



GiveToUSA.org

July 16, 2004

Rosemary C. Smith
Associate General Counsel
Office of General Counsel
Federal Elections Commission
999 E Street NW
Washington, DC 02463

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Dear Ms. Smith:

This letter is a response to your draft opinion AO 2004-21.

- Page 1, line 25: The web sites at www.givetousa.com and www.givetousa.org are currently real, as opposed to a prototype.
- Page 2, lines 18-21 and page 3, line 1. We are not requiring charities to contract with us, but are simply informing donors that up to 10% of their contribution will be held by us as a processing fee. Please see www.givetousa.org/legal.jsp for additional details.
- Page 3, line 6. We do charge a fee to political candidates for whom we process donations. This fee is currently \$0.25 per donation plus 2.5% of the donated amount, and is identical to the fee charged by amazon.com for similar services.
- Page 6, line 4. Our position is that we are providing very different services to candidates and to charities. For candidates, we are simply processing donations and should charge a relatively nominal fee. For charities, we are finding matches and, in some sense, producing new sources of revenue that would not otherwise exist. For this reason, we charge the charities a larger fee, although still one that is lower than that charged by other fund-raisers.
- Page 6, lines 17-23. Our position is that the donor gives us money and time to find a match; if we fail to find a match, then it is only at that point that the donation is determined to be a political contribution, and it is therefore from that point that we

should have ten days (or more, as per AO 2003-16 and 2002-7) to forward the money to the candidate in question.

I am not sure if I can respond to your draft opinion with further questions, but if I can, I would be grateful if you could provide me with answers to the following:

- Given that we charge candidates the "going rate" for processing donations made to them, does this address your concerns regarding our provision of services without charging for those services?
- Given that a fee is being charged, what is the maximum amount of time that we can retain a donation before passing it along to the politician in question? Is it ten days, or longer? Is the time to be measured from the point at which the donation is received (but not yet committed to a politician), or from the point at which the status of the donation is resolved?

Thank you very much for your consideration in this matter.

Sincerely Yours,



Matthew L. Ginsberg
President