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OFFICE OF GENERAL
COUNSEL

David H. Zisser

San Francisco, CA 94115

March 17, 2012

Office of General Counsel
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

MUR # 6544

Subject: Violation of Federal Election Campaign Laws (Section 441b) by MSNBC

Dear Commissioners:

I am writing to you to file a Complaint against MSNBC for making an "in-kind" donation to the presidential campaign of President Barack Obama in violation of **Section 441b. Contributions or expenditures by national banks, corporations, or labor organizations found in the Federal Election Campaign Laws as compiled by The Federal Election Commission.**

On Friday, March 16, 2012, Ed Schultz, the host of *The Ed Show*, a news commentary program, devoted 14 minutes and 48 seconds of

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uninterrupted cable time to President Obama's fundraising speech in Atlanta, Georgia which was identified as "Breaking News". In addition, no fewer than 80 laudatory e-mails/tweets appeared below the President as he spoke. There were no e-mails/tweets that were of a negative nature. A typical sample herein:

"PATRICK WHITAKER @ed show The character of our President is something the Republicans could never match."

Section 441b(a). Contributions or expenditures by national banks, corporations or labor organizations states that "It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office ..." MSNBC is a corporation and thus subject to this section of the Federal election campaign laws.

Section 441b(b)(2) further states that "the term 'contribution or expenditure' ... also includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value." (Emphasis mine.)

It is my belief that nearly fifteen minutes of uninterrupted cable time to showcase a fundraising campaign speech before an audience of the faithful -- accompanied by a serial stream of laudatory tweets/e-mails -- is something of great "value", and the President's speech, while of modest news note, was not the equivalent of a White House Rose Garden press conference or an Oval Office speech to the nation on a subject of national importance. It was therefore not worthy of an uninterrupted fifteen minutes of free cable time.

The unambiguous language of **Section 441b(2)** prohibits a corporation from making "indirect" contributions to a political

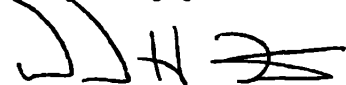
campaign, and I view this so-called "Breaking News" as a thinly-disguised and illegal campaign contribution. (One can only imagine what this cable time would cost in the normal marketplace.)

MSNBC has very strict in-house ethical rules governing political campaign contributions by members of its own journalism team: Political donations simply are not allowed and the donor is subject to discipline from MSNBC if he/she violates those rules. Both Keith Olbermann and Joe Scarborough ran afoul of this prohibition and were subject to corporate sanction. Thus, I find it astonishing that the powers that be at MSNBC would allow *The Ed Show* to run this de facto campaign advertisement without proper vetting by MSNBC as to its suitability vis-à-vis Federal election campaign laws.

I am aware that the journalists employed by MSNBC, Fox, and CNN can take an editorial stand on an issue of the day, and I fully embrace this freedom of the press. What I cannot countenance is the deliberate circumvention -- in both letter and spirit -- of this nation's election laws.

Thanking you for your time and consideration, I remain,

Very truly yours,



David H. Zisser

Cc: Phil Griffin
MSNBC President

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

San Francisco

On

3-19-12

before me,

R Leonard, Notary Public

Here Insert Name and Title of the Officer

personally appeared

David H Zisser

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

R Leonard

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other:

Signer Is Representing:

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OF SIGNER
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- ☐ Attorney in Fact
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