

AOR
2012-11

Founding Principles
Guiding Innovative Solutions

February 29, 2012

VIA E-MAIL, FACSIMILE & FIRST CLASS MAIL

Anthony Herman
General Counsel
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

Dear Mr. Herman:

Pursuant to 2 U.S.C. § 437f (2012), we seek an advisory opinion on behalf of Free Speech. Free Speech is an unincorporated association of citizens that desires to speak out about political issues, candidates, and the 2012 elections. After review of the applicable legal requirements, Requestor cannot determine whether its planned activities would force it to register and report as a "political committee" and whether its speech might be deemed "express advocacy" under Commission regulations. Because it wishes to speak very soon, it requests an expedited consideration within twenty days of this request, or thirty days alternatively, pursuant to § 437f(a)(2) and 74 Fed. Reg. 32,160 (July 7, 2009).

THE REQUESTOR

Requestor is an unincorporated nonprofit association formed under the Wyoming Unincorporated Nonprofit Association Act. See Wyo. Stat. Ann. §§ 17-22-101 to 115 (2012). As a small grassroots organization consisting presently of but three members, it has registered as a "political organization" under 26 U.S.C. § 527 (2012) with the Internal Revenue Service. It is not under the control of any candidate, nor does it have as its major purpose the election or defeat of clearly identified candidates. It will not make any in-kind or direct contributions to federal candidates, party committees, or political committees that make contributions to federal candidates or political party committees. Free Speech will not make coordinated expenditures within the meaning of the Federal Election Campaign Act ("FECA"). The association is not affiliated with any group or committee that makes contributions within the meaning of the FECA. Requestor has included a copy of its associational bylaws as EXHIBIT 1 with this request.

FACTUAL BACKGROUND

Free Speech is made up of three members, Charles Curley, Robert Brinkmann, and Max Douglas Watford. Charles Curley is a self-employed individual residing in Thermopolis, Wyoming. Robert Brinkmann and Douglas Watford are retired and residents of Cheyenne, Wyoming. Together, they have formed the organization "Free Speech," have identified one contributor willing to give \$2,000 or more, and would like to buy small advertisements with local media outlets and on the popular Internet destination Facebook. See EXHIBIT 2. Requestor has included examples of advertisement buys, dates, and prices subject to modification depending on market prices and the development of the 2012 electoral season. See EXHIBIT 3. Free Speech would like to ask for more than \$1,000 from other individuals to help support its speech. Free Speech would also like to draw upon donations from its members to pay for advertisements costing more than \$2,000 that discuss public issues relevant to the upcoming federal elections, voting, and policy positions of candidates for federal office. Free Speech is unable to afford qualified legal counsel to sort through the more than "568 pages of regulations, 1,278 pages of explanations and justifications for those regulations, and 1,771 advisory opinions" overseen by the Commission. *Citizens United v. FEC*, 130 S.Ct. 876, 895 (2010). It simply wishes to speak. See U.S. Const. amend. I ("Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances").

Members of Free Speech plan to save their money to budget for additional advertisements beyond those described herein. These would be similar to the ones listed in this advisory opinion request ("AOR"). However, it cannot afford additional legal fees nor can it timely communicate with the public if it is forced to request advisory opinions each time it would like to speak or if it is demanded it register as a "political action committee" sometime in the midst of its public communications. Because of this, Free Speech seeks clear instruction from the Commission so that it may properly organize and order its actions so as to avoid any violation of the FECA while exercising its First Amendment rights.

PROPOSED SPEECH

As soon as possible, Free Speech will begin paying for advertisements that discuss issues concerning limited government, public policy, the dangers of the current administration, and their connection with candidates for federal office. Requestor will be using inexpensive means of communication to further its voice and viewpoint on these topics. The full text of proposed scripts are included below, while the entire set of modified scripts along with visual and audio information can be found in EXHIBIT 2.

A. GUN CONTROL

"Guns save lives. That's why all Americans should seriously doubt the qualifications of Obama, an ardent supporter of gun control. This fall, get enraged, get engaged, and get educated. And support Wyoming state candidates who will protect your gun rights."

B. ENVIRONMENTAL POLICY

"President Obama opposes the Government Litigation Savings Act. This is a tragedy for Wyoming ranchers and a boon to Obama's environmentalist cronies. Obama cannot be counted on to represent Wyoming values and voices as President. *This November*, call your neighbors. Call your friends. Talk about ranching."

C. ETHICS

"Who is President Obama? He preaches the importance of high taxes to balance the budget, but nominates political elites who haven't paid theirs. He talks about budget and tax priorities, but passes a blind eye to nominees who don't contribute their fair share. Call President Obama and tell him you don't approve of his taxing behavior."

D. BUDGET REFORM

"Congresswoman Lummis supported the Repeal Amendment, which would have restored fiscal sanity to our federal debt. Congresswoman Lummis is brave in standing against the political elite and deserves your support. Make your voice heard. Do everything you can to support Congresswoman Lummis this fall and work toward fiscal sanity."

E. AN EDUCATED VOTER VOTES ON PRINCIPLE

"Across America, millions of citizens remain uninformed about the truth of President Obama. Obama, a President who palled around with Bill Ayers. Obama, a President who was cozy with ACORN. Obama, a President destructive of our natural rights. Real voters vote on principle. Remember this nation's principles."

F. FINANCIAL REFORM

"President Obama supported the financial bailout of Fannie Mae and Freddie Mac, permitting himself to become a puppet of the banking and bailout industries. What kind of person supports bailouts at the expense of average Americans? Not any kind we would vote for and neither should you. Call President Obama and put his antics to an end."

G. THE HEALTH CARE CRISIS

"President Obama supports socialized medicine, but socialized medicine kills millions of people worldwide. Even as Americans disapproved of ObamaCare, he pushed ahead to make socialized medicine a reality. Put an end to the brutality and say no to socialized medicine in the United States."

PROPOSED DONATION REQUESTS

A. THE WAR CHEST

"Friends of freedom celebrated when the Supreme Court decided *Citizens United*. Now, more than ever, we can make the most effective use of your donations this coming fall. Donations given to Free Speech are funds spent on beating back the Obama agenda. Beating back Obama in the newspapers, on the airwaves, and against his \$1 billion war chest."

B. STRATEGIC SPEECH

"This fall, 23 Democrat incumbents are up for election in the U.S. Senate. Seven have already decided to retire, but some, like Jon Tester of Montana, haven't gotten the message. With your donation, we'll strategically speak out against the expansion of government-run healthcare and so-called 'clean energy' boondoggles like Solyndra, which Senators like Tester fully support. It's time to retire failed socialist policies."

C. CHECKING BOXES

"'Leading from behind,' President Obama takes advice from socialist staffers, usually choosing from a checklist of oppressive, debt-driving policies without even considering freedom-based and fiscally-conscious alternatives. Checking the right box on the November ballot is important, but like Obama's memos it's just not enough. Take the lead in making the message of Free Speech heard: your donation will inform real American leadership."

D. MAKE THEM LISTEN

"In 2010, the Tea Party movement ushered in an historic number of liberty-friendly legislators. But President Obama and his pals in Congress didn't get the message: Stop the bailouts. No socialized healthcare. End oppressive taxes. But we won't be silenced. Let's win big this fall. Donate to Free Speech today."

QUESTIONS PRESENTED

1. Will Requestor's Proposed Speech be deemed "express advocacy" and subject to regulation?

Free Speech would like to speak publicly without being subject to the lengthy and complicated regulations overseen by the FEC. The Commission's extensive regulations concerning speech about candidates and political issues severely hamper the ability of grassroots groups to exercise their protected First Amendment rights. Whether through the difficult-to-comply-with "political committee status" or the never-understood-and-never-explained "express advocacy" standard, the FEC's regulations effectively mute Free Speech from speaking publicly unless clear guidance and boundaries are established.

Requestor seeks instruction from the Commission concerning whether, and why, any of the above listed scripts, and those found in EXHIBIT 2, would constitute "express advocacy" under 11 C.F.R. § 100.22(a) or (b).

Requestor seeks clarification from the Commission for its future speech where the boundary line is found between unregulated issue advocacy and regulated express advocacy or regulated communications. While counsel for Free Speech has studied the intricacies of 11 C.F.R. § 100.22(b), enforcement matters, advisory opinions, and Explanation and Justification ("E&J") statements, no consistent guidance can be found. For example, the Express Advocacy E&J issued by this Commission explains that "communications discussing or commenting on a candidate's character, qualifications or accomplishments are considered express advocacy under new section 100.22(b) if, in context, they have no reasonable meaning other than to encourage actions to elect or defeat the candidate in question." 60 Fed. Reg. 35,292, 35,295 (Jul. 6, 1995).

The Commission repeats this open-ended approach elsewhere with little consistency or underlying objectivity. *See, e.g.*, MUR 5634 (Sierra Club), First General Counsel's Report (F.E.C. 2005) (a "close call" transforms speech into express advocacy); MUR 5842 (Economic Freedom Fund), Statement of Reasons of Commissioners Cynthia L. Baucry and Ellen L. Weintraub (F.E.C. 2009) (describing a two-Commissioner "electoral nexus" approach to speech regulation); MUR 5831 (Softer Voices) (F.E.C. 2008), First General Counsel's Report at 10 (describing a "positive light" approach to express advocacy determinations). Because Free Speech would like to speak out in similar ways in the future, objective guidance as to the boundary lines between regulation and freedom would help ensure the rapid and easy distribution of Requestor's prospective speech.

In the wake of the recognized sea change in election law following *Citizens United*, Requestor also seeks guidance as to whether the Commission will continue to enforce 11 C.F.R. § 100.22(b). Prior to *Citizens United*, two federal circuit courts of appeal invalidated 11 C.F.R. § 100.22(b) due to its glaring constitutional infirmities. *See Maine Right to Life Committee v. FEC*, 914 F. Supp. 8 (D. Me. 1995), *aff'd per curiam*, 98 F.3d 1 (1st Cir. 1996); *FEC v. Christian Action Network*, 110 F.3d 1049 (4th Cir. 1997); *Virginia Soc'y for Human Life v. FEC*, 263 F.3d 379 (4th Cir. 2001). Given this precedent, 11 C.F.R. § 100.22(b) rests on shaky constitutional ground. Further, the Supreme Court's rebuke of the Commission in *Citizens United* for its ever-morphing standards of speech regulation suggest Section 100.22(b) cannot be enforced consistently with the First Amendment. Because of this, Free Speech would like to know whether the Commission will continue to enforce 11 C.F.R. § 100.22(b) and regulations that attach to it.

2. Will Free Speech's donation requests be deemed "solicitations" and subject to regulation?

Requestor seeks guidance whether the proposed donation requests would be deemed "solicitations" under the Commission's regulations and whether funds raised from such requests would transform the group into a "political committee." As with its public outreach advertisement scripts, it requires clear guidance from the Commission as to what standards it employs to determine if donation requests are transformed into "solicitations" and subject to regulation.

In light of the inconsistencies of the Commission, detailed and clear guidance as to whether the proposed donation requests constitute "solicitations" and the specific standards the FEC employs to arrive at that conclusion is required. *See, e.g.*, MURs 5753 (League of Conservation Voters) and 5754 (MoveOn.org Political Fund) (F.E.C. 2009); 2007 Political Committee Status Supplemental E&J, 72 Fed. Reg. 5595, 5603 (Feb. 7, 2007); *but see EMILY's List v. FEC*, 581 F.3d 19 (D.C. Cir. 2009).

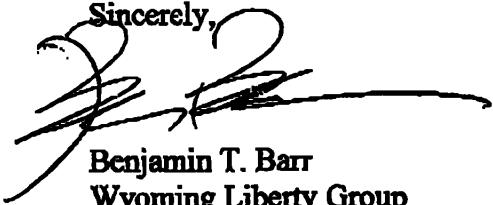
3. Will the activities described in this advisory opinion request trigger the requirement to register and be regulated as a "political committee"?

Will any of the proposed activities by Free Speech render it a "political committee" subject to registration and regulation by the FEC? No candidate for public office controls Free Speech and it does not hold its major purpose as the election or defeat of any candidate for public office. Thus, it appears inconceivable to Requestor that a small group of likeminded citizens must

register and report with the federal government just to speak. However, additional guidance by the FEC in how it determines the "major purpose" of an organization is requested given the Commission's lack of clarity in this area. *See, e.g., Unity '08 v. FEC*, 596 F.3d 861 (D.C. Cir. 2010); *FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380, 392 (D.C. Cir. 1981); and *see* MUR 5854 (Lantern Project) (F.E.C. 2008); MUR 5751 (Leadership Forum) (F.E.C. 2006); MUR 6073 (Patriot Majority) (F.E.C. 2009); MUR 5842 (Economic Freedom Fund), Statements of Reasons, Commissioners Cynthia L. Bauerly and Ellen L. Weintraub.

Thank you for your consideration of this request.

Sincerely,



Benjamin T. Barr
Wyoming Liberty Group
Free Speech



Stephen R. Klein
Wyoming Liberty Group
Free Speech

Tel.: (307) 632 - 7020

Fax: (307) 632 - 7024

benjamin.barr@gmail.com
stephen.klein@wyliberty.org

1902 Thomes Ave
Ste. 201
Cheyenne, WY 82001

Exhibit 1

The undersigned Members hereby adopt the following bylaws (the "Bylaws") for the creation and governance of Free Speech as of February 21, 2012:

BYLAWS
OF
FREE SPEECH
(the "Association")

ARTICLE I

ORGANIZATION

Section 1. Formation. Each of the undersigned Members hereby acknowledges the formation of the Association as an unincorporated association in accordance with the Wyoming Uniform Unincorporated Non-Profit Association Act, Wyo. Stat. Ann. § 17-22-101 through 17-22-115 (the "Act"), and confirms and agrees to such Member's status as a Member of the Association. ("Member" shall have the meaning ascribed to "Member" in the Act, Wyo. Stat. Ann. § 17-22-102(a)(i)). Its name is "Free Speech."

Section 2. Mailing Address. The mailing and business address of the Association shall be 7765 Aztec Dr., Cheyenne WY 82009 or such other place within the State of Wyoming as the Members shall determine.

Section 3. Registered Agent. The initial registered agent of the Association in the State of Wyoming is Robert T. Brinkmann, and the address of the initial registered agent is 7765 Aztec Dr., Cheyenne WY 82009. The name and address of the registered agent must be filed with the Secretary of State of Wyoming as provided in the Act and may be changed to such other agent or office as the Members designate from time to time in the manner provided under the Act.

Section 4. Organization. The Association shall be made up of Members elected to Membership by the then-current Members of the Association as set forth in these Bylaws. No person may become a Member by virtue of providing financial or other support to the Association, by declaring him or herself a Member of the Association, or by virtue of Membership, participation in or association with any other organization. No dues shall be required of Members, nor shall the payment of any sums to the Association be deemed grounds for Membership herein.

Section 6. Term and Termination. The term of the Association shall commence as of the date of these Bylaws and shall continue until the dissolution of the Association by vote of two-thirds of the then-current elected and serving Members.

Section 7. Powers. In furtherance of its mission, subject to the Bylaws and the Act, the Association shall have the power to take any action or incur any obligation as an Association.

Section 8. Limitation on Liability. In accordance with the Act, the debts, obligations and liabilities of the Association, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Association, and none of the Members, officers or agents of the Association shall be obligated personally for any such debt, obligation or liability of the

Association solely by reason of being a Member, officer or agent or otherwise participating in the management of the Association.

ARTICLE II

MISSION

The Association is an independent group of individuals which promotes and protects free speech, limited government, and constitutional accountability. We operate independently of any candidate and advocate positions on various political issues including free speech, sensible environmental policy, gun rights, land rights, and control over personal health care.

ARTICLE III

MEMBERS

Section 1. General Powers. The property, affairs and business of the Association shall be managed and controlled by its Members as a body.

Section 2. Number and Election of Members. Initial Members shall be three in number, which may be changed by a majority vote of the Members. All new and continuing Members shall be elected by then-current Members by majority vote serving in one-year terms.

Section 3. Resignation, Removal, and Vacancies. Any Member may resign at any time with written notice to the President or all Members. The vote of two-thirds of all the Members is required to remove a Member from office prior to the expiration of his term. Any vacancy occurring among the Members shall be filled by a majority vote of the remaining Members.

Section 4. Meetings. Members may meet as frequently or infrequently as they decide, so long as one Association meeting is held per year. Notice of meetings must be given at least seven days in advance by written notice personally, through e-mail, or by mail. A majority of Members' presence is required to constitute a quorum.

Section 5. Compensation. Members shall not receive any salaries for their services as such, but by resolution of the Members expenses of attendance may be allowed for attendance at each regular or special meeting of the Members; however, nothing herein contained shall be construed to preclude any Member from serving the Association in any other capacity and receiving reasonable compensation therefore.

ARTICLE IV

OPERATIONS, CONTRACTS, CHECKS, DEPOSITS AND FUNDS

Section 1. Contracts and Checks. The Members may authorize any officer or officers, agent, or agents of the Association in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument, or issue checks, drafts, or orders for the payment of money or notes in the name of and on behalf of the Association and such authority may be general or confined to specific instances.

Section 2. Deposits. Except as provided below, all funds shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the Members may select. No funds of \$1,000 or more in aggregate per calendar year shall be solicited, accepted or deposited until it is determined the Association may legally accept those funds.

Section 3. Books and Records. The Association shall keep correct and complete books and records of accounts and shall also keep minutes of the proceedings of its Members and committees having any of the authority of the Members.

Section 4. Business Activities Prohibited. The Association shall not engage in business activities including: offering of goods or services that results in income to the Association and advertising or promotional activity which results in income to the Association, other than in the form of donations.

Section 5. Claims Barred. The Association shall have no persons, other than employees and creditors with fair market value contracts, affiliated in any way that could allow them to make a claim on the organization's assets or earnings.

Section 6. Benefits of Support for the Association. The Association shall not offer to any supporters or Members any benefit that is a disincentive for them to disassociate themselves with the Association on the basis of the Association's position on a political issue. Such benefits include but are not limited to: credit cards, insurance policies, consumer discounts or savings plans; and training, education, or business information, other than that which is necessary to enable recipients to engage in the promotion of the Association's political ideas.

Section 7. Prohibitions. The Association shall not make independent expenditures—communications of express advocacy of the election or defeat of a clearly identified candidate for federal office by use of specific words like "vote for," "elect," "defeat," or "reject." The Association shall not make a contribution or directly or indirectly make a donation of anything of value to any candidate for elected public office, any political committee or political party.

Section 8. Disclosures to supporters. Donors to the Association shall be advised that their donations are not tax deductible and will be used to advocate the discussion of political issues. Donors to the Association shall also be advised that all donations to the Association will be spent according to the sole discretion of the Association.

ARTICLE V

INDEMNIFICATION

Any present or former Member or officer of the Association, or such other persons so designated in the discretion of the Members or the legal representative of such person, shall be indemnified by the Association against all reasonable costs, expenses, and counsel fees paid or incurred in connection with any action, suit, or proceeding to which any such person or his legal representative may be made a party by reason of his being or having been a Member or officer having served the Association, except in relation to matters as to which he shall be found guilty of gross negligence or misconduct where indemnity is sought and in relation to matters settled or

otherwise terminated without a final determination on the merits where such settlement or termination is predicated on the existence of such gross negligence or misconduct.

ARTICLE VI

MEMBER AND ASSOCIATION RULES

Section 1. Prohibited vendors. The association shall not use any media, polling, fundraising, public relations, advertising, or political vendor for services in producing or distributing an Association's communication or in advising the Association about a Presidential, Congressional, or Senate race involving the featured candidate if that vendor is also engaged, or was engaged in the same election cycle, by the candidate featured or mentioned in the Association's communication, his or her opponent, or a political party committee.

Section 2. Prohibited employees. The Association shall not employ or otherwise use former employees or independent contractors, in the same election cycle, of any candidate featured or mentioned by the Association's communication, his or her opponent, or a political party committee.

Section 3. Independent speech. Members, officers, employees, and agents of the Association shall ensure the independence of all speech by the Association about any candidate or political party. They shall do this in part by understanding 11 C.F.R. § 109.21 or successor regulations that define coordinated communications in order to avoid coordination with a candidate, an authorized committee of a candidate, a political party committee, or an agent of any of these.

Section 4. Prohibited speech. Members, acting as agents of the Association, officers, employees, or agents of the Association shall not inquire about the campaign plans, projects, activities or needs of a candidate mentioned in an Association's communication, his or her opponent or a political party committee.

Section 5. Use of nonpublic information. A Member, officer, employee, and agent of or donor to the Association who possesses nonpublic information about the campaign plans, activities, or needs of a candidate featured or mentioned in an Association's communication shall not relay such information to the Association, and a Member or donor shall recuse himself from all Association deliberations regarding potential communications about a featured candidate or his or her opponent. Such officer, employee or agent of the Association shall not participate in any work of the Association related to the advertisements featuring such a candidate.

Section 6. Other prohibited speech. Members, officers, employees and agents of and donors to the Association shall not inform any candidate featured or mentioned in an Association's communication, his or her opponent, a political party committee or agents of any of the foregoing about the Association's plans, projects, activities, or needs—especially as it relates to advertising.

Section 7. Actions by candidates. No candidate featured or mentioned in an Association's communication, his or her opponent, political party committee, or agent of any of the foregoing shall be involved in any way whatsoever in making decisions about the Association's activities or in the creation or distribution of Association advertisements.

Section 8. Requests by candidates. The Association and its Members, officers, agents, employees and donors shall not make any communications featuring or mentioning a candidate at the request of the featured candidate, his or her opponent, a political party, or an agent of any of the foregoing. The Association and its agents and donors shall not seek the assent, directly or indirectly, of any communication from any candidate featured in the communication, his or her opponent, a political party committee, or an agent of any of the foregoing.

Section 9. Speech by donors. Any donor to the Association who has any connection with any candidate featured or mentioned in an Association's communication shall not communicate in any way with the candidate, his or her opponent, a political party committee, or agents of any of the foregoing regarding any details of Association advertisements.

Section 10. Communication of Obligations. The Members shall cause all employees and agents of and donors to the Association to be notified of their duties under this Article VI.

ARTICLE VII

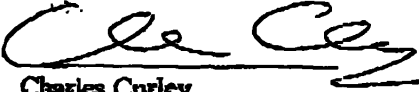
AMENDMENTS TO BYLAWS

These Bylaws may only be amended or repealed and new Bylaws may be adopted by a majority of the then elected Members at any meeting, if at least seven days written notice is given of intention to alter, amend, or repeal, or to adopt new Bylaws at such meeting.

SIGNATURE BLOCK

IN WITNESS WHEREOF, the undersigned has duly executed these Bylaws as of date first written above.

MEMBER:


Charles Curley

27 February 2012
Date

SIGNATURE BLOCK

IN WITNESS WHEREOF, the undersigned has duly executed these Bylaws as of date first written above.

MEMBER:

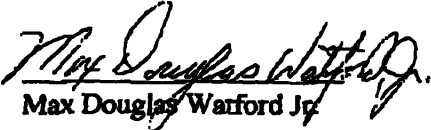
Robert T. Brinkmann
Robert T. Brinkmann

2/21/12
Date

SIGNATURE BLOCK

IN WITNESS WHEREOF, the undersigned has duly executed these Bylaws as of date first written above.

MEMBER:


Max Douglas Warford Jr.

2/21/2012
Date

Exhibit 2

Scripts

Radio Ads

ENVIRONMENTAL POLICY SCRIPT

AUDIO:

President Obama opposes the Government Litigation Savings Act. This is a tragedy for Wyoming ranchers and a boon to Obama's environmentalist cronies. Obama cannot be counted on to represent Wyoming values and voices as President. This November, call your neighbors. Call your friends. Talk about ranching.

FINANCIAL REFORM SCRIPT

AUDIO:

President Obama supported the financial bailout of Fannie Mae and Freddie Mac, permitting himself to become a puppet of the banking and bailout industries. What kind of person supports bailouts at the expense of average Americans? Not any kind we would vote for and neither should you. Call President Obama and put his antics to an end.

THE HEALTH CARE CRISIS SCRIPT

AUDIO:

President Obama supports socialized medicine, but socialized medicine kills millions of people worldwide. Even as Americans disapproved of ObamaCare, he pushed ahead to make socialized medicine a reality. Put an end to the brutality and say no to socialized medicine in the United States.

Newspaper Ads

FINANCIAL REFORM

[Full page picture of President Obama, bold font centered below him]:

President Obama supported the financial bailout of Fannie Mae and Freddie Mac, permitting himself to become a puppet of the banking and bailout industries. What kind of person supports bailouts at the expense of average Americans? Not any kind we would vote for and neither should you.

Call President Obama and put his antics to an end.

HEALTH CARE CRISIS

[Full page picture of a family picture torn in half]

President Obama supports socialized medicine, but socialized medicine kills millions of people worldwide. Even as Americans disapproved of ObamaCare, he pushed ahead to make socialized medicine a reality.

Put an end to the brutality and say no to socialized medicine in the United States.

Facebook Ads

GUN CONTROL

(Picture of handgun, 110 pixels wide by 80 pixels tall)

(Title:) Stand Against Gun Control

Obama supports gun control. Don't trust him. Support Wyoming state candidates who will protect your gun rights.

ENVIRONMENTAL POLICY

(Picture of a Wyoming ranch, 110 pixels wide by 80 pixels tall)

(Title:) Learn About Ranching

Obama's policies are a tragedy for Wyoming ranchers, and he does not represent our values. This November, learn about ranching.

Television Ads

GUN CONTROL SCRIPT

<u>AUDIO:</u>	<u>VIDEO:</u>
Guns save lives.	Newspaper clippings with headlines describing self-defense with firearms fade in, piling up one atop another.
That's why all Americans should seriously doubt the qualifications of Obama, an ardent supporter of gun control.	Clippings dissolve to a picture of President Obama, and one newspaper headline below him: "President Obama defends attorney general regarding ATF tactics (LA Times, Oct. 6, 2011)"
This fall, get enraged, get engaged, and get educated. And support Wyoming state candidates who will protect your gun rights.	Dissolves to a picture of the Wyoming state flag, panning down to the Wyoming Capitol Building.

ETHICS SCRIPT

<u>AUDIO:</u>	<u>VIDEO:</u>
Who is President Obama?	Picture of President Obama shaking hands with Hugo Chavez.
He preaches the importance of high taxes to balance the budget,	Fade to another picture of Obama giving State of the Union, superimposed "Obama Aims \$1.4 Trillion Tax Increase at Highest Earners (San Francisco Chronicle, Feb. 14, 2011)"
but nominates political elites who haven't paid theirs.	Cut to picture on left side of screen of Secretary Treasury Timothy Geithner giving testimony, superimposed "Geithner apologies for not paying taxes (CBS News, Feb. 18, 2009)"
He talks about budget and tax priorities, but passes a blind eye to nominees who don't contribute their fair share.	Picture fades in on right side of screen of Tom Daschle, superimposed "Tax Woes Derail Daschle's Bid for Health Chief (NPR, Feb. 3, 2009)"
Call President Obama and tell him you don't approve of his taxing behavior.	Fade to picture of President Obama and Michelle Obama enjoying themselves in Hawaii.

BUDGET REFORM

<u>AUDIO:</u>	<u>VIDEO:</u>
Congresswoman Lummis supported the Repeal Amendment, which would have restored fiscal sanity to our federal debt.	Picture of Representative Lummis, superimposed "Tea Party Pushes Amendment to Veto Congress (AOL News, Dec. 1, 2010)"
Congresswoman Lummis is brave in standing against the political elite and deserves your support. Make your voice heard.	Small videos of Representative Lummis fade in, speaking on news programs, meeting with people, etc.
Do everything you can to support Congresswoman Lummis this fall and work toward fiscal sanity.	Wyoming flag fades in the background, returning to original picture of Rep. Lummis.

AN EDUCATED VOTER VOTES ON PRINCIPLE

<u>AUDIO:</u>	<u>VIDEO:</u>
Across America, millions of citizens remain uninformed about the truth of President Obama.	Picture of President Obama shaking hands with Hugo Chavez.
Obama, a President who palled around with Bill Ayers.	Picture of Bill Ayers in Weather Underground days, superimposed "Bill Ayers Dishes on Hosting a Fundraiser for Barack Obama (Big Government, Nov. 29, 2011)."
Obama, a President who was cozy with ACORN.	"House votes to Strip Funding for ACORN (Fox News, Sept. 17, 2009)"
Obama, a President destructive of our natural rights.	Video of an ATF raid, fade to a video of TSA scanning individuals in line for airport.
Real voters vote on principle. Remember this nation's principles.	Fades to still shot of the Bill of Rights, superimposed "Remember this nation's principles."

Exhibit 3

Free Speech Ads Budget Estimates

Initial Budget for Free Speech advertising: \$2,000

Fundraising Goal: \$10,000

Radio Ads

Budget: \$1,000 (Production: \$100 – Air Time: \$900)

Cost per 30-second ad (KGAB radio): \$15 (during Rush Limbaugh Show)

Campaign: April 1 – November 3, 2012

Total: 60 Advertisements (2-3 per week for duration)

Newsprint Ads

Budget: \$500

Cost per full-page, single-color ad (per day, Wyoming Tribune Eagle): \$250

Campaign: Saturday, May 12 and Sunday, May 27

Total: Two advertisements

Facebook Ads

Budget: \$500

CPM (Cost Per 1,000 impressions): \$.40

Campaign: April 1 – April 30, 2012

Total: 200,000 impressions on Facebook within Wyoming network

Television Ads

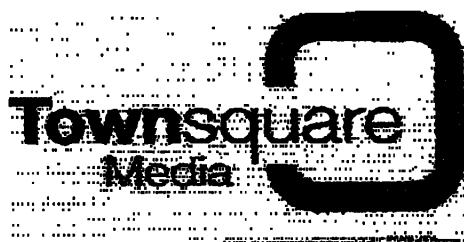
—This budget is Dependent on Funds Raised—

Budget: \$8,000 (Production: \$2,500 – Air Time: \$5,500)

Cost per 30-second ad (KCWY television): \$175 (during Saturday Nightly News, pre-emptible)

Campaign: May 1 – November 3, 2012

Total: ~30 Advertisements (1 per Saturday Nightly News for duration)



Cheyenne
KIGN | KLEN | KGAB

Rate Card

STATION		KGAB 650AM NEWS TALK		
Day	Time	15	30	45
Mon-Fri	6-7a	\$15	\$10	\$5
Mon-Fri	7-8a	\$15	\$10	\$5
Mon-Fri	8-9a	\$15	\$10	\$5
Mon-Fri	9-10a	\$4	\$3	\$2
Mon-Fri	10-11a	\$12	\$8	\$4
Mon-Fri	11a-12p	\$7	\$5	\$3

Rush Limbaugh Show, weekdays, 10 am – 1 pm, :30 Spot - \$15

Sunday, Monday, and Tuesday only: ½ price on KGAB.

Streaming Package: Match any schedule on our websites for only 5% more!!

Internet Advertising KGAB Radio website

Leader board Ad, \$60 / station - \$150 / 3 station cluster, 20% Share of Voice

Expanding Pencil Ad, \$100 / station - \$200 / 3 station cluster, 20% Share of Voice

Top-Right Ad, \$75 / station - \$200 3 station cluster, 20% Share of Voice

In Line Ad, after Item 3 or 7, \$35 / station - \$100 3 station cluster, 20% Share of Voice

Internet Advertising CheyenneSquare.com website

Business Directory Ad, \$20 / month

Leader board Ad, \$60 / Price includes Directory Ad, 20% Share of Voice

Expanding Pencil Ad, \$100 / Price includes Directory Ad, 20% Share of Voice

Top-Rail Ad, \$75 / Price includes Directory Ad, 20% Share of Voice

1912 Capitol Avenue, Suite 300 ♦ Cheyenne, Wyoming 82001
307-632-4400 ♦ Fax: 307-632-1818



Wyoming Tribune Eagle - Retail, National and Classified Advertising Rates

Published by:

Cheyenne Newspapers, Inc.
702 West Lincolnway
Cheyenne, WY 82001
307-633-3151
1-800-561-6268
advsec@wyomingnews.com
www.WyomingNews.com
fax: 307-633-3191

MEMBERS

Audit Bureau of Circulations
Media Records
Wyoming Press Association
Newspaper Association of America

Effective Date for all advertising rates in this listing is January 1, 2012.

Information on this rate card is presented in accordance with the prescribed format of the Standard Rate & Data Service (SRDS). Information not applicable to these rates has been eliminated. The Wyoming Tribune Eagle is published daily.

PERSONNEL

Publisher	Mike McCracken
Advertising Director	Scott Walker
National Advertising Manager	Grady Mack
Classified Advertising Manager	Tammy Smith
Special Projects Marketing	Rebecca Zandbergen
Electronic Ad Transfer	Terry Bennett

REPRESENTATIVES

The Wyoming Tribune Eagle is represented nationally by:
The Wyoming Press Association
P.O. Box 20030
Cheyenne, WY 82003
(307) 635-3905

POLICY

A. The Wyoming Tribune Eagle reserves the right to edit, alter or omit any advertisement.

B. The Wyoming Tribune Eagle assumes no financial responsibility for typographical errors or for omissions of copy. Liability for errors or omissions shall not exceed the cost of that portion of space attributable thereto. Claims for adjustments must be made within 7 days of publication. Credit allowable for first insertion only. In event of error or omission, we will, if requested, furnish a letter of explanation which can be utilized by the advertiser.

C. The advertiser and/or advertising agency or agent assumes all liability for advertisements published (including illustrations, text, claims, etc.) and agrees to assume any and all responsibility for claims occurring therefrom against the Wyoming Tribune Eagle.

D. Page size is 6 columns x 20" for retail & national display advertising, 9 columns x 20" for classified & classified national advertising.

E. Double-trucks or other ads spreading across 2 pages and using the gutter between the pages are acceptable, as long as they meet the minimum depth requirements. The gutter will count as one column of advertising space and the advertiser will be charged accordingly.

F. The Wyoming Tribune Eagle reserves the right to revise advertising rates at any time.

G. The Wyoming Tribune Eagle will not be responsible for printing or computer materials left 30 days after publication.

H. All accounts are due and payable on the 15th of the month following insertion. Any customer not having established credit will be required to provide cash with copy.

I. All intermediary orders or contracts must state that the intermediary and their clients are jointly and severally obligated to make payment for advertising space ordered. Otherwise intermediary contracts will be cash with order.

J. Ads over 18" will be billed at the full column depth of 20"

COMMISSION, CASH DISCOUNTS, FINANCE CHARGES

Advertising rates are not commissionable.
Cash discount does not apply.

A late payment Service Charge of 1.5% per month, 18% per annum, will be assessed on all account balances not paid within 60 days of the invoice date.

ADVERTISING RATES AND PROGRAMS

A. Rates are based on "column inches." To determine the area of an ad, multiply the number of columns by the height in inches.

Example: 2 columns wide by 5 inches deep equals 10 column inches.

As a rule, the more you buy, the less your cost. You can lower costs by running your ads more. You can run any combination of ad sizes and frequency during a 12 month period. Your cost is based on the total number of inches used or with larger volume, the total dollars used within your contract year.

All rates are noncommissionable. For customers without billing arrangements, payment is required with copy until credit can be established.

Repeat Ad Discount - Any second or more consecutive runs scheduled on a single insertion within a 6-day period may qualify for a 20% repeat discount on space and color, provided there are no changes. This discount is available for any retail, national or classified display advertisement.

Please note that only one discount per ad is acceptable.
We will not double discount.

Guaranteed Position - Specific page placement in the paper, when mechanically and physically possible, is available at an additional 25% premium added to the overall cost of the ad. Positions must be requested at time of insertion.

B. 2012 OPEN RATES:

\$23.20 PCI Retail and National Display (NET)

\$16.60 PCI Classified Display (NET)

\$18.90 PCI Classified National Display (NET)

Classified Line Ads

Local \$7.47 for 3 lines (minimum) per day

National \$9.59 for 3 lines (minimum) per day

Color Rates

Single Page WTE WTE & EXTRA!

Single color \$250 \$330

Full color \$535 \$665

C. ANNUAL LINAGE CONTRACTS

These retail/classified combination contracts are ideal for the large-space advertiser seeking to reduce advertising rates. All inches will be converted to retail for purposes of tracking contract fulfillment.

Retail, National, and Classified Display

Level	Col. In. per Yr.	Rate PCI	
	Retail Class.	Retail Class.	
2	156 234	\$17.20 \$11.60	
4	520 780	\$15.80 \$11.40	
6	1,200 1,800	\$14.90 \$11.10	
8	2,523 3,784	\$14.40 \$10.70	
10	5,304 7,956	\$14.00 \$10.10	
12	11,152 16,728	\$13.49 \$10.00	
14	23,449 35,173	\$12.70 \$9.80	

D. Southeast Wyoming EXTRA!

The EXTRA! total market coverage (TMC) gives you additional distribution to non-subscribers in the Cheyenne area at a very reasonable cost in addition to your regular rate, or you may place a stand alone ad in the Extra! for a slightly higher rate. The EXTRA! is distributed free of charge every Wednesday to nonsubscriber households and racks throughout Cheyenne.

Retail and National Display: Pick up your ad from the Wyoming Tribune Eagle - \$3.60 per column inch. Stand alone ad in the Southeast Wyoming Extra! - \$6.10 per column inch. Six-month and one-year contracts available at discounted rates.

Inserts: Inserts in the Southeast Wyoming Extra! are \$510 for up to 20 pages. Add \$2 cpm for each 4 tab page increment above 20 pages.

E. Front Page Notes: A 3" x 3" full color sticky removable ad placed on the front page, above the fold - \$1400. This allows you to be the only advertiser on the highly visible front page.

F. "ToDo" Rate:

The Wyoming Tribune Eagle's daily section focused on activities in the region. Special programs are available.

PREPRINT ADVERTISEMENT RATES (CPM-cost per thousand copies)

Tab pages	1-5	6-11	12-36	37-60	61-100	101+
4	\$66	\$65	\$63	\$62	\$60	\$59
8	\$73	\$72	\$70	\$69	\$66	\$65
12	\$75	\$74	\$72	\$71	\$66	\$65
16	\$74	\$76	\$73	\$72	\$68	\$67
20	\$80	\$79	\$75	\$73	\$70	\$69
24	\$83	\$80	\$76	\$74	\$72	\$70
28	\$89	\$83	\$78	\$76	\$73	\$72
32	\$96	\$89	\$83	\$82	\$81	\$80

Additional pages, add \$2 CPM for each 4-tab page increment.

PREPRINT POLICIES

Minimum Preprint Charge is \$160.

Preprint Reservations and Shipping: Preprints must be ordered 7 working days prior to publication. Delivery of preprints is 7 working days prior to publication. Delivery accepted 8:00 am-5:00 pm M-F only. All preprints must meet Wyoming Tribune Eagle delivery and production requirements.

Quantity of Inserts: It is recommended that the advertiser confirm delivered quantity requirements with the Wyoming Tribune Eagle just prior to ordering preprint run. We require an additional 3% for spoilage.

Minimum/Maximum Sizes: Preprinted supplements must be no smaller than 5" X 7" and should be no larger than 12" wide and 10.5" deep (folded edge). Exceptions to the above will be handled on an individual basis, and will be accepted on completion of satisfactory testing. Special handling may be required. Card type supplements should be a minimum of .007 inches (70 lb weight). A second, or front fold, may consist of a flap no less than 3 inches wide. This flap may vary in size up to the full area of the card.

Zoned and Partial Distribution Preprints: Zoning of preprints is available in the Wyoming Tribune Eagle. Partial distribution in established zones is an additional \$5 per 1,000. Customized zoning is available at an additional \$10 per 1,000. Not available on Sunday, Monday & Wednesday.

Special Handling: Nonstandard or odd-sized preprints may require special handling and will be charged at an additional \$10 per thousand.

Unloading Inserts: A charge of \$55.00 per hour will be applied if delivered Inserts need to be unloaded by Wyoming Tribune Eagle personnel.

Other Preprint Services: Delivery of preprints via direct mail and delivery of preprints to non-subscribers is available. Commercial single card development and insertion services are available at very reasonable rates. See your Wyoming Tribune Eagle advertising representative for details.

WyomingTribuneEagle

SPECIAL SERVICES

Service charges for extra advertising prints and electronic transfer of ads or ad material.

Less than 1/2 page	\$15.00
More than 1/2 page	\$30.00

Makeover/Reconstruction Charges

\$55.00 per hour (1 hour minimum) - At the discretion of the Advertising Director, this charge will be made to advertisers who make excessive changes on proofs or revises which require extensive makeover of the initial advertising layout. The charge will be applied for the actual time and expense involved in the makeover.

Art Services

Basic layout, copy and clip art services are available at no additional cost. Original art or intricate art is available at the cost of \$55.00 per hour.

Photographic Services Available

Arrangements may be made through your advertising representative for pictures of people or merchandise to be used in advertisements.

Web and Internet Services

The Wyoming Tribune Eagle offers a complete selection of web design and site hosting services. Advertising positions also available. Go to www.wyomingnews.com for details.

Proofs

Proofs of advertisements will be provided upon request only if all copy has been submitted by deadline. Proofs on ads of less than one quarter of a page may be viewed at The Wyoming Tribune Eagle office, but will not be delivered. Proofs of ads which are a quarter of a page or larger may be delivered at the customer's request.

Please Note: Proofs are provided to customers for the purpose of making minor typographical or factual content changes. Proofs are not provided as a speculative layout so the customer can make major layout and content changes. Customers receiving proofs assume all liability for any errors not noted on original proof as well as liability for any change, not included with original layout or ad copy but added to proof. At the Advertising Director's discretion, customers who make excessive changes on proofs or revises will be billed an additional charge of \$55.00 per hour (1 hour minimum). Second proofs are not available.

Tear Sheets/Research

Tear sheets of published advertisements will be provided upon request. Requests must be made before publication. Any request for tear sheets after publication will be at a charge of \$55.00 per hour. This charge will also apply for excessive research projects.

Marketing and Demographic Information

Your Wyoming Tribune Eagle advertising representative can help you with your media budget planning. Call your advertising representative for more information.

SPECIAL SECTIONS

Special sections on a variety of subjects are published throughout the year. See your representative for details.

SPECIAL DAYS/PAGES/FEATURES

Monday	Portfolio (personal finance news)
Wednesday	Food
Saturday	Religion
Sunday	Journey (including Outdoors, family features, milestones, school news and travel.)

ROP DEPTH REQUIREMENTS

Minimum space is 1 column inch. Advertisements over 18 inches deep will be billed at full column depth.

DEADLINES

Day of Publication	Scheduling Deadline
Monday	Friday Noon
Tuesday	Friday 3 pm
Wednesday	Monday 3 pm
Thursday	Tuesday 3 pm
Friday	Wednesday 3 pm
Saturday	Thursday Noon
Sunday	Thursday 3 pm
Journey (Sunday)	Tuesday 3 pm
Business	Thursday 5 pm
To Do	Same as daily deadlines

Discounts and proofs are not available for any ads turned in after deadline.

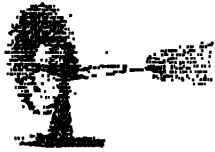
Holiday Deadlines: Will be earlier than the deadlines listed above. Deadlines for multipage sections and extensive graphic and/or color work will be accelerated. All Special Sections/Publications have separate deadline structures. Please see your advertising representative for details.

Cancellations: No cancellations accepted after deadline. Composition costs will be charged on any advertisement set, cancelled and not published within 14 days of cancellation. Composition charges will be equal to two-thirds (2/3) of the cost of the advertisement.

MECHANICAL MEASUREMENTS AND REQUIREMENTS

Standard page	Retail Display	Classified Display
Width of Page	6 column	9 column
Depth of Page	20"	20"
1 column width	3.25"	4.1625"
2 column width	3.625"	2.4077"
3 column width	5.5"	3.155"
4 column width	7.375"	4.8983"
5 column width	9.25"	6.1457"
6 column width	11.125"	7.389"
7 column width	13.0"	8.6313"
8 column width	14.875"	9.8797"
9 column width	16.75"	11.125"
Double Truck Width	23"	23"

Double Trucks are charged at 260 column inches in Retail Display and 380 column inches in Classified Display.



Windmill Video Productions LLC
104 East 25th Street
Cheyenne, Wyoming 82001
307-635-7643

Estimate

DATE	INVOICE #
2/19/2012	N/A

Cost Estimate Prepared For:	JOB ADDRESS
Free Speech	TV Spots Cheyenne, Wy.

QTY	DESCRIPTION	UOM	UNIT PRICE	AMOUNT
2.0	Voice-Overs 30 Second Spots		200.00	400.00
2.0	Voice-Overs 15 Second Spots		100.00	200.00
36.0	Graphics/Video Preparation/All Post Production.(Does not include the creation or gathering of material.)	Hours	50.00	1,800.00
Thank You		Total		\$2,400.00



KCWY 1Q 2011 RATE CARD

WEEKEND

5a-5:30a
5:30a-6a
6a-8a
8a-11a
11a-4p
4p-5p
5p-5:30p
5:30p-6p
6p-7p
10p-10:35p
10:35p-12:00a
12:00a-1a
1a-1:30a
1:30a-2:30a
2a-3a
3:30a-4:30a
4:30a-5a

Saturday

Mystery Hunters
Young Icons
NBC Saturday Today
NBC Discovery Kids
NBC Sports and Various
The Closer
News 13 @ 5pm
NBC Nightly News
Ugly Betty
News 13 @ 10pm
Saturday Night Live
Poker After Dark
In Wine Country
Criminal Minds
Ugly Betty
The Closer
Whacked Out Sports

Section 1 Section 3 Section 4

\$20	\$15	\$10
\$20	\$15	\$10
\$50	\$35	\$40
\$50	\$35	\$20
\$100	\$70	\$25
\$60	\$40	\$25
\$250	\$175	\$100
\$250	\$175	\$100
\$60	\$40	\$30
\$350	\$245	\$150
\$100	\$70	\$40
\$30	\$20	\$15
\$20	\$15	\$10
\$20	\$15	\$5
\$15	\$10	\$5
\$15	\$10	\$5
n/a	n/a	n/a

Sunday

5a-5:30a
5:30a-6a
6a-8:30a
6:30a-7a
7a-8a
8a-9a
9a-10a
10a-4p
4p-5p
5p-5:30p
5:30p-6p
10p-10:30p
10:30p-11p
11p-12:00a
12a-1a
1a-2a
2a-2:30a
2a-3a
3a-4a
4:30a-5a

American Latino
Latina
Music of the Spoken Word
P.Allen Smith's Garden Home
NBC Sunday Today
Meet The Press
Paid Program
NBC Sports and Various
Numb3rs
News 13 @ 5pm
NBC Nightly News
News 13 @ 10pm
Paid Program
Entertainment Tonight Weekend
Criminal Minds
NUMB3RS
The Tim Carver Show
Dateline NBC
NBC Meet The Press All Night
First Business

\$20	\$15	\$10
\$20	\$15	\$10
\$20	\$15	\$10
\$40	\$30	\$20
\$150	\$105	\$20
\$250	\$175	\$100
n/a	n/a	n/a
\$100	\$70	\$25
\$60	\$40	\$15
\$250	\$175	\$100
\$250	\$175	\$100
\$350	\$245	\$150
n/a	n/a	n/a
\$60	\$40	\$20
\$30	\$20	\$10
\$20	\$15	\$5
\$20	\$15	\$5
\$15	\$10	\$5
\$15	\$10	\$5
\$30	\$20	\$15

*** all rates are for :30's, :60's are double the :30's

Rate level 1 is a Fixed Rate

Rate level 2 is preemptible rate with notice

Rate level 4 is preemptible rate without notice



Benjamin Barr
<benjamin.barr@gmail.com>
03/09/2012 01:36 PM

To: NStipanovic@fec.gov
cc: stephen.klein@wyliberty.org, ARothstein@fec.gov,
EChlopak@fec.gov, ABell.CTR@fec.gov
Subject: Re: Free Speech Advisory Opinion Request

Neven,

Thank you. Your included statements are correct.

I would only clarify for statement three, below, that Free Speech noted in its advisory opinion request that it plans to speak out in similar ways in the future. See Free Speech AOR at 2, 5. The advisory opinion request accurately describes its currently planned activities.

Forward,

Benjamin Barr

On Fri, Mar 9, 2012 at 1:02 PM, <NStipanovic@fec.gov> wrote:

Dear Messrs. Barr and Klein:

In our recent telephone conversation, you provided us with additional information regarding the advisory opinion request submitted on behalf of Free Speech. We have set out below our understanding of certain issues covered during the conversation. Please either confirm the accuracy of these statements or correct any misperceptions.

(1) You submitted the advisory opinion request on behalf of Free Speech as their counsel. There is no formal relationship between Free Speech and Wyoming Liberty Group.

(2) Exhibit 2 of the request contains the advertising scripts that Free Speech proposes to use. Free Speech also proposes to use the "donation request" scripts described in

RECEIVED
FEDERAL ELECTION
COMMISSION
2012 MAR -9 PM 3:09
OFFICE OF GENERAL
COUNSEL

the main body of the request letter.

(3) Free Speech does not currently plan to engage in activities beyond those described in the request.

(4) While Free Speech's plans are subject to modification depending on market prices and the continuing development of the 2012 electoral and political season, Free Speech currently plans to allocate its advertising budget equally among the advertisements described in the advisory opinion request. For example, it plans to allocate the \$1,000 budget for radio ads evenly among the three radio ads whose scripts are included in the advisory opinion request. It also currently plans to allocate its budget equally among its planned newspaper ads, Facebook ads, and TV ads.

(5) Free Speech will not accept donations from individuals who are foreign nationals or Federal contractors.

We would appreciate your response by email. Your response may be treated as a supplement to the advisory opinion request and, as such, may be placed on the public record.

Thank you for your cooperation.

Neven F. Stipanovic
Attorney, Policy Division
Office of General Counsel
U.S. Federal Election Commission
Tel: 202-694-1650