

# Patterson Belknap Webb & Tyler LLP

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July 27, 2016

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## By Fax and E-mail

The Honorable Lamar S. Smith  
Chairman  
House Committee on Science, Space, and Technology  
2321 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Smith:

We represent the Rockefeller Brothers Fund (“RBF”), and along with David Angeli, Esq., we are co-counsel to the Rockefeller Family Fund (“RFF,” and together the “Funds”). We write in response to the July 13, 2016 subpoenas issued by the Committee on Science, Space, and Technology (the “Committee”) to Mr. Stephen Heintz, President, RBF, and Mr. Lee Wasserman, Director, RFF (together, the “Subpoenas”).

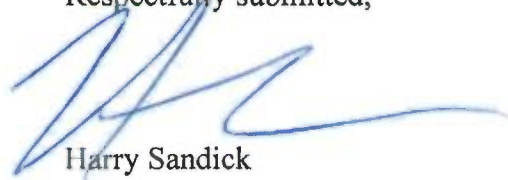
We have already shared with you and your staff our grave concerns about the Subpoenas, which seek documents and communications, to the extent they exist, between the Funds and certain non-profit organizations and between the Funds and state Attorney Generals. The Subpoenas, as currently formulated, invade RBF and RFF’s First Amendment rights by seeking documents that would reveal the internal processes of our clients, and of some of the non-profit organizations to which they award grants. *See NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460-61 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1162 (9th Cir. 2010) (“Implicit in the right to associate with others to advance one’s shared political beliefs is the right to exchange ideas and formulate strategy and messages and to do so in private.”). If the Funds are compelled to turn over materials, such as documents reflecting strategic communications between the Funds and their grantees, the rights of association of the Funds and the non-profit organizations will be chilled.

Despite our exchange of letters, we do not have a clear understanding of why the Committee views the documents requested by the Subpoena as relevant to its investigation. We understand that the Committee’s primary interest is the validity of certain aspects of the investigations brought by the Attorneys General of various states. We continue to question whether Congressional supervision of enforcement of state statutes is appropriate; the Attorney General investigations will rise and fall on their own merits. *See Cameron v. Johnson*, 390 U.S. 611 (1971). In any event, however, we believe the Subpoenas are so broadly drafted that they encompass documents well beyond those tied to the Committee’s stated endeavor.

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We remain convinced that we can reach agreement on an approach that will address the Committee's investigative concerns while preventing a chilling effect on the Funds' freedom of association. To that end, our letter of July 13, 2016, proposed that the Funds produce factual information relating to grants made to the organizations named in the Subpoenas, and we remain open to discussing this or other paths forward. We respectfully request an opportunity to discuss the Subpoenas with you and your staff in the hopes of reaching a mutually agreeable resolution.

Respectfully submitted,



Harry Sandick

cc: The Hon. Eddie Bernice Johnson  
2468 Rayburn Office Building  
Washington, D.C. 20515