



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEP - 6 2011

VIA FIRST CLASS MAIL

Ed Martin

St. Louis, MO 63109

RE: MUR 6425

Dear Mr. Martin:

On November 12, 2010, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint and information provided by you, on August 30, 2011, the Commission found no reason to believe that you and SaveAB.com for America violated 2 U.S.C. § 441b(a). Accordingly, the Commission closed its file in this matter. The Factual and Legal Analysis, which more fully explains the Commission's findings, is enclosed for your information..

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70462 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

If you have any questions, please contact Margaret Ritzert, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Shonkwiler", written over a horizontal line.

Mark D. Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

11044303101

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: SaveAB.com for America

MUR: 6425

I. GENERATION OF MATTER

This matter was generated by a complaint filed by Russ Carnahan. *See*

2 U.S.C. § 437(g)(a)(1).

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Ed Martin was the Republican nominee for the U.S. House of Representatives from Missouri's Third Congressional District for the 2010 election cycle. Mr. Martin filed his Statement of Candidacy, designating Ed Martin for Congress as his principal campaign committee, on July 21, 2009.

During the summer of 2008, prior to his 2010 candidacy, Mr. Martin started a grassroots movement to oppose the impending sale of Anheuser-Busch Companies, Inc. to a foreign company. Various individuals within the movement used their own funds to buy a domain name and set up a website (www.SaveAB.com), which was used to gather signatures for an on-line petition and create a list of supporters' e-mail addresses. Response at 1. On July 3, 2008, in response to the movement's rapid growth and apparent need for financial structure in terms of future activities, Mr. Martin founded a non-profit corporation, SaveAB.com for America ("Corporation"). Response at 2. However, about two weeks later, on July 14, 2008, it was announced that Anheuser-Busch would be sold to the foreign company. The sale became final in November 2008. Although the movement was active during the summer of 2008, it had no activity following the July 2008 announcement of the sale. *See* May 31, 2011, Response

11044303102

1 Clarification ("Clarification") at 2. The Corporation dissolved on March 31, 2009,¹ and the
2 www.SaveAB.com website was deactivated. Complaint Exhibits B and D; Response
3 Attachment 1.

4 During the year after the sale of Anheuser-Busch, the former leaders of the SaveAB.com
5 movement continued to receive requests for comments and inquiries about leading possible
6 boycotts of; or protests against, the foreign-owned Anheuser-Busch. Clarification at 1.
7 According to Mr. Martin, the number of these inquiries began to increase as the one-year
8 anniversary of the Anheuser-Busch sale approached in late 2009. *Id.* In December 2009,
9 Mr. Martin, in conjunction with other individuals associated with the SaveAB.com movement,
10 reactivated the website. Complaint Exhibit B; Response at 2; Clarification at 1, 2. When the
11 website went live again, it featured a single letter lamenting the sale of Anheuser-Busch,
12 thanking businesses who supported the movement, and informing supporters of Mr. Martin's
13 candidacy. Notwithstanding the suggestion in the Response and Clarification about the need to
14 respond to inquiries about SaveAB.com's position on purported plans to engage in a boycott or
15 protest, the letter on the website makes no mention of these topics. The portion of the letter
16 regarding Mr. Martin's congressional campaign stated:

17 Also, one of the original Saveab.com founders, Ed Martin, has decided to take
18 this fighting spirit to Congress. He is running for Congress in the Third
19 Congressional District right here in Missouri – this district includes the old
20 headquarters of A-B down on Pestalozzi Street. (Third Congressional District
21 consists of St. Louis City, St. Louis County, Jefferson County and St.
22 Genevieve)[.]

23
24 Ed Martin is running, as he said, to "fight for jobs, for the future and for the
25 American dream – which is all in jeopardy if we don't stop shipping our jobs to
26 Mexico and India and running up our debt to China!"
27

¹ The Articles of Dissolution list the dissolution date as December 17, 2008; however, Mr. Martin did not file the Articles of Dissolution and Termination with the Missouri Secretary of State until March 31, 2009.

11044303103

1 If you are interested in finding out more, or joining Ed Martin in this endeavor,
2 visit his website TODAY:

3 The letter then linked to a page on the Committee's website titled, "Welcome SaveAB.com
4 Friends." This page invited visitors to sign up for e-mail updates, volunteer to help, and
5 "consider a financial contribution." Complaint Exhibit E. The letter was also e-mailed, along
6 with the link to the Committee's website, from a www.SaveAB.com e-mail account to
7 SaveAB.com supporters. Although the letter claims to be reaching 85,000 supporters, both the
8 complaint and various news articles report that the e-mail was sent to 40,000 supporters. See,
9 e.g., Complaint Exhibit B.

10 Complainant alleges that the December 2009 www.SaveAB.com website and e-mail
11 constitute prohibited corporate contributions in the form of SaveAB.com for America's corporate
12 name, logo, website, and mailing list, in violation of 2 U.S.C. § 441b(a).

13 Mr. Martin, on behalf of all of the respondents, expressly denies the allegations. Mr.
14 Martin asserts that the short-lived corporation never held any assets, made any purchases, or
15 conducted any organizational meetings. Response at 2; Clarification at 1. Rather, the activity of
16 the SaveAB.com movement was paid for out-of-pocket by the individuals associated with it, and,
17 upon dissolution, "anything that the participants created or gathered during the grassroots effort –
18 whether information, photographs, placard [sic], shirts, etc. – . . . was kept by each person
19 individually." Clarification at 1. Specifically, the website and the data it collected were
20 continually maintained by Mike Smith, the same individual who set up the website at the
21 beginning of the movement, much as the telephone system was continually maintained by
22 Mr. Martin. Response at 1; Clarification at 1. As the Corporation held no assets, it did not have
23 any assets to distribute when it dissolved. Response at 2. Mr. Martin also asserts that the

11044303104

1 decision to create the December 2009 letter was primarily his, and not that of any legal entity.

2 Clarification at 1-2.

3 **B. Legal Analysis**

4 A contribution is any gift, subscription, loan, advance, or anything of value made by any
5 person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(a)(1).

6 Commission regulations define "anything of value" to include in-kind contributions: the
7 provision of goods or services without charge or at a charge that is less than the usual and normal
8 charge. 11 C.F.R. § 100.52(d)(1).

9 The Federal Election Campaign Act of 1971, as amended, prohibits corporations from
10 making contributions from their general treasury funds in connection with any election of any
11 candidate for federal office. 2 U.S.C. § 441b(a). A candidate, political committee, or other
12 person is prohibited from knowingly accepting or receiving any corporate contribution. *Id.*

13 The assets that allegedly constitute the in-kind corporate contribution – the SaveAB.com
14 name and logo, domain name, and e-mail list – were developed while SaveAB.com was a
15 grassroots movement, before it incorporated. Mr. Martin explains, for example, that two
16 individuals bought a domain name and set up a website at the time the movement was founded.
17 Furthermore, it appears that the Corporation did nothing to take control of these assets in the two
18 weeks it was operational: Mr. Martin specifically asserts that the Corporation never held any
19 assets and therefore had no assets to distribute upon dissolution. Rather, these items were
20 continually maintained by the individuals who created them. Moreover, the Corporation
21 officially dissolved four months before Mr. Martin became a candidate and eight months before
22 the decision to send an e-mail to the movement's supporters. That is, the Corporation did not
23 exist at any time that the assets could have been transferred to Mr. Martin in his capacity as an

11044303105

- 1 agent of the Committee. Accordingly, the Commission found no reason to believe that
- 2 SaveAB.com for America violated 2 U.S.C. § 441b(a).

11044303106