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To: The Commission Secretary
From: Steven T. Walther
Commissioner *Steven T. Walther*
Date: October 27, 2010
Re: Advisory Opinion Request 2010-25 (RG Entertainment)

I request that this document be made part of the Commission's public record related to the above-referenced matter.¹

Since the Commission's public meeting on the above-referenced matter on October 7, 2010, I have become aware that Ray Griggs, director of "I Want Your Money" (the Film), and founder and principal of RG Entertainment, a requestor of this advisory opinion, has given a number of public interviews and made statements in publicly available newsletters leading up to the release of the Film. Some of these interviews and statements, which were made both before and after the October 7 public meeting, are all publicly available on the Internet and contain statements by Mr. Griggs that appear to be at variance with some material representations made by RG Entertainment in the advisory opinion request.

Specifically, RG Entertainment represents in the advisory opinion request that its "sole purpose in producing and distributing the [Film] has been a commercial, for-profit endeavor."² Based, in part, on this representation, I voted at the Commission's October 7

¹ The Commission discussed and voted on two drafts of the above-referenced advisory opinion at a public meeting that took place on October 7, 2010. Because the Commission did not approve either draft by the required affirmative vote of four members, the Commission instructed the Office of General Counsel (OGC) to prepare a revised draft of the advisory opinion reflecting the Commission's conclusions in areas where there was consensus among four or more Commissioners. Subsequent to the public meeting, however, the Commission, through the OGC, asked the requestors in this matter for an extension of time in which to issue an advisory opinion. By letter dated October 13, 2010, the requestors agreed to such an extension and also submitted supplemental information for the Commission's consideration. This letter containing the extension and supplemental material is available at <http://saos.nictusa.com/saos/search.asp?SUBMIT=no&AO=3132&START=1150724.pdf>.

² Letter from Mr. Lee Goodman to Amy Rothstein, Assistant General Counsel, Federal Election Commission (September 20, 2010) at 4 (emphasis added), available at <http://saos.nictusa.com/saos/search.asp?SUBMIT=ao&AO=3132&START=1148915.pdf>.

public meeting to approve a draft of the advisory opinion reflecting a conclusion that disbursements by RG Entertainment to produce, distribute, and advertise the Film are not "expenditures" under the Federal Election Campaign Act and the Commission's regulations because they qualify as "bona fide commercial activity" of a commercial entity. Under the circumstances, however, I am no longer comfortable relying solely on the representations contained in the advisory opinion request. Had I been aware of Mr. Griggs's interviews and statements at the time of the October 7 public meeting, I would not have voted in favor of the Film being "bona fide commercial activity" of a commercial entity. I would have, however, wanted the Commission to provide the requestor with an opportunity to respond to the following interviews and statements:

1. In an October 15, 2010, interview with CNN, Mr. Griggs appears to indicate that the Film is intended to influence the upcoming general election:

Ms. Kathleen Parker, CNN Anchor: How does it [the Film] end? How does it end?

Mr. Griggs: Basically I, it tells the people, you know, that we have to make a serious difference in November and, and make a sound decision and choose wisely, and make sure that if you choose, you know, a Republican to get in office, that they have the same conservative values and beliefs as Ronald Reagan.³

In that same interview, Mr. Griggs also appears to indicate that the *timing* of the Film's release was intended to influence the election:

Mr. Elliot Spitzer, CNN Anchor: And just so it's clear, it was -- the release was timed to come out right now before the election so you could have sort of -- make a political statement.

Mr. Griggs: Absolutely. I wanted to give people proper tools to take with them on November 2 so they make wise decisions on what course to take.⁴

2. Mr. Griggs appears to have made similar statements about the timing of the Film's release in an October 15, 2010, interview with Reason.TV:

Ted Balaker, Reason.TV: Timing is especially interesting in this case. It opens October 15, a couple of weeks before the midterm election.

Mr. Griggs: That was a struggle because you know, I had just finished the documentary, and I was trying to get it out before the midterm elections, because it's very timed, it's concerning the midterm elections, you know. I want people to go in and take back the House.⁵

³ Available at <http://www.youtube.com/watch?v=318M3aFOjQs> at 10:45.

⁴ Available at <http://www.youtube.com/watch?v=318M3aFOjQs> at 2:21.

⁵ Available at <http://reason.com/blog/2010/10/12/obama-vs-reagan-ray-griggs> at 2:54.

3. Mr. Griggs also appears to have made statements about the timing of the Film's release in an October 13, 2010, interview that has been posted on Politico's website:

Unidentified interviewer: How do you think the timing of this film coming right before the election, is it going to, do you think it's going to have an impact on this?

Mr. Griggs: Well, I hope so, and that's part of the key push of, uh, [inaudible] trying to get it in before the election, because it can make a difference, you know, I want people to go to the polls this November and, uh, having seen this film, have a really clear idea of the direction, the two different paths that we can go down. One is that of this current Administration, or that of what Ronald Reagan believed in is conservatism.⁶

4. In addition to the statements quoted above, Mr. Griggs appears to have suggested to The Hill newspaper, in an interview published on October 12, 2010, that he is not a documentary filmmaker, but rather that he made the Film, in part, for political reasons.⁷

5. Finally, RG Entertainment also appears to have produced a weekly "I Want Your Money Weekly Newsletter," providing readers with updates about the Film, as well as other commentary. Each newsletter is signed at the end by Mr. Griggs.⁸

The following appeared in the August 17, 2010, I Want Your Money newsletter:

The theatrical release date is set for October 15th 2010, and will be viewable in theaters nation-wide. In face of the odds, we have managed to make it into cinemas before the midterm elections. Together we may just take the House back!

The following appeared in the September 29, 2010, I Want Your Money newsletter:

For all you new subscribers out there, we need all the help we can get to make this film as widely known and successful as possible. It is our desire that I WANT YOUR MONEY becomes a catalyst for positive change come November 2, 2010 and beyond.

To make the record complete, I incorporate by reference, in their entirety, the interviews, articles and newsletters located at the URLs contained in footnotes 3-8 herein. Further, I would request that the Commission consider any explanation or additional information that RG Entertainment may desire to provide addressing these interviews, articles and newsletters, and the extent to which they may be reconciled with representations made by the requestor in this matter.

⁶ Available at http://www.politico.com/click/stories/1010/reagan_applauded_at_money_film.html at 2:54.

⁷ See <http://thehill.com/capital-living/20-questions/123941-20-questions-with-ray-griggs>; see also http://www.politico.com/click/stories/1010/reagan_applauded_at_money_film.html at 2:06.

⁸ Available at <http://us1.campaign-archive1.com/home/?u=354b9e1584675110c2ba2121d&id=0074751c9f>.