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August 26, 2004

Mr. Frank Norris
Catholic Answers, Inc.
P.O. Box 199000
San Diego, CA 92159

Dear Mr. Norris:

You have requested our opinion on the following questions:

1. Whether the Voter's Guide for Serious Catholics may be published and distributed by an organization income tax exempt under IRC 501(c)(3)?
2. Whether there are any restrictions on distribution prior to an election?

You have provided us a copy of the text of the Voter's Guide. Distribution has been made by direct mail and bulk sales to individuals, groups, and parishes/Dioceses.

First, we have reviewed the Voter's Guide and it is our opinion that it may be published and distributed by organizations income tax exempt under IRC 501(c)(3). The Internal Revenue Services considers all the facts and circumstances in determining whether a communication is political campaign intervention. Some of the factors included in analyzing advocacy communications relating to public policy issues include:

- a. Whether the communication identifies a candidate for public office;
- b. Whether the timing of the communication coincides with an electoral campaign;
- c. Whether the communication targets voters of a particular election;
- d. Whether the communication identifies a candidate's position on the public policy issue that is the subject of the communication;
- e. Whether the position of the candidate on the public policy issue has been raised as distinguishing the candidate from others in the campaign, either in the communication itself or in other public communications; and
- f. Whether the communication is part of an ongoing series of substantially similar advocacy communications by the organization on the same issue.

The Voter's Guide does not identify particular candidates for public office and therefore is similar to issue advocacy communications. The Voter's Guide has been distributed over several months and will continue to be distributed after the 2004 general election. The Guide does not target voters of a particular election, but will be distributed nationwide. It does not identify candidate positions on public policy issues and, therefore, will not distinguish one candidate from another. For these reasons, the Voter's Guide is issue advocacy and not political intervention pursuant to the Internal Revenue Code.

Second, the Voter's Guide is not an electioneering communication under the Federal Election Campaign Act, therefore there are no restrictions on distribution prior to an election. Electioneering communications, by definition, apply only to broadcast, cable and satellite communications which mention the names of candidates for federal office. The Voter's Guide does not mention the names of candidates for federal office so this provision does not apply to it.

Catholic Answers is prohibited from expressly advocating the election or defeat of candidates for public office. This would occur if Catholic Answers, in the same communication, publishes the Voter's Guide and identifies examples of politicians whose voting records clearly violate the principles of the Voter's Guide. This is so since the Voter's Guide urges people to vote against candidates whose voting records clearly violate the principles of the Voter's Guide. Such statements may be viewed as opposing clearly identified candidates and thus may be political intervention under the Internal Revenue Code or express advocacy in opposition to federal candidates under the FECA. Since organizations exempt under IRC 501(c)(3) are prohibited from engaging in political intervention, such activities may result in loss of tax exempt status.

However, there may be communications which Catholic Answers wishes to make that are separate and apart from the Voter's Guide. It would be permissible for a spokesman for Catholic answers to praise or criticize public officials for their adherence to Catholic principles as long as the spokesman does not also urge people to vote for only those candidates that adhere to those principles. Furthermore, someone associated with Catholic Answers can discuss these matters in their individual, rather than representative capacity, and thus what they say would not be attributable to Catholic Answers. We urge you to obtain specific legal advice regarding any such communication, which we would be happy to provide. If we may be of further assistance, please contact us.

Sincerely,

BOPP, COLESON & BOSTROM

James Bopp, Jr.
Barry A. Bostrom