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November 8, 2011

Certified Mail
Return Receipt Requested

CLIENT/MATTER NUMBER
101232-0101

Mr. Ron Bell
Internal Revenue Service
P.O. Box 2508—Room 4511
Cincinnati, OH 45201

Re: Exemption Application for True the Vote (EIN: 27-2860095)

Dear Mr. Bell:

This letter is in follow-up to our phone conversation of October 12, 2011. We discussed True the Vote (EIN: 27-2860095) (formerly known as KSP/True the Vote) (“**True the Vote**” or the “**Organization**”) and its Application for Recognition of Exemption under Section 501(c)(3) (IRS Form 1023).

True the Vote’s Exemption Application was submitted on or about July 15, 2010. On February 15, 2011, the Internal Revenue Service sent the Organization a request for more information (Letter 1312). On March 7, 2011, the Organization submitted responses to these questions to the Cincinnati IRS office. On March 8, 2011, the Organization furnished a Certificate of Correction (evidencing that recommended changes had been made to the Organization’s Certificate of Formation) to the Cincinnati office.

You have advised us that the Exemption Application has been pending in the Cincinnati office since that date and that the Exemption Application has been forwarded to the Washington, DC office for additional review. The Cincinnati office is waiting for a response from the Washington, DC office.

The purpose of this submission is to amplify and clarify information regarding the activities of True the Vote and to provide specific legal precedent and authority in support of the recognition of True the Vote’s charitable purposes in order to finalize and facilitate recognition of exempt status by the IRS. We kindly request that you forward a copy of this submission (as provided) to the appropriate person in the Washington, D.C. office.

After the last submission was made to the IRS, the Organization changed its name from “KSP/True the Vote” to simply “True the Vote”. The Certificate of Amendment to the Certificate of Formation is attached. This change was made only to simplify the Organization’s name and branding and does not reflect any changes in the purposes or activities of the Organization.

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Perjury Statement

The signed Perjury Statement executed by the Organization's President is attached to and incorporated into this submission.

Rationale for True the Vote

Fraudulent voting occurs in the United States, in spite of the U.S.'s historical leadership in democratic principles and established election procedures. In fact, on November 1, 2011, the FBI arrested and charged a group of individuals with election fraud."¹

In 2008, the U.S. Supreme Court acknowledged these problems with our electoral process in stating:

It remains true, however, that flagrant examples of such fraud in other parts of the country have been documented throughout this Nation's history by respected historians and journalists, that occasional examples have surfaced in recent years...that...demonstrate that not only is the risk of voter fraud real but that it could affect the outcome of a close election.²

There is significant evidence that voter fraud occurs in our country at a rate at odds with a first world democracy and that this fraud may have a significant effect on our elections:

- The Colorado Secretary of State stated in Congressional testimony that over 11,000 non-citizens registered to vote and at least 5,000 likely voted in a recent election.³
- New Mexico Secretary of State reported that a limited, preliminary check of registration rolls found 37 noncitizens had voted in previous elections.⁴
- The Milwaukee Police Department Special Investigations Unit found substantial evidence of voting by non-residents, double votes, voting by felons, and other irregularities.⁵

¹ "FBI arrests 8 in Florida for absentee ballot fraud." Available at http://www.redstate.com/soren_dayton/2011/11/01/fbi-arrests-8-in-florida-for-absentee-ballot-fraud/, accessed November 5, 2011.

² *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181 (2008).

³ Hans A. von Spakovsky, *Voter Photo Identification: Protecting the Security of Elections*, The Heritage Foundation, Legal Memorandum, No. 70, July 13, 2011, available at <http://www.heritage.org/Research/Reports/2011/07/Voter-Photo-Identification-Protecting-the-Security-of-Elections>, accessed November 5, 2011

⁴ *Id.*

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A primary reason for the existence of fraud is that the election system in America is understaffed and underfunded in virtually every locale across the country. Election “days” are now election “two months”, with the advent of early voting, mail-in voting, and other developments in recent years. Increased compliance requirements for distribution of overseas and military ballots further add to an already overburdened election administration system. Local and state governments are unable to meet the burden of providing an election system that is compliant with state and federal law as well as free from indicia of fraud or mismanagement.

Activities of True the Vote

True the Vote’s mission is to improve the integrity of the voting process in the United States. The Organization’s primary activity is to observe and promote better compliance with election law and procedures in order to ensure that voter fraud does not occur. True the Vote also seeks to educate the public about the current state of election law compliance and procedural inadequacies.

Recruiting and Training Election Workers. True the Vote trains individuals in election law and procedure. The Organization will recruit individuals and train them in the proper application of election laws, voting procedures, and fraud-spotting. The Organization will provide live training and will also build an informative and innovative training website. The Organization will also provide quick reference guides and instructional videos. The Organization’s training also covers the proper and legal way to challenge a voter’s credentials, if need be. The Organization’s materials are carefully vetted by election law experts and are strictly non-partisan and non-political.

Individuals trained by the Organization will either serve as election administration workers or as election observers. Individuals working as election administration workers on election day serve a local community’s election effort by being judges, clerks, and translators. These individuals are agents of the local government, are trained by local election administrators and must abide by instructions and procedures provided by the appropriate election officials. The Organization will not direct the activities of these individuals; rather, the Organization’s role is to recruit those willing to fill these positions, something that local election officials welcome. Additionally, the Organization helps to prepare and educate these individuals as to the importance of serving as election administration officials and the significant roles and the responsibilities of their service. With better training, these individuals will be more likely to agree to serve in this roles, to understand election procedures, and to assist local and state government election officials more efficiently and effectively.

For those who cannot or prefer not to serve as election administration officials, the Organization will also recruit and train volunteers to become election observers, whose responsibility is to observe compliance with applicable law during the voting process. While every

⁵ John Fund, Who Cares About Voter Fraud?, Wisconsin Policy Research Institute, March, 2009, available at <http://www.wpri.org/WIInterest/Vol18No1/Fund18.1.html>, accessed November 5, 2011.

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state law provides for third-party election observers, persons serving in that capacity have no official role or responsibility with regard to the administration of the election itself. Election observers' sole concern is to observe the process and to verify that the election process takes place in compliance with applicable election laws and procedures and to identify and report any potentially fraudulent or problematic activities. The Organization will coordinate with its election observers during the election process. Observers are trained in advance as to the proper law(s) and procedures and instructed never to interfere with the ongoing voting process, but instead to call and report to the Organization's election day voter integrity center(s) observation(s) of any voting irregularities or suspicious activity at their assigned polling locations.

The Organization's voter integrity center will be staffed with legal and election experts with a direct telephone link to state and local election administration officials. When an election observer reports something of note, the Organization's experts will then determine if the reported activity warrants further investigation. If so, experts will be dispatched to the polling place to further investigate. If it is determined that law or election procedures have been violated, the Organization's experts will document the potential problems or issues and alert the appropriate election administration officials to correct the violation. The Organization will use a variety of available means to document potential voter fraud, including videotape, photograph, and eye-witness affidavits. Video footage is a powerful tool for public education, outreach, and training; it also protects the Organization's volunteers from spurious charges of voter intimidation.

The Organization will work with state and local election administration authorities to promote compliance with election law and procedures. Such documentation can be used by election officials to prevent future fraud and non-compliance with applicable law. To the extent allowed by law, the Organization may participate in civil lawsuits to compel compliance with election law.

Fifty percent (50%) of the Organization's activities will be devoted to recruiting and training of election administration workers and third-party election volunteer observers, and operating the election day voter integrity centers.

Voter Registration Integrity. In addition to activities related to compliance related to the administration of the election and the integrity of the election and voting process, True the Vote also seeks to ensure the accuracy and integrity of the voter rolls. Congress identified this as an important element of protecting the integrity of America's elections in the Help America Vote Act of 2002 (Public Law 107 – 252, 107th Congress) (“HAVA”). HAVA directed the federal Election Assistance Commission (“EAC”) to conduct studies and develop best practices on ‘election administration’ issues. One of those issues described in HAVA includes, “(3) Methods of voter registration, **maintaining secure and accurate lists of registered voters** (including the establishment of a centralized, interactive, statewide voter registration list linked to relevant agencies

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and all polling sites), and ensuring that registered voters appear on the voter registration list at the appropriate polling site” (emphasis added).⁶

To help effectuate the objectives set forth in HAVA and other applicable law, True the Vote organizes volunteers to review the accuracy of voter registration lists in their own state or local jurisdiction. The Organization has developed, through volunteers, a software capability for downloading the registered voter lists (which are public documents), then reviewing and identifying potential inaccurate registrations such as multiple individuals registered at a single family residence, multiple / duplicate registrations of the same voters, registrations at vacant lots, business addresses and warehouses, voters still registered but who have died or moved, among other inaccuracies or anomalies. For example, the software is capable of identifying multiple registrations of the same person due to different spellings or different addresses. True the Vote presents the results of its review of the voter rolls to local election administration officials free of charge, which greatly assists election officials in the discharge of their statutory obligation(s) to maintain the integrity of the voter registration rosters, but who often lack the resources to fulfill that obligation.

The Organization’s dedication to the integrity of the voter lists will comprise thirty-five percent (35%) of the Organization’s activities.

Voter Registration Training. The Organization’s volunteers also provide information to groups and individuals on how to properly register to vote and how to conduct voter registration drives that comply with the law. This activity comprises fifteen percent (15%) of the Organization’s activities.

Public Education. In addition to activities intended to directly increase election integrity, the Organization also seeks to educate the public and influential individuals about the current state of election law compliance, deficiencies in election procedures, and possible solutions. Because of the Organization’s experience in election observation, it has “hands-on” and timely information to convey to the public, media and policymakers regarding the challenges and obstacles to full compliance with HAVA and state election law, as well as recommendations for changes in law and policy.

True the Vote studies deficiencies in the election process and recommends solutions to solve problems. The Organization already has explored and discussed solutions including: a photo ID requirement, closing registration periods at least a week before the election, and a requirement that state election boards purge their registered voter lists by comparing the voter rolls to other government lists such as the Social Security Administration’s list of deaths and correctional institution and court records (for voters who may be required under state law to be purged due to felony convictions). The Organization also proposes using the United States Postal Service’s National Change of Address (NCOA) system, which is an automated means of verifying the

⁶ See HAVA, PL , 107-252, 107th Congress, Title II, Subtitle C—Studies and Other Activities To Promote Effective Administration of Federal Elections, Sec. 241(b)(3).

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addresses of registered voters for both local jurisdictions and those states that maintain statewide registered voter files, to ensure that voters who have moved are contacted to change their registration address, as well as to encourage election officials to work across state lines to ensure that voters who have relocated to another state are required to select a single state for voting purposes.

In this effort, True the Vote will distribute educational articles regarding voter integrity. The Organization's volunteer leadership will participate in meetings, speaking engagements and presentations about voter integrity and the need for the involvement of citizens to assist in improving the system. These materials will be placed on the Organization's website for public consumption. The Organization hopes to raise awareness of voter integrity issues through strategic outreach efforts including social networking, media relations, and traditional marketing / advertising means. The Organization may create documentaries of its findings for public consumption. The Organization's leadership believes that a fair and transparent election system requires a broad-based commitment by millions of individual citizens working with state and local election administration officials.

As part of its public outreach, True the Vote will provide information on its findings to elected officials. However, the Organization intends only to provide information about proposed solutions. The Organization will advocate the adoption or rejection of specific legislation only as a minor part of its programs and activities, although it will provide public analyses of legislative proposals based on its first-hand knowledge gleaned through its activities described above.

Authorities for Exemption

True the Vote's activities are common and permissible primary purposes of an organization described in Section 501(c)(3) and Treasury Regulations and IRS rulings thereunder.

True the Vote's Activities are Charitable Because its Activities Defend Civil Rights Secured by Law

Treasury Regulations specifically state that the term "charitable" as used in Section 501(c)(3), includes activities undertaken "(iii) to defend human rights and civil rights secured by law." Treas. Reg. § 1.501(c)(3)-1(d)(2).

True the Vote's election training, observation, and voter registration upgrading and enhancement are all activities that squarely fit within this charitable rationale. These activities reassure and protect the most central of civil rights—the right of citizens to an undiluted vote in a legal, fair, and transparent election. The U.S. Supreme Court has repeatedly held that the presence of any voter fraud dilutes the votes of legal voters and therefore robs citizens of their fundamental Constitutional right to democratic participation. Citizens have the right to cast votes in elections untarnished by voting irregularities. In Burdick v. Takushi, 504 U.S. 428, 441 (1992) the U.S. Supreme Court wrote, "[b]ut the right to vote is the right to participate in an electoral process that is necessarily structured to maintain the integrity of the democratic system." In Reynolds v. Sims, 377 U.S. 533, 554-55 (1964), it wrote "the Constitution of the United States protects the right of all

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qualified citizens to vote, in state as well as in federal elections.... The right to vote can neither be denied outright...nor diluted by ballot-box stuffing..."

The presence of voter fraud is antithetical to the central democratic right to cast a ballot and True the Vote's activities are intended to defend this civil right. The Organization's election administration recruitment and training activity ensures that election workers are educated in proper election legal requirements and procedures, and assists local election administration officials in filling the positions of election workers that often are difficult to fill. The Organization's third-party observation of the voting process verifies compliance with election law(s). Because the Organization's volunteers alert election authorities to non-compliance and possible fraudulent activities, election authorities are able to correct and prevent voter fraud before it pollutes an election. The Organization's efforts to document potential voter fraud allows legal authorities to address violations of election laws and deter those who would attempt to tamper with the democratic process in this way. The Organization's program to verify that names appearing on the registration list correspond to people who exist and are individuals legally eligible to vote and are registered at the correct address will assure more accurate voting records, thereby decreasing the likelihood of voter fraud. Each one of these activities work to defend voters' civil rights secured by law.

A Federal District Court held in National Right to Work Legal Defense and Education Foundation, Inc. v. United States 487 F. Supp. 801 (E.D.N.C. 1979) (attached) that activities to defend Constitutional rights are included in the definition of defending "civil rights secured by law" as an acceptable charitable purpose under Section 501(c)(3). The Court agreed with the Internal Revenue Service's assertion that the phrase "human and civil rights" included "individual liberties, freedoms, and privileges involving human dignity that are either specifically guaranteed by the U.S. Constitution or by a special statutory provision coming directly within the scope of the 13th or 14th Amendment, some other comparable constitutional provision, or that otherwise fall within the protection of the Constitution by reason of their long established recognition at the common law as rights that are essential to the orderly pursuit of happiness by free men." The Court looked to Supreme Court jurisprudence to determine whether the right at issue fit this IRS definition of a "human or civil right." As outlined above, it is clear from Supreme Court jurisprudence that the right to vote in an election free from fraud is such a right. It is also clear from such jurisprudence that the promotion of a fair and valid electoral process promotes the general welfare of the community and serves a charitable purpose under Section 501(c)(3).

Moreover, numerous rulings recognize the Section 501(c)(3) exempt status of organizations that undertake activities such as investigating, observing and pursuing or assisting with pursuing legal action in order to defend civil rights.

- In Revenue Ruling 72-228 1972-1 C.B. 148, the IRS recognized the exemption of an organization that promotes equal rights for women by investigating instances of discrimination in employment and by educating women in recognizing and dealing with such discrimination. The organization conducted "investigations in instances where discrimination on the basis of sex appears to be present."

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- In Revenue Ruling 80-278 1980-2 C.B. 175, the IRS recognized the exemption of an organization founded to raise money to engage in environmental litigation as a party plaintiff.
- In Revenue Ruling 68-438 1968-2 C.B. 209, the IRS recognized the exemption of an organization that investigated racial and religious prejudice in housing and public accommodations and publicly released its results. The organization “meets with proprietors of establishments where discrimination has been observed and with trade associations for the purpose of encouraging better compliance with the applicable civil rights laws.”
- Under Revenue Procedure 92-59, 1992-2 C.B. 411, the IRS recognized the exemption of numerous “public interest law firms” whose exempt purpose is to litigate on issues of public interest.

In addition, the Federal Court in Nat. Right to Work Legal Defense and Education Foundation, Inc., held, in spite of an IRS denial of exemption, that a group organized to take action to defend workers’ rights against compulsory union arrangements was charitable and therefore exempt under Section 501(c)(3).

**True the Vote’s Activities are Charitable Because its Activities
Lessen the Burdens of Government**

Treasury Regulations specifically state that the term “charitable”, as used in Section 501(c)(3), includes “lessening the burdens of Government.” Treas. Reg. § 1.501(c)(3)-1(d)(2).

State election boards and municipalities are statutorily charged with the responsibility to administer elections. In so doing, election boards and municipalities are required to comply with election laws, requirements and procedures. In addition, these bodies are charged with discovering deterring and punishing vote fraud.

Specifically, the Help America Vote Act of 2002 (“HAVA”) statutorily mandates that election officials clean and purge the voter registration rolls on a regular basis to ensure the integrity of the voter lists. Pub. L. No. 107-252, Sec. 303. However, with the other demands imposed on local election officials, many jurisdictions have not had the resources or manpower to comply with this federal statute requiring regular review and updating of voter registration lists.

True the Vote’s activities lessen the burdens of government because its activities assist governmental bodies in accomplishing their requirements under law. First and foremost, the Organization’s review of registration lists directly fulfills the HAVA requirements imposed on government and offers a resource to accomplish this task that many local jurisdictions lack.

Recruiting individuals to serve as election workers and providing initial training regarding their importance to election administration assists government because election workers are difficult to recruit and local election officials are always seeking additional citizens to work

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during the election. The Organization's third-party observers will assist government by providing additional eyes and ears during the election process, creating a presence and a disincentive to those who might otherwise consider violating election laws and by alerting election officials of non-compliance, suspicious activities, and suspected fraud. By documenting irregularities and violations, the Organization assists with the government's responsibility to discover and deter violations of election laws.

IRS rulings have recognized the section 501(c)(3) exempt status of organizations that undertake activities that governmental entities usually perform. In Revenue Ruling 74-361 1974-2 C.B. 159, a volunteer fire company was ruled exempt. In Revenue Ruling 76-418, 1976-2 C.B. 145, the IRS ruled that an organization founded to provide free expert opinions regarding the existence of hazardous traffic conditions to the governing bodies of local communities was exempt. In Revenue Ruling 70-79, 1970-1 C.B. 127, the IRS ruled an organization that studies and recommends regional policies directed at the solution of mutual problems among local governments was exempt. Similarly, protecting the integrity of the voting process is clearly a burden of state and local government and the Organization, through its training, reporting of potential voter fraud and review of the registration lists, assists state and local governments with meeting this burden.

True the Vote's Activities Constitute Public Education

Treasury Regulations specifically state that "the term 'educational,' as used in Section 501(c)(3), relates to . . . (b) the instruction of the public on subjects useful to the individual and beneficial to the community." Treas. Reg. § 1.501(c)(3)-1(d)(3)(i).

Certain of True the Vote's activities are exempt as education of the public. By studying the deficiencies of the voting process and proposing solutions, the Organization hopes to generate discussion by the public and decisionmakers about the need for better laws and procedures to protect against voter fraud and voting irregularities.

Numerous IRS rulings recognize the Section 501(c)(3) exempt status of organizations that undertake research and educate the public in a wide variety of areas of civic betterment. Activities of organizations ruled exempt include:

- education of the public on the need for international cooperation. Revenue Ruling 67-342, 1967-2 C.B. 187.
- development and distribution of a community land-use plan. Revenue Ruling 67-391, 1967-2 C.B. 190.
- education of the public regarding the problem of environmental deterioration due to solid waste pollution. Revenue Ruling 72-560, 1972-2 C.B. 248.

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Note also that the furtherance of patriotic sentiments is itself a charitable purpose under Section 501(c)(3), which supports the Organization's exemption as an organization that supports voting integrity and democratic ideals. See Revenue Ruling 78-84, 1978-1 C.B. 150.

The Treasury Regulations specifically confirm that it is permissible if a Section 501(c)(3) organization "advocates for social and civic change and presents opinion on controversial issues, so long as it does not become an "action" organization." See Treas. Reg. § 1.501(c)(3)-1(d)(2). True the Vote's primary goal is to achieve voter integrity by training and observation of polling places, and not by legislative changes. While True the Vote will analyze proposed legislative changes, its analysis will be a balanced and fair exposition of the issues. The Organization will not engage in propaganda.

True the Vote's Activities do not Constitute Political Intervention

An organization exempt under Section 501(c)(3) may not intervene in any political campaign. True the Vote is non-partisan and none of its activities relate in *any* way to intervention in a partisan political campaign. True the Vote's mission is to assist in strengthening and protecting the integrity of the election process itself and to provide support to local election officials in the discharge of their duties of managing and administering the voting process as the bedrock of American democracy.

Appointment of Advisory Board

True the Vote takes seriously its obligations under the Code for proper management and governance of a charitable organization. The Organization has developed a national advisory board of individuals who are well-respected in the field of election integrity to help guide the Organization's programs and activities in furtherance of its charitable mission. The Organization continues to recruit members for its advisory board and plans to add more individuals as the Organization grows. The current national advisory board members and information about their backgrounds follows:

<u>Name</u>	<u>Biography</u>
Hans von Spakovsky	Hans von Spakovsky is a Senior Legal Scholar and Manager, Civil Justice Reform Initiative, at The Heritage Foundation's Center for Legal and Judicial Studies. Before joining Heritage in 2008, von Spakovsky served for two years as a Commissioner on the Federal Election Commission, which is responsible for enforcing federal campaign finance laws for all congressional and presidential elections, including the public funding program. Prior to that, he worked at the Justice Department as the Counsel to the Assistant Attorney General for Civil Rights. In this position, von Spakovsky provided expertise and advice on voting and election issues, including enforcement of the Voting Rights Act and the Help America Vote Act of 2002. Von Spakovsky also served in positions

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on the Board of Advisors of the U.S. Election Assistance Commission and the Fulton County (Georgia) Board of Registrations and Elections. Von Spakovsky is a 1984 graduate of Vanderbilt University School of Law and received a bachelor's degree from the Massachusetts Institute of Technology in 1981.

J. Christian Adams

J. Christian Adams served in the Voting Section at the Department of Justice from 2005 to 2010. Prior to that he served as General Counsel to the South Carolina Secretary of State and was in private practice in Virginia. He has managed successful statewide campaigns and independent expenditure efforts. He recently left the Department and is in private practice in Virginia. He is a bestselling author and also a contributing columnist covering elections and the Justice Department at PajamasMedia.com. He has a J.D. from the University of South Carolina School of Law and a B.A. in English from West Virginia University. He is a member of the South Carolina and Virginia Bars.

Anita MonCrief

Anita MonCrief is the founder of the Boots of Liberty Task Force (BOLT) and the Editor-in-Chief of Emerging Corruption, a web-based investigation journal. She has worked with the American Bar Association's Central European and Eurasian Law Initiative; (ABA CEELI), the International Crisis Group, the Grameen Foundation, American Rights at Work, and in the Strategic Writing and Research Department of ACORN Political Operations and its affiliate Project Vote. She also partnered with the Organization for Security and Cooperation in Europe on their mission to Macedonia as an election observer. MonCrief is a regular contributor to Big Government, Hot Air, NetRight Daily, RedState, and other conservative news websites. MonCrief attended the University of Alabama where she majored in political science and history.

* * * * *

We hope that this supplemental information is useful to you and the Internal Revenue Service in both reviewing True the Vote's application and recognizing the Organization's status as exempt from tax under Section 501(c)(3). If you have any further questions regarding the activities of True the Vote, please contact either of the undersigned immediately, and we will quickly provide any additional information you may require.

The Organization filed its original application on or about July 15, 2010. As you know, recognition of exemption is important for obtaining charitable contributions and for growing the Organization. We respectfully request that the IRS review the materials provided herein and recognize the Organization as exempt in writing at the earliest possible date.



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We are hopeful that this information will help expedite the final review and approval of the application for exempt status of True the Vote. Thank you for your consideration.

Sincerely,
FOLEY & LARDNER LLP

A handwritten signature in black ink, reading 'Cleta Mitchell'.

Cleta Mitchell, Esq.
(202) 295-4081 (direct line)

A handwritten signature in black ink, reading 'Richard F. Riley, Jr.'.

Richard F. Riley, Jr., Esq.
(202) 295-4712 (direct line)

Attachments