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Raleigh, North Carolina 27615
Phone 919.518.8040
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October 7, 2014

VIA EMAIL & US MAIL

Ms. Kim Westbrook Strach
Executive Director
North Carolina State Board of Elections
P.O. Box 27255
Raleigh, NC 27611-7255

Re: Complaint filed September 29, 2014 by North Carolina Democratic Party

Dear Ms. Strach:

As we have discussed, this letter is the response of my client, Americans for Prosperity Foundation ("AFPF") to your letter dated September 30, 2014 and to the Complaint filed by the North Carolina Democratic Party. The information and positions presented here supplement our letter dated September 29, 2014, a copy of which is included hereto as **Attachment A**. That letter and your Notice of Complaint apparently crossed in the mail. AFPF is also attempting to answer the specific questions you posed to the best of its ability in the short time frame presented and in light of the NC Gen. Stat. Sec. 163-275(17).

While Americans for Prosperity Foundation is fully aware of the incorrect information provided on its North Carolina mailer, the errors were inadvertent and not included on the mailer intentionally as explained in AFPF's correspondence of September 29, 2014.

AFPF is a large organization with several hundred employees spread across 35 states. AFPF is currently conducting an internal review to determine the source or sources of the errors contained in the mailer and to determine the best way to ensure that such mistakes are not repeated in North Carolina or in any of the other states where AFPF actively operates.

Remedial Measures

AFPF is determined to clear up any misunderstanding caused by the mailers and to further encourage all North Carolinians to register and vote. Based upon the October 10,

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2014 registration deadline, AFPF has determined that the best method available to reach the largest number of the recipients of the mailings is to run newspaper advertisements in the major daily newspapers throughout the State of North Carolina as soon as you grant approval for the copy and AFPF can place the insertion orders. There are two versions of the ads and both versions are attached hereto as **Attachment B1** and **Attachment B2**.

Original Mailer: Content and Process

As noted in the September 29, 2014 letter, in order to craft the voter registration mailer, AFPF utilized a template from a previous mailer sent out to potential new voters in Arkansas. A copy of the Arkansas template is included as **Attachment C**. The North Carolina mailer was part of a large national voter registration drive with the intent to identify unregistered potential voters, and encourage and assist them to vote in the upcoming election. Far from being a plot to deter voting as the complainant alleges, the North Carolina mailer was a part of AFPF's nationwide effort to increase election participation and therefore the mailer does not meet the intent requirement of 163-275.17.

While AFPF's internal approval process vetted the mailer, it is clear that the review process missed certain information. AFPF regrets the mistakes but the original mailer, when taken as a whole, neither misleads the voting public nor discourages voter participation.

To be specific, the mailer listed both the correct "25 day" registration deadline for North Carolina, while it also carried over a "30 day" deadline as an artifact from the template Arkansas mailer. AFPF fully recognizes the importance of citizens knowing the correct deadlines to register to vote, which is why it offers to voluntarily undertake an extensive advertising campaign to reinforce that information. It is also true, however, that any citizen complying with the incorrect information would have been registered five (5) days before the actual statutory deadline.

Additionally, one place on the mailer directed individuals to contact the North Carolina Secretary of State with questions about voter registration, rather than your agency. While this agency name was again an artifact of the Arkansas mailer and reflected a different state's practices, the phone number and web site address AFPF provided on the mailing were in fact for the North Carolina State Board of Elections. Any person attempting to contact a state agency using the information provided by AFPF would directly reach the correct agency.

The mailer stated that when registered, voters would receive notice of their polling location from the county clerk, when in fact that information would come from the county board of elections. This misidentification of the applicable local government agency in no way affected any action required by the recipient.

Finally, the zip code listed on the mailer for your agency is not your agency's zip code – but rather a zip code established for AFPF by the United States Postal Service for immediate delivery to your agency. This was explained in some detail in the

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correspondence from AFPP to your office from September 29, 2014. This is not an error at all, but rather the result of AFPP's determined effort to assist people in registering to vote by paying the cost for them to return the registration form.

The three mailers were sent to approximately 180,000 individuals in North Carolina who were identified by a vendor as being eligible but not yet registered voters. The mailers were sent in early-to-mid-September, and were not aimed or targeted to select or exclude any racial, ethnic or other lawfully protected classes or groups. The list produced was intended to allow AFPP to identify and contact large numbers of unregistered potential voters to encourage them to register and participate in the political process.

AFPP notes that at no time prior to the filing of the complaint did the complainant contact AFPP to notify the organization of its error. Rather the complainant appears to have alleged without evidence that AFPP intentionally misled potential voters, and engaged in activity to generate news stories implicating AFPP with a violation of law and then used the allegations to raise funds.

In closing, I wish to reiterate that the errors in the voter registration mailers were inadvertent and lacked the requisite intent and effect necessary to conclude or suggest a violation of NCGS §163-275(17). While AFPP will continue to work to mitigate any problems caused by the mailer, it remains my client's belief and understanding that recipients who complied with the instructions on our mailer have not experienced any problems in registering to vote, as evidenced by the more than 4,000 individuals who have used our pre-paid envelope to return the registration form AFPP provided.

Going forward AFPP will continue to implement additional safeguards to ensure that such errors do not recur in AFPP's ongoing efforts to encourage citizen engagement. We look forward to continuing to work with the State Board of Elections to address your concerns.

As next steps, my client would appreciate your review of the proposed newspaper ads at Attachment B. Please let me know if you have any edits or changes or if these meet with your approval. As soon as you notify us that these materials meet with your approval, AFPP staff will place the newspaper insertions as soon as possible.

Americans for Prosperity Foundation deeply regrets any confusion or distress caused by its mailing, especially inasmuch as they have distracted from the important goal of increasing voting participation.

Sincerely,



Roger W. Knight
Counsel to Americans
for Prosperity Foundation

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October 7, 2014

Enclosures :

Attachment A: September 29, 2014 letter to Ms. Kim Strach

Attachment B1 and B2 : Newspaper ads to run as a remedial measure

Attachment C : Arkansas Template



**AMERICANS FOR
PROSPERITY**
FOUNDATION

2111 Wilson Blvd., Ste 350 | Arlington, VA 22201 | p: (866) 730-0150 | f: (703) 224-3201

September 29, 2014

Kimberly Westbrook Strach
Executive Director
North Carolina State Board of Elections
P.O. Box 27255
Raleigh, NC 27611-7255

Dear Ms. Strach:

Thank you for meeting with my colleague, Peter Schalestock, earlier today. We very much appreciated the opportunity to explain our goals and discuss ideas with you about improving our processes and communications moving forward.

At this time I also would like to use this opportunity to provide you with additional information regarding the mail sent by Americans for Prosperity Foundation to citizens of North Carolina encouraging them to register to vote. As my colleague informed your staff and you today, our intent in sending our mail was and remains to encourage as many North Carolinians as possible to register and vote in upcoming elections. Toward that end, we identified individuals who appeared to be eligible to vote but had not yet registered and then we sent them the official North Carolina voter registration form along with additional information on how to register.

Regrettably, some of the additional information we included in our mail contained errors. While we do not believe any of this information in any way interfered with a person's ability to register and vote using the form we sent them, a belief confirmed by our records which suggest some 3,700 North Carolina citizens have returned forms already using our postage-paid mail, we recognize that our errors may have created some confusion for some individuals.

The genesis of our errors in North Carolina was entirely inadvertent and resulted from the size and scope of our ambitious voter registration effort which involves multiple states. More specifically, our North Carolina mail was drawn from a similar document previously sent to Arkansas residents. To register to vote by mail in Arkansas, an applicant submits a registration form to the Office of the Secretary of State, and the deadline to apply is 30 days before the election (see enclosed Arkansas voter registration application form). Our mistake was in taking our Arkansas form and applying it to North Carolina without re-vetting every detail to ensure it reflected North Carolina's latest voter registration procedures prior to its release. In addition, while our staff did contact your office, we still incorrectly assumed your office was a part of the Secretary of State's office rather than a separate body of the government. Naturally our review process is not foolproof and we have now updated and strengthened our approach to protect against future mistakes.

Please note that as part of our effort to encourage and facilitate registration by new voters, we chose to pay the postage cost for those voters to submit their registration forms. Initially we sought to establish business reply mail accounts allowing applications to be returned postage-paid to each of North Carolina's 99 county elections offices. The U.S. Postal Service declined to establish such a large number of accounts that were required to accomplish this. Instead, we established a single account with the U.S. Postal Service for applications to be mailed postage-paid to the Board, a process endorsed by your staff who advised us that all applications sent to the Board's post office box would be forwarded to the appropriate county. Accordingly, the U.S. Postal Service created for us a unique ZIP+4 code that would cause mail to be delivered to the State Board of Elections post office box and billed to Americans for Prosperity Foundation. This procedure ensures we pay the postage for all returned applications and also allows us to know with great precision exactly how many citizens have returned the forms we provided.

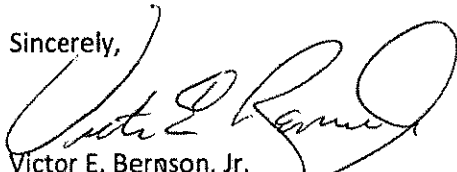
Of course I would be remiss if I neglected to acknowledge that our mail in some cases inadvertently was sent to certain deceased persons which unintentionally caused emotional pain to their families, and for this I sincerely apologize. Americans for Prosperity Foundation made every effort to mail applications only to individuals who would be eligible to vote and were not currently registered. To the extent applications went to other individuals, our error most certainly was not intentional but reflected bad data, a not uncommon occurrence you likely would agree. We appreciate any information your office or members of the public provides to help us identify the applications that were sent in error and to prevent repeat occurrences.

In sum, please know that throughout this process we sought to minimize the possibility of confusion or error in the voter registration process. We included a clear statement that individuals already registered to vote in North Carolina would not need to register again and we also provided instructions on how citizens could check their registration status. While we acknowledge the errors we made, we also note that our errors have not prevented anyone from registering to vote, and anyone who followed the instructions on our mail and was otherwise eligible will be successfully registered. Because of the confusion surrounding our mail and concerns raised by your office, we stopped a final set of notices that were to be delivered this week.

Ultimately, your office and our organization share the exact same goal – to encourage as many North Carolinians as possible to participate in the process of selecting their elected officials.

Thank you for your kind consideration of this matter.

Sincerely,



Victor E. Bernson, Jr.
Vice President & General Counsel

PLEASE PRINT AND USE BLACK INK TO COMPLETE

Rev. 7/12

ARKANSAS VOTER REGISTRATION APPLICATION

Check all that apply: <input type="checkbox"/> This is a new registration. <input type="checkbox"/> This is a name change. <input type="checkbox"/> This is an address change. <input type="checkbox"/> This is a party change.		Office Use Only		Assigned ID	
1	Mr. Mrs. Miss Ms.	Last Name	Jr. Sr. II. III. IV.	First Name	Middle Name
2	Address Where You Live (See Section "C" Below) (Rural addresses must draw map.)			Apt. or Lot #	City/Town
3	Address Where You Receive Mail If Different From Above			Apt. or Lot #	City/Town
4	Date of Birth _____ Month / Day / Year		5	Home & Work Phone Numbers (Optional) (H) _____ (W) _____	
6	Party Affiliation (Optional)				
7	E-mail Address (Optional)				8
					Have you ever voted in a federal election in this State? <input type="checkbox"/> Yes <input type="checkbox"/> No
9	ID Number - Check the applicable box and provide the appropriate number. <input type="checkbox"/> Arkansas Driver's license number <input type="checkbox"/> If you do not have a driver's license provide the last 4 digits of social security number _____ <input type="checkbox"/> I have neither a driver's license nor social security number.				Signature of elector - Please sign full name or put mark. The information I have provided is true to the best of my knowledge. I do not claim the right to vote in another county or state. If I have provided false information, I may be subject to a fine of up to \$10,000 and/or imprisonment of up to 10 years under state and federal laws.
10	(A) Are you a citizen of the United States of America and an Arkansas resident? <input type="checkbox"/> Yes <input type="checkbox"/> No (B) Will you be eighteen (18) years of age or older on or before election day? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (C) Are you presently adjudged mentally incompetent by a court of competent jurisdiction? <input type="checkbox"/> Yes <input type="checkbox"/> No (D) Have you ever been convicted of a felony without your sentence having been discharged or pardoned? <input type="checkbox"/> Yes <input type="checkbox"/> No If you checked No in response to either questions A or B, do not complete this form. If you checked Yes in response to either questions C or D, do not complete this form.				
					11
					Date: _____ Month / Day / Year If applicant is unable to sign his/her name, provide name, address and phone number of the person providing assistance: Name: _____ Address: _____ City: _____ State: _____ Phone#: _____

Please complete the sections below if: *MAIL REGISTRANTS: PLEASE SEE SECTION D.*

- You were previously registered in another county or state, or
- You wish to change the name or address on your current registration.

Agency Code (For Official Use Only)

A	Mr. Mrs. Miss Ms.	Previous Last Name	Jr. Sr. II. III. IV.	First Name	Middle Name(s)
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Date of Birth _____
Month / Day / Year

B	Previous House Number and Street Name	Apt. or Lot #	City or Town	State	Zip Code
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If you live in a rural area but do not have a house or street number, or if you have no address, please show on the map where you live.

C	• Write in the names of the crossroads (or streets) nearest where you live. • Draw an "X" to show where you live. • Use a dot to show any schools, churches, stores or other landmarks near where you live and write the name of the landmark.		
Example	Route #2	• Grocery Store Woodchuck Road	NORTH ↑
• Public School		X	

IDENTIFICATION REQUIREMENTS

IMPORTANT: If your voter registration application form is submitted by mail and you are registering for the first time, and you do not have a **valid Arkansas driver's license number or social security number**, in order to avoid the additional identification requirements upon voting for the first time you must submit with the mailed registration form: **(a)** a current and valid photo identification; or **(b)** a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows your name and address.

Arkansas Secretary of State
ATTN: Voter Registration
P. O. Box 8111
Little Rock, Arkansas 72203-8111

First
Class
Postage
Required

From:

Deadline Information

To qualify to vote in the next election, you must apply to register to vote 30 days before the election. If you mail this form, it must be postmarked by that date. You may also present it to a voter registration agency representative by that date. If you miss the deadline you will not be registered in time to vote in that election. *Please don't delay. Make sure your vote counts.*

If you are qualified and the information on your form is complete, you will be notified of your voting precinct by your local County Clerk.

To Mail

Fold form on middle perforation, remove plastic strip, seal at bottom, stamp and mail.

Questions?
Call your local County Clerk
or
Arkansas Secretary of State
Mark Martin
Elections Division – Voter Services
1-800-482-1127

Contact your County Clerk if you have not received confirmation of this application within two weeks.



Register to Vote

You may have received a mailer from Americans for Prosperity Foundation recently with information on how to register to vote. Some of the information in the mailer was incorrect, and we want to apologize for any confusion or hardship this may have caused.

To ensure you are able to register to vote, please know:



The deadline to register by mail to vote in the November 4 general election is **October 10** (25 days before the election).



If you have questions, you can contact your local board of elections (find them at <http://www.ncsbe.gov/webapps/CBESearch/>) or call the State Board of Elections using the phone number we provided, **(919) 733-7173**.

Our efforts have always been to encourage residents to vote, and we hope you use your right during the upcoming election.



**AMERICANS FOR
PROSPERITY.**
FOUNDATION

Americans for Prosperity Foundation is a nonpartisan, nonprofit organization that offers educational programs and policy analysis to explain how individual well-being comes from policies that promote individual freedom and economic liberty. AFPF encourages all citizens to be informed, think for themselves, and express their preferences by voting. To learn more, visit <http://americansforprosperityfoundation.com/>.



REGISTER TO VOTE!

Deadline to Register by Mail: October 10th

You may have received a mailer from Americans for Prosperity Foundation recently with information on how to register to vote. Some of the information in the mailer was incorrect, and we want to apologize for any confusion this may have caused.

Our efforts have always been to encourage residents to vote, and we hope you use your right during the upcoming election.

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FOUNDATION

Americans for Prosperity Foundation is a nonpartisan, nonprofit organization that offers educational programs and policy analysis to explain how individual well-being comes from policies that promote individual freedom and economic liberty. AFPF encourages all citizens to be informed, think for themselves, and express their preferences by voting. To learn more, visit <http://americansforprosperityfoundation.com/>.

Paid for by Americans for Prosperity Foundation

Register to vote today!

If you want to vote in this election you must be registered. That's why the Americans for Prosperity Foundation is sending you this official application form.

Registering to vote is easy.

Fill out the attached form and return it. Make sure your information is correct and complete. If you need to make corrections, you can write them directly on the application. Then sign and date the form and return it in the envelope provided.

Privacy is protected.

If you use the enclosed envelope your application will be delivered directly to your election officials and no one else will see the contents.

Voting is important.

Registering to vote is voluntary, but to vote, you must be registered. Returning this form privately ensures that you will be registered to vote in the next Arkansas election. Voters must register to vote at least 30 days before an election. Please check the mailing on election officials by voting where you can register today. Don't delay.

You are now being sent this information by mail. If you are already registered at your current address, there is no need to submit this application. If you are not registered at your current address, you must submit this application. Questions? Call your local County Clerk. Arkansas Secretary of State Mark Meeks, Election Division - Voter Services, (501) 682-1313.

If you have already registered at your current address, there is no need to submit this application.

Complete this form and mail it in the attached envelope today!

Americans for Prosperity Foundation tracks the registration rates of eligible voters. Our records show that you may be eligible to vote in the next election in Arkansas. If you are a U.S. citizen and meet the requirements below, all you need to do is fill out the attached registration form and return it to your election officials in the envelope provided. We are tracking the level of voter registration in your neighborhood and hope that we can add your name to the list of people who are registered in 2014.

To register to vote in Arkansas, you must:

- Be a U.S. citizen.
- Be an Arkansas resident (residing in Arkansas at least 30 days prior to the first election in which you will vote).
- Be age 18 or turn 18 on or before the next election.
- Not be a convicted felon whose sentence has not been discharged or pardoned.
- Not be presently adjudged as mentally incompetent as to your ability to vote by a court of competent jurisdiction.

Already Registered? If you are not sure if you are registered to vote at your current address, you can check by visiting https://www.voteview.ar-nova.org/VoterView/RegistrantSearch.do. If you have already registered at your current address, there is no need to submit this application.

ARKANSAS VOTER REGISTRATION APPLICATION. PLEASE PRINT AND USE BLACK INK TO COMPLETE. Rev. 6/11. Includes fields for Name, Address, Date of Birth, and Identification Requirements.

Please complete the sections below if: MAIL REGISTRANTS: PLEASE SEE SECTION D. You were previously registered in another county or state, or you wish to change the name or address on your current registration.

Form A: Fields for Previous Last Name, First Name, Middle Name, and Address (Previous House Number and Street Name).

If you live in a rural area but do not have a house or street number, or if you have no address, please show on the map where you live.

Form C: Map showing address location with 'X' and 'NORTH' indicator. Form D: Identification Requirements section.

BUSINESS REPLY MAIL. FIRST-CLASS MAIL PERMIT NO. 216526 LITTLE ROCK, AR.

POSTAGE WILL BE PAID BY ADDRESSEE. ARKANSAS SECRETARY OF STATE, PO BOX 8111, LITTLE ROCK AR 72203-9936.

