

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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July 8, 2014  
AO-14-04

Melissa Flores, In-House Counsel  
ActBlue  
366 Summer Street  
Somerville, MA 02144

Re: Contributions Via Email

Dear Ms. Flores:

This letter is in response to your request for an opinion regarding whether ActBlue may employ the use of a one-step hyperlink, sent via email to potential contributors, to instantly accept and process contributions for candidates and political committees.

You have stated that ActBlue has developed Express Lane, a single-click contribution form that is delivered to potential contributors via email. This tool allows a contributor who has an ActBlue account to make future contributions without having to visit an external political committee webpage or type information into standard contribution forms. Candidates and committees may draft an email to supporters and insert into that email distinct hyperlinks for specific contribution amounts. The hyperlinks are generated by ActBlue and supplied to the candidate or committee for inclusion in the candidate/committee email. You have further stated that ActBlue strictly requires that any campaign sending an email using Express Lane include in that email pre-approved language to make it clear who is soliciting and will receive the contribution, and that the contribution will be processed immediately once the contributor clicks on one of the links.

When a contributor who has an ActBlue account clicks one of these links, the contribution processes immediately for the selected amount using the contributor's previously saved information. As long as the required information (name, address, occupation, employer, and credit card billing information) was previously saved to the contributor's ActBlue account, the one-step payment process executes instantly. If a contributor does not have an active ActBlue account, or if any of the required information is missing, the contributor will instead be redirected to a traditional contribution form on the ActBlue website. The contributor may then enter the required information and process a contribution to the selected candidate or committee. When the contribution has been processed, the contributor receives a receipt, via email, that confirms the contribution amount, the recipient committee, and the address and occupation and employer information for the contributor. If any of the information is inaccurate, the contributor is asked to log in to their ActBlue account to correct it.



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Using the Express Lane contribution system, contributors who have an ActBlue account may make a one-time or a recurring contribution. ActBlue will not produce Express Lane hyperlinks that permit one-time contributions in excess of the individual contribution limit. In addition, if an individual attempts to make a recurring contribution that would, in the aggregate, exceed the individual annual contribution limit, the Express Lane transaction would be rejected and the contributor would be redirected to the standard contribution form on ActBlue's website.

### QUESTION 1

May ActBlue process contributions to candidates and committees using the Express Lane contribution method?

### ANSWER

Yes, ActBlue may process campaign contributions using Express Lane, subject to the regulations applicable to debit or credit card contributions and contributions made via the internet.

### DISCUSSION

Candidates or political committees may receive debit or credit card contributions via the internet, provided that the following requirements are met: 1) the website must clearly identify the name of the candidate or political committee that is using the website to solicit the contributions; 2) the contributor must certify, by taking an affirmative action such as clicking a box with the cursor, that he or she is responsible for paying all charges to that debit or credit card and that he or she is the true source of the funds being used to make the contribution; and 3) the website must make a clear distinction between information that is required by law and information that is optional. See M.G.L. c. 55, § 9; 970 CMR 1.09(2)(b). Because debit or credit card contributions via email are completed over the internet, email contributions are considered internet contributions subject to 970 CMR 1.09.

Based upon the information you have provided, ActBlue's Express Lane contribution system would comply with M.G.L. c. 55 and OCPF's regulations. ActBlue has stated that its terms of service will require candidates and committees employing Express Lane hyperlinks to clearly identify the candidate or committee that will benefit from the contribution. You have indicated that ActBlue will deactivate all Express Lane hyperlinks generated for any candidates or committees that fail to adequately identify the recipient of the contribution. Therefore, the first requirement for debit or credit card contributions via the internet is satisfied. See 970 CMR 1.09(2)(b)(1).

With respect to the required contributor certification, you have confirmed that candidates and committees using Express Lane hyperlinks will be required to include the following or a similar statement in their email to contributors: "By clicking on one of the links above, you certify that you are responsible for paying all charges incurred in using the debit or credit card to

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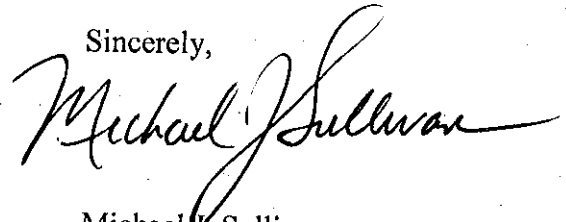
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be charged, and that your personal funds will be the true source of the contribution.”<sup>1</sup> The contributor’s act of clicking the Express Lane link to make a contribution, when combined with the statement above, constitutes an affirmative action that satisfies the second requirement for debit or credit card contributions over the internet. See 970 CMR 1.09(2)(b)(2).

Finally, ActBlue intends to send contributors a receipt via email when their contribution has been processed. This receipt will confirm the individual’s contribution, including the amount and the recipient committee. The receipt will also contain a summary of the contributor’s ActBlue account information, including name, address, and occupation and employer. The receipt will ask the contributor to review that information and update his or her account if necessary, thereby ensuring that committees collecting contributions via Express Lane will receive the most current personal information for individuals utilizing ActBlue. By doing so, ActBlue’s Express Lane system will meet the third and final requirement for debit or credit card contributions via the internet. See 970 CMR 1.09(2)(b)(3).

This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter. Please contact us if you have further questions regarding this or any other campaign finance issue.

Sincerely,



Michael J. Sullivan  
Director

MJS/mc

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<sup>1</sup> You have confirmed that candidates and committees that fail to include the certification statement will have their Express Lane hyperlinks deactivated.