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April 23, 2012

*Comment on AOR 2012-17*

Via Facsimile

The Honorable Shawn Woodhead Werth  
Secretary and Clerk of the Commission  
Federal Election Commission  
999 B Street, N.W.  
Washington D.C. 20463

**Re: Advisory Opinion Request 2012-17 - Red Blue T LLC, ArmourMedia, Inc., and m-Qube, Inc.**

Dear Madame Secretary:

These comments are submitted in response to Advisory Opinion Request 2012-17 regarding the use of cellular phone text messaging for anonymous contributions to political committees. For more than 30 years the Federal Election Commission has remained solidly behind a policy of tracking donations to political campaigns. Not only is the total amount of donations by one individual an issue, the amount of the money being donated is of critical concern.

Xtreme Payment Processing, Inc., a Nebraska Corporation, has developed and is currently marketing the first FEC compliant mobile donation system. The system, called XtremeDonation, provides an encrypted payment gateway through text messaging. When the consumer accesses the gateway the donation is made by credit card or ACH, rather than a charge that is placed on the cellular phone bill. The system does not require pre-registration, nor does it require an application to be downloaded to a smartphone. The system does require a web enabled cellular phone. Web enabled phones comprise 95% of the cellular phones on the market today.

The XtremeDonation system addresses the objections of Advisory Opinion 2010-23 and provides for the following:

- Donations will be tracked based on the actual payment method of the donor, rather than a cellular phone number. AOR 2012-17 asserts that the subscriber's bill is not the subscriber's contribution. The subscriber's contribution is the actual payment he makes. With the mobile donation method proposed in AOR 2012-17, there is no means by which to track the method of payment used to pay for the donation on the cellular phone bill.
- Each campaign will not have to operate on an exclusive short code, therefore eliminating an expense that could be prohibitive to a campaign with a limited budget. Traditional short codes cost an application fee of \$2500, as well as a \$1000-\$1500 per month fee.
- Campaigns will not be required to use a factoring service, thus enabling the campaign to receive at least 90-95% of the donations contributed within 48 hours of the donation. The donation system proposed in AOR 2012-17 allows for a factor of 70% of donations to be received by the campaign with 10 days of the donation being made.

- All donations would be deposited directly into the campaign bank account, and would not flow through any third party facilitators.
- The system is capable of interface with campaign software through basic API integration, thus allowing for automated reporting for the political committee.
- The system is secure, and meets all industry standards for PCI compliance.
- The system is not proprietary to one texting system and can operate with any text aggregator.
- The system only requires two text messages to be accessed, rather than the 13 text messages required in the mobile donation process proposed in AO 2010-23. The lower amount of text messages results in lower cost to both the donor and the campaign.
- The system has been customized to collect the required information necessary for compliance with the Federal Election Commission, including name, address, occupation and employer. In addition, before a donor can proceed to make a contribution, the donor must accept and confirm that the following statements are true and accurate:
  1. I am a U.S. citizen or a lawfully admitted permanent resident of the United States.
  2. This contribution is not made from the general treasury funds of a corporation, labor organization, national bank or of an entity or person who is a federal contractor.
  3. This contribution is not made from the funds of a political action committee or of an individual registered as a federal lobbyist or a foreign agent, or an entity that is a federally registered lobbying firm or foreign agent.
  4. I am not a minor under the age of 16.
  5. The funds I am donating are not being provided to me by another person or entity for the purpose of making this contribution.

The campaign finance system is coming under increasing criticism. Therefore, it is more important than ever to insure that safeguards exist that provide for transparency of campaign contributions. There is no more clear or simple form of payment for donations than direct from the credit card or bank account of the donor to the bank account of the political committee.

The mobile communications industry is advancing rapidly, with options for mobile payment at the forefront. Rapid changes in technology do not necessitate rapid changes in policy by the FEC, but rather require the thorough research and restraint being shown by the commission. The technology exists and is available to the market today to provide secure mobile donations to political committees without changing FECA statutes and regulations.

For the reasons set forth above, the Commission should reject AOR 2012-17.

Sincerely yours,

Susan Hampel  
Executive Vice President  
Xtreme Payment Processing, Inc.

cc: Office of the General Counsel