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October 14, 2010

Joseph E. La Rue, Esq. (*via email and regular mail*)
Bopp, Coleson & Bostrom
The National Building
1 South Sixth Street
Terre Haute, Indiana 47807-3510

**Re: Steve Driehaus v. Susan B. Anthony List
Ohio Elections Commission Cases 2010-E-084 and 096**

Dear Joe:

As promised, we have given thought to the depositions and other discovery we would like to conduct and wanted to apprise you of it as quickly as possible.

First, pursuant to Commission regulations, we ask that you produce the following Susan B. Anthony List employees for depositions (to be followed up with formal notices of depositions):

Marjorie Dannenfelser
Susan B. Anthony List
1707 L Street NW, Suite 750
Washington, DC 20036
Phone: (202) 223-8073

Marilyn Musgrave
Susan B. Anthony List
1707 L Street NW, Suite 750
Washington, DC 20036
Phone: (202) 223-8073

Emily Buchanan
Susan B. Anthony List
1707 L Street NW, Suite 750
Washington, DC 20036
Phone: (202) 223-8073

Because of the Commission's short time window within which we may conduct discovery, we propose conducting these depositions (and those listed below) on October 21, 2010 and October

22, 2010 at the offices of Cohen Milstein, 1100 New York Avenue, NW, Suite 500 West, Washington, D.C., 20005. To accommodate the Commission's expedited schedule, we further propose to double-track these depositions. If you will produce these witnesses on such date, we would in all likelihood include a "duces tecum" attachment with the notice.

Second, given that you proffered their affidavits with your Answer, we request that you assist in arranging the following additional individuals for depositions on the same dates:

Douglas D. Johnson
National Right to Life Committee
512 10th Street, NW
Washington, D.C. 20004
Phone: (202) 626-8800

Thomas McClusky
Family Research Council
801 G Street, NW
Washington, D.C. 20001
Phone: (800) 225-4008

If you are able to arrange these depositions as requested, we in all likelihood would cover the witnesses with subpoenas, again with a "duces tecum" attachment.

Third, because with your Answer you submitted materials generated by the United States Conference of Catholic Bishops, we would like to depose the following individual on one of the above dates:

Jayd Hendricks
United States Conference
of Catholic Bishops
3211 4th Street, NE
Washington, D.C. 20017
Phone: (202) 541-3300

Please let us know if you can facilitate his presence at a deposition.

We are also attaching Complainant's First Request for Production of Documents, also tailored to the anticipated short timeframe.

Finally, per the Ohio Rules, we have a mutual obligation to disclose to one another the witnesses we anticipate calling in our respective cases-in-chief. We understand that it may yet be too early to precisely designate these witnesses, but we propose exchanging witness lists on or before Wednesday, October 20, 2010. Please let us know if you are agreeable to this proposal. Also, please let us know what depositions you would like to take as soon as you know and we will make every effort to make our witnesses available.


Thanks for your assistance and courtesy, Joe.

Very truly yours,

WAITE, SCHNEIDER, BAYLESS
& CHESLEY CO., L.P.A.



Paul M. De Marco



Christopher D. Stock

OHIO ELECTIONS COMMISSION

STEVE DRIEHAUS	:
	:
Complainant,	:
	:
v.	: Case Nos. 2010-E-084, 2010-E-096
	:
SUSAN B. ANTHONY LIST	:
	:
Respondent.	:
	:

COMPLAINANT’S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Ohio Administrative Code § 3517-1-09(A), Complainant Congressman Steve Driehaus (“Complainant”) requests that Respondent Susan B. Anthony List (“Respondent”) produce all documents set forth in the following Request for Production of Documents. Due to the expedited nature of the proceedings herein, copies of the documents requested shall be produced at the offices of Complainant’s attorney on or before 12:00 pm, Tuesday, October 19, 2010. Complainant reserves the right to serve additional or supplemental discovery requests.

DEFINITIONS

1. “Commission” means the Ohio Elections Commission.
2. “Communication” means the transmission of information orally, in writing, electronically, or in some other form and includes correspondence, exchanges of written or record information, face-to-face meetings, and electronic, facsimile or telephone communications.
3. “Document” and “documents” have the broadest sense that Rule 34 of the Ohio Rules of Civil Procedure allows and encompasses any draft, original and all non-identical copies (whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, or highlighting of any kind) of all writings including letters,

correspondence, memoranda, legal pleadings, calendars, diaries, travel records, summaries or other records of telephone conversations or interviews, telegrams, notes, reports, compilations, notebooks, work papers, graphs, charts, blueprints, books, pamphlets, brochures, circulars, manuals, instructions, ledgers, drawings, sketches, photographs, films and sound reproductions, sales literature, advertising literature, promotional literature, agreements or minutes of meetings.

4. "Document" and "documents" also include also include any type of electronic data, regardless of media used, format, or device employed to create, store or access the document, which means the original (or identical duplicate when the original is not available), and any non-identical copies (whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, or highlighting of any kind) of mechanical, facsimile, electronic, magnetic, digital, or other programs whether private or commercial, programming notes or instructions, activity listings of electronic mail receipts and/or transmittals, output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts, graphs, outlines, electronic mail, operating systems, source code of all types, PRF files, batch files, ASCII files, and any and all miscellaneous media on which they reside, and regardless of whether said electronic data exists in an active file, deleted file or file fragment. Electronic data includes any and all items stored on computer memories, hard disks, floppy disks, CD-ROM, Bernoulli Boxes and their equivalent, magnetic tape of all types, microfiche, punched cards, punched tape, computer chips including, but not limited to EPROM, PROM, RAM and ROM on or in any other vehicle for digital data storage and/or transmittal. The term electronic data also includes the file, folder tabs and/or containers and labels appended to or associated with, any physical storage device associated with each original and/or copy. The term electronic data also includes all Electronic

Bulletin Board Services and electronic mail (“E-mail”) including all levels of access, sub-boards and conferences and all information contained therein.

5. “Employee” means current and former officers, directors, executives, managers, sales personnel, secretaries, clerical staff, factory workers, messengers, or any other person employed by Respondent.

6. “Identify” or “identity,” when referring to a communication, means to state the date of the communication, its type (e.g., letter, telephone call, electronic mail computer message or face-to-face meeting), the identity and role of each participant, its place, the identity of each document constituting or reflecting the communication, and the substance of the communication in detail.

7. “Identify” or “identity,” when referring to a document (including drafts), means to state its title, its date, its author, the persons to whom it was directed (including “cc” and “bcc” recipients), the type of document (e.g., letter, memorandum, chart, etc.), and its principal topics. If any such document is no longer in your possession or subject to your control, state what disposition was made of it, and identify its current location, including the location of each copy, and identify the persons with possession or custody.

8. “Identify” or “identity,” when referring to a meeting, means to state the identity of the persons in attendance, the date and place of the meeting, the organizer or sponsor of the meeting and the substance in detail of every responsive communication occurring at or in connection with the meeting.

9. “Identify” or “identity,” when referring to a natural person, a corporation or other entity (whether connected with a description of documents or otherwise) means to set forth a name and if a corporation or other entity, its principal place of business or if an individual, the

present or last known home address and telephone number, job title and employer, address of employment at the times in question, and the present or last known employer and business address and telephone number. With respect to former employees, officers, directors or agents, please state the last known address.

10. "Identify" or "identity," when referring to an understanding, agreement, pattern, practice or scheme, means to state the identity of the participants and all persons with knowledge; when it was entered into; and its terms; and to identify all documents relating thereto.

11. "Meeting" means any assembly, convocation, encounter, or contemporaneous presence of two or more persons for any purpose, whether planned, arranged, scheduled or not; and whether face-to-face, by telephone, or other means of communication.

12. "Or" is used in its inclusive sense, as an equivalent to "and/or."

13. "PPACA" means the Patient Protection and Affordable Care Act.

14. "Person" means any natural person, corporation, partnership, proprietorship, joint venture, association, governmental entity (including, without limitation, any governmental agency or political subdivision of any government), any group or any other form of public or private business or legal entity.

15. "Relating to," "regarding," or "concerning" means refer to, discuss, describe, reflect, deal with, pertain to, analyze, evaluate, estimate, constitute, study, survey, project, assess, record, summarize, criticize, report, comment, or otherwise involve, in whole or in part.

TIME PERIOD

Except where otherwise indicated, these document requests cover the time period from January 1, 2009 through October 19, 2010, and the term "time period" refers to that span of time.

To the extent that a response to a particular document request differs from one part of the time period to another, specify the part of the time period for which each part of the document is applicable.

INSTRUCTIONS

1. These document requests shall be deemed to be continuing in nature so that if defendant, its directors, officers, employees, agents, representatives, or any person acting or purporting to act on behalf of Defendant discover any document previously requested or required to be produced, defendant shall make such document available. Such document shall be served on Complainant's counsel within three days after its discovery. The date the document came into Respondent's possession shall be specified as well as the identity of the person who furnished the document, along with a description of the circumstances and explanation as to why the document was not furnished at the time of the original request.

2. Please produce documents in such fashion as to identify the department, branch or office in whose possession it was located and, where applicable, the natural person in whose possession it was found and the business address of each document's custodian(s).

3. Please produce documents in the same order in which they are kept in the ordinary course of business along with the files, folders, containers or labels associated with such documents.

4. In responding to these requests, please specifically respond to each request, produce documents separately, and designate the Document Request(s) to which each document responds. **The response should indicate the Bates number of the documents that are responsive to the particular Document Request, so that counsel can determine which documents are responsive to each Document Request.**

5. All electronic documents shall be produced in their original electronic form on a CD with all metadata intact.

6. In responding to these requests, you are to include documents (1) obtained from witnesses who gave information to any court, governmental agency or investigatory body; (2) that constitute, refer to or relate to summaries of testimony or other statement in connection with any court, governmental agency or investigatory body proceedings or investigations; or (3) obtained on your behalf by counsel in preparing for testimony or interviews before any court, governmental agency or investigating body.

7. Unless otherwise indicated, the documents to be produced include all documents prepared, sent, dated or received, or those which otherwise came into existence any time during the time period.

8. If you claim any privilege for any document, please provide a detailed privilege log that contains at least the following information for each document that you have withheld:

- a. the date of the document and any different date when it was prepared;
- b. each author of the document;
- c. each person who prepared or participated in the preparation of the document;
- d. each person who received the document;
- e. each person to whom the document or a copy thereof was sent and each actual recipient of the document or a copy thereof;
- f. the present location of the document and all copies thereof;
- g. each person having custody or control of the document and all copies thereof;
- h. the subject matter of the document;
- i. the medium of the document (*e.g.*, paper or electronic), the type of

document (e.g., letter, memorandum, presentation), the length of the document, as well as the existence of any attachments, if they are also being withheld under a claim of privilege;

- j the specific privilege asserted or other particular reason you rely upon for not producing the document or information; and
- k sufficient further information concerning the document and the circumstances thereof to explain the claim of privilege and to permit the Court to adjudicate the validity of your claim.

9. Notwithstanding the assertion of any objection to production based on a claim of privilege, any document to which an objection is raised containing non-objectionable matter which is relevant and material to a request must be produced, but that portion of the document for which the objection is asserted may be withheld or redacted provided that the above-requested identification is furnished.

10. Each document requested herein is requested to be produced in its entirety and without deletion or excisions, regardless of whether you consider the entire document to be relevant or responsive to these requests. If you have redacted any portion of a document, you should stamp the word "redacted" on each page of the document which you have redacted. Redactions should be indicated on the Privilege Log.

11. If any document described in this request was, but no longer is, in your possession, or subject to your custody or control, or in existence, state whether:

- a. it is missing or lost;
- b. it has been destroyed;
- c. it has been transferred, voluntarily or involuntarily, to others; or
- d. it has been disposed of otherwise.

In each instance, explain the circumstances surrounding such disposition and identify the person(s) directing or authorizing same, and the date(s) thereof. Identify each document by

listing its author, his or her address, type (e.g., letter, memorandum, telegrams, chart, photograph, etc.), date, subject matter, present location(s) and custodian(s), and state whether the document (or copies) are still in existence.

12. With respect to any category of documents, the production of which you contend is in some way burdensome or oppressive, state the specific reasons for the objection.

13. If you fail to respond to any document request based on the claim that the document requested has been destroyed or otherwise discarded, identify that document and explain the circumstances which led to the destruction or discarding.

REQUESTS TO PRODUCE

1. Please produce all documents, testimony, affidavits, information or other evidence Respondent will introduce, or otherwise rely on, at the full Commission hearing to support its claim that the following statement did not violate R.C. §§ 3517.21(B)(9) and (10): “Shame on Steve Driehaus! Driehaus voted FOR taxpayer-funded abortion.”

2. Please produce all documents, testimony, affidavits, information or other evidence Respondent will introduce, or otherwise rely on, at the full Commission hearing to support its claim that the following statement did not violate R.C. §§ 3517.21(B)(9) and (10): Congressman Driehaus “voted for a health care bill that includes taxpayer-funded abortion....”

3. Please produce all documents, testimony, affidavits, information or other evidence Respondent will introduce, or otherwise rely on, at the full Commission hearing to support its claim that the following statement did not violate R.C. §§ 3517.21(B)(9) and (10): “It is a fact that Steve Driehaus has voted for a bill that includes taxpayer funding of abortion.”

4. Please produce all documents, testimony, affidavits, information or other evidence Respondent will introduce, or otherwise rely on, at the full Commission hearing to support its

claim that the following statement did not violate R.C. §§ 3517.21(B)(9) and (10): Congressman Driehaus “ordered Lamar Companies not to put up billboards until the matter was settled by the Ohio Elections Commission...”

5. Please produce all documents, testimony, memoranda, affidavits, information or other evidence in Respondent’s possession, *regardless of whether* it will introduce, or otherwise rely on, them at the full Commission hearing that, in any way, relate to Respondent’s claim that the PPACA includes provisions for federal funding of abortions.

6. Please produce all documents, communication (including all letters, e-mails, voice mails, memoranda, notes, and/or other recordings of communication either internally or with any other person or party (other than Respondent’s counsel)), testimony, memoranda, affidavits, information or other evidence in Respondent’s possession that, in any way, relate to Steve Driehaus, including, but not limited to, his congressional campaign, his voting record, his personal dealings, his party affiliation, his position on health care reform and/or the PPACA, and/or his past public statements.

7. Please produce all letters, e-mails, voice mails, memoranda, notes, recordings, or other communication between Respondent and the United States Conference of Catholic Bishops or any of its members, directors, employees, officers or other affiliates that relate to health care reform legislation and/or the PPACA.

8. Please produce all letters, e-mails, voice mails, memoranda, notes, recordings, or other communication between Respondent and the Family Research Council or any of its members, directors, employees, officers or other affiliates that relate to health care reform legislation and/or PPACA.

9. Please produce all letters, e-mails, voice mails, memoranda, notes, recordings, or other communication between Respondent and the National Right to Life Committee or any of its members, directors, employees, officers or other affiliates that relate to health care reform legislation and/or the PPACA.

10. Please produce all letters, e-mails, voice mails, memoranda, notes, recordings, or other communication between Respondent and any member of Congress or any of their congressional staff members, campaign staff members or other individuals otherwise affiliated with such members that relate to health care reform legislation and/or the PPACA.

11. Please produce all letters, e-mails, voice mails, memoranda, notes, recordings, or other communication between Respondent and any employee of the Obama Administration or any other employee, director or other individual otherwise affiliated with the Executive Branch (including any Executive Agency) that relate to health care reform legislation and/or the PPACA.

12. Please produce all letters, e-mails, voice mails, memoranda, notes, recordings, or other communication between Respondent and the Republican National Committee or any of its members, directors, employees, officers or other affiliates that relate to health care reform legislation and/or the PPACA.

13. Please produce all letters, e-mails, voice mails, memoranda, notes, recordings, or other communication between Respondent and the Ohio Republican Party or any of its members, directors, employees, officers or other affiliates that relate to health care reform legislation and/or the PPACA.

14. Please produce all letters, e-mails, voice mails, memoranda, notes, recordings, or other communication between Respondent and the Republican House Campaign Committee or

any of its members, directors, employees, officers or other affiliates that relate to health care reform legislation and/or the PPACA.

15. Please produce all letters, e-mails, voice mails, memoranda, notes, recordings, or other communication between Respondent and FactCheck.org or any of its members, directors, employees, officers or other affiliates that relate to health care reform legislation and/or the PPACA.

16. Please produce all documents, communication (including all letters, e-mails, voice mails, memoranda, notes, and/or other recordings of communication either internally or with any other person or party (other than Respondent's counsel)), testimony, memoranda, affidavits, information or other evidence in Respondent's possession that, in any way, relate to Steve Chabot, including, but not limited to, his congressional campaign, his voting record, his personal dealings, his party affiliation, and/or his past public statements.

Respectfully submitted,

/s Paul M. De Marco
Paul M. De Marco (0041153)
Christopher D. Stock (0075443)
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Telephone: (513) 621-0267
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***Counsel for Complainant
Congressman Steve Driehaus***

CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading was served October 14, 2010 via electronic mail and October 15, 2010 regular U.S. Mail on

Joseph E. La Rue, Esq.
Bopp, Coleson & Bostrom
The National Building
1 South Sixth Street
Terre Haute, Indiana 47807-3510

/s Paul M. De Marco
Paul M. De Marco (0041153)