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September 21, 1998

HAND DELIVERED

Jennifer H. Boyt, Esquire
Attorney
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: **MUR 4643**

Dear Ms. Boyt:

We represent the International Brotherhood of Teamsters' Democratic-Republican-Independent Voter Education ("DRIVE") political committee in the above-captioned matter under review, filed by the New Mexico Republican Party.

We have reviewed the supplement to the complaint that the Commission transmitted to us by letter dated August 28, 1998. These materials do not address, and certainly do nothing to preclude, DRIVE's making within-the-limits contributions to both a state party and a candidate. Please refer to our December 15, 1997, submission demonstrating there is no "reason to believe" that DRIVE violated federal campaign finance law or regulations as alleged in MUR 4643. No "presumption" of earmarking, such as complainant alleged, is warranted or constitutional. See *Colorado Republican Federal Campaign Committee vs. FEC*, 116 S. Ct. 2309, 2319 (1996), regarding the impermissibility of such presumptions.

Finally, while the larger issues presented in the supplement to the complaint herein do not pertain to DRIVE, we are compelled to note that it is somewhat incongruous that the New Mexico Republican Party seems to be taking the opposite position on a political party's ability to conduct expenditure activity on behalf of its candidates from the Republican Party of the neighboring state of Colorado. As the Commission well knows, the latter party organization is well on the way to establishing judicial precedent – if it has not done so already – that could vitiate any potential basis for the complaint herein.

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We renew our request, on DRIVE's behalf, that this matter under review be promptly dismissed as to it.

Respectfully submitted,

BRAND, LOWELL & RYAN, P.C.

A handwritten signature in black ink, appearing to read 'Stanley M. Brand', with a long horizontal stroke extending to the right.

Stanley M. Brand
David E. Frulla

SMB/DEF/vkp

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