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October 16, 2008

Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463
Attn: Kim Collins

E. Mark Braden
direct dial: 202.861.1504
mbraden@bakerlaw.com

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Re: MUR 6077

Dear Ms. Collins:

I am writing in response to the Federal Election Commission's (Commission) letter dated September 30, 2008. In that letter the Commission advised my client of a complaint alleging that the National Federation of Independent Business (NFIB) may have violated the Federal Election Campaign Act of 1971, as amended, (Act). With the letter was a copy of the "complaint" filed by the Minnesota Democratic-Farmer-Labor Party (Democratic Party).

This "complaint" fails to allege with specificity facts which could provide the Commission with any basis for further action in this Matter Under Review other than closing it with regard to NFIB. Enclosed with this letter is an affidavit and document which provide the Commission with sufficient facts for the immediate closure of this matter.

The "complaint" is of a nature with which the Commission is quite familiar – The bold allegation of illegality shortly before an election with the goal of a newspaper headline, but lack any legal substance. The "complaint" fails even the most cursory review seeking supporting facts for the reckless allegations of illegal conduct.

Neither NFIB nor NFIB/SAFE Trust has made any public communications in Minnesota in coordination with the Norm Coleman for Senate Committee, Senator Coleman, the U.S. Chamber of Commerce, or their agents. NFIB connected separate segregated fund, NFIB/SAFE Trust, purchased newspaper advertisements in Minnesota this year. These advertisements do make clear reference to identifiable candidates for federal office. They are independent expenditures as defined by the Act and the Commission's regulations. These independent expenditures are set forth in detail in the SAFE Trust's disclosure reports filed with the Commission, pursuant to the Act.

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The Democratic Party alleges that these SAFE Trust independent expenditures are coordinated communications, so are illegal in-kind contributions to the Coleman campaign. The "complaint" provides only two bases for this allegation – the first basis is "newspaper articles describe a close-knit web of relations between" Senator Coleman, the U.S. Chamber of Commerce, NFIB, Jeff Larson and FLS-Connected (see complaint, page 5.) What newspaper articles are describing "a close-knit web" is a mystery to NFIB and, we must assume, to the Commission since the Democratic Party "complaint" does not provide specific reference to any articles that even mention NFIB.

The second basis is the Democratic Party's statement that Senator Coleman, the U.S. Chamber of Commerce and NFIB shared a common vendor – FLS-Connect (See complaint, page 5). This statement is false. If the Democratic Party had made even the most casual examination of SAFE Trust's disbursement disclosure reports at the Commission, they could have determined that NFIB/SAFE Trust does not presently employ FLS-Connect nor Jeff Larson. Mr. Larson and FLS-Connected last performed service for NFIB in 2006 (Affidavit of Lisa Goess).

The Democratic Party fails to allege any other basis for their assertion of coordination between Senator Coleman's campaign and NFIB/SAFE Trust. The Democratic Party's allegations that NFIB has made in-kind contributions are utterly without merit. The Democratic Party's failure to state any basis for their charge of illegal conduct other than vague, mysterious newspaper references and a mistaken joint vendor assertion rendered the complaint defective on its face without response from NFIB.

Enclosed with this letter is a document showing the NFIB/SAFE Trust compliance policy which ensures that its political communications in Minnesota are totally independent from Senator Coleman and his agents. The attached signed copy of this policy is executed by NFIB's political director. A review of these specific compliance guidelines is required of all NFIB employees involved in NFIB's independent expenditures activities.

The Democratic Party's complaint is an abuse of the Commission's enforcement process that should be promptly closed without further action.

Sincerely,



E. Mark Braden

Enclosures

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Baker Hostetler

TO: National Federation of Independent
Business Employees
FROM: E. Mark Braden
DATE: May 5, 2008
SUBJECT: Independent Expenditures

To ensure compliance with federal law, NFIB/SAFE Trust has a number of specific guidelines for independent expenditure activities:

1. No discussion of any type by any NFIB employees or officers regarding independent expenditures should be held with any candidate, campaign official or party official.
2. No candidate, their committee or agents should be made aware of any NFIB/SAFE Trust's independent expenditure plans.
3. No NFIB/SAFE Trust publication or newsletter discussing any independent expenditure plan should be provided to any candidate or committee.
4. NFIB employees and consultants should be specifically informed that any transmittal of any information about independent expenditure plans to any candidate or political committee may be the grounds for dismissal from employment or contract cancellation.
5. No NFIB official, member or employee who is involved in a federal candidate's campaign (examples: finance committee, advisory board or kitchen cabinet) should participate in any discussion of or planning for any independent expenditure in which that candidate or his or her opponent is to be identified. If such an individual is present at a meeting in which such a discussion is contemplated, that individual should remove himself or herself from that meeting and refuse to take part in any decision making on such possible activities.
6. Any individual who has been involved in the planning of any independent expenditure with a particular identifiable candidate must refuse to

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respond to any request for information regarding NFIB/SAFE Trust's independent expenditure plans by that candidate or his or her agents.

7. NFIB/SAFE Trust should not use for its independent expenditures any vendor that has worked with the campaign of an identifiable candidate on such plans.

It is important that these guidelines be clearly communicated to all participants in this program. Your signature is acknowledgement of your understanding of and agreement to comply with these guidelines.

Signed:

Alita Goetz

Date:

6/2/08

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