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October 12, 2007

BY HAND DELIVERY

AOR 2007-30

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Federal Election Commission
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Washington, D.C. 20463

2007 OCT 12 P 3: 21

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Re: Advisory Opinion Request

Dear Ms. Duncan:

I am writing on behalf of Chris Dodd for President, Inc., the principal campaign committee for Senator Chris Dodd (the "Committee"). Pursuant to 2 U.S.C. § 437f, I seek an advisory opinion on whether the Federal Election Campaign Act of 1971, as amended, and the Presidential Primary Matching Payment Account Act (collectively, the "Act"), and Commission regulations permit Internet contributions that are raised using the security verification methods described below to qualify as matchable campaign contributions under 11 C.F.R § 9034.2.

Only contributions that meet certain criteria qualify as matchable campaign contributions. See 11 CFR § 9034.2. Among the criteria are that "[t]he written instrument used in making the contribution must be dated, physically received and deposited by the candidate or authorized committee" 11 CFR § 9034.2(a)(4). The term "written instrument" means, "in the case of such a contribution made over the Internet, an electronic record of the transaction created and transmitted by the cardholder, and including the name of the cardholder and the card number, which can be maintained electronically and reproduced in a written form by the recipient candidate or candidate's committee." 11 CFR § 9034.2(b). The written instrument must contain: "The full name and signature of the contributor(s); the amount and date of the contribution; and the mailing address of the contributor(s). For purposes of this section, the term *signature*

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Perkins Coie LLP and Affiliates

Thomasenia Duncan, Esq.
October 12, 2007
Page 2

means . . . in the case of such a contribution made over the Internet, the full name and card number of the cardholder who is the donor, entered and transmitted by the cardholder." 11 CFR § 9034.2(c).

To help provide guidance in the practical application of these regulations, the Commission has published Guidelines for Presentation in Good Order ("PIGO"), which can be found at http://www.fec.gov/law/policy/guidance/2008_guideline_approved_aug092007.pdf. In PIGO's Introduction to Credit Card Contributions, it states, "[a]lthough the Commission has not mandated a particular set of safeguards that must be followed by all campaigns that accept contributions made over the internet, Advisory Opinion 1999-09 . . . contains procedures that the Commission has determined are adequate to meet the requirements of the FECA." PIGO, p. II-1. Echoing Advisory Opinion 1999-09, PIGO goes on to state that "[a]ll contributions made via the Internet shall be subject to billing address verification by the credit card company or the candidate's credit card processor. This verification must be based upon, at a minimum, characters from the street address and the zip code, and the card expiration date." PIGO, p. II-2.

The Committee seeks confirmation that security verification methods for collecting contributions over the Internet, which differ from those in Advisory Opinion 1999-09 and the guidance provided in PIGO, are acceptable for Internet contributions and otherwise are in compliance with the Act and Commission regulations. Specifically, the Committee seeks confirmation that security verification based on the 3-digit number on the reverse side of an individual's credit card, combined with verification of a donor's street address or zip code, is an acceptable alternative to the billing address verification method referenced in Advisory Opinion 1999-09 and PIGO.

In Advisory Opinion 1999-09, the Bradley campaign stated that it intended to request both the contributor's billing address and residential address. In the event of a discrepancy between the two, the Bradley campaign would send the contributor an email reminding them of the prohibition against corporate contributions. The Bradley campaign was necessarily bound by the technology of its time, but there is no regulatory or statutory requirement that the Committee adhere to the practices in place in 1999. Since that time, technology has evolved to provide improved methods of credit card verification.

Consistent with these emerging technologies, the Committee uses several methods of verification for security purposes. First, the Committee requires Internet contributors to provide the 3-digit security number on the reverse side of their credit card, in addition

Thomasenia Duncan, Esq.
October 12, 2007
Page 3


to their name, credit card number, credit card expiration date, mailing address, date, amount of contribution, and employer/occupation information. While this security verification method may not have been in use at the time of the Bradley campaign's advisory opinion, this security number is frequently used today in connection with Internet-based credit card activity. By requiring the donor to provide a number that can only be found on the physical card itself, the Committee believes that this provides a security method that is preferable to billing address verification. In addition, the Committee forwards to its credit card processor the donor information it collects. The credit card processor will then validate either the donor's street address or zip code, as well as the 3-digit security number.

To permit the Committee to use a more updated method of security verification would be consistent with the Commission's practice of "interpret[ing] the Act and its regulations in a manner consistent with contemporary technological innovations . . . where the use of the technology would not compromise the intent of the Act or regulations." Advisory Opinion 2007-17, referencing Advisory Opinions 1999-09, 1999-36, 1999-03, 1995-09, 1990-01, 1989-26, 1978-68, and Matching Card and Debit Card Contributions in Presidential Campaigns, 64 FR 32394 (June 17, 1999). In addition, by avoiding unnecessary infringements on participation in the Commission's public funding program for presidential candidates, the Commission will be supporting a program that is in danger of becoming too impractical to be relevant. For these reasons, the Committee requests confirmation that its security verification methods are consistent with the Act and its regulations.

The Committee recognizes that this request is being submitted more than 60 calendar days before the Iowa caucus, and therefore is not technically entitled to a response within 20 calendar days under 11 C.F.R. § 112.4. In light of the nature of the request and the need to provide Commission staff with matching fund documentation as soon as practicable, however, the Committee respectfully requests the Commission's prompt attention to this matter.

Thank you for your consideration of this matter.

Very truly yours,



Marc E. Elias
General Counsel
Chris Dodd for President, Inc.



Eric Hallstrom /FEC/US
10/25/2007 04:26 PM

To Merita Johnson/FEC/US@FEC
cc
bcc
Subject Fw: Chris Dodd for President Advisory Opinion Request

— Forwarded by Eric Hallstrom/FEC/US on 10/25/2007 03:52 PM —



"Elias, Marc (Perkins Coie)"
<MElias@perkinscoie.com>
10/25/2007 12:23 PM

To <EHallstrom@fec.gov>
cc "Goodson, Caroline (Perkins Coie)"
<CGoodson@perkinscoie.com>, <ARothstein@fec.gov>,
"Svoboda, Brian (Perkins Coie)"
<BSvoboda@perkinscoie.com>
Subject RE: Chris Dodd for President Advisory Opinion Request

1. The Dodd campaign does not purport to be expert on on-line security. However, it has become increasingly clear in the intervening period since the issuance of 1999-09 that most commercial and political websites now rely upon the 3 (or 4) digit code for verification. Our understanding is that this method is preferred because it requires actual possession of the credit card in order to complete a transaction and thus minimizes the risk that an unauthorized user has simply obtained the credit card number and billing address information. Our request is not premised on the suggestion that using zip code or billing address is as secure as using both. Rather, we believe that using one in conjunction with the security code is sufficient to meet the FEC's objectives in providing clear donor identity verification.

2. Yes.

3. The Committee's website specifically asks donors to provide their billing/mailling address for purposes of meeting FEC best efforts requirements and security verification. As noted in the request, this information is used to obtain a partial match (zip code or billing address) for purposes of verification.

From: EHallstrom@fec.gov [mailto:EHallstrom@fec.gov]
Sent: Wednesday, October 24, 2007 4:15 PM
To: Elias, Marc (Perkins Coie)
Cc: Goodson, Caroline (Perkins Coie); ARothstein@fec.gov
Subject: Chris Dodd for President Advisory Opinion Request

Mr. Elias:

This is a follow up to the recent conversations we have had with you and Caroline Goodson with respect to your October 12, 2007 letter requesting an advisory opinion on behalf of Chris Dodd for President. As you requested, we have reduced to writing the remaining questions to which we would appreciate your responses.

1. Your request states that "technology has evolved to provide improved methods of credit card

verification" since the Commission issued Advisory Opinion 1999-09 (Bradley for President) and the Dodd for President committee uses verification methods "consistent with these emerging technologies." In addition, your request states that the Dodd for President campaign committee believes verification based on the security code, which can only be found on the credit card, "provides a security method that is preferable to billing address verification." Can you please provide some clarification as to how the proposed method of verification constitutes an improvement over the methodology approved in Advisory Opinion 1999-09 and the procedures outlined in PIGO? When doing so, it would be helpful to address not only the substitution of the security code for the expiration date, but also how using the street address or the zip code is at least as secure as using both.

2. Your request focuses on "security verification based on the 3-digit number on the reverse side of an individual's credit card, combined with verification of a donor's street address or zip code." As we previously discussed, at least one type of credit card (American Express) has a 4-digit number that appears on the front of the card. Is it the requestor's wish that we address both factual scenarios in the advisory opinion?

3. In our conversation on October 19, Ms. Goodson indicated that the Dodd for President committee notes inconsistencies between a contributor's mailing address and his or her billing address. Please clarify how the committee uses contributors' billing addresses as part of either the security verification procedure or as part of its procedures for screening for prohibited contributions.

If you have any questions, please don't hesitate to contact me. Thank you for your cooperation.

Sincerely,
Eric Hallstrom

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