Foundation Action

The bi-monthly newsletter of the National Right to Work Legal Defense Foundation, Inc.

Vol. XXVII, No. 5 | 8001 Braddock Road • Springfield, Virginia 22160 | www.nrtw.org | September/October 2007

Big Labor Bosses Scheme to Trump Right to Work Laws

Foundation leads the charge to fight back, Texas attorney general joins fight

CORPUS CHRISTI & EL PASO, TX – As the national defender of employee free choice, the National Right to Work Legal Defense Foundation has spearheaded an increasingly successful battle to prevent union bosses from eroding Texans' Right to Work.

Of course, Texas' highly popular Right to Work law makes union affiliation and dues payment strictly voluntary. For six decades, the Right to Work law has protected the individual liberty of the Lone Star State's workforce. Additionally, it has acted as a magnet to attract countless jobs and boost the state's economic prosperity.

Recently, however, employees working at separate detention facilities in Texas have sought the Foundation's assistance in stopping a statewide scheme to ignore the Right to Work law at numerous workplaces.

Union officials corral employees into union ranks using fraud

In Corpus Christi, Security, Police and Fire Professionals of America (SPFPA) union officials ordered Carlos Banuelos and other guards at a Department of Homeland Security facility to pay union dues or be fired.

But when Banuelos asserted his right not to pay union dues, union officials threatened to have him terminated. As a result, he was forced to pay the money under protest. In April, Foundation attorneys helped Banuelos challenge the unlawful threats at the National Labor Relations Board (NLRB), which has since issued a complaint.

Meanwhile in El Paso, Juan Vielma, a 17-year veteran security guard, endured a year-long battle against the same union. At the Immigration and Customs Enforcement (ICE) facility where he works, SPFPA union officials had his employer, AKAL Security, indefinitely "suspend" Vielma in June 2006 without pay when he refused to pay tribute to the union.

Vielma suffered a crushing financial and emotional hardship as he fought to defend his Right to Work for over a year. He fell behind on mortgage payments and could not even collect unemployment because he was not technically "fired."

"I work to get paid; I don't pay to work," said Juan Vielma, pictured here with his family. Vielma paid a high price for exercising his Right to Work.

Scheme to undermine Right to Work reaches far beyond Lone Star State

In both cases, SPFPA union officials claimed, with no basis whatsoever, that Vielma, Banuelos, and their coworkers work on an "exclusive federal enclave" not protected by Texas' Right to Work law.

But at Vielma's NLRB hearing, AKAL and union officials presented no evidence to back up their assertion that

see **RIGHT TO WORK** *page 7*

IN THIS ISSUE

Dysfunctional NLRB Kicks Lead Case Back to the Bureaucracy

Board sits on old Foundation case for years, then punts after federal court scrutiny

HARTFORD, CT – Further solidifying its growing reputation as a dysfunctional agency that considers employee rights a low priority, the National Labor Relations Board (NLRB) has denied a Colt Manufacturing employee's request for a ruling in his precedent-setting case that has already languished at the federal agency for over four years.

With free legal help from attorneys at the National Right to Work Foundation, George Gally, a 40-year veteran Colt employee, originally filed unfair labor practice charges at the NLRB in March 2003. Gally is challenging the United Auto Worker (UAW) union's nation-wide policy of barring employees from refraining from paying for union political activities *unless they object annually.*

Rather than decide the long-pending lead case, the NLRB instructed its Hartford-based regional office to set a hearing date before an Administrative Law Judge, claiming that the record in the case is "insufficient" to issue a final decision. This cynical maneuver occurred after Foundation attorneys actually filed a federal lawsuit against the agency for its unjustified delay.

uaw.org

Ron Gettelfinger's UAW union continues to hamstring workers seeking to cut off the use of their forced dues for politics while the NLRB dithers.

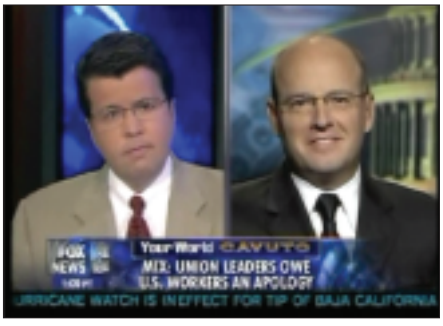
"Justice delayed is justice denied," said Stefan Gleason, vice president of the National Right to Work Legal Defense Foundation. "By dragging its feet in processing employee rights complaints, the NLRB is helping union officials hold workers hostage in full dues paying union ranks."

Current labor board follows Clinton legacy of under-cutting employee rights

In the Foundation-won U.S. Supreme Court *Communications Workers v. Beck* decision, the court reaffirmed that workers have the right to refrain from formal union membership and ruled that they cannot be forced to pay for activities unrelated to collective bargaining.

However, UAW officials have been thumbing their noses at appellate court rulings that prohibit union officials from forcing Gally and his co-workers to renew their objections to paying for non-bargaining expenses every single year. Of course, the only reason for such a requirement is to deter employees from reclaiming forced union dues to which the union is not entitled.

The current NLRB charge isn't the first time Foundation attorneys have helped Gally assert his rights in the face of hostile UAW officials. In December 2003, a federal Administrative Law Judge awarded Gally nearly $31,000 in compensation plus interest for pay lost after he was illegally fired at the order of UAW Local 376 union officials.



Fox News Channel

National Right to Work Foundation President Mark Mix appeared on Fox's "Your World: With Neil Cavuto" on Labor Day. Once again, union officials refused to appear opposite a Right to Work official.

Foundation *Action*

Rev. Fred Fowler	*Chairman, Board of Trustees*
Reed Larson	*Executive Committee Chairman*
Mark Mix	*President*
Stefan Gleason	*Vice President and Editor in Chief*
Ray LaJeunesse, Jr.	*Vice President and Legal Director*

Distributed by the
National Right to Work Legal Defense and Education Foundation, Inc.
8001 Braddock Road, Springfield, Virginia 22160
www.nrtw.org • 1-800-336-3600

The Foundation is a nonprofit, charitable organization providing free legal aid to employees whose human or civil rights have been violated by abuses of compulsory unionism. All contributions to the Foundation are tax deductible under Section 501(c)(3) of the Internal Revenue Code.

16-Year-Old Girl Takes on Union for Threatening Her Job

Foundation aids teen saving for college while union bosses demand cut of her earnings

SAN DIEGO, CA – When Danielle Cookson started work as a courtesy clerk for Albertsons Inc., bagging groceries and gathering shopping carts, union officials "welcomed" her by trying to seize over a hundred dollars in "initiation fees" and forced dues from her paycheck.

But Danielle is no ordinary employee. Just 16 years old, she is a highly motivated high-school student who secured a job at the grocery giant in May to save money for college.

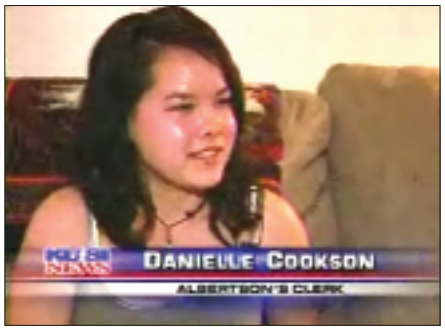
Almost immediately after union bosses ordered her to pay up or be fired, Danielle filed charges at the National Labor Relations Board (NLRB) with help from attorneys at the National Right to Work Foundation. Now she is courageously fighting to protect her right not to pay full union dues to a union just to keep her job.

Union officials 'welcome' teen to work, promptly try to get her fired

United Food and Commercial Workers (UFCW) Local 135 union officials sent Danielle a congratulatory letter, that first welcomed her as a new Albertsons employee.

But the latter half of the union welcome letter took an ominous turn. UFCW Local 135 bosses began to hound Danielle for forced dues and demanded she appear *in person* at the Local 135 office to affiliate. They demanded she pay monthly dues of $29.75 plus an initiation fee of $80, even though she only works part-time and at minimum wage.

And in subsequent letters, the union hierarchy threatened, "You are required to fulfill your financial obligation" and "unless you tender your dues and initiation fee…the union shall proceed with the terms of the union security article of our collective bargaining agreement which will result in your termination."



KUSI-TV

Union bosses tried to bully 16-year-old Danielle Cookson to pay union dues rather than save her part-time wages for college.

"I don't want to join because I don't want to have to pay the fees since I'm saving up money for college," Danielle explained to local television reporters. "They're not going to do anything for me. I'm sixteen with a part-time job, and they just want my money."

These demands did not sit well with young Danielle, and she did some of her own research on the Internet. She quickly found the National Right to Work Foundation's legal aid web site, which clearly explained her rights. Using the web site as guidance, she sent a letter asserting her right to refrain from formal union membership and pointing out that the most the union can force her to pay are the costs relative to collective bargaining.

Not surprisingly, UFCW Local 135 union officials ignored her request – instead reiterating their threats against her job. Danielle promptly sent the union brass a second letter insisting that her legal rights be respected.

That set the union bosses off, and they dashed off a "termination notification" letter to Albertsons demanding she be removed from the schedule, and ordered that she pay the dues and initiation fee within seven days or else be fired.

In the same letter, the UFCW Local 135 union hierarchy outright lied that Danielle "ignored all efforts by the union to obtain compliance," even though the union officials themselves ignored Danielle's repeated requests for a reduction of the compulsory dues and information about her legal rights.

Teen enlists Foundation's help to fight back

Unyielding to the union bosses' threats and determined to stand up for her rights, Danielle contacted the Foundation directly to obtain free legal aid. Right to Work attorneys immediately filed federal charges at the NLRB.

The charges highlight that UFCW Local 135 union officials never informed Danielle of her right to refrain from paying full dues, her right to request an independent financial audit of how the forced dues would be spent, and that union officials unlawfully demanded Danielle's formal membership. These rights were recognized in the Foundation-won *Communications Workers v. Beck* Supreme Court ruling.

Union bosses have no choice but to backtrack

Facing a near-certain prosecution sparked by Foundation attorneys, union officials immediately backtracked and sent another letter to Danielle. In the letter, a high-ranking UFCW union

see **ALBERTSONS CHARGE** *page 8*

Foundation Case Strikes Down Ohio Religious Discrimination

Teacher told to 'change religions' or pay dues she believes are spent on immorality

COLUMBUS, OH – Teacher Carol Katter has struck a major blow for employee free choice and religious freedom in the Buckeye State.

With free legal aid from the National Right to Work Legal Defense Foundation, Katter has successfully sued the Ohio State Employment Relations Board (SERB), challenging the constitutionality of a statewide law denying public employees accommodations to their religious objections unless they were members of certain state-authorized churches.

The Ohio law only permitted objections to compulsory dues from employees who are members of churches with doctrines specifically prohibiting union membership, such as Seventh-day Adventists and Amish-Mennonites.

NEA union's radical agenda offends many faiths

The decision, issued by U.S. District Court Judge Gregory Frost, struck down the outrageous state law as a violation of the First Amendment's Establishment Clause and permanently enjoined the state from further enforcing the law against employees.

Foundation attorneys helped Katter, a 21-year veteran teacher in the St. Marys school district, file the original complaint in the U.S. District Court for the Southern District of Ohio's Eastern Division against top officials of the SERB for religious discrimination.

In her complaint, Katter informed the court that, even though she is a lifelong Catholic with religious objections to the union's agenda, she was denied her right to a religious accommodation that would allow her forced dues to go to a charity instead of the union.

Rather than comply with a union lawyer's suggestion to "change religions," St. Marys teacher Carol Katter filed a lawsuit that struck down a discriminatory Ohio law.

Katter's conscience and faith do not allow her to join or pay any dues to the Ohio Education Association (OEA) union, because her money would be used to further the union hierarchy's position on hot button political and social issues.

"I was not going to give one cent to those causes," Katter told the Ohio media. "I know where NEA money goes, and I knew I never wanted to be part of that," she said.

Union lawyer to teacher: 'change religions' or pay up

Adding insult to injury, an OEA union lawyer told Katter that she must "change religions" to receive a religious accommodation before SERB.

Katter's complaint challenged the state statute as an unconstitutional establishment of religion and an infringement of her religious free exercise rights.

The ruling in Katter's case follows another federal court decree issued last fall that reaffirmed that all Ohio public sector employees who have sincere religious objections to union affiliation cannot be forced to associate with and pay dues to a union they find objectionable. That decree was issued in another Foundation-assisted case challenging similar religious discrimination throughout Ohio. However, for technical reasons, Ohio's SERB itself was not formally bound by that decree even though it was well aware of its existence.

Forced unionism conflicts with religious freedom

"Carol Katter's struggle results from the ongoing eagerness of Ohio teacher union officials to thumb their noses at employees' religious beliefs," stated National Right to Work Foundation President Mark Mix. "While the ruling expands the rights available to employees of faith, abuses of forced unionism will inevitably continue until Ohio passes a Right to Work law making union membership and dues payment strictly voluntary."

Katter also filed a related charge with the Equal Employment Opportunity Commission (EEOC) against the OEA union, a state affiliate of the National Education Association, challenging an attempt by union officials to divert her forced dues to the local union rather than a charity. The EEOC is still investigating the charge.

For more information on Catholic Social Teaching and Compulsory Unionism see: *www.nrtw.org/a/catholic.pdf*

Union Bosses Arrest Airport Security Workers' Free Choice

Uphill election battle to throw out forced dues underscores injustices of federal labor law

SAN FRANCISCO, CA - A group of airport security screeners at San Francisco International Airport (SFO) recently fought desperately to banish forced union dues from their workplace – a valiant, but so far unsuccessful, effort that underscores the injustice of federally imposed compulsory unionism.

Airport security screener Stephen J. Burke, Jr., aided by Foundation attorneys, had successfully petitioned the National Labor Relations Board (NLRB) for a secret ballot "deauthorization" election which was the largest known effort to rid a workplace of forced union dues.

But the election, which occurred in early August, did not secure enough votes and bars at least several hundred dissenting Covenant Aviation Security screeners at SFO from cutting off up to $800 each per year in forced dues. The screeners have since filed an objection to the election results.

According to the National Labor Relations Act (NLRA), a minimum of 30 percent of employees in a bargaining unit need to sign a petition for a deauthorization to be processed. At SFO, nearly half of the screeners signed the petition.

Union bosses pull out all the stops

But winning such elections is an uphill battle for employees. To succeed, a deauthorization election requires the absolute majority of all employees in the bargaining unit to vote for eliminating union officials' special privilege to compel employees to pay union dues or be fired. In other words, workers seeking to deauthorize a union could win in a landslide of those actually voting, but nevertheless lose the election.

"Federal labor law stacks the deck against employees that seek an election to oust forced dues," stated Foundation President Mark Mix. "Only stripping union officials of their federal authorization to compel payment of dues in the first place will truly protect employee free choice."

Airport security screener Stephen Burke led the uphill battle at San Francisco Int. Airport.

This battle involved more than 900 Covenant Airport Security screeners at SFO, and raised eyebrows because it highlights the extent to which union officials will go to prevent even a modicum of employee free choice.

Service Employees International Union (SEIU) lawyers first made fruitless arguments to the full NLRB in Washington, DC, asking the agency to block the election, claiming it somehow mattered that some of the employees had signed the petition before the forced-dues clause actually took effect. After a lengthy delay, the NLRB finally gave the election the green light, ruling that the timing of the collection of signatures was irrelevant.

After the NLRB appeared to have put an end to almost two years of union efforts to block an employee deauthorization vote, union lawyers filed a desperate lawsuit against the agency seeking an extraordinary federal court injunction. A federal judge tossed out that frivolous lawsuit in late June, but the union's machinations delayed the screeners' election several more months, allowing union organizers more time to campaign.

The original insertion of the abusive union at SFO was itself controversial. After pressuring Covenant, the private security firm holding the Transportation Security Administration (TSA) contract to operate passenger screening activities, SEIU union officials sidestepped the traditional, less-abusive method of gaining monopoly bargaining privileges over the screeners.

SEIU bosses slip 'card check' effort past security

In October 2005, instead of a secret ballot vote held by the NLRB, union officials used a coercive "card check" campaign to browbeat screeners into signing cards which were later counted as "votes" favoring the installation of the SEIU union as the screeners' monopoly bargaining agent.

"They would buy you pizza and tell you to sign cards," Stephen Burke recounted to **Foundation *Action*** regarding the 2005 card check drive. "The screeners were really upset the union forced us to pay dues or be fired. The employees didn't understand they were signing cards in favor of the union, they just wanted the organizers out of their face."

Almost immediately, SEIU union officials ordered the security screeners to pay union dues within 30 days or else be fired from their jobs.

Burke and his coworkers at SFO were displeased that the SEIU union had not been forthright during the organizing drive. They realized later that union officials had few intentions other than to collect compulsory dues. The employees therefore pursued their only option at the time under NLRB rules and filed the deauthorization petition for an election to cancel the forced dues requirement.

see **UNION MONOPOLY** *page 6*

Chicago Grocery Workers Vote 2-to-1 to Bag Unpopular Union

UFCW union booted from six stores after three years of stonewalling

CHICAGO, IL – After three years of desperate stonewalling by union lawyers, Treasure Island Foods employees in Chicago voted by over a 2-to-1 margin to kick the United Food and Commercial Workers (UFCW) union out of all six Chicago-area stores.

The employees received free legal aid from the National Right to Work Foundation in obtaining the "decertification" election, which was overseen by the National Labor Relations Board (NLRB).

After overcoming all the obstacles erected by federal labor law, which entrenches incumbent unions, over 300 employees have finally regained their freedom to negotiate over their own wages and working conditions.

Employees: Union bosses not 'earning our union dues'

Treasure Island employees had originally filed for the decertification election in 2004 after UFCW officials ordered an unpopular boycott and fell out of favor with the vast majority of employees. UFCW Local 881 and 1546 union officials took advantage of the tools available to stonewall by trumping up and filing a series of "blocking charges" at the NLRB.

A year later, after obtaining signatures from an overwhelming majority of employees at the grocery chain, Dan Schalin and his coworkers filed another decertification election petition at the NLRB.

"People felt that the union wasn't looking out for them. They weren't earning our union dues," Schalin told a major Chicago newspaper. "There were more hard feelings against the union for boycotting than a fear that the company would not take care of us."

Employees overwhelmingly reject monopoly bargaining

The legal victory in unblocking the election resulted from Foundation attorneys' reliance upon a precedent they had established recently in a case known as *St. Gobain*. In *St. Gobain*, the NLRB agreed with Foundation attorneys and decreed that a decertification election cannot be put on hold unless union lawyers first prove at a formal hearing that there is a "causal nexus" – or direct link – between the alleged unfair labor practices and employee dissatisfaction with the union.

union-network.org

UFCW union chief Joe Hansen (right) seen partying here with a former Miss America.

Because the union lawyers' allegations of unfair labor practices against Treasure Island were held to be largely unrelated and without merit, the NLRB had no choice but to reinstate the election petition.

Ultimately, 189 employees voted in July to oust the union, while less than half that number wanted UFCW union bosses' monopoly bargaining privileges to remain intact.

"UFCW officials have thrown up every stumbling block possible over three years to block Treasure Island employees from exercising their free choice," said Stefan Gleason, vice president of the National Right to Work Foundation. "Federal law is stacked against employees seeking to be free of union interference in their workplace lives."

Union Monopoly Control Threatens Airport Security

continued from page 5

Union officials grab power over national security

As reported in the July/August 2006 edition of **Foundation** ***Action*** (available for download at www.nrtw.org/foundation-action), the very concept of forced unionization of airport security screeners is highly controversial.

Since Congress established the TSA following the terrorist attacks on September 11, union bosses have fought to obtain the nearly $30 million annually in dues that could ultimately be seized from the nation's airport screeners.

To protect against work stoppages, union interference with vital security functions, and even the possibility of terrorist infiltration, Congress originally intended that both privately employed and federally employed screeners operate under TSA guidelines that forbid forced unionization.

However, a union power grab at the NLRB just over one year ago subjected screeners at five airports nationwide, including SFO, to monopoly bargaining and compulsory unionism.

Right to Work Laws Increasingly Under Attack Across America

continued from cover

the federal immigration facility in question was an "exclusive federal enclave" that would be outside the jurisdiction of Texas law. Disturbingly, the trial also revealed the existence of a broader union scheme to violate the law across Texas and in other Right to Work states, potentially involving thousands of employees.

In fact, a lawyer for AKAL boasted that the company requires employees to pay dues "across the country in Right to Work states."

"Texas union officials are openly defying the Right to Work law and bullying workers who resist," said Mark Mix, president of the National Right to Work Foundation. "These union bosses claim that the law does not protect certain employees from forced unionism – simply because they say so."

Foundation helps guard win over $40,000 in back pay

At a hearing before the NLRB in March, a federal Administrative Law Judge agreed with arguments presented by Foundation attorneys and ruled unequivocally that the Texas Right to Work law does, in fact, apply to the ICE facility where Vielma works. The judge ordered Vielma's immediate reinstatement and his reimbursement for full back pay and benefits.

Finally after the year-long hiatus, Vielma returned to work in late July and received $40,150 in back wages. However, SPFPA union bosses quickly appealed the decision to the NLRB in Washington, DC.

At the same time, Foundation attorneys helped Banuelos force his employer, Asset Protection and Security Services, to settle before the NLRB could prosecute them. Banuelos received the back dues that he was forced to pay between December and July. However, the federal board will still prosecute the SPFPA union in early October.

Union officials illegally threatened to have immigration enforcement worker Carlos Banuelos terminated for his refusal to pay union dues.

Even Asset company president Scott Mandel, in speaking to the *Lone Star Report,* was skeptical of the union scheme, "We didn't believe that [the union was] a hundred percent correct," he said, "…because you can't tell Texas employers and employees that they have to join a union knowing that it's a right-to-work state." Notwithstanding the skepticism Mandel had all along, his company went along with the union demands.

Foundation prompts attorney general to get into the fight

Meanwhile, the office of Texas Attorney General Greg Abbott has now engaged in the fight after prompting from Right to Work supporters in the state.

With jurisdiction to enforce the Right to Work law and the duty to protect Texans from this type of abuse, the Attorney General's office is seeking injunctions against the union and both employers. Thanks to the efforts of thousands of Right to Work supporters in Texas who contacted the Attorney General to insist that he uphold the law, the state is taking Right to Work enforcement very seriously.

"The violations Foundation attorneys uncovered in Corpus Christi and El Paso may only be the tip of the iceberg," warned Mix. "There could be thousands of employees in Texas alone who are being forced to pay dues under unlawful threats. The Foundation will stand by their side until justice is served."

Free Newsletter

If you know others who would appreciate receiving Foundation *Action,* please provide us with their names and addresses. We'll rush them the next issue within weeks.

Albertsons Charge

continued from page 3

official ordered, "You are required to pay a service fee to the union in lieu of dues." The "service fee" amounted to 95.7 percent of full union dues.

This time however, union officials failed to explain to Danielle how her compulsory "service fee" was calculated and did not supply an audited verification of the union local's so-called "expenses." As a result, Foundation attorneys filed follow-up charges against the UFCW union at the NLRB.

"In their lust for compulsory union dues, union officials will even bully young folks who are working to save money for their future," said Raymond LaJeunesse, vice president and legal director of the National Right to Work Foundation. "But they made a big mistake trying to push Danielle around, and Foundation attorneys are proud to help this courageous young woman."

Newsclips Requested

The Foundation asks supporters to keep their scissors sharp for clipping news items exposing the role union officials play in disruptive strikes, outrageous lobbying, and political campaigning. Please clip any such stories that appear in your local paper and mail them to:

NRTWLDF
Attention: Newsclip Appeal
8001 Braddock Road
Springfield, VA 22160

Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

Union bosses are stepping up their war on Right to Work laws across America.

As reported in the cover story of this **Foundation *Action***, union officials are using a fraudulent scheme to corral potentially thousands of Texans into union ranks. And the scheme underway may be occurring far beyond the borders of the Lone Star State.

But employees like Juan Vielma and Carlos Banuelos are honest, hard-working Americans fighting for their right to earn a living without paying tribute to a union. And standing shoulder-to-shoulder with them in confronting this union intimidation is your National Right to Work Foundation.

Foundation attorneys are successfully staving off the erosion of Texas' popular Right to Work law, which has been on the books since 1947. Vielma finally returned to his job and received full back-wages, and Banuelos eventually obtained months of back-dues he had been forced to pay.

I wish I could say their stories ended there, but this is no fairytale. We are encouraged by the Texas Attorney General's enforcement of the Right to Work law, but union officials are refusing to back down in the face of both federal and state charges pending against them.

Holding the line against numerous union attacks on America's Right to Work laws is just one reason your continued investment in the National Right to Work Foundation is so vital. With Big Labor bosses mounting ever more devious assaults, your generous support will help to thwart their coercive schemes.

Thank you again for supporting our just cause. Without you, this fight would not be possible.

We are humbled by your partnership.

Sincerely,

Mark Mix