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## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*  
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

July 20, 2015

Ms. Cate Dyer  
Chief Executive Officer  
StemExpress  
778 Pacific Street  
Placerville, CA 95667

Dear Ms. Dyer:

I write today requesting additional information relating to reports that suggest StemExpress may be engaging in practices that violate federal law.

Last week, an undercover video surfaced featuring PPFAs's Senior Director for Medical Services, Dr. Deborah Nucatola, candidly discussing the coordination between abortion providers and for-profit companies to ensure the efficient harvest of fetal organs.<sup>1</sup> Among other disturbing and potentially illegal admissions, Dr. Nucatola acknowledged modifying abortion procedures in facilities within the PPFAs network in order to fill particular customer orders for fetal lungs, livers, and heads. This conduct potentially violates federal and possibly state laws.<sup>2</sup> Dr. Nucatola specifically identified your company, StemExpress, in her recorded comments.<sup>3</sup>

In light of the above, I request that StemExpress undertake the following preservation efforts, effective immediately:<sup>4</sup>

<sup>1</sup> See generally Steven Ertelt, *Shock Video Catches Planned Parenthood's Top Doctor Selling Body Parts of Aborted Babies*, LIFENEWS.COM (Jul. 14, 2015).

<sup>2</sup> See, e.g., <http://www.grassley.senate.gov/news/news-releases/grassley-makes-inquiries-attorney-general-planned-parenthood-after-video-surfaces> (last viewed Jul. 20, 2015) (noting Chairman Grassley's concern that PPFAs's activities might violate federal law); Tex. Penal Code Ann. § 48.02.

<sup>3</sup> See Austin Ruse, *Here's the Company that Buys Aborted Body Parts from Planned Parenthood*, BREITBART.COM (Jul. 14, 2015) (mentioning Dr. Nucatola's explicit reference to StemExpress in the undercover video, including details about a StemExpress online order form that allowed StemExpress customers to customize their fetal tissue order in terms of specific body organs and the gestational age of body organs); see also Austin Ruse, *Planned Parenthood's Client Promised 'Profit,' 'Fiscal Growth' for Harvested Baby Parts*, BREITBART.COM (Jul. 14, 2015) (discussing how StemExpress advertises the financial benefits that Planned Parenthood abortion clinics can receive by supplying materials to StemExpress, and that Planned Parenthood had endorsed this StemExpress advertisement).

<sup>4</sup> I would remind you and all other StemExpress employees, contractors, and consultants that violation of this preservation order is a violation of federal criminal law. See generally 18 U.S.C. § 1505.

1. Preserve all StemExpress documents, records, and logs, including paper-based documents, e-mail, e-mail-based calendar appointments, electronic documents, and other electronic data (electronic records), created since January 1, 2010. For the purposes of this request, "preserve" means taking any and all reasonable steps to prevent the partial or full destruction, alteration, overwriting, formatting, deletion, shredding, incineration, wiping, relocation, migration, theft, revision, or mutation of electronic and non-electronic documents, records, and logs, as well as negligent or intentional handling that would make such records incomplete or inaccessible.
2. Exercise any and all reasonable efforts to identify and notify former StemExpress employees, contractors, subcontractors, grantees, subgrantees, and consultants (including those in foreign countries) who may have access to such electronic or non-electronic records that these records are also to be preserved.
3. If it is a business practice of StemExpress or any of its employees, contract employees, or consultants to destroy or otherwise alter such electronic or non-electronic records, either halt such practices immediately, or arrange for the preservation of complete and accurate duplicates or copies of such records, suitable for production if requested.

Please also provide the following unredacted documents and information for the time period from January 1, 2010, to the present:

1. All records relating to StemExpress's procurement of fetal tissue from any PPFA affiliate, including:
  - a. All purchase and shipping forms;
  - b. All parental consent forms (i.e., the consent forms of the parents supplying the fetal tissue received by Stem Express);
  - c. All paper and online order forms for fetal tissue, including the online form mentioned in footnote 3; and
  - d. All e-mail communications between you and/or other StemExpress employees and any PPFA affiliate employees, regardless of subject matter.
2. All e-mail communications between you and/or other StemExpress employees and Dr. Deborah Nucatola or any other PPFA employee or employees, regardless of subject matter.
3. All e-mail communications between you and/or other StemExpress employees and any Department of Health and Human Services or NIH employee or employees regarding the use of fetal tissue for research.
4. All records regarding concern that any fetal tissue provider might be providing fetal tissue that is in any way illegal or that was otherwise of concern to StemExpress.

The Honorable Francis S. Collins, M.D.

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5. Any other information StemExpress feels would be helpful to the Committee in its investigation.

I would also request that you provide any additional materials that fall into the above categories on a continuing basis but are created, written, or otherwise produced after StemExpress's initial receipt of this request.

Please provide the requested documents and information as soon as possible, but **no later than 9:00 a.m. on Tuesday, August 4, 2015**. When producing documents to the Committee, please deliver separate production sets to both the Majority Staff in Room 224 of the Dirksen Senate Office Building and the Minority Staff in Room 152 of the Dirksen Senate Office Building.

I appreciate your cooperation in this very important matter and look forward to your response and receipt of the requested material at the stated date and time. Please contact Committee staff at (202) 224-5225 if you have any additional questions about how to comply with the terms of this production request.

Sincerely,



Ted Cruz  
Chairman  
Subcommittee on Oversight, Agency Action,  
Federal Rights and Federal Courts

#### Attachments

cc: The Honorable Charles E. Grassley  
Chairman  
Senate Committee on the Judiciary

The Honorable Patrick J. Leahy  
Ranking Member  
Senate Committee on the Judiciary

The Honorable Christopher A. Coons  
Ranking Member  
Subcommittee on Oversight, Agency Action,  
Federal Rights and Federal Courts