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FEDERAL ELECTION COMMISSION
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June 26, 2012

Via Priority U.S. Mail

Hon. Anthony Herman
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

MUR # 6603

Re: *Ben Chandler, Ben Chandler for Congress and Patriot Majority USA*

Dear Mr. Herman:

Pursuant to 2 USC § 437g(a)(1) and 11 CFR § 111.4, please accept this letter as a Complaint against Congressman Ben Chandler, Ben Chandler for Congress ("the Committee"), and Patriot Majority USA for operating in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Federal Election Commission ("FEC" or "Commission") regulations, and more specifically, for violation of the prohibition on coordination set forth in 11 CFR § 109.21.

I. Facts

Ben Chandler is the U.S. Representative for Kentucky's 6th Congressional District, and is running for re-election in 2012. Ben Chandler filed an amended Statement of Candidacy on January 31, 2011. Ben Chandler for Congress is the authorized principal campaign committee for Ben Chandler. The Committee filed an FEC Form 1 Statement of Organization on January 27, 2007.

Patriot Majority USA is an organization that makes independent expenditures on behalf of Federal candidates, and files reports for those expenditures with the FEC as an independent expenditure only committee.

On June 13, 2012, the Committee released seven video segments on youtube. The segments depict Ben Chandler visiting with various people, and are labeled with titles such as "Ben Chandler – Town Meeting", and "Ben Chandler – Law Enforcement." Some footage from the video segments appeared in 2010 advertisements run by the Committee. See <http://mycn2.com/politics/democratic-group-s-ads-back-chandler-over-medicare-while-using-familiar-footage>. The Committee removed the footage from youtube later on June 13, but screen

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shots of the seven clips are still available online at <http://pageonekentucky.com/2012/06/14/a-look-at-ben-chandlers-tv-spot-strategy>.

On June 18, 2012, Patriot Majority USA began running an advertisement in support of Ben Chandler. See Attachment 1 for a transcript of the advertisement. The advertisement was scheduled to run from June 18 through June 24, at a total cost of \$45,375. See <http://mycn2.com/politics/democratic-group-s-ads-back-chandler-over-medicare-while-using-familiar-footage>. The advertisement features the same footage created and posted online by the Committee. In fact, the closing shot of the advertisement, available online at http://patriotmajority.org/media/tvads?video_id=31, matches one of the screen shots still available online. The disclaimer on the advertisement reads "Paid for by Patriot Majority USA. www.patriotmajority.org."

Relevant Law

Federal law prohibits federal candidates, individuals holding federal office, and entities that are directly or indirectly established, financed, maintained, or controlled by one or more federal candidates or individuals holding federal office from soliciting or receiving funds in connection with an election for Federal office unless the amounts consist of federal funds subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act ("FECA"). 11 CFR §§ 300.60, 300.61.

A payment for a coordinated communication made for the purpose of influencing a Federal election is an in-kind contribution to the candidate or authorized committee with whom or which it was coordinated. 11 CFR § 109.21(b)(2). In-kind contributions, like other contributions, are subject to federal contribution limits.

Independent-expenditure only committees, or committees that solicit and accept unlimited contributions from individuals, political committees, corporations and labor organizations for the purpose of making independent expenditures are prohibited from making direct contributions to federal political committees. See *Citizens United v. Federal Election Commission*, 130 S. Ct. 876, 901 (2010) (noting that *Buckley v. Valeo*, 424 U.S. 1 (1976) first upheld the FECA's limits on direct contributions to candidates to protect against the government interest in the prevention of corruption and the appearance of corruption"). See also FEC Advisory Opinion 2010-11 (approving an organization's proposal to solicit non-federal funds in order to make independent expenditures, as long as the organization refrained from making "any monetary or in-kind contributions (including coordinated communications) to any other political committee or organization").

A coordinated communication is a communication that satisfies a three pronged test. This test considers (1) the source of payment ("the payment prong"), (2) the subject matter of the

communication (“the content prong”) and (3) the interaction between the person paying for the communication and the candidate or political party committee (“the conduct prong”). 11 CFR § 109.21(a).

The payment prong is satisfied when the coordinated communication is paid for, in whole or in part, by a person other than the candidate, an authorized committee or a political party committee with whom the communication is coordinated. 11 CFR § 109.21(a)(1).

The content prong is satisfied, among other instances, when a public communication disseminates, distributes, or republishes, in whole or in part, campaign materials prepared by a candidate or the candidate’s authorized committee. 11 CFR § 109.21(c)(2).

The conduct prong may be satisfied in several ways, including instances in which a communication is created, produced or distributed at the request or suggestion of a candidate or authorized committee, or where the candidate or authorized committee assents to the creation, production, or distribution of the advertisement. 11 CFR § 109.21(d)(1)(i),(ii).

Legal Analysis

The advertisement at issue is an impermissible coordinated communication between the Committee and Patriot Majority USA. The disclaimer on the advertisement confirms that it was paid for by Patriot Majority USA, which satisfies the first prong of the coordinated communications test.

Secondly, the advertisement features video footage belonging to the Committee, including footage that was actually included in a previous advertisement run by the Committee in 2010. This clearly meets the content standard addressing dissemination, distribution, or republication of materials prepared by a candidate’s authorized committee.

The last prong of the coordinated communications test is also met in this particular instance. The Committee put its footage up on the internet. The footage was posted on the Committee’s website for less than 24 hours, and 5 days later, Patriot Majority USA began airing an advertisement using that same footage. Considering the time required to produce an advertisement and submit it to a television station in order for it to begin airing on a Monday morning, it is clear that, at the very least, the Committee assented to the production of the advertisement, and specifically to the inclusion of the Committee’s footage, if the Committee didn’t outright request or suggest the production of the advertisement entirely.

The facts establish that the advertisement is clearly a coordinated communication. Coordinated communications must be reported as in-kind contributions to the candidate or

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authorized committee that they benefit. In-kind contributions are subject to the same federal contribution limits set for individual contributors.

Patriot Majority USA has already spent at least \$45,375 on coordinated communications in support of Ben Chandler, which equates to an in-kind contribution of at least \$45,375 to the Committee. As an independent expenditure only committee, Patriot Majority USA is prohibited from making direct or in-kind contributions to federal candidates and committees. Furthermore, the Committee is prohibited from receiving a contribution in excess of federal limits and in violation of federal source prohibitions.

IV. Conclusion

Upon information and belief, and based upon the facts relayed herein, Ben Chandler, Ben Chandler for Congress, and Patriot Majority USA have violated the Federal Election Campaign Act of 1971, as amended, and Federal Election Commission Regulations. Accordingly, we respectfully request that the Commission conduct an immediate investigation into the violations outlined above and impose the maximum penalty under law.

The foregoing is correct and accurate to the best of my knowledge, information and belief.


Respectfully submitted,



Mark A. Wohlander

MAW/maw

Sworn to and subscribed before me this 26 day of June, 2012.



Notary Public

My Commission Expires:

5/20/15

id: 443403

