

RECEIVED

By Office of the Commission Secretary at 4:14 pm, Apr 11, 2024



FEDERAL ELECTION COMMISSION
Washington, DC

AGENDA DOCUMENT NO. 24-12-B
AGENDA ITEM
For meeting of April 18, 2024

April 11, 2024

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *NFS for LJS*
Acting General Counsel

Neven F. Stipanovic *NFS*
Associate General Counsel

Robert M. Knop *RMK*
Assistant General Counsel

Cheryl F. Hemsley *CAFH*
Attorney

Subject: AO 2024-03 (politicalmeetings.com) – Draft B

Attached is a proposed draft of the subject advisory opinion. We have been asked to place this draft on the Agenda by one or more Commissioners.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 12:00 pm (Eastern Time) on Wednesday, April 17, 2024.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <https://www.fec.gov/legal-resources/advisory-opinions-process/>.

Attachment

1 ADVISORY OPINION 2024-03
2
3 Ms. Sue Rose
4 CEO/Founder/Managing Member
5 PoliticalMeetings.com, LLC
6 600 17th St. 2800 S
7 Denver, CO 80202
8
9

DRAFT B

10 Dear Ms. Rose:

11 We are responding to your advisory opinion request on behalf of
12 PoliticalMeetings.com, LLC, (“PM.com”) concerning the application of the Federal
13 Election Campaign Act, 52 U.S.C. §§ 30101-45 (the “Act”), and Commission regulations
14 to PM.com’s proposal to allow its subscribers to make small, monthly contributions to
15 candidates and national political party committees via the PM.com’s web-based platform
16 and to provide subscribers access to non-public information about political meetings and
17 events with recipient candidates and national party committees.

18 The Commission concludes that PM.com’s proposal is permissible under the Act
19 and Commission regulations. However, to the extent that the services to the political
20 committees are not provided in exchange for the usual and normal charge for such
21 services, the proposal would result in contributions from you as the sole member of
22 PM.com to candidates or national political party committees.

23 ***Background***

24 The facts presented in this advisory opinion are based on your letter received on
25 February 1, 2024, your email received on March 25, 2024, and the politicalmeetings.com
26 website.¹

¹ See <https://politicalmeetings.com> (last visited February 28, 2024).

1 PM.com was founded in 2023 by you, its sole member. The LLC is registered
2 with the Colorado Secretary of State as a sole proprietorship and is treated as such for
3 federal income tax purposes.² PM.com asserts that it intends to convert from an LLC to a
4 limited liability partnership (“LLP”) in the future.³

5 PM.com is a web platform designed to provide the public with information about
6 candidates and national party committees and meetings held by them and to process
7 contributions from subscribers to political committees.⁴ You state that PM.com was
8 established to fill a national void of information about political meetings held by
9 candidates and national party committees.

10 PM.com will gather and publish on its platform public information about
11 candidates and national party committees, which will be available to all visitors of the
12 website.⁵ To this end, using information from public sources such as the public websites
13 of candidates, Secretaries of State, and the Commission,⁶ PM.com will gather lists of
14 candidates and will provide a “Basic Profile” of each candidate, including the office they

² See Advisory Opinion Request (“AOR”) AOR001.

³ *Id.*

⁴ *Id.* PM.com will also include candidates for local and state offices in the largest three counties of each state and will allow small contributions to certain non-profit organizations. *Id.* This advisory opinion applies only to PM.com’s operation regarding federal candidates and national political party committees. Accordingly, all references to “candidates,” “national party committees,” “participant committees,” or “recipient committees” in this opinion refer to federal candidates and national political party committees that have been recognized as such by the Commission. At the time of this advisory opinion, the available national parties on PM.com are the Democratic, Republican, Libertarian, and Green parties. See “Subscribe” at <https://politicalmeetings.com>.

⁵ *Id.*

⁶ AOR003.

1 seek and their campaign committee’s contact information.⁷ Additionally, PM.com’s
2 “[i]n-house data teams” will locate meetings held by candidates and national party
3 committees on the local, state, and national levels in the top three largest counties of each
4 state.⁸

5 PM.com will offer its website visitors the ability to subscribe to its services for
6 additional benefits. Subscribing will allow viewers to make contributions of \$1.00 per
7 month through PM.com to candidates who opt to participate.⁹ Subscribers also will be
8 able to choose to add a \$0.50 monthly contribution to a participating national party
9 committee.¹⁰ Additionally, subscribers will have access to “Enhanced Profile[s]” of
10 candidates and national party committees containing information about non-public
11 meetings held by participating candidates and national party committees.¹¹

12 PM.com will require subscribers to complete a Subscription Registration Form
13 that will include disclaimers and require contributor information as required by the Act
14 and Commission regulations.¹² If, based on the information provided by the potential

⁷ *Id.*

⁸ AOR001.

⁹ *See* AOR002.

¹⁰ *See id.*

¹¹ AOR007-8.

¹² This form will include disclaimers that candidates and other political committees are required to use best efforts to report information for contributions aggregating over \$200 in a calendar year from each contributor; contributions made through PM.com will be aggregated by recipients with any other contributions made to them from each subscriber; and that contributor information will be made public once reported to the Commission by the recipients. *See* AOR008. This form will further state that contributions must comply with the federal limits and prohibitions. AOR004. Finally, each subscriber will

1 subscriber, the individual is ineligible to make contributions, “the platform will not allow
2 [the contributor] to proceed.”¹³ For eligible subscribers, the form will enable them to
3 choose the party affiliation of the candidates they wish to contribute to, and the option to
4 add a monthly \$0.50 contribution to a national party committee.¹⁴

5 PM.com will charge a base subscription rate of \$2.98 per month, which will
6 include a one-dollar contribution to a candidate and an administrative fee of \$1.98 paid to
7 PM.com to cover their operational costs.¹⁵ Subscribers may add to their subscription
8 \$1.00 monthly contributions to as many participating candidates as they wish and a \$.50

have to certify that they are a legal contributor: Subscribers will have to provide the following information and attest that it is true and accurate:

1. Legal name;
2. Mailing address;
3. Occupation and Employer;
4. Subscriber is not a federal contractor;
5. Subscriber is using their own personal funds and not funds given to them by another person for the purpose of making the contribution;
6. Subscriber is using their own personal credit card and not a corporate or business card, or a card issued to another person;
7. Subscriber is 18 years of age;
8. Subscriber is not making the contribution at the request or suggestion of another individual.

See AOR008.

¹³ AOR007.

¹⁴ AOR004.

¹⁵ Operational costs include item such as “data research, payroll, accounting, legal office and other expenses arising in the normal course of work on a day-to-day basis.” AOR006.

1 monthly contribution for a national party committee.¹⁶ PM.com will charge the
2 subscriber an additional \$1.98 administrative fee for every three additional candidates
3 contributed to by the subscriber.¹⁷

4 In addition to the ability to contribute to participating candidates and national
5 party committees, subscribers “[will be able to] search for meetings . . . listed by
6 candidate’s name, state, entity name or ‘key word’ within the same party affiliation”¹⁸
7 and will have access to further non-public information gathered by PM.com.

8 Candidates and national party committees may participate in PM.com’s platform
9 without charge. To participate, they must agree to PM.com’s “Permission Slip,” which
10 will require them to provide PM.com with bank account or pay gateway information and
11 allow the pay gateway processing company, in this instance Stripe, to directly deposit
12 contributions into their designated bank accounts.¹⁹ Further, participating candidates and
13 national party committees must agree to provide PM.com with information about their
14 “meetings or events that are ordinarily not open to the public.”²⁰ PM.com will not

¹⁶ Subscribers may also include donations to up five non-profit organizations chosen by PM.com, which will be focused on supporting the homeless population of the United States. *See* AOR002. As noted in n. 3 above, this advisory opinion does not address any donations to nonfederal candidates or to non-profit organizations or their effect on the total subscription costs and payment processing fees.

¹⁷ *See* example chart at AOR005 and explanation at AOR006. *See also* AOR008.

¹⁸ AOR005.

¹⁹ *See* AOR010, Addendum A.

²⁰ AOR003.

1 process any contributions to candidates and national party committees that do not provide
2 this information.²¹

3 When a candidate opts to participate, their Basic Profile, previously populated by
4 PM.com using only public information, will be “converted to an ‘Enhanced Candidate
5 Profile.’”²² The Enhanced Profile will have three features in addition to the Basic Profile
6 provided to the general public.²³ These features will include: 1) a link to a page that will
7 allow subscribers to contribute to a candidate or national party committee, 2) a link to a
8 page containing content in the PM.com’s database, for example, information about non-
9 public fundraisers and special events²⁴, and may include direct links to participating
10 committee fundraising websites,²⁵ and 3) a dashboard where the participating candidates
11 and committees may track donations and run reports.²⁶ Participating candidates and
12 committees “would be required to complete a form or email PM[.com] with any
13 information it would like published or information on meetings or fundraisers” and may
14 include a link to their campaign websites.²⁷

²¹ See AOR Supplemental Information, Question 1.

²² See AOR008.

²³ See AOR003.

²⁴ Links also may be directed to other pages on PM.com, for example pages inviting subscribers to register for meetings or fundraising events, which may contain direct links to participating committee fundraising websites. PM.com “will make those meetings and invitations available exclusively to those [subscribers contributing] to the respective candidates [who] have the Enhanced Profile.” AOR008.

²⁵ See AOR Supplemental Information, Question 2 and 3.

²⁶ See AOR003.

²⁷ AOR008.

1 PM.com will use Stripe, a pay gateway company, to process contributions and
2 administrative fees paid by the subscriber.²⁸ The current fee for processing contribution
3 transactions on PM.com is 2.9% plus \$.30 per transaction.²⁹ The subscriber generally
4 pays the transaction fees charged by the pay gateway in addition to their total
5 subscription of more than \$3.48.³⁰

6 Stripe will split the funds paid through PM.com and will directly deposit the
7 contributions to candidates and national party committees using the account information
8 they provided.³¹ PM.com does “not accept [contributions] on behalf of [recipient
9 committees]. Should an error occur where funds were inadvertently deposited into [a]
10 [PM.com] bank account,” the error would be corrected within two business days.³²
11 Stripe would deposit the remaining funds (total subscription amount minus the
12 contributions) into the PM.com’s “Subscription Account.”³³ Once PM.com reconciles
13 the Subscription Account with Stripe, it will transfer the administrative fees to its own
14 “Operating Account.”

²⁸ See AOR006.

²⁹ See *id.*

³⁰ AOR005-6. PM.com will pay the transaction processing fees on subscriptions totaling less than \$3.48 monthly. This allows the subscriber to contribute to one candidate and one national party committee without having to pay the transaction processing fees. For subscriptions costing more than \$3.48 per month, the subscriber pays the transaction processing fees. See notes to the chart at AOR005.

³¹ See AOR006.

³² *Id.*

³³ *Id.*

1 ***Question Presented***

2 *Is PM.com's proposal to allow its subscribers to make small, monthly*
3 *contributions to candidates and national political party committees and to provide them*
4 *with non-public information about political meetings and events with the recipient*
5 *candidates and committees permissible under the Act and Commission regulations?*

6 ***Legal Analysis***

7 Yes, PM.com's proposal is permissible under the Act and Commission
8 regulations. However, to the extent that the services to the political committees are not
9 provided for the usual and normal charge for such services, the proposal would result in
10 contributions from you as the sole member of PM.com to the participating candidates or
11 national political party committees.

12 The Act and Commission regulations provide that a "contribution" includes any
13 "gift, subscription, loan, advance, or deposit of money or anything of value made by any
14 person for the purpose of influencing any election for Federal office."³⁴ "[A]nything of
15 value" includes in-kind contributions such as the provision of good or services without
16 charge or at a charge that is less than the usual and normal charge.³⁵ Commission
17 regulations define "usual and normal charge" for goods or services as "the price of those
18 goods in the market from which they ordinarily would have been purchased at the time of

³⁴ 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a).

³⁵ See 11 C.F.R. § 100.52(d)(1).

1 the contribution” or the “commercially reasonable rate prevailing at the time the services
2 were rendered,” respectively.³⁶

3 The Commission has previously considered numerous advisory opinions asking
4 whether an entity’s processing of contributions to a political committee without receiving
5 compensation from the recipient political committee constitutes a contribution from
6 contribution-processing entity to the recipient political committee.³⁷ In such instances,
7 the Commission has examined “whether the services are provided at the request of and
8 for the benefit of the contributors, as opposed to that of the recipient committees.”³⁸
9 “The Commission also considers whether the provided services relieve the recipient
10 committees of any financial burden or obligation they would otherwise incur, thereby
11 providing something of value that would constitute a contribution from the entity that
12 provides the service.”³⁹

13 The Commission has determined that the provision of contribution-processing
14 services by a commercial vendor to a political committee does not constitute a
15 contribution to the political committee where the commercial vendor rendered services in
16 the ordinary course of business and at the usual and normal charge; forwarded

³⁶ See *id.* § 100.52(d)(2).

³⁷ See, e.g., Advisory Opinion 2022-10 (Sprinkle) at 5; Advisory Opinion 2021-07 (PACMS) at 6-7; Advisory Opinion 2017-06 (Stein and Gottlieb) at 4-5; Advisory Opinion 2016-08 (eBundler.com) at 6-8; Advisory Opinion 2015-15 (WeSupportThat.com) at 4; Advisory Opinion 2014-07 (Crowdpac) at 6; Advisory Opinion 2012-22 (skimmerhat) at 4-6; Advisory Opinion 2011-19 (GivingSphere) at 7; Advisory Opinion 2011-06 (Democracy Engine) at 5.

³⁸ Advisory Opinion 2017-06 (Stein and Gottlieb) at 5.

³⁹ *Id.*

1 contributions through a segregated account to candidates and political committees; and
2 employed adequate screening procedures to ensure that they were not forwarding illegal
3 contributions.⁴⁰

4 As in these prior advisory opinions, PM.com proposes to provide services to
5 political committees that enter into an agreement with PM.com, in the form of processing
6 contributions to those political committees and providing political committees with
7 Enhanced Pages. Political committees would be able to provide links to outside websites,
8 such as ActBlue and WinRed, through which subscribers could make direct contributions
9 to the participating committees.⁴¹ In doing so, PM.com would allow candidates and
10 national party committees to use the PM.com's platform to solicit contributions from its
11 subscribers. Thus, PM.com is providing a service to recipient political committees.

12 PM.com states that it will use Stripe to process contributions and will directly
13 deposit the contributions to candidates and national party committees using the account
14 information they provided.⁴² PM.com further states that it will require contributors to
15 attest to statements verifying their eligibility under federal law to make contributions.⁴³
16 As proposed, contributors would only be able to make a contribution of \$1.00 per month

⁴⁰ See, e.g., Advisory Opinion 2019-04 (Prytany); Advisory Opinion 2018-05 (CaringCent.com); and Advisory Opinion 2016-08 (eBundler.com).

⁴¹ See ActBlue.com, WinRed.com. Links on the candidates' Enhances Pages also may be directed to other pages on the PM.com platform that contain links to outside fundraising websites, for example RSVP or registration pages for meetings or fundraising events held by the candidate. AOR Supplemental Information, Questions 2 and 3.

⁴² See AOR006.

⁴³ AOR008.

1 to a given candidate (or \$0.50 per month to a given national party committee).⁴⁴
2 Accordingly, PM.com’s proposal is permissible and will not result in you, as PM.com’s
3 sole member, making a contribution to a recipient political committee, so long as the
4 proposed services are provided in exchange for the usual and normal charge for such
5 services.⁴⁵

6 In several previous advisory opinions, the Commission concluded that companies
7 that process contributions as a service to contributors without receiving compensation
8 from the recipient political committees were not making contributions to those political
9 committees because the companies were not providing any services or anything of value
10 to the recipient political committees.⁴⁶

11 To avoid making a contribution, the requestors in these advisory opinions did not
12 enter into contractual relationships with recipient political committees, beyond those

⁴⁴ AOR002.

⁴⁵ The request states that candidates will be able to add links to pages that solicit contributions at no cost to the candidate because PM.com will “have already earned our fee from the user,” AOR008, but also states that PM.com will pay the transaction processing fees on subscriptions totaling less than \$3.48 monthly, *see supra* footnote 29. The Commission has previously approved proposals wherein a vendor includes the usual and normal fee for its services to the recipient political committee as part of the fee charged to the contributor. *See, e.g.*, Advisory Opinion 2018-05 (CaringCent) at 3, 5 (noting that “[t]he fee will be included in the total amount of the contribution as reported by CaringCent to the recipient political committee”); Advisory Opinion 2007-04 (Atlatl) at 5 (approving the proposal to charge contributors processing fees, but noting that the payment of such fees by contributors “would result in contributions by the contributors to the political committees.”). To the extent that neither the subscriber nor the recipient political committee pay the usual and normal charge for the services to the political committee, it will constitute a contribution from PM.com or its sole member to the recipient committee.

⁴⁶ *See* Advisory Opinion 2022-10 (Sprinkle) at 5 (concluding that commercial contribution-processing service to contributors would not result in contributions to recipient political committees); Advisory Opinion 2021-07 (PACMS) at 6-7 (same); Advisory Opinion 2017-06 (Stein and Gottlieb) at 4-5 (same); Advisory Opinion 2016-08 (eBundler.com) at 6-8 (same); Advisory Opinion 2015-15 (WeSupportThat.com) at 4 (same); Advisory Opinion 2014-07 (Crowdpac) at 6 (same); Advisory Opinion 2012-22 (skimmerhat) at 4-6 (same); Advisory Opinion 2011-19 (GivingSphere) at 7 (same); Advisory Opinion 2011-06 (Democracy Engine) at 5 (same).

1 required to forward the contributions and contributor information.⁴⁷ Further, the
2 requestors in these advisory opinions limited the kind of information candidates could
3 provide to users of the platforms. For example, in Advisory Opinion 2022-10 (Sprinkle),
4 candidates were allowed limited managerial control over their candidate pages on the
5 requestor’s platforms to amend the information provided by Sprinkle “to better enable
6 users to make informed decisions” but were subject to limits such as character limits for
7 quotes and biographical information and were not allowed to add content soliciting
8 contributions through events or contribution mechanisms other than the Sprinkle
9 website.⁴⁸ In Advisory Opinion 2014-07 (Crowdpac), candidates were allowed to upload
10 limited content focused only on the “subject matter, duration and other requirements that
11 [could] apply equally to all candidates.”⁴⁹ In Advisory Opinion 2012-22 (skimmerhat),
12 participating candidates were prohibited from using the platform to fundraise outside of
13 the platform or “for any activity that can be reasonably be deemed outside of that which
14 enhances the quality and accuracy of candidate information.”⁵⁰

15 Unlike in these prior advisory opinions, PM.com asks political committees to
16 enter into agreements that go beyond that required to forward the contributions and
17 contributor information. The request states that PM.com will not process contributions to
18 political committees that do not agree to participate in PM.com’s program and provide

⁴⁷ See, e.g., Advisory Opinion 2017-06 (Stein and Gottlieb) at 5.

⁴⁸ AO 2022-10 (Sprinkle) at 2, 5.

⁴⁹ AO 2014-07 (Crowdpac) at 2.

⁵⁰ AO 2012-22 (skimmerhat) at 4, 7.

1 information about nonpublic meetings.⁵¹ Additionally, unlike the prior advisory
2 opinions, the request states that PM.com will allow participating political committees to
3 post links to solicitation pages outside of PM.com’s platform and to share information
4 about fundraising events, including direct links to RSVP.⁵²

5 Because PM.com currently does not plan to charge participating committees a fee
6 for its services, the proposal would result in a contribution from PM.com to the
7 participating committees, unless the fee is covered by the contributor. PM.com’s
8 proposal nonetheless would be permissible because PM.com is a sole proprietorship that,
9 unlike corporate entities, may legally make contributions under the Act. Any
10 contributions resulting from this proposal would be attributed to you, in your individual
11 capacity.⁵³ As an individual, you may contribute to each candidate and national party
12 committee up to the individual contribution limit as set forth in the Act and Commission
13 regulations.⁵⁴ Accordingly, PM.com may provide services to participating committees at
14 no charge or less than the usual and normal charge so long as the value of those services
15 does not exceed the Act’s individual contribution limit.

16 This response constitutes an advisory opinion concerning the application of the
17 Act and Commission regulations to the specific transaction or activity set forth in your

⁵¹ AOR Supplemental Information, Question 1.

⁵² AOR Supplemental Information, Questions 2 and 3.

⁵³ See n.43. Should PM.com, as planned, convert to a Limited Liability Partnership, then the contribution would be attributed to the partnership and to each partner as may be allowed under the Act and Commission regulations. See 11 C.F.R. § 110.1(g)(4), (e).

⁵⁴ The current (2023-2024) individual contribution limit to a federal candidate is \$3,300 per election and to a national party committee is \$41,300 per year. See 11 C.F.R. § 110.1(b) and (c).

1 request.⁵⁵ The Commission emphasizes that, if there is a change in any of the facts or
2 assumptions presented, and such facts or assumptions are material to a conclusion
3 presented in this advisory opinion, then the requestor may not rely on that conclusion as
4 support for its proposed activity. Any person involved in any specific transaction or
5 activity which is indistinguishable in all its material aspects from the transaction or
6 activity with respect to which this advisory opinion is rendered may rely on this advisory
7 opinion.⁵⁶ Please note that the analysis or conclusions in this advisory opinion may be
8 affected by subsequent developments in the law including, but not limited to, statutes,
9 regulations, advisory opinions, and case law. Any advisory opinions cited herein are
10 available on the Commission's website.

11
12
13
14
15
16
17
18
19
20

On behalf of the Commission,

Sean J. Cooksey
Chairman

⁵⁵ See 52 U.S.C. § 30108.

⁵⁶ See *id.* § 30108(c)(1)(B).