



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: THE COMMISSION
STAFF DIRECTOR
GENERAL COUNSEL
FEC PRESS OFFICE
FEC PUBLIC DISCLOSURE

FROM: COMMISSION SECRETARY *MWD*

DATE: NOVEMBER 8, 2006

SUBJECT: COMMENT ON DRAFT AO 2006-30
ActBlue

Transmitted herewith is a timely submitted comment from Messrs. Benjamin Rahn and Matt DeBergalis regarding the above-captioned matter.

Proposed Advisory Opinion 2006-30 is on the agenda for Thursday, November 9, 2006.

Attachment

ActBlue

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COUNSEL

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November 8, 2008

Lawrence Norton, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

RE: AOR 2006-30

Dear Mr. Norton:

This letter offers a comment on Agenda Document 06-74, which we believe the Commission should approve. The draft opinion will permit low-dollar donors to use the Internet to donate federally-regulated funds to prospective candidates for federal office. Thus, where individual low-dollar donors do not yet have the opportunity to contribute to actual candidates, they can join their support together with thousands of others' to express their desires to see their choice of prospective candidates run for federal office.

Our initial Advisory Opinion Request and comment on the OGC draft opinion laid out the basic legal and regulatory principles behind our request. We wanted to take this opportunity to comment on the revised draft now before the Commission by explaining our history as an organization and our intentions in making this request.

Early in the 2004 election cycle we each committed to helping previously unengaged citizens across the country make an impact in the coming elections. The result, ActBlue, was an experiment in grassroots politics that asked, "What if we let everyone fundraise for the candidates of their choice with Internet fundraising techniques currently available only to well-established groups like EMILY's List, Club for Growth, and MoveOn.org?"

In June 2004 we launched ActBlue's open fundraising platform where anyone can come and raise money for their choice of Democratic candidates of their choice. By the end of the election our web platform had been used to raise \$850,000 for 150 candidates across the country.

In early 2005 Paul Hackett, a politically unknown Iraq War veteran, launched a long shot special election campaign in Ohio's heavily Republican 2nd Congressional District. After winning the primary, Hackett's fiery speeches inspired local activists and bloggers, who used ActBlue to rapidly raise tens of thousands. Because of the transparency of fundraising on ActBlue, their success was there for all to see - and in turn caught the attention of a wider array of activists and the media (both Internet and traditional) around the country. By the election, the snowball had picked up extraordinary momentum, with over \$500,000 coming through ActBlue in a few short weeks, with an average contribution of just \$50.

In Hackett's extraordinary case, we witnessed the traditional fundraising model turned on its head: rather than the campaign first demonstrating viability by raising max-out individual and

PAC contributions, citizen activists used ActBlue to fuel a nationally-ignored campaign to a nail-biting margin on election day.

As the 2005-2006 cycle continued, word of ActBlue spread, with some amazing results:

- **\$15.4 million has been contributed by about 100,000 unique donors to 600 federal candidates and committees through 1200 different fundraising pages on ActBlue.com.**
- **An additional \$1 million has been raised for 390 non-federal candidates and committees through ActBlue's affiliated state political committees.**
- **More than 70 federal general election campaigns are using ActBlue as their principle method of online fundraising.**
- **11 U.S. Senators raised more than a million dollars for House and Senate races in their home states and throughout the country.**
- **Throughout this all, our average contribution remains at \$110 split between two recipients, and the median contribution is just \$50.**

Put simply, ActBlue has transformed how money is raised for candidates across the country. By providing technology to the general public that was once, due to its cost, reserved only for the largest institutional players, we have dramatically increased grassroots activists' ability to raise and contribute hard money for the candidates they support exclusively through Internet fundraising.

With this Request, we are looking to further level the playing field and increase the number of individuals participating directly in the political process. Presidential elections are very expensive, and the first test a prospective candidate must pass is one of financial support. Prospective candidates are evaluated as much on their fundraising networks and bank accounts as on their vision for America. These fundraising networks are dominated by special interests and the relative handful of gatekeepers that control access to those with the money to give.

We propose the fundraising program outlined in our Request as a way to democratize this process and give low-dollar donors, by aggregating their interests, the ability to provide their favored prospective candidates with the same kind of hard money financial base now enjoyed only by those prospective candidates with access to existing high dollar fundraising networks. Ordinarily, this type of fundraising by prospective candidates is accomplished through the creation of an "exploratory committee" which, under federal regulations, is not required to disclose its activity to the Commission until and unless the individual actually becomes a candidate for federal office. 11 C.F.R. § 100.72.

Although not specifically provided for in the Federal Election Campaign Act (the "Act"), the Commission, through both advisory opinions and regulations, has provided for a regulatory scheme in which individuals may "test the waters" for a federal campaign without having to establish a principal campaign committee nor comply with any provisions of the Act. Only when an individual becomes a "candidate" must they disclose contributions received or otherwise comply, albeit retroactively, with the prohibitions and limitations of the Act. Presumably, during this "exploratory" mode, an individual is not subject to the deposit rules of 11 C.F.R. § 102.8. Similarly, the Commission has the authority to permit an independent political committee to engage in activities akin to "testing the waters" activity on behalf of a

federal candidate. Of course, our proposal provides for the immediate deposit and disclosure of contributions received under our program as well as the prompt forwarding of such contributions once an individual has qualified and filed a statement of candidacy with the Commission.

We would further note that officers and agents of ActBlue will not directly coordinate fundraising activities undertaken under this program with any prospective candidate. Rather, supporters of each candidate will be able to access and create their own personal fundraising pages for any particular candidate on ActBlue's website. We would suspect that there will be multiple pages for each candidate created by activists to raise funds from friends, family and fellow activists for their favorite prospective candidate. The fundraising results will be posted real-time for each prospective candidate on the ActBlue website.

While we imagined a number of innovative ways (mostly variations on a pledge system) in which we might tackle the concerns of some Commissioners under existing statutory and regulatory provisions, the simple fact is that any low-dollar pledge program on a Presidential scale would be an administrative impossibility. Therefore, we decided that the only way to manage this program is to immediately process and disclose contributions received on behalf of prospective candidates.

We make this request because we wish to be able to offer low-dollar donors a hard money option as they seek to encourage prospective candidates to seek the Presidency – as many special interests already do. By empowering grassroots activists with the means to raise hard money for prospective candidates who may not already enjoy the support of established fundraising networks, we level the playing field for low-dollar donors who would not otherwise be in a position to have an impact in such an early and important stage of the presidential selection process. Furthermore, by encouraging low-dollar donors to participate in this process, we believe it will allow a greater number of prospective candidates to reasonably consider a campaign for President, not only those who can rely on high-dollar donor networks to demonstrate such financial viability. We believe this egalitarian goal of inclusiveness is good for the political process and should be encouraged by the Commission.

We would like to note that we are aware of comments filed by the Center for Competitive Politics in connection with this request that also encourage the Commission to adopt the revised draft opinion and that we fully support the substance of their comments. We appreciate the time the Commission has already put into consideration of our Request and hope you will adopt the draft opinion on which we comment today.

Sincerely yours,



Benjamin Rahn
President



Matt DeBergalis
Treasurer

Cc: Ms. Mary Dove
Commission Secretary
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