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September 9, 2014

Nicholas J. Bokron
Terra Friedrichs
P.O. Box 74
Nahant, MA 01908

Re: *Initiative Petition No. 14-01*

Dear Mr. Bokron and Ms. Friedrichs:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, we have reviewed the above-referenced initiative petition, which was submitted to the Attorney General on or before the first Wednesday of August of this year. The initiative petition you propose would amend the Massachusetts Constitution to provide, among other things, that "Corporations are not people and may be regulated" (Section 1) and "Money is not free speech and may be regulated" (Section 2).

This is a matter that the Legislature can address, but the Massachusetts Constitution does not allow through the petition process.

As a threshold matter, please recall that our decision, as with all decisions on certification of initiative petitions, is based solely on Article 48's legal standards; it does not reflect any policy views the Office of the Attorney General may have on the merits of the proposed constitutional amendment. Indeed, since the Supreme Court decided *Citizens United v. Federal Election Commission* in January 2010, the Attorney General has been a leader in state and national efforts to reverse the negative impacts of *Citizens United*. Attorney General Coakley was the first State Attorney General to support a federal Constitutional Amendment to overturn *Citizens United*, and with her state colleagues has urged Congress to adopt that Amendment. She likewise also urged the Massachusetts Legislature to pass a resolution to support that federal Constitutional Amendment, and the Legislature ultimately passed that resolution. Attorney General Coakley also filed, together with other state Attorneys General, an amicus brief in *Citizens United*, asking the Supreme Court to uphold—not eviscerate—Congressional authority to restrict corporate political spending on federal elections. Attorney General Coakley shares the view, reflected in Initiative Petition No. 14-01, that the *Citizens United* decision should be overturned.

We are obligated, however, to review the proposed Initiative Petition based solely on Article 48's legal standards. On that basis, the Office of the Attorney General is unable to certify



that the proposed constitutional amendment complies with the requirements of Art. 48, the Init., Pt. 2, §§ 2, 3.

Part 2 of Article 48 excludes from the initiative process any proposed constitutional amendment that is “inconsistent with any one of the following rights of the individual, as at present declared in the declaration of rights, [including freedom of speech and assembly].” Art. 48, the Init., Pt. 2, § 2. The Supreme Judicial Court of Massachusetts has long held the use of money to be part of an individual’s rights to free speech and peaceable assembly. *Bowe v. Secretary of the Commonwealth*, 320 Mass. 230, 252 (1946). A proposed amendment that declares “money shall not be considered free speech” is therefore inconsistent with the free speech and free association (“peaceable assembly”) rights of individuals, as set forth in articles 16 and 19 of the Declaration of Rights and interpreted by the SJC.

This conclusion means that the proposed amendment cannot be the subject of an initiative process, and we cannot certify that the proposed constitutional amendment complies with Part 2 of Article 48. We note, however, that a Massachusetts legislator could pursue such an amendment through the legislative process because that process would be outside Part 2 of Article 48.

In light of this conclusion with respect to Section 2 of the proposed amendment, we need not make any determinations with respect to other parts of the proposed amendment.

Our office reserves the right to issue a fuller explanation of our conclusions in the future. We are issuing this abbreviated decision now, in order to facilitate your ability to obtain prompt judicial review and to gather signatures while any such appeal is pending.

Sincerely,



Chris Barry-Smith
First Assistant Attorney General

cc: William Francis Galvin, Secretary of the Commonwealth