



Ohio Elections Commission

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May 27, 1999

OHIO ELECTIONS COMMISSION

Advisory Opinion 99ELC-04

SYLLABUS: It is permissible for a Political Action Committee (PAC) with an outstanding debt as the only remaining item on its campaign finance report, to terminate pursuant to Ohio Revised Code §3517.10(A), as long as the vendor that is owed under the outstanding debt has not commenced an action for breach of contract within four years after the cause of action has accrued.

TO: Michael Morley
Mahoning Democrats for Change

You have requested an advisory opinion on the following question:

Is it permissible for a Political Action Committee (PAC) with an outstanding debt (for which debt no collection effort has been made for over four (4) years) as the only remaining item on its campaign finance report, to terminate pursuant to Ohio Revised Code §3517.10(A)?

The final paragraph of Ohio Revised Code §3517.10(A) contains the language regarding the manner in which a campaign committee or a political action committee (PAC) can terminate itself. According to the terms of that paragraph, a committee which

has no balance on hand and no outstanding obligations and desires to terminate itself, ... shall file a statement to that effect, ... after filing a final statement of contributions and a final statement of expenditures ...

In order to allow for an efficient and effective manner of terminating either a campaign committee or a political action committee, the campaign finance

report form prescribed by the Secretary of State (Form 30-A) includes a box in which the treasurer of the committee can choose to terminate the committee at the same time as the treasurer files the "final statement of contributions and ... expenditures ..." As this final paragraph of R.C. §3517.10(A) also states, however, before a committee is able to terminate it must have "... no balance on hand and no outstanding obligations ..." (Emphasis added)

In the situation at issue in this advisory opinion request, a PAC finds itself with no outstanding balance, yet the PAC cannot terminate because there is an outstanding obligation as a result of the PAC's activities during 1994. This obligation, however, is disputed by the organizers of the PAC. Further, the business which is owed the amount of the obligation, has taken no action to collect on this amount over the previous five years, and has given the PAC no indication that it intends to do so. Because of all of this, there is no intent on the part of the PAC to pay the outstanding amount as a result of this obligation. Nonetheless, the treasurer of the PAC desires to terminate the committee. Regardless, as long as the obligation remains outstanding on the campaign finance report, R.C. §3517.10(A) will not allow such termination as long as there is an outstanding obligation.

While the provisions in Title XXXV would not appear to permit a resolution of this situation, it would be proper for the Commission to look to other sections in the Ohio Revised Code for a solution. Considering the commercial nature of this transaction, a review of the statutes regulating commercial transactions would be appropriate. Title XIII of the Ohio Revised Code contains the chapters of Ohio law which deal with Commercial Transactions, including the Uniform Commercial Code (UCC), as codified by the General Assembly in the first ten chapters of Title XIII. Specifically, R.C. §1302.98 defines the statute of limitations for commencing an action for breach of contract under the UCC.

The general rule regarding the commencement of an action under the UCC, as outlined in R.C. §1302.98(A), is that "(a)n action for breach of any contract must be commenced within four years after the cause of action has accrued." While the application of the section is specifically intended for use in contracts for goods, as defined in the UCC, its application to situations in the context of campaign finance is appropriate.

An explanation for the application of the UCC in this situation can be found in the Official Comment to the UCC, adopted in 1961. The comment explains that the purpose of the adoption of this section is to

... introduce a uniform statute of limitations for sales contracts, thus eliminating the jurisdictional variations and

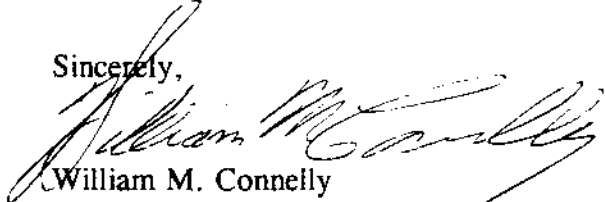
providing needed relief for (business) concerns... This article takes sales contracts out of the general laws limiting the time for commencing contractual actions and selects a four year period as the most appropriate to modern business practice.

The application of this business concept to the situation at issue in this opinion will assist campaign committees in appropriately resolving potentially difficult business situations in a fair and equitable manner. A "uniform statute of limitations" such as this gives the vendor an appropriate amount of time in which to state its claims without being unduly prejudiced. At the same time, this application gives a campaign committee a viable expectation that the campaign finance laws would allow a reasonable termination in such a situation. It is unconscionable to expect that the statutes of Ohio would not offer appropriate relief to a well-intended party with a good faith dispute, and assure that there is an acceptable resolution to such a matter.

Also, it is the expectation of this Commission that this rule will apply regardless of whether the dispute relates to goods, as envisioned by the UCC, or for services. In order to encourage a consistent application of this advisory opinion in the context of campaign finance law, this Commission expects that this advisory opinion will be applied in all similar situations, regardless of whether it relates to goods or services.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that it is permissible for a Political Action Committee (PAC) with an outstanding debt as the only remaining item on its campaign finance report, to terminate pursuant to Ohio Revised Code §3517.10(A), as long as the vendor that is owed under the outstanding debt has not commenced an action for breach of contract within four years after the cause of action has accrued.

Sincerely,



William M. Connelly
Chairman