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February 24, 2000

John R. Velasquez, Jr.
Acting Supervisor
Central Enforcement Docket
Federal Election Commission
999 E St., NW
Washington, DC 20463

Re: MUR 4953
Americans for Economic Growth, Inc.

Dear Mr. Velasquez:

This responds to your letter of December 15, 1999, which, as you know, was received on February 11, 2000. Jennifer Boyt of your staff provided us until February 28, 2000 to respond.

Please amend your records to reflect the correct address for Americans for Economic Growth ("AEG"). The correct address and registered agent for AEG is:
Americans for Economic Growth
c/o Kathy Rimmele
103 Adler Lane
Cary, NC 27511

Please address further contacts in this matter to me.

Your letter encloses a complaint that alleges that AEG violated the Federal Election Campaign Act of 1971, as amended. The complaint was based entirely on an erroneous newspaper article, does not allege any violation of the FECA committed by AEG, ignores controlling circuit judicial authority, and should be dismissed.

AEG is a North Carolina nonprofit corporation, recognized by the IRS as exempt from federal taxation under IRC § 501(c)(4) on May 18, 1994. As a § 501(c)(4) organization, AEG is entitled to lobby without limit.

AEG has lobbied in areas such as taxation, Social Security reform, energy regulation and utility competition. AEG, for example, has published pamphlets and academic studies, and run radio ads for and against particular legislation. In the federal appellate circuit which includes North Carolina, lobbying, as "issue

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advocacy," is protected from being considered political activity. *N. Carolina Right to Life v. Bartlett*, 168 F.3d 705, 713 (4th Cir. 1999).

Nor is there any other ground for application of the FECA. The complaint alleges that AEG "is reported to be under the 'complete control' of Jim Ellis, a paid NRCC consultant." Complaint, Page 3. The AEG Board of Directors controls AEG, and Mr. Ellis is not on the Board. Mr. Ellis was a consultant for an AEG energy-regulation-related project (which ended in 1998), and his firm has just been retained for additional consultant projects in 2000. AEG cannot be considered affiliated in any way cognizable under 11 C.F.R. § 100.5(g)(4) because it chooses to retain the firm of a consultant who has proven effective at legislative activity in the past.

The complaint also states that AEG "has run advertisements which attacked Democratic candidates while bearing a stark similarity to ads that were run by the NRCC itself." Complaint, Page 3. These ads, which ran a full year before the 2000 elections, were issue advocacy, directed at particular widely-recognized legislation to protect Social Security, and were bipartisan, in that they addressed both Democratic and Republican officeholders.

AEG does not have as a major purpose the nomination or election of a political candidate, and it is not controlled by any political candidate. *Buckley v. Valeo*, 421 U.S. 1, 79-80 (1976). AEG has not engaged in "express advocacy" or other election-related activity. *Id.*, 421 U.S. at 80. To its Board's knowledge, AEG has no affiliation with any organization or political committee which does engage in electoral activity.

AEG is, quite simply, an advocacy organization exercising its protected right to free speech on legislative issues. This complaint is wrong on the facts, and, as to AEG, should be dismissed.

Sincerely,




Barnaby Zall
Counsel

cc: Jack Rimmele, Chairman
att: Designation of Counsel

STATEMENT OF DESIGNATION OF COUNSELMDR 4951NAME OF COUNSEL: Barnaby W. ZallADDRESS: 7018 Tilden Lane
Rockville, MD 20852TELEPHONE: 301-231-6943

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

2/25/00
Date
Signature JOHN F. RIMMELE
Chairman for Americans for Economic
Growth, Inc.RESPONDENT'S NAME: Americans for Economic Growth, Inc.ADDRESS: 103 Adler Lane
Cary, NC 27511

HOME PHONE:

BUSINESS PHONE: 919-481-6830