent expenditure-only political committee to a regular PAC, the Commission may not bootstrap the contribution limits applicable to regular PACs onto the independent expenditure-only political committee. To do so would be to bring the candidate contribution-related campaign finance regime into the independent campaign finance regime, which the D.C. Circuit specifically prohibited. Post *Citizens United*, the ban on corporate activity pertains only to

RECEIVED
FEDERAL ELECTION
COMMISSION
2010 JUN 28 PM 3:24
OFFICE OF GENERAL
COUNSEL



Federal Election Commission

June 28, 2010

Page 2

candidate contributions and contributions to committees that make candidate contributions. If this were otherwise, then Emily's List Votes would not have been able to accept a contribution in excess of \$175,000 from one donor since it is was created by the same organization that created Emily's List, a federally registered PAC.

Sincerely,

A handwritten signature in cursive script that reads "Carol A. Laham".

Carol A. Laham
D. Mark Renaud