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October 4, 2012

Joint Commission on Public Ethics
540 Broadway
Albany, NY 12207

Attention: Shari Calnero, Associate Counsel

Via email and first class mail

Re: Proposed Rule Making

Ladies and Gentlemen:

We are writing to express our general support for the draft regulations adopted by the New York State Joint Commission on Public Ethics in July 2012 to implement Legislative Law Section 1-h(c)(4). The proposed regulations will implement the nation's first system of disclosure of funding sources for specified lobbying entities spending in excess of \$50,000 per year on lobbying expenditures.

The new regulations are meant to address concerns raised in the wake of influential public campaigns by newly-formed lobbying entities unrecognizable to the public meant to influence the legislative and lawmaking process. The goal of the new regulations, implemented under the provisions of the Public Integrity Act of 2011, is to end the practice of this "black box" lobbying in our state in order to give the public, the media and our policymakers a plain and clear understanding of who is backing such efforts. New York State has led the way forward for the rest of the nation on transparency and accountability in lobbying activities.

We raise one serious concern with the regulations as proposed and ask that this be corrected in the final regulations: the Public Integrity Reform Act of 2011, under which the regulations have been promulgated, allows lobbying organizations to apply for an exemption to the general rule requiring disclosure in circumstances where the lobbying organization demonstrates "by clear and convincing evidence that disclosure of the ...[source of funds] will cause harm, threats, harassment or reprisals to the [source] or individuals or property affiliated with the [source]". While there is little legislative history to draw upon in general, it is our understanding, as an organization that participated in discussions about the bill in the months leading up to its

adoption, that the process for exemptions was intended for the benefit of donors to lobbying campaigns that have in the past faced credible threats to their safety, such as donors to campaigns for the expansion of civil rights and liberties.

We would urge the Commission to clarify that disclosure is the rule, and that the granting of an exemption is to be the rare exception, for the sole purpose of precluding harassment, intimidation and other behaviors that constitute a credible threat to safety and security. There were instances of donors to campaigns for and against such laws having been subjected to intimidation and harassment in other states and the circumstances in which such exemptions from disclosure were granted in those instances should be the standard by which exemptions from disclosure are granted.

One of the factors enumerated in the regulations for granting an exemption is of particular concern by allowing the Commission to take into consideration "...the impact of disclosure on the ability of the Single Source or Client Filer to *maintain ordinary business operations and the extent of the resulting economic harm.*" (emphasis added) We note that this factor was not part of the statute passed in 2011, it has been added by the drafters of the regulations at the Commission. We urge its omission in the final regulations. It is clearly not part of the legislative history of the statute, is without real precedent and should be deleted. The passage of the Public Integrity Reform Act of 2011 amply demonstrates that the people of New York State believe that lobbying expenditures should be fully disclosed in a meaningful way. We strongly urge that for-profit businesses acting through trade associations and other entities not be allowed to cloak their lobbying expenditures by arguing that they face an economic boycott or shareholder disapproval if their identities are disclosed. Consumers in the United States have always voiced their concerns about corporate behavior by shunning the products of businesses whose policies and practices they feel are unethical, and good corporate managers understand the risk of economic boycott in a free marketplace. And shareholders have become increasingly vocal about their right to understand the attempts of corporate America to influence the policymaking process through political spending.

Some commentators have expressed concern about the regulations provision that donor disclosure shall begin with donations made on or after July 1, 2012. Though the language of the statute provides that the disclosure requirement take effect June 1, 2012, and ideally the Commission would have had all of the regulations governing donor disclosure in place before then, we believe the Commission's interpretation is reasonable under the circumstances and do not support any change to this provision. The donor disclosure provision is the first of its kind and this made the task of drafting the regulations by the Commission's staff, newly hired by a Commission constituted just a few months earlier, unique. Without clear guidance from the Commission in advance of the initial reporting period about the exact content of donor disclosure reports, there might have been confusion among lobbying organizations and inadvertent inaccuracies. The path chosen by the Commission, to require disclosure beginning with donations made on or after July 1, 2012, might result in the accumulation of some large donations in advance of the deadline, but the mandated periodic reporting of lobbying expenditures in the coming months will reveal which organizations, if any, have engaged in this practice. Establishing the reporting date close to the time of the issuance of the draft regulations

will help lobbying organizations ensure that they have collected all of the necessary information from their donors to file accurate reports.

As always, we wish the Commission well in its work and thank its members and staff for their efforts.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly Williams", written over a horizontal line.

Kelly Williams

Corporate General Counsel, on behalf of

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