



Brian and Jane Anderson <bjanders@gte.net> on 12/03/2001 10:23:00 AM

To: internetprm@FEC  
cc:

Subject: Music and Other Items Of Value Available from a Political Campaign Web Site

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TO: Rosemary C. Smith  
Assistant General Counsel  
Federal Election Commission

This message is in response to:  
FEDERAL ELECTION COMMISSION  
11 CFR Parts 100, 114, and 117  
[Notice 2001-14]  
The Internet and Federal Elections;  
Candidate-Related Materials on web Sites of Individuals, Corporations and  
Labor Organizations  
AGENCY: Federal Election Commission  
ACTION: Notice of Proposed Rulemaking

My question is about providing information that may be considered to have value on a web site .

The example I will use is music available from a web site, but there may be others similar situations (music videos, movies, replays of local performance or sporting events, replays of programs seen on a public access cable television channel, etc.).

The situation could be:

- a.. The candidate is the creator/owner of the music and has the copyright to provide the music recording from a web site
  - b.. The candidate purchases the right to the music for the campaign
  - c.. The candidate is given the right to use the music and this donation of a copyright is recorded as a campaign contribution at what people in the music business would consider fair market value.
- I do not see any of the above as a problem. The problem may occur if during the time of the campaign the value of the copyright increases.

As an example, a partisan candidate wants to attract Spanish speaking people to a campaign web site and knows some people trying to get recognized as Spanish language singers. The singers write their own music and provide recordings of some of their original songs for the campaign web site at no charge, since they have no recordings for sale and are not regularly being hired to perform (maybe a community concert or music festival appearance, but no regular income from performing). This is approximately 1 year before the general election.

The candidate wins the primary election, and the musicians find some success and within 10 months have a slightly re-worked version of a song available from the campaign web site in a top-ten list, and it is regularly played on local radio stations.

The recording of the new version of the music is considered to have value, is not legally available in its complete form from any web site, and is sold on CD in music stores.

The campaign web site never makes the commercial version of any song available. The campaign web site only provides the original version of each

song.

The copyright for the songs on the campaign web site are now considered to have a market value and draws significant attention to the web site because of the popularity of the singers, as indicated by the hit count on the download web page.

Does the campaign have any responsibility to report this situation at any time? Since the fair market value of the music at the time of web site availability was zero, how would the campaign know when to report the value of the copyright, and how to value it since it is not exactly the commercial version of the most popular song?

Thanks for the consideration of what I think is an unlikely but not impossible situation.

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