

July 25, 2002

OHIO ELECTIONS COMMISSION

Advisory Opinion 2002ELC-04

SYLLABUS: An Ohio corporation, engaged in the business of providing internet services, may institute a website hosting plan for the nominal fee of \$1.00 per month, as long as it is available to any and all candidates for public office, regardless of party affiliation or status, and do so without violating Ohio Revised Code §3599.03.

TO: Donald J. McTigue
Counsel to cboss, an Ohio corporation

You have requested an advisory opinion on the following issue:

Can an Ohio corporation, engaged in the business of providing internet services, institute a website hosting plan, available to all candidates for public office, and do so without violating Ohio Revised Code §3599.03, when offering the service for the nominal fee of \$1.00 per month?

The provisions of Ohio Revised Code §3599.03 prohibit a corporation, which is conducting business in Ohio, from taking part in any partisan political activity or

supporting or opposing any political party, a candidate for election or nomination to public office, a political action committee, a legislative campaign fund, or any organization that supports or opposes any such candidate...

This Commission has often addressed the issue of corporate activity in the political arena. In advisory opinion 96ELC-03, the Commission reviewed the history behind the statutory prohibitions in this section of law. The concerns inherent in R.C. §3599.03 centering on the corrupting influence of corporate activity in the political arena continue to be a concern to this Commission.

The situation at issue in this advisory opinion request raises some of the concerns which are the basis for R.C. §3599.03. For the meager price of one dollar, a candidate would receive a website and the ability to circulate the

candidate's campaign message across the internet. While the true value of this benefit is not stated in the advisory opinion request, the Commission acknowledges that the value of the website is much greater than the nominal \$1.00 fee, and so it is apparent that any candidate which makes use of this service is reaping a fairly substantial benefit for the campaign committee.

The saving grace of this offer is that the internet service provider that is seeking this opinion, according to the request letter, will make this service available to any and all candidates that wish to avail themselves of it. In reviewing this offer in light of the statutory provision, it is important to note that the offer is being made to any and all candidates, and not to any one individual candidate or political party. The restrictions in R.C. §3599.03(A) are intended to keep the corporate entity from providing a benefit to

a political party, a candidate for election or nomination to public office, a political action committee, a legislative campaign fund, or any organization that supports or opposes any such **candidate** ... [emphasis added]

Any concern that the original enactment of the corporate prohibitions as expressed by the 77th General Assembly, or by this Commission, regarding the potential "corruption of elections and political parties by corporations" would appear to be addressed, as long as the offer of this service is and will be made to "... all candidates for public office and ballot issue committees," as stated in the advisory opinion request letter. The prohibitions in the statute are to keep a corporation from benefiting a single candidate at the expense of another. As long as such an offer is equally available to any and all candidates that seek to avail themselves of the offer, any potential partisan or specific candidate benefit, which is the concern inherent in R.C. §3599.03(A), would not be present.

Yet, certain concerns with regard to any benefit that may be available to only limited candidates or certain political parties will always be present in this scenario. The corporate entity which is requesting this opinion, cboss, must always be vigilant in assuring the equitable availability of this service to all candidates. While there are only two recognized political parties currently in Ohio, when making this service available, the company must assure that any and all candidates can take advantage of this offer, both now and as long as such an offer is open in the future, regardless of their political affiliation.

This advisory opinion is intended to speak only to the situation present in this advisory opinion request. The terms of this opinion should not be extended beyond the application to this situation.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that an Ohio corporation, engaged in the business of providing internet services, may institute a website hosting plan for the nominal fee of \$1.00 per month, as long as it is available to any and all candidates for public office, regardless of party affiliation or status, and do so without violating Ohio Revised Code §3599.03.

Sincerely,

Judith Sheerer
Chairman