WILMERHALE

Vinita Ferrera

+1 617 526 6208 (t) +1 617 526 5000 (f) vinita.ferrera@wilmerhale.com

VIA OVERNIGHT MAIL

March 25, 2015

Alan P. Dye, Esq. Webster, Chamberlain & Bean, LLP 1747 Pennsylvania Avenue, N.W. Washington, D.C. 20006

Re: American Legislative Exchange Council's ("ALEC") Notice to Common Cause to Cease and Desist

Dear Mr. Dye:

Beilina

Berlin

I am writing on behalf of Common Cause in response to ALEC's cease and desist letter dated March 4, 2015 regarding "ALEC's positions and activities" on climate change. Having reviewed the letter, Common Cause rejects ALEC's allegations and stands by the fairness and accuracy of its statements and reporting.

ALEC's position that Common Cause has made "false claims that ALEC denies climate change or denies the impact of climate change" is incorrect. Common Cause's statements are legitimate assertions of opinion based on the public record and entirely consistent with how ALEC has discussed, characterized, and approached the issue of climate change.

Your letter's citation to ALEC's 1998 model policy on climate change cherry-picks various portions without providing a full picture of the policy, and fails to account for many other statements, activities and bills that have been advanced by ALEC. While granting that human activity has altered the earth's atmosphere, ALEC's model policy, http://www.alec.org/modellegislation/interstate-research-commission-on-climatic-change-act/, goes on to say that human activity "may lead to demonstrable changes in climate," which "may lead to deleterious, neutral or possibly beneficial climatic changes" and that "a great deal of scientific uncertainty surrounds the nature of these prospective changes." (Emphasis added.)

The characterization of an individual or entity as one that denies climate change is well understood to refer not only to those who deny outright that the earth's climate is changing, but more broadly to individuals or organizations who, while admitting that changes in the earth's atmosphere are occurring as a result of human activity, question or cast doubt on the scientific evidence regarding climate change or its impact. ALEC easily fits within this common understanding of the term, and Common Cause's statements accurately reflect ALEC's stance.

March 25, 2015 Page 2

Similarly, contrary to ALEC's assertion, Common Cause has not mischaracterized Google Chairman Eric Schmidt's statements, which were made on National Public Radio's Diane Rehm show on September 22, 2014. As the transcript of this interview demonstrates, Common Cause has accurately reported on Mr. Schmidt's statements concerning the reasons for Google's departure from ALEC, and many other news outlets have independently reported it the same way.

In any event, none of Common Cause's statements can fairly be considered defamatory. The assertion that ALEC denies climate change merely reflects ALEC's public policy views in a high-profile public debate. Moreover, it is clear from the context in which Common Cause's statements were published that a reasonable reader would understand these statements to reflect Common Cause's opinion and strong disagreement with the views and positions espoused by ALEC on the subject of climate change.

There is extensive debate in the media concerning the ideas and policies that ALEC supports. Under no circumstances has Common Cause acted with actual malice towards ALEC or in its reporting of ALEC's position on climate change.

Common Cause is a nonprofit advocacy organization that was created to serve as a citizens' lobby for greater transparency and accountability. Common Cause's statements regarding those who deny the existence or effects of climate change are intended to foster greater national awareness and uninhibited, robust discussion around a critical public policy issue. Common Cause's statements concerning ALEC's positon and activities on climate change, especially as understood in this context, are statements of opinion, are neither false nor defamatory, and as such are certainly not legally actionable. For these reasons, Common Cause declines ALEC's request to retract or alter any statements appearing on Common Cause's website or in other Common Cause materials.

Nothing contained within this letter may be deemed a waiver of any right, remedy, defense, or counterclaim available to Common Cause or its representatives, all of which I specifically reserve.

Sincerely,

Vinita Ferrera

Vinta Jenera