



FEDERAL ELECTION COMMISSION
Washington, DC 20463

FEDERAL ELECTION COMMISSION
MISSION
SECRETARIAT

2015 APR -8 A 9:53

SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LSS/DAP*
Deputy General Counsel for Law

Daniel A. Petalas *DAP*
Associate General Counsel

Peter G. Blumberg *PGB*
Assistant General Counsel

Michael A. Columbo *MAC, PGB*
Attorney

SUBJECT: MUR 6850 (Black)

RE: Office of the General Counsel's Notice to the Commission Following the Submission of Probable Cause Brief

On March 17, 2015, Arvin Black received the Office of the General Counsel's ("OGC") notification that it was recommending that the Commission find probable cause to believe that he violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) and 52 U.S.C. § 30116(a) (formerly 2 U.S.C. § 441a(a)) by making excessive contributions in the names of others to the Friends of Mike Lee.¹ OGC included with this notification a General Counsel's Brief setting forth the factual and legal basis for the recommendation.²

On April 3, 2015, we received a letter from Black in which he acknowledged that he and his associates made contributions to Mike Lee's Senate campaign but without "any idea from us

¹ See 52 U.S.C. § 30109(a)(3) (formerly 2 U.S.C. § 437g(a)(3)); 11 C.F.R. §§ 111.13(c), 111.16(a); *see also* Agency Procedure Following the Submission of Probable Cause Briefs by the Office of the General Counsel, 76 Fed. Reg. 63,570 (Oct. 3, 2011).

² See 52 U.S.C. § 30109(a)(3) (formerly 2 U.S.C. § 437g(a)(3)); 11 C.F.R. § 111.16(a); Agency Procedure Following the Submission of Probable Cause Briefs by the Office of the General Counsel, 76 Fed. Reg. 63,570 (Oct. 3, 2011). A copy of the brief was circulated to the Commission informationally on March 11, 2015.

that they were at all illegal.”³ Black’s statement does not affect our recommendation since we did not conclude that Black acted with knowledge of his legal obligations under the Act. Furthermore, his statements tend to corroborate the facts we detailed in the Brief. Black also expressed, evidently in a belated reply to the Commission’s December 22, 2014 deposition subpoena issued in this matter, his willingness to answer questions related to our investigation, but only on the condition that we contact the prosecutors currently investigating John Swallow and Jeremy Johnson.⁴ At this time, we consider our investigation to be complete since we have collected the necessary facts to sufficiently demonstrate that Black made contributions in the names of others. Moreover, there is no reason to believe that Black possesses evidence that would materially advance our already sufficient understanding of his relationship with Swallow and Johnson.⁵

Thus, pursuant to the Agency Procedure Following the Submission of Probable Cause Briefs by the Office of General Counsel, 76 Fed. Reg. 63,570 (Oct. 13, 2011), OGC is hereby notifying the Commission that it intends to proceed with the recommendation to find probable cause to believe that Black violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) and 52 U.S.C. § 30116(a) (formerly 2 U.S.C. § 441a(a)) based on the factual and legal analysis set forth in the General Counsel’s Brief.

A copy of this Notice is being provided to Black at the same time that it is circulated to the Commission.

RECOMMENDATION

Find probable cause to believe that Arvin Lee Black violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) and 52 U.S.C. § 30116(a) (formerly 2 U.S.C. § 441a(a)).

Attachments

Ltr. from Black (March 30, 2015)

³ Attach. 1 at 1.

⁴ In his letter, Black conditionally states that he has “no problem talking to [OGC] and answering your questions as to my contribution to the Lee campaign,” but Black does not indicate whether he would supplement the facts detailed in the Brief. *Id.* Black separately states that he has “a lot of more info that I think you would be interested in, and so would the prosecutors of the Jeremy Johnson & John Swallow cases,” and that he “would obviously want something in return.” *Id.* Given the context of his statement, it appears that any such information mostly likely involves allegations unrelated to the Act, specifically the consumer fraud allegations that are the subject of pending criminal prosecution against Johnson.

⁵ Black also attached a signed 30-day tolling agreement to his letter, a draft of which had been sent to him with OGC’s Brief in the event Black sought an extension of time to file a reply. Because he timely filed his letter and did not request an extension or indicate he would file a supplemental response, the fact of that agreement does not warrant delaying a vote on probable cause at this time.

and in fact I am delighted I am so much in
your good luck. I am sure I will be very
interested in what I have to say but no more.
The rest of my work is so much to be done
I cannot do it. I am sure I will be very
interested in what I have to say but no more.

BEFORE THE FEDERAL ELECTION COMMISSION

Arvin Black

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MUR 6850

**CONSENT TO EXTEND THE TIME
TO INSTITUTE A CIVIL LAW ENFORCEMENT SUIT**

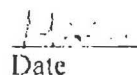
Respondent, Arvin Black, hereby consents to toll the statute of limitations for any civil enforcement action that the Federal Election Commission might institute in connection with MUR 6850 pursuant to 52 U.S.C. § 3019(a)(6) (formerly 2 U.S.C. § 437g(a)(6)) for a period of 30 days.

This agreement will extend the time to institute a civil law enforcement suit for a period of 30 calendar days from the expiration date of the five-year statute of limitations found at 28 U.S.C. § 2462 or any other statute of limitations or repose that may be applicable in this matter.

There shall be no additional consent to extend the time to institute a civil law enforcement suit without the written consent of the Respondent.



Arvin Black
Respondent



Date