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VIA FACSIMILE AND OVERNIGHT DELIVERY

Jeff S. Jordan
Federal Election Commission
Office of the General Counsel
999 E. Street, NW
Washington, D.C. 20463

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OFFICE OF THE GENERAL COUNSEL
FEDERAL ELECTION COMMISSION

Re: MUR 6620 – Response of Olivet Nazarene University, Dr. Woody Webb, and Dr. Dennis Crocker to Complaint filed by James Taylor, Sr.

Dear Mr. Jordan:

This letter presents the response of Olivet Nazarene University (“University”), Dr. Walter (“Woody”) Webb, and Dr. Dennis Crocker (collectively, “Respondents”) to the complaint filed by James Taylor Sr. (“Taylor”) in the above-referenced matter. Pursuant to Frankie D. Hampton’s letters of August 21 and 29, 2012, the Federal Election Commission granted Respondents until September 11, 2012 to respond to the complaint. As explained below, the Respondents did not violate the Federal Election Campaign Act of 1971 (or any other federal election campaign law) in connection with the political campaign activities of former University faculty member Brian Woodworth. Accordingly, this matter should be dismissed.

I. Background

Olivet Nazarene University is a private, post-secondary educational institution located in Bourbonnais, Illinois. The University is a 501(c)(3) non-profit organization that serves a student body of more than 4,600 undergraduate and graduate students. Dr. Woody Webb is the University’s Vice President for Student Development. Dr. Dennis Crocker is the Dean of the University’s School of Professional Studies. Until August 1, 2012, Brian Woodworth was a faculty member in the University’s Department of Social Work and Criminal Justice, one of the departments within the University’s School of Professional Studies. To the University’s knowledge, Taylor has no connection with the University, but Taylor was Mr. Woodworth’s opponent in the Republican congressional primary election that took place in March of 2012.

II. Taylor’s Complaint

In his complaint, Taylor alleges that the University granted internship credits to students in exchange for gathering petition signatures for Mr. Woodworth’s primary campaign. More



specifically, Taylor alleges that Drs. Webb and Crocker encouraged students to gather signatures for Mr. Woodworth's campaign in exchange for internship credit. Taylor also attaches to his complaint documents relating to an article regarding Mr. Woodworth's primary campaign that was published in the University's student-run newspaper, the *GlimmerGlass*.

As demonstrated below, the University (including Drs. Webb and Crocker) did not grant internship credit to any students in exchange for gathering signatures for Mr. Woodworth's campaign. Neither Dr. Webb nor Dr. Crocker (nor any other University representative) encouraged or required students to perform work for Mr. Woodworth's campaign. The University did not support (or oppose) Mr. Woodworth's candidacy – or otherwise participate in Mr. Woodworth's campaign – either through its student newspaper or by any other means. Nor did the University otherwise support (or oppose) Mr. Woodworth's candidacy or the candidacy of any other candidate for office.

III. Applicable Law

Section 501(c)(3) of the Internal Revenue Code, which is part of the federal election campaign laws, provides that “[a]n organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it: (i) To devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise; or (ii) Directly or indirectly to participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office [...]” I.R.C. § 501(c)(3).

The Internal Revenue Service (“IRS”) has issued revenue rulings interpreting Section 501(c)(3) that address the very issues that Taylor raises in his complaint. For instance, the IRS has specifically ruled that educational institutions do not run afoul of Section 501(c)(3) merely by awarding credit for participation in political campaigns or permitting a student newspaper to publish articles about political campaigns. Indeed, in Revenue Ruling 72-512, 1972-2 C.B. 246, the IRS ruled that a university was “not participating in political campaigns within the meaning of section 501(c)(3) of the Code by providing a political science course that requires the students’ participation in political campaigns of candidates of their choice.” (See Exhibit A.) The IRS further determined that such a course requirement was permissible so long as the university did not “influence the student in his choice of a candidate or control his campaign work.” (*Id.*)

Similarly, in Revenue Ruling 72-513, 1972-2 C.B. 246, the IRS ruled that a university does not attempt to influence legislation or participate in political campaigns within the meaning of Section 501(c)(3) when it “furnishes physical facilities and faculty advisors in connection with the operation of a student newspaper” and its students express political views through the newspaper. (See Exhibit B.) As discussed below, the actions of the Respondents were consistent with these Revenue Rulings and did not violate Section 501(c)(3) or any other aspect of the federal election campaign laws.

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IV. Response to Allegations Against the University

No students received course credit for gathering signatures for Mr. Woodworth's campaign. (See August 21, 2012 Affidavit of Jim Knight, attached hereto as Exhibit C.)¹ In addition, the University's Director of Business and Human Resources, David Pickering, specifically instructed Mr. Woodworth not to collect signatures on campus in connection with his (Mr. Woodworth's) efforts to be placed on the ballot for the March 2012 Republican primary because doing so was not permitted under the University's policy on solicitation and distribution. (See e-mail exchange from December, 2011, attached hereto as Exhibit D.) Any University students who may have helped Mr. Woodworth gather signatures for his primary campaign did so on their own and without the University's support, encouragement, or involvement.

With regard to student internship credit, like many higher education institutions, the University offers its students the opportunity to earn course credits for certain volunteer or internship activities through a "directed study." A directed study course is a self-designed course in which a student may pursue a topic of interest that is not available through a regularly offered course. Directed study courses take many forms, and during the 2011-2012 academic year, students received directed study credit for a wide range of activities. All requests for directed study credit must be approved by a University faculty member and be processed through the University's Office of the Registrar, which reviews and approves applications for directed study credit. (See Supplemental Affidavit of Jim Knight, attached hereto as Exhibit E.)

During the spring 2012 term, one student received directed study course credit toward a Political Science minor for an internship that she completed with Mr. Woodworth's campaign. That student's internship entailed drafting press releases and other campaign materials. (See Directed Study Materials attached hereto as Exhibit F.)² The Political Science faculty member who approved this student's proposal, Dr. David Claborn, did not encourage students to volunteer for Mr. Woodworth's campaign in particular. In fact, Dr. Claborn consistently informed interested students that they could volunteer for any candidate, including Taylor. (See Affidavit of David Claborn, attached hereto as Exhibit G.) Other Political Science students have earned directed study credit for completing similar internships. For example, in the fall 2009 term, another student received directed study credit for an internship with the office of then-Representative Dabbie Halvorson (a Democrat). This other student's internship with Representative Halvorson entailed, among other things, drafting letters to constituents. (See Directed Study Materials attached hereto as Exhibit H.)

The circumstances that led to the awarding of directed study credit to the student who worked on Mr. Woodworth's campaign were entirely consistent with Section 501(c)(3) and Revenue Ruling 72-513, 1972-2 C.B. 246 because the University did not take any action to

¹ Undersigned counsel has been advised that Mr. Woodworth prepared the affidavit attached as Exhibit C and asked Dr. Knight to sign it without informing Dr. Webb, Dr. Crocker, or any other member of the University's senior administration.

² All personally identifiable information has been redacted from Exhibits F, H, and K to ensure compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

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influence the student's selection of a directed study or the student's decision to work for a particular candidate. University students could have sought directed study credit for working on Taylor's campaign or on any other political campaign. The fact that a University student opted on her own to work on Mr. Woodworth's campaign cannot support a finding that the University did anything inconsistent with the federal election campaign laws.

Nor did the University violate the federal election campaign laws by publishing or distributing any statements in support of (or in opposition to) Mr. Woodworth's candidacy. Indeed, the University was careful to correct any statements in the student-run newspaper that possibly could have been misperceived as suggesting that the University was somehow supporting Mr. Woodworth's candidacy. For example, after the *GlimmerGlass* published the student-authored article attached to Taylor's complaint regarding Mr. Woodworth's primary campaign, the University requested that the student newspaper print a statement clarifying that the University was in no way endorsing or supporting Mr. Woodworth's candidacy.

This clarifying statement read as follows: "Some have interpreted a previous *GlimmerGlass* story to suggest that the University has endorsed Professor Brian Woodworth's candidacy for Congress. As a 501(c)(3) not-for-profit entity, the University is prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office." (See "Clarification" at page 2 of the March 18, 2012 issue of the *GlimmerGlass*, attached hereto as Exhibit I.) This statement confirmed that the University did not support (or oppose) the candidacy of Mr. Woodworth or that of any other individual. Moreover, pursuant to Revenue Ruling 72-513, 1972-2 C.B. 246, the student views expressed in the initial *GlimmerGlass* article regarding Mr. Woodworth's candidacy should not be attributed to the University in any event. In sum, the statements appearing in the *GlimmerGlass* article attached to Taylor's complaint also cannot support a finding that the University violated any federal campaign finance law.

Contrary to Taylor's allegations, the University was careful at every step of the way to make clear what is indisputably true: the University did not participate in or intervene in Mr. Woodworth's campaign or the campaign of any other candidate for office. The allegations against the University are wholly without merit. As a result, the University respectfully requests that the complaint against it be dismissed.

V. Response to Allegations Regarding Drs. Webb and Crocker

Contrary to the allegations in Taylor's complaint, neither Dr. Webb nor Dr. Crocker encouraged students to support (or oppose) Mr. Woodworth's candidacy, either by arranging for students to receive "college intern credits" in exchange for "getting individuals to sign Mr. Woodworth's election petitions" or by other means. As explained above, no students received internship or directed study credit for gathering signatures for Mr. Woodworth's campaign. Furthermore, as head student affairs administrator, Dr. Webb is not a member of the faculty, and he does not have the authority to arrange for or approve directed study credit for students. (See Affidavit of Walter Webb, attached hereto as Exhibit J.) Moreover, Dr. Webb sent an e-mail to the University's political science student group (known as "The Capitol Gang") reminding them

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that the University was prohibited from supporting or opposing any political candidate and that the student group should conduct its activities accordingly. (See March 16, 2012 e-mail from Dr. Webb, attached hereto as Exhibit K.)

Similarly, Dr. Crocker did not arrange for any student to receive internship or directed study credit for working on Mr. Woodworth's campaign. (See Affidavit of Dennis Crocker, attached hereto as Exhibit L.) Dr. Crocker also reminded Mr. Woodworth in writing that the University could not support his candidacy. (See February 15, 2012 e-mail from Dr. Crocker, attached hereto as Exhibit M.) In sum, neither Dr. Webb nor Dr. Crocker took any action in support of (or in opposition to) Mr. Woodworth's candidacy. Because Drs. Webb and Crocker did not participate in or intervene in Mr. Woodworth's campaign (or that of any other candidate), the complaints against them should be dismissed as well.

VI. Conclusion

For the reasons set forth above, there is no evidence demonstrating that Olivet Nazarene University, Dr. Webb, or Dr. Crocker violated any federal election campaign laws in connection with former University faculty member Brian Woodworth's campaign. As a result, the Commission should find no reason to believe that a violation of the federal election campaign laws has occurred and dismiss this matter. If you have any questions or require any additional information to conclude the Commission's investigation of this matter, please let me know.

Sincerely,

Scott L. Warner

Enclosures (Exs. A-M)

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A

Rev. Rul. 72-512, 1972-2 C.B. 246

A university is not participating in political campaigns within the meaning of section 501(c)(3) of the Code by providing a political science course that requires the students' participation in political campaigns of candidates of their choice.

Advice has been requested whether, in the circumstances described below, an organization has participated in political campaigns on behalf of candidates for public office within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954.

The organization is a university exempt from Federal income tax as an educational organization described in section 501(c)(3) of the Code. As part of its political science program, it provides a credit course to acquaint students with the basic techniques of effective participation in the electoral system. Any student may register in the course. The student participates in several weeks of classroom work to learn about political campaign methods, then he is excused from classes for two weeks to participate in the political campaign of a candidate of his choice. After the election, the student must show by means of a log that he has spent between 60 and 80 hours on campaign work and must write a paper evaluating his experiences.

The university does not influence the student in his choice of a candidate or control his campaign work. The university is reimbursed or paid for any services or facilities provided to the students for use in connection with the campaigns.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations that are organized and operated exclusively for educational purposes and that do not participate in any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1(d)(3) of the regulations defines the term 'educational' as including the instruction or training of the individual for the purpose of improving or developing his capabilities.

The course described above is exclusively educational in nature since it is provided as part of the university's political science program solely for the purpose of improving or developing the student's knowledge and skills.

The student activities in question represent a bona fide course of conduct in fulfillment of a formal course of instruction conducted by the university. Where the extent and manner of student participation in the actual political process in such cases is reasonably germane to the course of instruction, the fact that such course is a part of the university's curriculum and that university personnel and facilities are employed in its conduct does not make the university a party to the expression or

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dissemination of political views of the individual students in the course of their actual campaign activities within the intendment of section 501(c)(3).

Accordingly, it is held that this university is not participating in political campaigns on behalf of candidates for public office within the meaning of section 501(c)(3) of the Code.

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Rev. Rul. 72-513, 1972-2 C.B. 246

The provision of facilities and faculty advisors for a campus newspaper that publishes the students' editorial opinions on political and legislative matters does not constitute an attempt by the university to influence legislation or participate in political campaigns.

Advice has been requested whether, in the circumstances described below, an organization has attempted to influence legislation and participated in political campaigns on behalf of candidates for public office within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954.

The organization is a university exempt from Federal income tax as an educational organization described in section 501(c)(3) of the Code. The university provides office space and financial support for the publication of a daily student newspaper. The newspaper provides training for students in various aspects of publishing, editing, and managing a daily newspaper, including coverage of political news and the preparation of editorial comments. Distribution of the newspaper is limited primarily to students of the university.

The university makes available several of its professors to serve as advisors to the newspaper staff. The editors and other staff members of the newspaper are students of the university. Editorial policy is determined by a majority vote of the student editors. Neither the university administration nor the advisors exercise any control or direction over the newspaper's editorial policy. A statement on the editorial pages makes it clear the views expressed are those of the student editors and not of the university. In customary journalistic manner, from time to time there are editorials taking a position on pending or proposed legislation and candidates for political office.

Section 501(c)(3) of the Code provides that an organization exempt under its provisions is one that is organized and operated exclusively for educational purposes, no substantial part of the activities of which is attempting to influence legislation, and which does not participate in any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1(d)(3) of the regulations defines the term 'educational' as including the instruction or training of the individual for the purpose of improving or developing his capabilities.

The processes of gathering news, doing research, analyzing data, writing, and editing material for the newspaper on any subject (including political and legislative matters) further the education of the students on the newspaper staff by improving and developing their knowledge and skills.

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Student newspapers of the type involved have long been an established feature of university operation and have long been accepted as not only an integral part of the university life of students and faculty but also an extension of the formal instructional process itself. The expression of editorial opinion on political and legislative matters in the manner described is likewise a commonly accepted feature of legitimate journalism, and would accordingly appear to be an accepted feature of legitimate student newspapers.

The publication and dissemination of the editorial statements in question are acts and expressions of opinion by students occurring in the course of bona fide participation in academic programs and academic-related functions of the educational institution. In such circumstances, the fact that the university furnishes physical facilities and faculty advisors in connection with the operation of the student newspaper does not make the expression of political views by the students in the publishing of the newspaper the acts of the university within the intentment of section 501(c)(3) of the Code. Cf., Rev. Rul. 72-512, page 246.

Accordingly, it is held that this university has not attempted to influence legislation or participated in political campaigns on behalf of candidates for public office within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954.

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ABOUT GLIMMERGLASS

The *GlimmerGlass* is the official newspaper of the Associated Students of Olivet Nazarene University and a member of the Illinois College Press Association. The opinions expressed in the *GlimmerGlass* are those of each writer and are not necessarily held by the Associated Students Council, faculty, administration or students of Olivet Nazarene University.

Until 1941, the university newspaper was known simply as *Olivet News*. Former adviser Walter Stapples proposed the name *GlimmerGlass* after visiting upstate New York, where the discolored lake with the same name. The lake was as clear as glass and "glimmered" in the sun. The newspaper staff adopted the name in spring of 1941, with the vision that it would symbolize the paper's mission to reflect the truth and the values of Olivet Nazarene University.

LETTER SUBMISSION

The *GlimmerGlass* encourages readers to respond through letters to the editor. For publication, letters must be signed and sent to the *GlimmerGlass* at campus box 6024 or e-mailed to glimmerglass@olivet.edu. The editor reserves the right to edit letters for content, style and length. Publication is not guaranteed. Further inquiries may be addressed by mailing the *GlimmerGlass* office at campus extension 5315.

A GLOBAL GLIMPSE



GRAPHIC BY STEPHANIE WILLIAMS

Chicago,
ILLINOIS

The family of a young dance instructor who was killed when a train crashed into her car at a University Park crossing, where the warning signals had been turned off, won a \$6 million settlement, according to the family's lawyer.

Katie Ann Lynn, 28, was driving over the tracks near Governors Highway and Stuenkel Road on April 16, 2010, when an Amtrak train traveling 79 mph collided into her SUV, investigators said.

A probe found that the warning signals had been deactivated by maintenance workers. More information is still being investigated.

-Chicago Tribune

Salt Lake City,
UTAH

Hill Air Force Base in Utah faces millions of dollars in fines for cleaning 60 pounds of leaked mercury with vacuums and storing the hazardous waste in unsafe containers for years.

The Utah Division of Solid and Hazardous Waste has given base officials a notice of violation for the 2007 mercury spill. The agency said the main problem with the spill was handled by untrained workers and stored in plastic containers.

Division Director Scott Anderson said the maximum fine is \$13,000 per day. That could potentially mean a fine of more than \$10 million.

-The Washington Post

New York City,
NEW YORK

A Goldman Sachs executive resigned last week in a very public manner. Greg Smith called the firm "toxic" and disrespectful of its clients in a piece published in last Wednesday's *New York Times*.

"I can honestly say that the environment now is so toxic and destructive as I have ever seen it," wrote Greg Smith on his last day at Goldman Sachs.

In a memo sent to employees, Goldman CEO Lloyd Blankfein and Chief Operating Officer Gary Cohn said they were "disappointed to read the assertions made by this individual that do not reflect our values."

-Associated Press

Koro,
UGANDA

One of the abducted boys forced to serve in the Kony child army, led by infamous warlord Joseph Kony, is now a man and says the time for justice has arrived.

Jacob Acaze, now 21, revisited the village where he was abducted by Kony's Lord's Resistance Army to tell why Kony's crimes should not be forgotten.

The story has troubled millions worldwide since it was featured in "Kony 2012," a video from the Invisible Children charity. It has created a global online buzz and renewed public interest in capturing Kony.

-CNN

Kabul,
AFGHANISTAN

During a visit to Afghanistan by Defense Secretary Leon E. Panetta, a stolen truck sped onto a runway ramp at the British military airfield as his plane was landing.

Panetta was not hurt, but Pentagon officials said the Afghan driver emerged from the vehicle in flames and was pronounced dead shortly after.

No explosives were found on the Afghan national or in the truck, the officials said.

So far, the Pentagon has not considered the episode an attack on Panetta, but the incident reinforced the lack of security in Afghanistan.

-The New York Times

Philosophy club emerges as extension of Capitol Hill Gang

Jenny White
Assistant News Editor

Capitol Hill Gang (CHG) recently created The Academy, a philosophical club that is an extension of Capitol Hill Gang.

The name was taken from an ONU club from about 10 years ago, said sophomore Academy member Logan Long.

The Academy was primarily re-established for members of CHG that are interested in philosophy, and seeks to address the philosophical nature of politics. Current CHG members Ryan Dykhous, Matt Van Dyke, Matt Logan, Rick Briggs and Logan Long spearheaded the group.

The members believe it will be easy to gain membership and vi-

ability since The Academy is not a new club, but rather an extension of CHG.

"We wanted to teach people how to formulate an argument, to think linearly and to value deep thinking."

"[Reaching The Academy through CHG] solves the problems that tend to kill philosophy clubs," Long said. "It was relatively painless to start up, since technically we are a branch of CHG and not just a new club."

The purpose of the club is to broaden the way individuals view

aspects of the world, according to Academy member Matt Logan.

"We wanted to teach people how to formulate an argument, to think linearly and to value deep thinking," Long said.

Issues of free will and determinism were discussed at the first meeting, which took place Tuesday, Feb. 28. The meeting was considered by members to be successful.

"We recognized that reality influences one's psychological state of mind and limits the ability to make use of one's freedom," member Rick Briggs said.

Because the nature of free will is so complex, members plan to continue the discussion in the weeks to come.

"There has been much philo-

sophical debate about what free will actually is throughout history, which is largely why the problem of free will is rather unresolved still," Long said.

Anyone is invited to attend the meetings which take place every Tuesday at 9 p.m. in Burke 307.

Clarification: Some have interpreted a previous *GlimmerGlass* story to suggest that the University has endorsed Professor Brian Winchworth's candidacy for Congress. As a 501 (c)(3) not-for-profit entity, the University is prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.