



September 10, 2012

Fr. Frank Pavone
National Director
Priests for Life
PO Box 141172
Staten Island, NY 10314

Dear Father Pavone,

You asked Alliance Defending Freedom to supply an opinion letter regarding whether Priests for Life may produce and distribute its proposed voter guide, titled “A Comparison of the 2012 Republican and Democratic Platforms” (the “Party Platform Guide”). It is our opinion that the Party Platform Guide is 501(c)(3) compliant and that Priests for Life may produce and distribute it.

Voter guides and other material that are designed to educate the electorate about issues of public importance are fully protected by the First Amendment.¹ The Internal Revenue Service (the “IRS”) explains that, in its opinion, voter guides published by 501(c)(3) organizations like Priests for Life about political parties must (1) be non-partisan; (2) include all the parties fielding candidates for a given office; (3) present the parties’ views on a broad range of issues; (4) directly quote the parties or else compile their positions in a neutral and unbiased manner; and (5) not compare the parties’ positions on the issues to the 501(c)(3) organization’s preferred positions.² Some courts have ruled that guidelines similar to the IRS’s are too restrictive of First Amendment free-speech rights and so are unconstitutional.³ For this opinion letter, however, we

¹Numerous courts have ruled that voter guides that present the candidates’ position on issues of public importance are protected by the First Amendment as “issue advocacy speech.” *See, e.g., Citizens for Responsible Government State Political Action Committee v. Davidson*, 236 F.3d 1174 (10th Cir. 2000); *Iowa Right to Life Committee v. Williams*, 187 F.3d 963 (8th Cir. 1999); *North Carolina Right to Life*, 168 F.3d 705 (4th Cir. 1999); *Faucher v. Fed. Election Comm’n*, 928 F.2d 468 (1st Cir. 1991); *Clifton v. Fed. Election Comm’n*, 927 F.Supp. 493 (D. Maine 1996).

²IRS, TAX GUIDE FOR CHURCHES AND RELIGIOUS ORGANIZATIONS, *available at* <http://www.irs.gov/pub/irs-pdf/p1828.pdf> (“IRS Guide”), at 12-13 (last visited September 10, 2012).

³*See, e.g., Clifton v. Maine Right to Life Committee*, 114 F.3d 1309, 1313-15 (1st Cir. 2002) (ruling that it is unconstitutional to require that voter guides provide equal space and prominence to each candidate’s positions on the various issues surveyed); *Faucher*, 928 F.2d at 468-69 (ruling that it is unconstitutional to require that voter guides be nonpartisan and express no editorial opinion concerning the issues presented); *Center for Individual Freedom v. Tennant*, ___ F.Supp 2d ___, 2011 WL 2912735,

evaluate the Party Platform Guide strictly according to the guidelines promulgated by the IRS, which provide a safe-harbor for 501(c)(3) organizations' voter guides.

It is our opinion that the Party Platform Guide complies with the IRS's guidelines and is therefore 501(c)(3) compliant. It presents the policy positions of the two major political parties who are fielding candidates for president in a non-partisan and neutral way. It quotes directly from the parties' platform statements and so is neutral and unbiased. It presents a broad range of policy issues—eleven in all—that explain the parties' differing positions on matters of public importance. And it does not indicate Priests for Life's preferred position on the issues but only presents the Democrat and Republican positions.

For these reasons, we opine that the Party Platform Guide is 501(c)(3) compliant. Priests for Life may produce and distribute it without fear of jeopardizing its tax exempt status.

Sincerely,



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Nos. 1:08-cv-00190, 1:08-cv-01133 (Dist. D.C. July 18, 2011) (ruling that it is unconstitutional to require that voter guides contain no appearance of endorsement of a candidate, so long as the guides do not advocate for the election or defeat of a candidate).