



April 26, 2012

Attorney General Eric T. Schneiderman
Office of the Attorney General
120 Broadway
New York, NY 10271

Dear Attorney General Schneiderman,

Common Cause/NY requests that you undertake a review of annual financial reports filed with your office pursuant to Article 7-A of New York's Executive Law by the American Legislative Exchange Council ("ALEC").¹ Based on information which has become available to us, we believe that ALEC has repeatedly made misrepresentations in its filings with the Office of the Attorney General so as to make itself appear to be a bona fide charitable organization entitled to solicit contributions in New York. We have collected compelling evidence that ALEC is, in fact, a corporate lobby masquerading as a charity. ALEC's annual filings, in which it makes the curious representation that it does not engage in "lobbying activities," should be reviewed by your office to ensure that they accurately describe the organization's programmatic activities.

Founded in 1974, ALEC is an organization of nearly 2,000 state legislators, including former and current members of the New York Legislature, and more than 140 corporations. ALEC is registered in New York as a charitable organization, and at the federal level enjoys tax-exempt status under section 501 (c)(3) of the Internal Revenue Code. ALEC's primary purpose appears to be to serve as a vehicle for its corporate members to lobby state legislators and to deduct the cost of that activity as charitable contributions. Each year, ALEC produces about 800 pieces of "model" legislation. Its staff writes and distributes emails, "issue alerts," press releases, "talking points" and other materials to help ALEC-member legislators argue on behalf of ALEC's legislation and/or in opposition to bills outside ALEC's portfolio. ALEC also carefully tracks the progress of that legislation as it moves through statehouses across America, producing scorecards to measure its effectiveness in getting its bills enacted.

While these activities meet any reasonable definition of lobbying, ALEC insists that it does not lobby. We are aware of several instances in which ALEC has advised its members in writing regarding positions on pending legislation, as well as the fact that legislation which appears to be based on ALEC model legislation has been introduced in New York.

¹ NY State Registration No. 14-86-68.

In a complaint² submitted April 21 to the Internal Revenue Service's Tax Whistleblower Office, Common Cause seeks an investigation of ALEC's lobbying activity, the collection of unpaid taxes and the assessment of appropriate penalties. In support of our submission, Common Cause has provided the IRS with more than 4,000 pages of ALEC materials documenting the organization's lobbying. Several of those documents concern ALEC's activities in New York.

Given the information which has been obtained so far, we believe that there are serious questions regarding ALEC's 501(c)(3) status, and that the manner in which it reports its activities in New York may violate Section 172-d(1) of Article 7-A of the Executive Law. I urge you to conduct a thorough review of ALEC's filings with your office to determine if they are complete and accurate.

Thank you for your attention to this matter.



Susan Lerner
Executive Director, Common Cause/NY

² http://www.commoncause.org/atf/cf/%7Bfb3c17e2-cdd1-4df6-92be-bd4429893665%7D/ALEC_FINAL_SUBMISSION_IRS_WHISTLEBLOWER.PDF