



STATE OF CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION

Advisory Opinion 2010-05: Propriety of Hyperlinks on Candidate Committee Website to Other Committee Websites, Certain Media Pieces and Commercial Websites

During the 2008 election cycle, the advice of the State Elections Enforcement Commission was sought by numerous candidates regarding the use of hyperlinks on a candidate committee website to link to information on the Internet, including links to media outlets, such as video reports, journal articles and news stories, as well as to business websites and other commercial items, or other candidate's websites. Although Commission staff has provided guidance to individuals many times on the permissibility of hyperlinks to select Internet resources from a candidate committee website, the Commission itself has not spoken on this issue. This advisory opinion provides general guidance to candidates, their treasurers, and campaign volunteers on use of hyperlinks to other sites on the Internet.

Summary

- A candidate committee's website may not contain a link to the website of another candidate because creating that link would result in an impermissible expenditure outside of that committee's lawful purpose and may result in a contribution to another candidate, both of which are specifically prohibited by Connecticut's campaign finance laws.
- A candidate committee's website may contain a link to a website containing media pieces and/or other similar informational pieces when such pieces help explain that candidate's campaign platform or provide insight into his or her position on campaign issues. Costs associated with the posting of said hyperlinks are permissible campaign expenditures.
- A candidate committee's website may link to commercial websites that illustrate a candidate's views on certain topics, but may not use such hyperlinks to advertise or promote the business itself at the expense of the candidate committee. The candidate committee should be especially careful of linking to commercial websites where the business is one with which the candidate is affiliated. Candidates must also remain mindful that businesses are prohibited from contributing to candidate committees and, accordingly, cannot purchase advertising space on a candidate committee's website.

Legal Analysis and Conclusions

Permissible expenditures of candidate committees are governed by Connecticut General Statutes § 9-607 (g), which provides in pertinent part:

(1) As used in this subsection, (A) “the lawful purposes of his committee” means: (i) For a candidate committee or exploratory committee, **the promoting of the nomination or election of the candidate who established the committee**

(2) Unless otherwise provided by this chapter, any campaign treasurer, **in accomplishing the lawful purposes of his committee**, may pay the expenses of: (A) Advertising in electronic and print media; (B) **any other form of printed advertising or communications** including “thank you” advertising after the election; . . . and (Z) **any other necessary campaign or political expense.**

General Statutes § 9-607 (g) (emphasis added). In addition, candidates who decide to participate in the Citizens’ Elections Program (CEP or Program) are also subject to the CEP regulations governing a participating candidate’s use of campaign funds. Section 9-706-1 of the Regulations of Connecticut State Agencies provides in pertinent part:

(a) All funds in the depository account of the participating candidate’s qualified candidate committee, including grants and other matching funds distributed from the Citizens’ Election Fund, qualifying contributions and personal funds, **shall be used only for campaign-related expenditures made to directly further the participating candidate’s nomination for election or election to the office specified in the participating candidate’s affidavit** certifying the candidate’s intent to abide by Citizens’ Election Program requirements.

Regs., Conn. State Agencies § 9-706-1 (emphasis added). Section 9-706-2 of the Regulations of Connecticut State Agencies provides in pertinent part:

(a) In addition to the requirements set out in Section 9-706-1 of the Regulations of Connecticut State Agencies, participating candidates and the treasurers of participating candidates shall comply with the following Citizens’ Election Program requirements. **Permissible campaign-related expenditures shall include but are not limited to expenditures for the following:**

1. Purchase of political campaign advertising services from **any communications medium**, including but not limited to newspaper, television, radio, billboard or **internet**;
2. Political campaign advertising expenses, including but not limited to printing, photography, or graphic arts related to flyers, brochures, palm

cards, stationery, signs, stickers, shirts, hats, buttons, or **other similar campaign communication materials**;

* * *

7. Campaign office services, including but not limited to **internet services**, phone services, photocopying and mailing;

Regs., Conn. State Agencies § 9-706-2 (emphasis added).

Based on the foregoing, candidate committees may only make expenditures that fall within the committee's lawful purpose, and the sole lawful purpose of any candidate committee is promoting the election to office of the candidate for whom the committee was established. Any and all expenditures must be campaign-related expenditures designed and intended to advance that candidate's election or nomination.

In addition to language explaining a candidate's views on a particular topic, candidates may also post hyperlinks to external information on other websites to augment or buttress the candidate committees' views or descriptions of campaign issues. Accordingly a candidate may link to external resources such as media sites, like journal and news stories, or commercial sites, such as businesses, which may provide additional insight into a candidate's views or place those views into context. In this opinion, we will address hyperlinks in three categories: 1) hyperlinks to other candidates' websites; 2) hyperlinks to media pieces (i.e. articles and video clips); and 3) hyperlinks to commercial websites.

Hyperlinks from a candidate's website to another candidate's website

A candidate committee's website may not link to the website of another candidate. Because a link on a website would represent something of value made to promote the receiving candidate, posting that link on its website would mean that a candidate committee had made an expenditure to influence the nomination for election, or election, of another candidate. This is specifically prohibited by Connecticut's campaign finance laws.

Connecticut campaign finance law defines an expenditure as "anything of value, when made for the purpose of influencing the nomination for election, or election, of any person or for the purpose of aiding or promoting the success or defeat of any referendum question or on behalf of any political party." General Statutes § 9-601b (a) (1). In addition, it defines a contribution as "[a]n expenditure when made by a person with the cooperation of, or in consultation with, any candidate, candidate committee or candidate's agent or which is made in concert with, or at the request or suggestion of, any candidate, candidate committee or candidate's agent, including a coordinated expenditure." General Statutes § 9-601a (a) (4). Connecticut campaign finance law regulates all contributions and expenditures by a candidate committee. A candidate committee may not make expenditures that benefit another candidate since that would fall outside of the "lawful purposes" of the committee. *See* General Statutes § 9-607 (g) (1)

(A) (i) (defining lawful purposes of “candidate committee” as promoting nomination or election of “candidate who established the committee”). Nor can a candidate committee make contributions to another candidate. *See* General Statutes § 9-616 (a). This blanket prohibition on any expenditures or contributions from a candidate committee to other candidates prevents a candidate committee from placing a hyperlink on its website pointing to another candidate. This applies to candidates that are participating in the Citizens’ Election Program and those that opt out of the public financing program.

Hyperlinks to informational articles and video clips

Campaigns have suggested to the Commission that they intend to use their websites not only as fundraising and networking tools but also to explain more fully their platform to potential supporters. One way of doing this is to direct supporters to informational pieces on the internet that promote the candidate or explain the candidate’s views on certain issues. For example, a candidate might link to a radio station’s webpage that contains an interview of the candidate. Linking to these print or broadcast media resources does not indicate support for the media outlets or government agencies which have produced the media pieces. Instead, the hyperlinks are meant to support and explain the positions that the candidate has articulated on that candidate’s website. This is akin to reproducing a newspaper article and attaching it to a campaign flyer to support positions stated in the flyer. *See In the Matter of a Complaint by Ellen Camhi*, Stamford, File No. 91-167 (flyer reproducing newspaper article which promoted the defeat of a candidate was a campaign communication requiring appropriate attributions). Such hyperlinks to media pieces, intended to support and further explain a campaign platform as articulated on a candidate committee website, serve the lawful purpose of promoting the candidacy. Accordingly, those costs associated with the posting of said hyperlinks are permissible campaign expenditures.

Hyperlinks to commercial websites

Campaigns have also inquired as to the propriety of placing hyperlinks on a candidate committee’s website to commercial websites. When interacting with business entities, campaign committees should exercise caution. Businesses may not make contributions to candidate committees without first forming a political committee. *See* General Statutes § 9-602 (a) (requiring business entities to register political committees prior to contributing to a candidate for public office); General Statutes § 9-613 (prohibiting business entities from contributing to any candidate’s campaign for election to any public office). Candidate committees – especially those participating in the Citizens’ Election Program – may receive contributions only from permissible sources. *See* General Statutes § 9-611 (a) (identifying permissible contribution limits by individuals to candidate committees for various offices); General Statutes § 9-613 (a) (prohibiting contributions from business entities to candidate committee); General Statutes § 9-704 (defining “qualifying contributions” for Citizens’ Election Program); *see also* SEEC Declaratory Ruling 2007-03, Citizens’ Election Program: Qualifying Contributions (describing the only permissible contributions that participating candidates may receive). Moreover, it is impermissible to use a candidate committee to promote a business with which the candidate or campaign has a relationship or in which they possess an ownership interest. General Statutes §§ 9-607 (g) (1) (limiting permissible

expenditures to items related to “lawful purpose” of committee); 9-607 (g) (4) (prohibiting committee expenditures for “personal use” of candidate and family). *See also* Regs., Conn. State Agencies § 9-706-2 (b) (5) (banning payments to entities in which candidate has five percent or greater ownership interest). In addition, selling links from a candidate committee’s website to businesses for advertising would violate Connecticut’s campaign finance statutes. State Elections Enforcement Comm’n Advisory Opinion 1976-15, *Paid Advertisements in Political Programs* (July 27, 1976) (concluding that committee cannot not sell advertisements to business entities since those would represent prohibited contributions from business entities to committees).

Application of the relevant statutory provisions indicates that a candidate committee may use hyperlinks to a business to further illustrate a candidate’s views on certain topics, but may not use such hyperlinks to advertise or promote the business itself at the expense of the candidate committee. For instance, it would be permissible for a candidate with a particular focus on environmental issues whose agenda includes the bringing of green business to Connecticut through certain tax incentives to have links on the candidate committee’s website to informational sections on other “green” websites, where those websites help to illustrate certain viewpoints of the candidate, such as the energy savings available from solar energy or the increasing viability of green businesses. This is so even when the websites are owned by a business or other for-profit entity. Like hyperlinks to news pieces, links to business entity websites that offer additional insight into a candidate’s campaign platform fall within the lawful purposes of the committee. The permissibility of such a link, however, would depend on the content of the linked website and whether the link could be construed to promote the election or nomination of the candidate as part of the explanation of a candidate’s platform or whether it is in effect advertising for a business at the expense of a candidate committee. *See In the Matter of a Complaint by Jeffrey Merrow*, Bristol, File No. 2000-268 (finding candidate committee’s website was a permissible expenditure despite reference to the candidate’s business website because the reference was “speech clearly designed to provide the reader with more information about the candidate” and the website’s “primary purpose” was to promote the candidate and not the business).

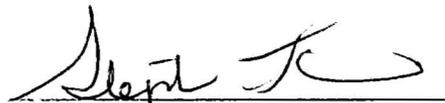
Candidates use their websites as a means to communicate with the electorate, to describe their views on certain topics, and to outline a platform on certain issues. Via their committee websites, candidates can inform potential voters about their views on certain issues and to win potential voters’ support because of these views. Put simply, a website serves as a vital means for candidates to communicate their campaign message. Such communications, as part of a website, constitute permissible expenditures pursuant to both the General Statutes and CEP Regulations. *See* General Statutes § 9-607 (g) (2) (B) and Regs., Conn. State Agencies § 9-706-1 (emphasis added); *see also In the Matter of a Complaint by Frank DeJesus*, Hartford, File No. 2006-193 (purchase and hosting of website containing a candidate’s “campaign messages” are campaign expenditures which must be so reported).

Reporting

Candidate committees must report any costs associated with a candidate committee website and hyperlinks – e.g., domain name registry, hosting costs, website maintenance and creation, bandwidth – as it would any other campaign committee expenditures in support of your candidacy. *See, e.g., In the Matter of a Complaint by Frank DeJesus*, Hartford, File No. 2006-193 (civil penalty imposed for failure to report expenditure related to purchase and payment of web hosting services for website that, at various times, contained messages made for the purpose of influencing an election); *In the Matter of a Complaint by Joseph Klett*, Newington, File No. 2004-167 (finding website design services, Internet hosting and support services for candidate committee website were campaign expenditures necessitating reporting); *see also* State Elections Enforcement Comm'n Advisory Opinion 2008-01, *Proposed Political Activity of Nonprofit Association* (June 11, 2008) (the costs associated with setting up a website to communicate endorsements of candidates to the public are expenditures subject to Connecticut's campaign finance laws). Furthermore, as with any web-based communication promoting the success of your campaign, your candidate committee website must bear upon its face the appropriate attributions pursuant to General Statutes § 9-621 (a). If a portion of your website is separately accessible over the internet, it should contain the attribution. *See In the Matter of a Complaint by Christopher J. Rossetti*, Avon, File No. 2006-279; *In the Matter of a Complaint by Janice Kulpa*, Middlebury, File No. 2005-126; *In the Matter of a Complaint by Robert LaBonte*, Wethersfield, File No. 99-239.

The foregoing advice is an Advisory Opinion of the Commission. This Advisory Opinion is issued pursuant to the provision of General Statutes § 9-7b (14).

Adopted this 26th day of May, 2010 at Hartford, Connecticut by a vote of the Commission.



Stephen F. Cashman, Chairman