



## Ohio Elections Commission

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November 15, 2012

### Ohio Elections Commission Advisory Opinion 2012ELC-04

**SYLLABUS:** The inclusion of the name of the campaign committee in a conspicuous place is sufficient as a full disclaimer for political publications and communications when paid for by a campaign committee, regardless of the language of §3517.20(A)(13) that mandates the inclusion of additional information no longer contained in §3517.20(A)(2) and §3517.20(A)(5), as those sections were amended in HB 487.

To: J. Curtis Mayhew  
Campaign Finance Administrator  
Office of the Ohio Secretary of State, Jon Husted

You have requested an advisory opinion on a question concerning Ohio campaign finance law. The question posed to the Commission is as follows:

Does Ohio's disclaimer statute, Ohio Revised Code §3517.20, as amended by House Bill 487 of the 129th Ohio General Assembly, set as a full disclaimer for political publications and communications, when paid for by a campaign committee, as simply the words, "Paid for by" followed by the name of the campaign committee?

The original disclaimer law enacted by the Ohio General Assembly predates the Ohio Revised Code and has its origins in Ohio's General Code. Since that time the core of the disclaimer statute has been the identification of a candidate, or a campaign committee with an appropriate officer, along with a residence or business address.

Since its inception, the Ohio Elections Commission has had jurisdiction over this statute. Throughout this time the Commission has always held that the inclusion of an address as a part of the disclaimer on political material was to, among other things, allow a citizen who receives or witnesses a political publication or communication to have the opportunity to proceed to a physical location if additional information on a candidate or issue was desired as well as knowing "the connection the persons issuing that material have with their community" (OEC Advisory Opinion 91-3).

With the changes incorporated in House Bill 487 of the 129<sup>th</sup> General Assembly, the need for the identification of a residence or business address is specifically removed, but only as it relates to a campaign committee. The obligation on an individual candidate, or any of the other political organizations that would avail themselves of the political arena, continues to include a residence or business address in a political publication or communication.

While enacting these changes in R.C. §3517.20(A)(2) and §3517.20(A)(5), however, the language of R.C. §3517.20(A)(13) was only slightly altered. This statutory subdivision now holds that

The disclaimer or identification described in division (A) of this section, when paid for by a campaign committee, shall be identified by the words "paid for by" followed by the name of the campaign committee and **the appropriate officer of the committee, identified by name and title**. The identification or disclaimer may use reasonable abbreviations for common terms such as "treasurer" or "committee". (Emphasis added).

As the highlighted language shows, this subsection retains an obligation to include "the appropriate officer" that is deleted in the earlier subsection and it is this Commission's obligation to clarify this situation.

It is important to note that the provision in R.C. §3517.20(A)(13) is the dependent subsection that is reliant on the previous subsections of this statute, primarily §3517.20(A)(2) and §3517.20(A)(5). Without these previous provisions, R.C. §3517.20(A)(13) has no context given that this subsection specifically refers to '(t)he disclaimer or identification described in division (A) of this section'. The provisions of R.C. §3517.20(A)(2) and §3517.20(A)(5) are the controlling sections that outline the legal obligations of the political entity and must control the interpretation of this entire section of Ohio's election law.

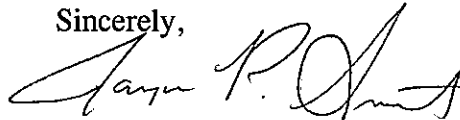
Since the controlling subsection of the statute changed the basic requirements of the disclaimer by removing the obligation on a campaign committee to include the additional information that was previously required on political literature (which information is still retained for individual candidates and all other political organizations), to reinstate this obligation on a campaign committee does not meet the basic tenets of statutory construction. The dependent provision cannot establish legal obligations which the independent clause does not contain.

Additionally, as it relates to this particular subsection, this Commission has long held that the omission of the phrase 'paid for by' required in R.C. §3517.20(A)(13) where the political publication or communication otherwise includes a proper disclaimer as outlined in the previous provisions of

§3517.20(A), is not a violation of the statute. Similarly, the Commission will not obligate the producer of a political publication or communication to include elements of a disclaimer because they are contained in R.C. §3517.20(A)(13) when they were specifically deleted from the previous subsections of this statute.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that the inclusion of the name of the campaign committee in a conspicuous place is sufficient as a full disclaimer for political publications and communications when paid for by a campaign committee, regardless of the language of §3517.20(A)(13) which mandates the inclusion of additional information no longer contained in §3517.20(A)(2) and §3517.20(A)(5) as those sections were amended in HB 487.

Sincerely,

A handwritten signature in black ink, appearing to read "Jayme P. Smoot". The signature is fluid and cursive, with the first name being the most prominent.

Jayme P. Smoot  
Chair