

F O U N D A T I O N F O R I N D I V I D U A L R I G H T S I N E D U C A T I O N

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June 30, 2009

President Brian C. Mitchell
Bucknell University
219 Marts Hall
Lewisburg, Pennsylvania 17837

Sent by U.S. Mail and Facsimile (570-577-3369)

Dear President Mitchell:

The Foundation for Individual Rights in Education (FIRE) is deeply disappointed to be writing you a second time in the matter of Bucknell University's mistreatment of the Bucknell University Conservatives Club (BUCC).

The response we received to our May 21, 2009, letter, from General Counsel Wayne A. Bromfield on June 11, is false and misleading. Bromfield's letter misrepresents Bucknell policy and anti-discrimination law and misrepresents the application of policy, agains

Second, Bromfield falsely represents the reason that Dean of Students Gerald W. Commerford cited to shut down BUCC's affirmative action bake sale on April 7. Bromfield's letter suggests that Commerford shut down the bake sale because of discriminatory pricing. In fact, however, video of the event shows that Commerford seized on a discrepancy between the pricing on the group's Sales and Solicitation Form and the pricing on display at the event. The video shows that Commerford made no effort at all to portray the shutdown as related to unlawful discrimination. In fact, Commerford stated that BUCC would be able to "re-register at another time" and hold the event at some future time.

Third, Bromfield misstates the law and ignores the documented facts of April 21, when Commerford denied BUCC's request for another affirmative action bake sale. Although Kutztown University and many other universities have correctly assessed affirmative action bake sales as protected political speech—such sales are a kind of political theater—Commerford and Bromfield have taken thizBrke

referenced above are available at <http://thefire.org/index.php/article/10735.html>). This is not a case where FIRE and Bucknell simply disagree on what happened. In this case, no reasonable person can look at the evidence and observe facts that are different from those that FIRE has presented. To be explicit, these are that (1) neither the Bucknell solicitation policy cited nor any other policy located by FIRE applies to the non-disruptive distribution of noncommercial handbills (BUCC's "Obama stimulus dollars"), (2) Dean Commerford said nothing about the supposed "discriminatory" nature of the affirmative action bake sale protest when shutting it down and in fact told the students

Robert L. Shibley