OFFICE OF
CHIEF COUNSEL **DEPARTMENT OF THE TREASURY**
INTERNAL REVENUE SERVICE

WASHINGTON, D.C. 20224

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September 27, 2002

VIA E-MAIL & REGULAR MAIL

John C. Vergelli
Acting Assistant General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. Vergelli:

Thank you for sending us a copy of Notice 2002-15 containing proposed rules relating to disclaimers in political communications, fraudulent solicitations, civil penalties, and personal use of campaign funds under the Federal Election Campaign Act of 1971, as amended. The proposed rules implement portions of the Bipartisan Campaign Reform Act of 2002 . Please be advised that we find no direct conflict with the Internal Revenue Code or the regulations thereunder. However, pursuant to 2

U.S.C. § 438(f), the Federal Election Commission and the Internal Revenue Service are to "work together to promulgate rules, regulations, and forms which are mutually consistent." Accordingly, we respectfully offer the following observation with respect to similar solicitation notice requirements under the Internal Revenue Code that apply to certain tax-exempt organizations. It may be helpful to advise tax-exempt organizations that are subject to the Commission's proposed rules of the solicitation notice requirements that apply for Federal tax purposes.

We note that proposed paragraph (a)(1)(iii) of 11 CFR 110.11 requires all types of general public political advertising, including broadcast, cable or satellite transmission, newspaper, magazine, or outdoor advertising facility, by any person that solicits a contribution to include a disclaimer. Similarly, § 6113 of the Internal Revenue Code (26 U.S.C. § 6113) provides that certain tax-exempt organizations that are not eligible to receive tax deductible charitable contributions, and whose gross annual receipts normally exceed $100,000, must disclose in "an express statement (in a conspicuous and easily recognizable format)" that contributions to the organization are not deductible for Federal income tax purposes as charitable contributions. This provision applies to organizations that are not eligible to receive deductible charitable contributions and are described in either § 501(c), § 501(d), or § 527. The Service issued Notice 88-120 to provide safe harbors for meeting the requirements of § 6113.

We hope our comments set forth in this letter aid you in providing this important guidance. If you would like to discuss any of the issues involved, please feel free to call David L. Marshall or me at (202) 622-6070.

Sincerely,

Michael B. Blumenfeld
Senior Counsel
Exempt Organizations Branch 1
Office of the Division Counsel/Associate Chief Counsel (Tax Exempt & Government

Entities)

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