

March 30, 2006

**Ohio Elections Commission**  
**Advisory Opinion**  
**2006ELC-02**

**SYLLABUS:** ActBlue is required to register with the Secretary of State as a federal political committee under R.C. §3517.107, and, as such, is thereby regulated in the manner in which it can conduct activities in Ohio and is subject to all provisions of Ohio's campaign finance laws for its activities with regard to Ohio candidates. Particularly, as a federal political committee under Ohio law, it is subject to Ohio's contribution limits as identified in R.C. §3517.102, and cannot act as a conduit for contributions to candidates for which it has expressed its support, except as it makes contributions in its own name.

To: ActBlue  
Jonathan Zucker, Esq.  
Senior Strategist and Counsel

You have requested an advisory opinion on a series of questions concerning Ohio campaign finance law. Depending upon the response given to the primary question, your series of additional questions will be answered as necessary. The primary question is as follows:

Is ActBlue required to register with the Secretary of State as a political committee?

Your advisory opinion request letter lays out the factual circumstances that explain how ActBlue conducts its activities. You state that ActBlue solicits contributions from individuals to Democratic candidates and political committees of their choice. Currently, you conduct these activities as a registered political committee with the Federal Elections Commission, and you seek an opinion from this Commission on the propriety of conducting these activities in Ohio in compliance with Ohio's statutory scheme in light of these facts.

Your letter explains that after soliciting and receiving the contributions from the respective contributors, ActBlue acts as a "conduit" for those contributions and will "periodically forward the funds to the 'intended recipient' for which the contribution has been made." As is previously stated, "ActBlue is a political organization that engages in both federal and non-federal political activity"

and is “registered as a political committee with the Federal Election Commission for [its] federal activity.”

The last sentence of the previous paragraph identifies the key fact in this scenario. By identifying your organization as a “registered ... political committee with the Federal Election Commission,” the answer to your question must be that ActBlue is required to register with the Secretary of State as a political committee and must conduct its activities as such under Ohio law.

The applicable provision of Ohio law is Ohio Revised Code §3517.107. This section identifies the allowable activities and campaign finance filing requirements for a federal political committee in Ohio. R.C. §3517.107(B) states that “any federal political committee” may make contributions, expenditures, etc. in Ohio, but that prior to doing so it shall “register with the secretary of state by filing a copy of its most recent federal statement of organization.” Once this is accomplished, a “federal political committee” can operate in the state of Ohio and make contributions, but it is subject to the statutory restrictions on political committees contained in Ohio law. Of primary interest are R.C. §3517.102, Ohio’s statutory limitation on campaign contributions, and R.C. §3517.13(G), Ohio’s restriction on making contributions in the name of another.

As a registered “federal political committee,” any disbursement of funds by ActBlue to another political organization (e.g. candidate, campaign committee, political action committee (PAC), legislative campaign fund (LCF), political party) must be considered a contribution as defined in R.C. §3517.01(B)(5). R.C. §3517.102 restricts such contributions made to a statewide candidate, as defined in that section, to the sum of \$10,000 in a primary or general election period; to a LCF to the sum of \$30,000 in a calendar year; and to \$10,000 to another PAC in a calendar year.

In addition, after a PAC receives a contribution, any subsequent contribution of those funds by the PAC must be considered to have been made by the PAC, and not a separate person. R.C. §3517.13(G)(2) directs that no person shall make a contribution “in the name of another person.” Considering all of the other activities ActBlue engages in as it relates to the committees and candidates to whom you anticipate forwarding the contributions, allowing ActBlue to act as a “conduit” would be a direct violation of this provision.

While there are companies that serve campaign committees by receiving contributions from individuals and acting as a “conduit” for such contributions, these are organizations acting in an independent capacity as a paid vendor to a campaign committee, primarily to process credit and debit card transactions over the internet. Alternatively, the manner in which ActBlue has explained its intent to carry out its activities does not comport with an organization that acts as an independent paid vendor. Along with identifying itself as a “federal

political committee,” ActBlue states that it intends to actively solicit contributions for the statewide candidates for whom it plans to forward any individual contributions it receives.

As paid vendors, the organizations that act as conduits for candidates are doing this with an expectation that they will be remunerated for those services. They do not actively solicit on behalf of the candidates. The vendor simply receives amounts from contributors who are directed to this vendor by the candidate’s campaign committee. When the vendor receives the contribution from the contributor and subsequently forwards the amount of the contribution to the campaign committee, they are serving as an accommodation to that candidate so that the candidate can more efficiently receive contributions for the benefit of the candidate’s campaign committee. As such, they perform their services as a part of an arms-length transaction and the services they provide are an allowable campaign expenditure under R.C. §3517.13.

The previous paragraph identifies the essential differences between such a vendor and ActBlue. As a federal political committee, and because it actively solicits contributions on behalf of the candidates for which it expresses its support, ActBlue can only be considered a political action committee under Ohio law, and must be treated as such. Ohio’s statutory scheme does not include any provision that would allow for the type of activity that ActBlue plans to conduct or for any type of similar organization, except as a PAC. To allow this type of activity would defeat Ohio’s framework for identifying political organizations and the contributions that they make and receive, and cannot be tolerated.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that ActBlue is required to register with the Secretary of State as a federal political committee under R.C. §3517.107, and, as such, is thereby regulated in the manner in which it can conduct activities in Ohio and is subject to all provisions of Ohio’s campaign finance laws for its activities with regard to Ohio candidates. Particularly, as a federal political committee under Ohio law, it is subject to Ohio’s contribution limits as identified in R.C. §3517.102, and cannot act as a conduit for contributions to candidates for which it has expressed its support, except as it makes contributions in its own name.

Sincerely,

Catherine Cunningham  
Chair