Dan Brady

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November 9, 2015

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

Dear Ms. Rothstein:

Pursuant to 2 U.S.C. Sec. 437f, I am requesting an advisory opinion on behalf of
WeSupportThat.com confirming that its business plan and model as described is permitted under
the Federal Election Campaign Act of 1971, as amended.

Background

WeSupportThat.com (WST) is a Washington State, for-profit corporation based in Seattle.
WST's proposed business is a web-based service that facilitates the desire of its customers to
contribute to candidates for federal office, incumbents or otherwise, when they associate that
candidate with actions or activities that demonstrate support or opposition to various issues,
policies, legislation or potential legislation. Through its website, WST provides customers a
sortable database allowing them to find these actions and make a donation to a candidate or
candidates associated with that activity. What follows is detailed description of the customer
experience and results.

Initial Engagement with the site

WST will advertise its services digitally using online banner ads (Figures 1, 2) as well as
Facebook and Google ads. These ads will feature actions taken by a candidate or candidates for
public office. Examples include, but are not limited to, publically available votes made on legislation,
sponsoring or co-sponsoring legislation, and speeches or arguments made by U.S. Senators,
Members of Congress or candidates for those offices. WST will use its best business judgment to
determine which of these activities by candidates are most likely to generate revenue and advertise
accordingly. WST has no interest, ideological or otherwise, in advancing any particular issue,
position on an issue, or any political outcome.

The WST home page will feature the disclaimer "WeSupportThat.com is not paid for or
authorized by any candidate or candidate's committee". This disclaimer will be featured on every
page of WST's website.

The Website Content

When a potential customer clicks on a WST ad, they are brought to the WST website which will
display detail related to the action featured and the candidate(s) linked to that issue. The content of

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any such page describing these actions will be culled for any number of publicly available information sources regarding that action including, but not limited to, official websites of current elected officials and various mass media outlets. WST will not use campaign websites or any other campaign materials for content with the exception of basic biographical information.

Similarly, if a potential customer navigates directly to the WST website without using an ad as a portal, they will be greeted by a page that will allow them to search for candidates or activities of candidates. As a customer navigates through the site, they will encounter buttons that will take the customer to pages where they can contribute to one or more candidates.

It is possible that some candidates for federal office may not be found on the WST web site. Reasons for this could include the candidate being new and/or not making news or otherwise not being associated with one of the activities commonly found in the media and promoted by WST. If a customer desires to contribute to a candidate not found on the site, they may still contribute to that candidate by navigating to a page where they enter that candidate's name and the candidate's campaign FEC Identification information. That FEC information will be found using a provided link to the FEC website. The customer can also deliver a message to that candidate about why they decided to contribute to them. WST will not have any role in writing, editing, approving or in any way influencing any customer's message. This page is not active at this time, but will be pending the outcome of the matter of this AO request.

In order to ensure the largest potential customer base possible, WST will often feature both sides of a political issue, especially with those activities or issues that are gaining the most interest in the media and that appear to have two (or more) clearly delineated sides. It will also feature candidates from the entire political spectrum as well as incumbents, challengers, and candidates for open seats.

However, WST will not always represent all sides of a political issue and it will not feature every candidate who runs for federal office. For example, if a candidate's activity is staking out one or more policy statements in a speech, where the speech is the activity featured at WST, there may not always be a clear alternative to that speech, making an alternative candidate to feature impossible.

As mentioned previously, however, customers can always use the website to find all filed federal candidates and contribute accordingly while delivering a message to that candidate about what motivated them to contribute to their campaign. WST will simply use its best business judgment to decide what activities of candidates motivate its customers to contribute and advertise accordingly.

Contributions

When a customer reaches the WST website, a page will include a "click-and-drag" feature that the customer can use to make a contribution to one or more candidates. Once a customer has used the click-and-drag feature to select candidates to support, the customer enters an amount to contribute. This amount is the total contribution by the customer to all the candidates in aggregate, and that amount is subsequently allocated proportionately among the candidates selected, minus fees (described below). If a customer chooses to customize contributions among candidates so that amounts are not equal between candidates, the customer will need to create separate and unique transactions.

WST will then collect credit or debit card information including the name, address, employer and occupation of the donor. The customer will be alerted that they will be charged a processing fee to equal the financial institution fee of 2.9% + $0.30 plus a matching charge that will cover WST costs and provide a reasonable profit. This fee will be deducted from the total amount entered by the customer so that all funds remaining after fees are deducted constitute the actual contribution to the candidate. The fee schedule will be identical for candidates featured on the WST website as well as those note featured but are selected by customers from the FEC website.

WST will not process contributions that exceed established federal contribution limits. If any portion of the requested information is left blank, the user will be unable to proceed with the contribution. In addition, WST requires the prospective donors to check a box confirming:

A. The contribution is made from their own personal funds and not those of another.
B. The contribution is not from the general treasury funds of a corporation, labor organization or national bank.
C. The donor is not a federal government contractor.
D. The donor is not a foreign national who lacks permanent resident status in the United States.
E. The donor is over the age of 18, and if not, the donor is a minor making this contribution of their own volition, and not at the request or direction of another.

After the required information is entered and the user clicks the button to proceed, the website will then process the contribution which will charge the credit or debit card and deposit the funds into two bank accounts owned by WST: The portion of the charge that covers the processing fee will be deposited in one account and the contributions to the candidates will be deposited in a second, separate account created for the specific and exclusive purpose of holding contributions until forwarded to candidate campaign committees. The funds in these two accounts will never be comingled in any manner.

All contributions will be forwarded to candidate campaign committees within 10 days of receipt and will include all of the donor information previously collected as well as the reason the donor contributed. Campaign committees that receive contributions via WST do not pay any portion of processing or any other fees or services. There will be no other interaction between WST and campaign committees. WST will not offer its services to candidates or their committees.

Request for Advisory Opinion

Attached is short presentation featuring screenshots demonstrating the WST experience. WeSupportThat.com requests that the FEC issue an Advisory Opinion that its business model and methods, as outlined in this request, are compliant with the Act, as amended. In particular, WST seeks to confirm that no portion of the processing fee(s) as proposed constitutes a contribution to the candidate committee and therefore is not reportable as contribution.

Sincerely,

Dan Brady
dan@danbradylaw.com

Attachments:
1. Online ad opposing Keystone Pipeline (Figure 1)
2. Online ad supporting Keystone Pipeline (Figure 2)
3. WST experience in screen shots

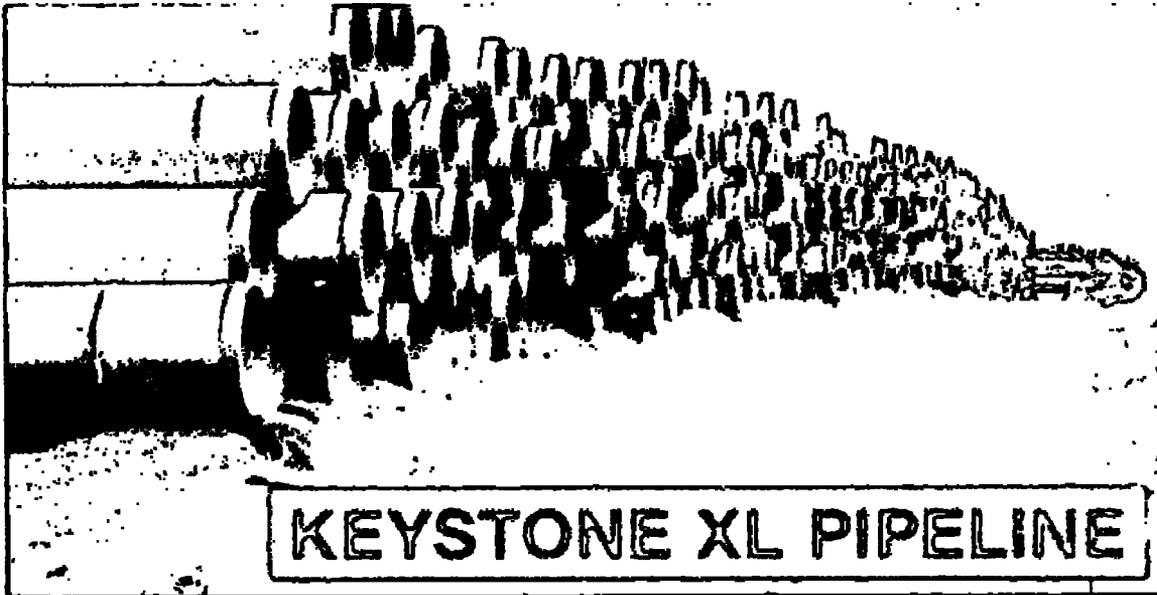Show Congress that America is against Keystone XL by supporting politicians who voted the right way!
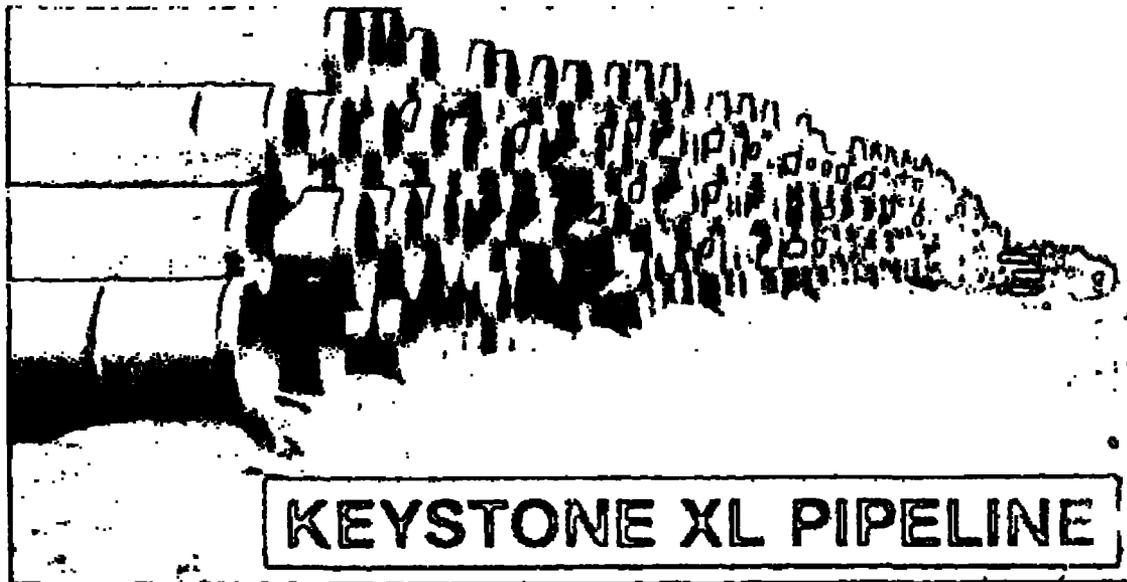
Support action, not words

Tired of politicians begging for donations and never delivering on their promises? Now you can support politicians who actually do the right thing.
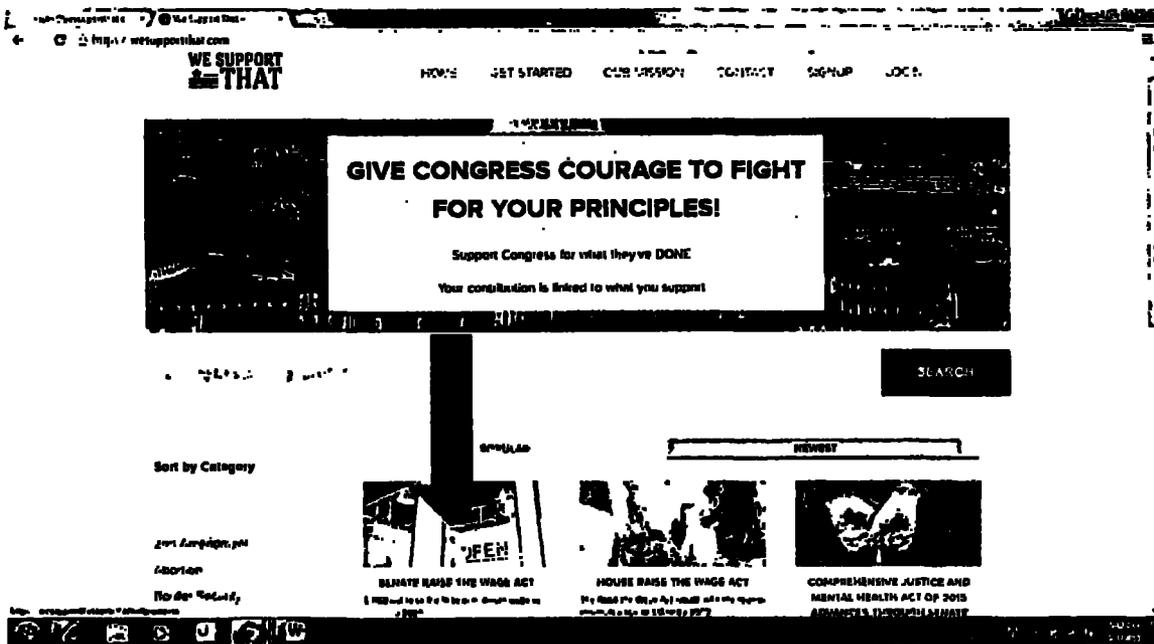
WESUPPORTTHAT.COM

Not affiliated with Facebook

Donate Now

Figure 1

Figure 2

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Sample customer interactions with WeSupportThat.com

Search the WeSupportThat.com site to find an activity you like. Then support the candidates that did the activity.

1. The first example is for a proposed bill.
2. The second example is of a bill voted on.
3. The third example is showing support for a speech/argument made.

1: Proposed Bill

Suppose the user likes that the Senate proposed a bill to raise the minimum wage for federal workers. Click on "Senate raise the Wage Act". The sponsors and cosponsors are then made available to be supported. Below is the Home page. It is sortable by category (on the left side of page) or text box next to the "Search" button.

When the "Senate Raise the wage act" is clicked, you are brought to the following screen with a description of the activity and the option to support the senators that proposed the bill.

WE SUPPORT THAT

HOME   GET STARTED   OUR MISSION   CONTACT   SIGNUP   LOGIN

Sort by Category

2nd Amendment
Abortion
Border Security
Education
Energy Independence
Federalism
Healthcare
ISIS
Israel
Marriage
National Security
Reduce the Debt
Reduce Welfare
Spending
Taxes

Senate Raise the Wage Act

$ donated

CONTRIBUTE

DONOR

No donors yet (Be the first

On April 30, 2015, Senator Patty Murray (D-WA) introduced the Raise the Wage Act to increase the federal minimum wage to $12/hour by 2020. The act would index the federal minimum wage to the median wage and gradually eliminate the subminimum tipped wage.

This legislation would essentially raise wages for nearly 38 million

When you click on "Contribute" you are brought to this map where colored states represent those with candidates that sponsored or cosponsored this bill. Click on a state, and those candidates' pictures appear. Click and drag a candidate to the donation grey box. Pick an amount to donate. The donation will be evenly split between all candidates you put in the box. The first time "Contribute now" is chosen, the user will be asked to fill out a profile page and attest to them being legal to donate. A profile will be established to facilitate subsequent donations. The donation will be deposited to an account owned by WST and will be sent to the candidate.
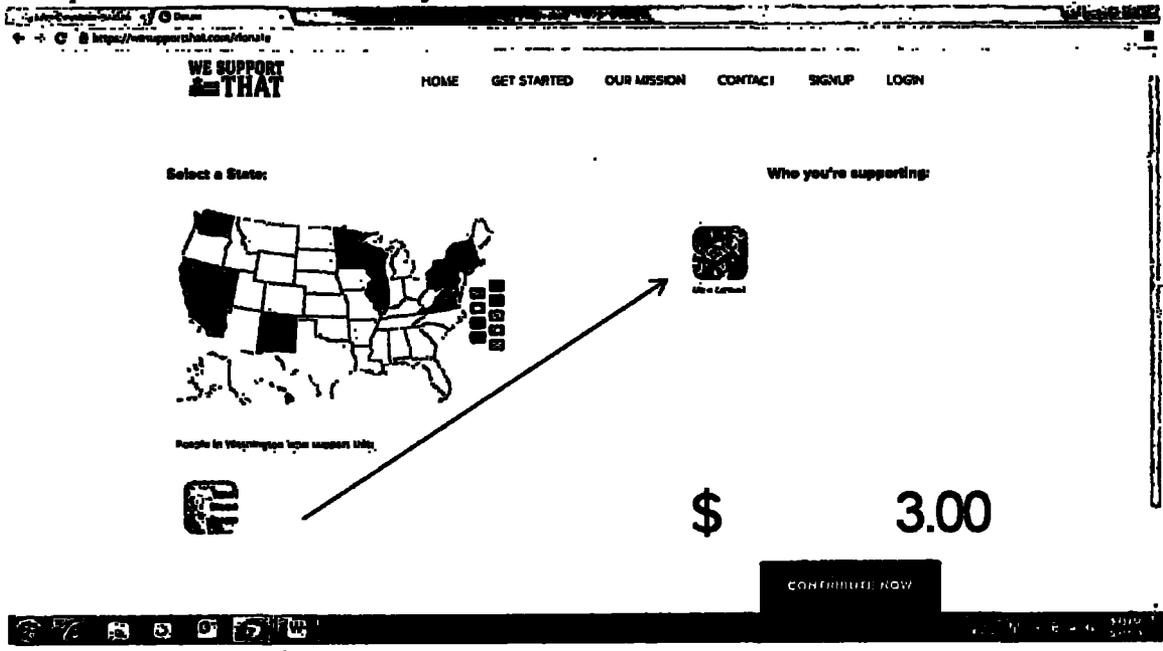
Below is an example of what the login/attestation page.

Login with username/password

Or contribute without an account

A one time donation of $3.00

Username

Lo-a

Card information

Card Number

Security Code

Password

Expiration Date (MM-YY)

01 – January   Year

Remember Me

Log in

Billing address

First Name   Last Name

- Or -

Login

Email   Phone Number

Address

City   State

Alabama

Zip

Create an account to speed up the donate process in the future

Create password   Re-enter password

PDC/FEC Disclosure Information

Employer   Occupation

Donation Requirements
- I am a citizen or permanent resident in the United States
- The funds I am contributing are my own personal funds and not those of another person
- ...
By checking this box you affirm you meet the donation requirements
Keep donation private

CONTINUE

2: Bill Voted On

Search the site to find a bill you are happy was passed/blocked. If the user likes that the "Senate passes justice for victims of Human Trafficking Act" and want to support those that voted for it, click on the activity.

You are brought to this page where you can choose "I support this" or "I don't support this".


Scroll down to see info on the bill:

On April 22, 2015, the United States Senate passed S 178—the Justice for Victims of Human Trafficking Act of 2015—which amends "the federal criminal code, the Trafficking Victims Protection Act of 2000, the Trafficking Victims Protection Reauthorization Act of 2005, the Victims of Child Abuse Act of 1990, and the Omnibus Crime Control and Safe Streets Act of 1968 to enhance protections and increase restitution for victims of human trafficking."

S 178 imposes an additional penalty of $5,000 on any "non-indigent person or entity" convicted of a criminal offense relating to "peonage, slavery, or trafficking in persons, sexual abuse, sexual exploitation and other abuse of children, transportation for illegal sexual activity, or human smuggling in violation of the Immigration and Nationality Act."

The bill also creates a Domestic Trafficking Victims' Fund that directs revenues from the aforementioned penalties to be used in FY 2016–FY 2020 to "award grants or enhance victims' programming and provide services for victims of child pornography."

Department of Health and Human Services will now be responsible to issue determinations "based on credible evidence" that a United States citizen or permanent resident is a victim of "a severe form of human trafficking." It also authorized the Department of Justice to "award block

If you support the bill, you can click the green "I support this" button. This will take you to a map of the US showing colored stated that represent a state that has a candidate that voted for the bill. Selecting a state will display senators in that state that voted for the bill. Click and drag the senators to the grey donation box to add them to the list of candidates you support. Clicking on "Contribute Now" brings you to the profile page asking for user information and attestation or allows login.
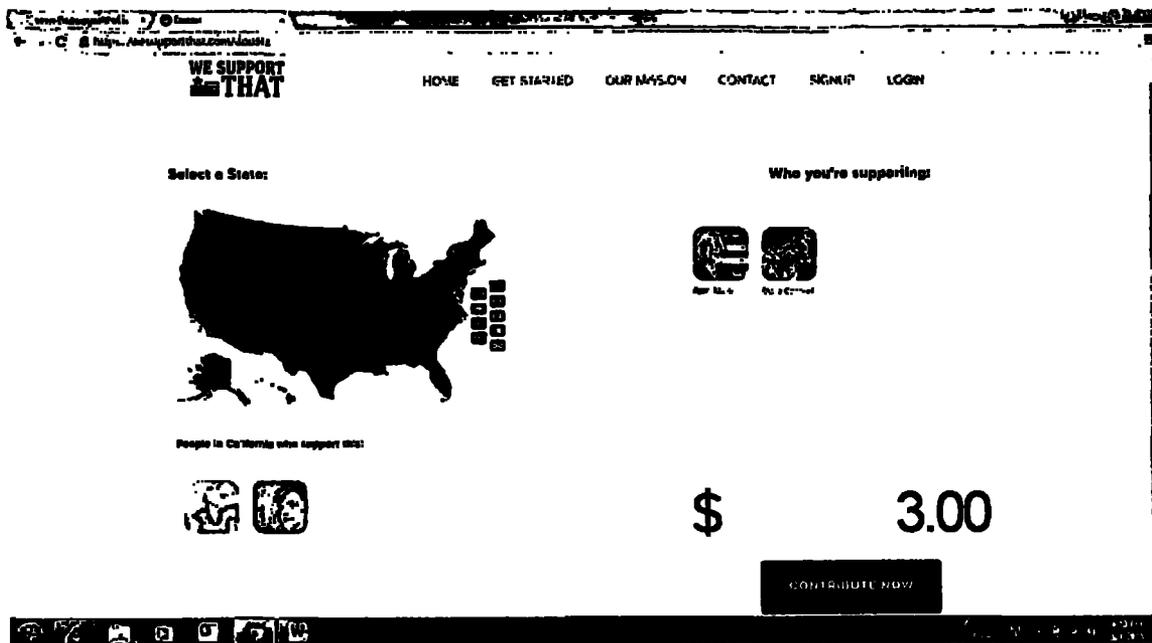
3: Speech Made

If the user is happy that "Boehner defends his invitation to Netanyahu", they can click on that activity, and choose to support the speaker for having done that. The process is the same as described above. In this case, Boehner would be the only candidate to be supported, because he is the only one that did this activity. Top news items will drive this category of activities.

RE: WeSupportThat.com Advisory Opinion Request

Dan Brady   to: NStipanovic   11/20/2015 01:47 PM
Cc: ARothstein, SWright, ABell

Mr. Stipanovic,

Thank you for speaking with me yesterday. On behalf of WST, I can confirm that both representations below under items 1 and 2 in your email below are fair and accurate descriptions of aspects of WST business activity with one clarification: WST doesn't feature candidates' positions on issues per se, but rather it features specific actions or activities by candidates. Of course these actions very likely relate directly to a position on a political issue. Examples might include (but are not limited to):

1.   Giving a speech that highlights one or more positions on issues – the activity featured by WST is the speech given by the candidate and the customer will be supporting the speech in particular, not just the position or positions on an issue.

2.   A specific vote – the activity featured is the candidate's vote although the vote clearly demonstrates a position on a political issue.

3.   Sponsoring or cosponsoring legislation – the activity featured would be the signing on to legislation as a sponsor or cosponsor or the announcement of doing so.

This distinction might be subtle and may not impact the analysis of the business model, but it more accurately describes the current event focus of its model rather than an effort to populate every candidate on WST's website with as many positions on issues as possible.

Finally, I would like to confirm that WST's sole purpose is generating revenue and profit, and that WST has no interest or stake in any particular ideological, political or legislative outcome.

Thank you for your inquiry, and please contact me if you have additional questions.

Sincerely,

Dan Brady
Attorney at Law

dan@danbradylaw.com | 206-228-1213

From: NStipanovic@fec.gov [mailto:NStipanovic@fec.gov]
Sent: Thursday, November 19, 2015 12:59 PM
To: dan@danbradylaw.com
Cc: ARothstein@fec.gov; SWright@fec.gov; ABell@fec.gov
Subject: WeSupportThat.com Advisory Opinion Request

Dear Mr. Brady,

This email is to confirm additional information that you provided to us today by phone. Please either confirm the accuracy of the information as set out below, or revise the statements as necessary for

accuracy. Please respond via reply email. Your email may become part of the request for an advisory opinion submitted by WeSupportThat.com ("WST"). If it does, then it will become a public record and will be posted on the Commission's website.

1. When a customer makes a contribution to a candidate featured on WST's website, WST will forward the contribution to the candidate with an automated message stating the reason the donor contributed. The message will state, for example, "John Doe contributed $5 to your campaign because you support X issue." This message will be transmitted to the candidate with each contribution, and WST will have no discretion in crafting or transmitting the message. An automated message will not be generated when a customer makes a contribution to a candidate who is not featured on WST's website (that is, when a customer types in the name of a candidate to whom he or she wishes to contribute), but the customer will nonetheless have the option to write a message to the candidate that WST will then forward to the candidate along with the contribution.

2. WST's website allows customers to contribute to more than one candidate in a single transaction. When a customer chooses this option, the contribution amount will automatically be divided equally among the candidates.

 Please let me know if you have any questions.

Sincerely,

Neven F. Stipanovic
Attorney, Policy Division
Office of General Counsel
U.S. Federal Election Commission
Tel: 202-694-1650