



ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

October 5, 2011

BENEDICT Y. HUR
CHAIRPERSON

JAMIENNE S. STUDLEY
VICE-CHAIRPERSON

BEVERLY HAYON
COMMISSIONER

DOROTHY S. LIU
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Steven Gold, Esq.
General Counsel, ActBlue
14 Arrow Street
Cambridge, MA 02138

Dear Mr. Gold:

You have asked for the Ethics Commission's written opinion on whether ActBlue may act as an intermediary for contributions made to political committees participating in elections for offices and ballot initiatives in the City and County of San Francisco.

The Ethics Commission provides two kinds of advice: written formal opinions and informal advice. *See* S.F. Charter § C3.699-12. Written formal opinions are available to individuals who request advice about their responsibilities under local laws. Formal opinions provide the requester immunity from subsequent enforcement action if the material facts are as stated in the request for advice, and if the District Attorney and City Attorney concur in the advice. *See id.* Informal advice does not provide similar protection. *See id.* Because you are asking for general advice on the applicability of local law, the Commission is treating it as a request for informal advice.

Background

You state that ActBlue is a political organization registered as a state general purpose committee with the Secretary of State, and that ActBlue currently does not participate in elections in the City.¹ ActBlue operates a website, www.actblue.com, on which California political groups and individuals may raise or contribute funds intended for California political committees. ActBlue lists in its directory all Democratic candidates and committees active in California state politics. Individuals may visit these fundraising webpages and enter their credit card information – along with all of the required disclosure information, such as name and address – to make a contribution. ActBlue processes the contributions through its credit card processor and transfers the funds into its bank account. You explain that ActBlue pays the costs associated with processing the contribution and subtracts them from the contributions. At least weekly, ActBlue forwards the remainder by check to the committee designated by the contributor, along with all of the contributor's required reporting information. Each recipient committee reports having received the contribution from the original contributor through ActBlue and also reports having paid ActBlue's processor for the cost of obtaining the contribution.

¹ However, ActBlue serves as a vendor for several candidates for City elective office.

ActBlue now wishes to act as an intermediary for contributions made to political committees participating in elections for offices and ballot initiatives in San Francisco; and you ask whether there is any local law that proscribes such activities.

Discussion

You cite to Government Code section 84302, which provides:

No person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution both his own full name and street address, occupation, and the name of his employer, if any, or his principal place of business if self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the other person. The recipient of the contribution shall include in his campaign statement the full name and street address, occupation, and the name of the employer, if any, or the principal place of business if self-employed, of both the intermediary and the contributor.

You also cite to section 1.106 of the San Francisco Campaign and Governmental Conduct Code or Campaign Finance Reform Ordinance (CFRO), which states,

Except as otherwise provided in, or inconsistent with, this Chapter or other provisions of local law, the provisions of the Government code of the State of California (commencing at Section 81000), relating to local elections including any subsequent amendments, are hereby incorporated as part of this Chapter.

As long as ActBlue abides by state law, the CFRO does not restrict the ActBlue Committee from engaging in the activities you describe as they relate to candidates for City elective office and ballot measures in San Francisco. You have not asked about the applicability of CFRO section 1.114(b), which bars corporations from making contributions to candidate committees. If ActBlue is a corporation and if you have questions about the applicability of section 1.114(b), please contact us again.

I hope you find this information helpful.

Sincerely,

John St. Croix
Executive Director

By: Mabel Ng
Deputy Executive Director

S:\ADVICE\cfro\11-0919 ActBlue\letter to Steven Gold.doc