

AOR 2007-35

By Hand

October 18, 2007

Thomasenia P. Duncan  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2007 OCT 22 A 11:49

Re: Advisory Opinion Request – FreeCause, Inc.

Dear Ms. Duncan:

Pursuant to the Commission’s regulations, 11 C.F.R. § 112.1, on behalf of our client, FreeCause, Inc., (“FreeCause”), we request an advisory opinion confirming that an affinity program proposed to be offered by FreeCause to federal political committees is permissible under the Federal Election Campaign Act of 1971, as amended (the “Act”) and the Commission’s regulations.

**I. FreeCause**

FreeCause, founded in 2006, is closely held, privately owned, for-profit corporation specializing in online communications and cutting edge solutions to help organizations expand their online reach by building and strengthening web-based communities.

FreeCause has built and will market a browser toolbar, as explained below, that provides a sponsoring organization with revenue, in exchange for the use of its logo and agreement to market the toolbar. The toolbar has already been deployed, in a beta-test format, on behalf of the breast-cancer charity conduit lookpink.com and is currently being offered to a variety of other non-profit organizations. FreeCause would like to be able to offer the toolbar program to political organizations, including federal political committees, as well.

**II. FreeCause Browser Toolbar**

FreeCause was founded to build a proprietary toolbar that combines and automates commissions from search engines and retail sales, as explained below, to provide a potential revenue stream for partner organizations (the “Affinity Toolbar”).

A “toolbar” is a piece of software that provides added functionality to a user’s web browser (such as Internet Explorer, Firefox and the like). For example, the widely used Google™ toolbar offers a variety of features such as weather reports, news, calendar and links to other Google programs on the Google toolbar page, in addition to Internet

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search capability. A user, for example, can choose to have Google Earth, or a photosaving program, or other features, automatically come up whenever the Google toolbar appears.

The basic FreeCause toolbar will, in its default setting, provide internet search capability and news and video feeds. The toolbar will then be customizable by affinity partners—nonprofit organizations. These affinity partners are hereafter referred to as “Affinity Sponsors.” These features, which will be available to all Affinity Sponsors include:

- Search (this is the only feature automatically included in the toolbar and that the an Affinity Sponsor will not be able to disable).
- News Feed – a news feed is a piece of software that automates the retrieval of web content. An Affinity Sponsor will be able to set up an automated news feed, using keywords to automatically include or discard certain stories based on their content. FreeCause would charge the affinity sponsor the normal and usual fee for inclusion of this feature.
- Video Feed – the video feed tool will allow the Affinity Sponsor to provide video content to the users of the Toolbar. FreeCause would charge the Affinity Sponsor the normal and usual fee for inclusion of this feature.
- Audio Feed – the audio feed tool will allow the Affinity Sponsor to provide streaming audio content to the users of the Toolbar. FreeCause would charge the sponsor the normal and usual fee for inclusion of this feature.

Like virtually all toolbars now offered in the marketplace, the FreeCause Affinity Toolbar will be made available to *all* Affinity Sponsors free of charge. The affinity sponsor will provide FreeCause with permission to use the organization’s name and logo on an iteration of the Affinity Toolbar and permission to include the Sponsor’s Affinity Toolbar in a master list of Affinity Toolbars available for download.

FreeCause will then provide the Affinity Sponsor with access to an administrative web page where the sponsor is able to--

- Choose which features, other than the search capability will be available on the toolbar;
- Customize those features, providing keywords for the news feed and content for the video and audio feeds;
- Customize the default look and feel of the (individual users would also have the ability to customize the toolbar once installed);
- Update contact information for the organization; and

- Monitor toolbar usage and prospective donations.

There is no incremental cost whatsoever incurred by FreeCause in making the Affinity Toolbar available to any particular Affinity Sponsor. The Affinity Sponsor itself customizes the toolbar using a preset online menu. FreeCause will not expend any time or resources in customizing the toolbar or making it available to the Sponsor.

The Affinity Sponsor will then be expected to promote the FreeCause toolbar to its members, at the organization's own expense. Individual members or supporters of the organization will be able to click on the organization's version of the toolbar in the master list and download it.

FreeCause is currently marketing its Affinity Toolbar to a number of nonprofit organizations. Again, the Affinity Toolbar is made available in all cases free of charge to such nonprofit organizations. At this time, FreeCause is beta testing an affinity program called LookPink in which a number of nonprofit 501(c)(3) organizations engaged in breast cancer research, detection, prevention and treatment are the beneficiaries. Each time an individual member uses the LookPink search engine, a portion of the fee paid to FreeCause by the search engine companies by the advertisers whose links appear at the top of the results, goes to the charities, earmarked to fund free or reduced cost mammograms for women. Attached as Exhibit 1 hereto is a printout of the FAQ pages for the LookPink toolbar website.

### **III. Affinity Toolbar's Generation of Revenue For Nonprofit Affinity Sponsors**

Like other toolbars now generally available, the FreeCause toolbar generates revenue for FreeCause, and through FreeCause to individual users, through two mechanisms: commissions on internet searches and commissions on internet shopping.

#### **A. Commissions on Internet Searches**

It is now a common practice in Internet marketing for website owners – for example, online retailers – to pay search engine companies (such as Google or Yahoo!) for advantageous placement of their website in search engine results. Search engine companies, in turn, encourage the use of their search engine by entering into commission based agreements with companies, such as a toolbar provider, who direct traffic to their particular search engine. While search engine companies commonly provide their own toolbars (such as Google), there are many other independent providers of toolbars, including media sites, organizational websites and companies that specialize in developing toolbars.

Search engine companies very much want those independent toolbars to direct users to their search engines. For that reason, they commonly enter agreements with

toolbar providers to pay those toolbar providers commissions on searches generated through the toolbar.

Recently, toolbar providers in turn have begun to promote use of their toolbars by arranging to share these commissions, in certain cases, with users of the toolbar. For example, a new company called AGLOCO™ offers users of its toolbar an opportunity to share in the revenue paid to AGLOCO by search engine providers. Any internet user can become a “member” of ALOCO by signing up online and downloading AGLOCO’s proprietary “Viewbar”™ toolbar. Attached hereto as Exhibit 2 is a sheet explaining AGLOCO’s program. Every time an individual user uses the Viewbar to do an internet search, AGLOCO earns a fee from the search engine provider—for example, up to 10 cents per search from Google. “Members” earn a monthly share of AGLOCO’s revenue from search engine commissions, based on the individual user’s use of the proprietary “Viewbar” toolbar that month.

FreeCause has an agreement with Yahoo! Search and a commission is paid for each search generated through a FreeCause toolbar. For Affinity Sponsors which are nonprofit organizations, every time an individual member or supporter of the organization uses the toolbar to make a search, FreeCause will receive revenue as explained above. FreeCause will then rebate a portion of that revenue to the sponsoring organization, as in the LookPink program.

The amount of revenue generated by searches will vary and is determined by complex formula that takes into account what Yahoo! gets paid by those companies and organizations listed in the “sponsored” section of the results. A typical search may generate on the order of three cents to FreeCause. FreeCause would then rebate a portion of that three cents—say one and a half cents to the Affinity Sponsor.

## **B. Retail Commissions**

Just as search engine companies offer commissions to those who increase their volume, online retailers offer commissions to website owners who send them customers who make purchases. The amount and nature of these commissions vary widely, but the practice is common and is widely used, from an individual blogger who collects commissions off a link to Amazon.com facilitating purchase of a reviewed book, to online comparison shopping sites like PriceGrabber.com.

The AGLOCO site, for example, explains that when a user of the AGLOCO toolbar clicks on an advertisement that is displayed in the toolbar and makes a purchase, or makes a purchase from an online retailer located through a search using the toolbar, AGLOCO receives a referral fee or a commission. For example, Amazon pays an 8.5% commission to most websites who refer customers. AGLOCO offers to rebate a portion of that referral fee, or commission, to the individual users.

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Some website owners, including online retailers, have developed affinity programs to allow nonprofit organizations to use retail commissions as fundraising programs, a practice sometimes called "affinity shopping." Under some systems, users register at an online shopping website and specify charities that they would like to benefit. By shopping through that website, users generate affiliate commissions for the website's operators. The operators share a portion of those commissions with the users' indicated charities. Under other systems, a charity provides a link to an external shopping website. When users follow that link to access that shopping website instead of accessing it directly, the referring charity receives a commission on the users' purchases.

An example of an affinity shopping program is that offered by the retail outlet Brookstone. Attached hereto as Exhibit 3 is a Brookstone's explanation of its affiliate program. Under that program, a nonprofit organization can sign up to be an affiliate. There is no charge to the organization. The organization agrees to download a link to Brookstone's online retailing site, together with various optional promotional graphics, designs, etc that the nonprofit organization can include on its own site. The nonprofit organization is expected to promote the site to its members, at its own expense. Every time the nonprofit organization refers a customer to Brookstone through the link on the organization's site, and that customer makes a purchase, the nonprofit organization earns a commission. If the commission's total \$25 or more in any month, Brookstone sends the organization a check for the amount of the commission that it has earned.

For nonprofit organizations, every time an individual member uses the toolbar to make a purchase, FreeCause will receive revenue as explained above; and FreeCause remits a portion of that revenue to the sponsoring organization.

#### **IV. Proposed Operation of Affinity Toolbar for Political Affinity Sponsors**

FreeCause desires to expand its toolbar affinity program to include arrangements with 501(c)(4) organizations (including qualified non-profit corporations) and federal political committees, including authorized committees. The prospective federal political committee sponsors are hereinafter referred to as "Political Affinity Sponsors".

The expanded affinity program would be promoted to and made available to any federal political committee that requests the chance to participate, including authorized candidate committees, separate segregated funds, non-connected political committees, and party committees, without regard to party affiliation or ideological orientation.

The Affinity Toolbar will be marketed and made available to Political Affinity Sponsors in exactly the same way as it is made available to other Affinity Sponsors, as described in detail above. As in the affinity program offered generally to non-profit organizations, the FreeCause Affinity Toolbars will be offered at no cost to Political Affinity Sponsors.

**Responsibility for marketing the Affinity Toolbar will rest with the Political Affinity Sponsor, at the Sponsor's own expense, with two exceptions.**

**First, any Affinity Toolbar sponsored by an Affinity Sponsor which is an SSF will be marketed only on that Affinity Sponsor's website on a password protected area which limits those who can access and sign up for the Toolbar to members of the restricted class.**

**Second, FreeCause intends to market certain Affinity Toolbars that FreeCause considers, in its best business judgment, to be of particularly broad appeal and likely to generate substantial revenue. FreeCause will undertake that marketing at no incremental cost to FreeCause, via e-mail, its own website, and unpaid advertisements on other's websites. However, no Affinity Toolbar for any Political Affinity Sponsor which is a separate segregated fund will be included in any such marketing.**

**All such marketing by FreeCause will be made without consultation or coordination with any Political Affinity Sponsor. There will be no measurable incremental staff time or other incremental use of resources incurred in this marketing of specific Affinity Toolbars.**

**Political Affinity Sponsors who sign up to sponsor the FreeCause toolbar will be given the same options as all other affinity sponsors on the administrative webpage, except that, in addition, a Political Affinity Sponsor will be able to arrange to download data files containing all information required to meet the Sponsor's recordkeeping and reporting requirements under the Commission's rules, as described below.**

**An individual user who downloads the Affinity Toolbar sponsored by a Political Affinity Sponsor will be offered an automatic remittance of 50% of the commissions generated to FreeCause by the use of the toolbar, by that user, both for internet searches and on retail sales. Users would be given the option to receive the remittance in the form of a monthly check for any balance in excess of \$5, or to direct it as a contribution to the Political Affinity Sponsor. This option would be offered at time of initial signup and annually, thereafter, and users could change their option at any time.**

**Specifically, to download the toolbar of a Political Affinity Sponsor, an individual user will be required to create an account with FreeCause. To create an account the user would be required to provide her name, address, occupation and employer. The user will create a user name and password to log in. The account creation page will clearly inform the individual user that:**

- The user has the option to receive her remittance in the form of a monthly check or to direct it as a contribution to the Political Affinity Sponsor.**

- If the user elects to direct the remittance to the Political Affinity Sponsor, the user will be able to opt out of that election, and to have the remittance start coming to the individual user instead, *at any time*, by logging in to the account page and changing that option.
- If the user elects to direct the remittance to the Political Affinity Sponsor, that will represent a political contribution to the Political Affinity Sponsor, which will be used in connection with federal elections and which is subject to the limitations and prohibitions of the Federal Election Campaign Act. (The limits applicable to that particular type of political committee will be specified).
- The user will be asked to certify that she is an individual U.S. citizen or legal permanent resident and that she would be receiving the remitted funds individually in the absence of the re-direction. The user will also be asked to make the certifications required of any donor contributing to a federal political committee over the internet, as set forth in Advisory Opinion 1995-9.
- Federal law requires the Political Affinity Sponsor to use its best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar year.
- The disclaimers required by 11 C.F.R. §110.11 as applicable to the Political Affinity Sponsor.

All remittances directed to any Political Affinity Sponsor would be held in a segregated account—not commingled with FreeCause's other corporate funds--and would be credited to the Political Affinity Sponsor through an automated clearinghouse transaction on the last day of each month. FreeCause would transmit the contributor information to the Sponsor within ten days of the transfer of funds. 11 C.F.R. § 102.8(b)(2). The *only* information that would be provided to the Sponsor would be the name, address, occupation and employer of the individual user.

It is virtually certain that the remittance to which any one individual would be entitled would not exceed \$50 in any one calendar year, although FreeCause will maintain all records and will be set up to transmit all required information for donors in the event that such amount is exceeded in the case of any donor.

FreeCause will charge or obtain payment from the Political Affinity Sponsor for all expenses related to processing the remittances directed to the Sponsor and related to transmitting the proceeds and contributor information to the Sponsor.

## **V. Discussion**

We ask the Federal Election Commission (the "Commission") to confirm that FreeCause's proposed affinity program is permissible under the Act.

### **A. Commission Treatment of Affinity Programs**

The Act prohibits corporations from using their general treasury funds to make contributions or expenditures in connection with federal elections. 2 U.S.C. § 441b(a). A "contribution" includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i); see also 2 U.S.C. § 441b(b)(2). "Anything of value" is considered to include all in-kind contributions, including the provision of goods or services without charge or a charge that is less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.52(d)(1). Section 100.52(d)(2) defines "usual and normal charge for goods" as the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution.

The Commission has examined various affinity programs in prior advisory opinions, including affinity wireless programs, credit cards, telemarketing services, and certain pay-per-call services known commonly as "900-lines." *See, e.g.*, Advisory Opinions 2006-34, 2003-16, 1995-34, 1994-33, 1991-26, 1991-20, 1990-14, 1990-1, 1988-12, and 1979-17. In essence, the Commission's rulings have established that, while it is not permissible for a corporation or bank to sponsor an affinity program in which a portion of the revenues charged and collected by the corporation or bank are donated to a federal political committee, e.g., AO 1988-12, AO 1979-17, it is permissible for a corporation to offer an affinity program in which (i) the customer has the option to direct some portion of the customer's own funds, that would otherwise be under the customer's exclusive personal control, to a federal political committee; and (ii) any services provided to the political committee are either paid for by the committee or received in exchange for fair, bargained-for consideration.

For example, in AO 1994-33, the Commission considered a program under which a company offered prepaid phone cards co-branded with the name and logo of federal political committees. The purchaser had the option to designate a portion of the purchase price of the card as a contribution to the committee, in which case the value of the minutes credited to the purchaser was reduced by the amount of the donation. The Commission approved the program on the grounds that the funds being contributed

belonged to the customer, not the company, and the beneficiary committee paid all the costs associated with processing the contribution transactions.

Again, in AO 2003-16, the Commission considered a proposal in which a bank would offer a co-branded, affinity credit card with a national party committee sponsor. The bank (Providian) proposed to market the card, at the bank's own expense, to lists of party supporters identified by the national party committee. The national party committee had the opportunity to receive contributions from affinity cardholders in the form of customer rebates and bonuses that customers would receive through using their credit cards. Specifically, Providian proposed a rebate card that allowed cardholders to earn rebates by charging their purchases on their credit card. Providian would provide the national party committee with contributions from cardholders who authorized the Bank to forward their rebates to the national party committee. If a cardholder did not wish to forward his or her rebate to the national party committee, the rebate would be sent to the cardholder instead. Providian stated that it would charge the national party committee for any transactional expenses related to forwarding the contributions.

In addition, there was a proposed bonus feature consisting of a payment to the cardholder from Providian of a certain fixed dollar amount once a cardholder charged a certain number of purchases or a certain dollar amount on the affinity credit card. Providian would give cardholders the option to have Providian forward the value of their bonuses to the national party committee. If any cardholder did not wish to contribute his or her bonuses to the national party committee, Providian would instead send the bonuses to the cardholder.

Finally, Providian proposed that the national party committee would pay for advertising space in Providian's communications to cardholders or prospective cardholders, even though the bank's other affinity sponsors were generally not required to pay for such advertising space.

The Commission determined, first, that the marketing of the card by the bank to lists of Party supporters provided by the Party, at the Bank's own expense, would not constitute an impermissible in-kind contribution but rather would be "equal exchanges of bargained-for consideration" if two conditions were met:

- the value of the list to be provided by the national party "is sufficient to cover the costs of the services provided by the Bank under the proposed Affinity Program," ; and
- the arrangement to provide the services "will be similar to most affinity programs between the Bank and non-political entities."

Second, the Commission determined that, because the proposed program "will permit cardholders to choose whether or not to contribute part or all of their rebates to the

national party committees,” the contributions of rebates “would be treated as contributions from the cardholders’ personal funds” and “the Bank will not be making an impermissible contribution.” The Commission reached the same conclusion with respect to the bonus feature, for the same reasons.

Third, the Commission found that the bank would not be improperly facilitating the making of contributions because the national party committee would be charged the normal and usual rate for these services.

Finally, the Commission ruled that the bank would not be making an impermissible contribution when the national party committee purchased advertising space in mailings to cardholders and prospects because the bank would charge the normal and usual fee for such advertising and no additional processing expenses would be associated with the communications or promotional materials.

Again, in AO 2006-34, the Commission considered a proposal by Working Assets, in which a wireless phone company would offer co-branded affinity wireless phone service where new wireless phone service customers derived from political committee's mailing list were given the option of contributing billing rebates to the political committee sponsor. The political committee was given an opportunity to receive contribution from affinity wireless subscribers in the form of customer rebates (10% of their wireless bill) and direct contributions from their customers who chose to round up their bill with an additional contribution. Subscribers were offered the option of crediting the rebate to their next month's bill or donating it to the political committee. The political committee would be charged by Working Assets for any expenses incurred in the transfer of funds from Working Assets to the committee. The political committee was given a further opportunity to place advertising in specific portions of the customer's bill. Working Assets, however, charged the committee fair market value for any such advertisement.

The Commission approved the proposed Working Assets program. First, the Commission concluded that the exchange of a mailing list for Working Assets expenditures in marketing the wireless subscriptions would not constitute a contribution to the political committee provided that

- The fair market value of the mailing list provided exceeded the value of the marketing services provided, and
- The marketing services were valued in the usual and normal way by Working Assets.

Second, the Commission concluded that the provision by Working Assets of rebated and rounded-up amounts to the political committee would be contributions by Working Assets customers and not impermissible corporate contributions for two reasons:

- The rebates and round-ups would occur in the ordinary course of Working Assets' business, and
- Working Assets' customers, and not Working Assets would control the disposition of the rebate and round-up (directing them to the political committee or crediting them to the next bill).

Third, the Commission concluded that, as the political committee would be charged for any costs incurred in the transfer of funds to the committee, Working Assets would be acting as a commercial vendor and no impermissible contribution to the committee would result. Finally, the Commission ruled that Working Assets would not be making an impermissible contribution when the political committee purchased advertising space in customer's monthly bills because Working Assets would charge the normal and usual fee for such advertising and no additional processing expenses would be associated with the communications or advertisements.

**B. Analysis of Proposed FreeCause Toolbar Affinity Program**

The proposed affinity program FreeCause plans to offer to federal political committees meets the two the requirements established by the Commission to ensure that such affinity programs do not result in the making of any impermissible in-kind corporate contribution.

*First*, as in AO 1994-13, AO 2003-16, and AO 2006-34, the individual user of the sponsored FreeCause toolbar would have the option to direct some portion of the customer's own funds that would otherwise be under the customer's exclusive personal control, to a federal political committee. As in AO 2003-16 and AO 2006-34, the amount of the commission to which the individual is entitled would be the property of that individual toolbar user at the time the remittance is made by FreeCause. The proposed affinity program would permit customers to choose whether or not to contribute their remittances to their designated Political Affinity Sponsor. Consequently, as in AO 2003-16 and 2006-34, contributions of customers' remittances would constitute contributions from the individual customer's personal funds. Neither FreeCause nor any other corporation or incorporated entity would be making any form of contribution to the Political Affinity Sponsor. Individual customers would be able to make these contributions as long as they do not exceed the applicable limits to the authorized committee, PAC or party committee or the applicable aggregate limit, and provided, of course, that such donating customers are not foreign nationals, or government contractors.

*Second*, as in the prior AO's, any services provided to the federal political committee are either paid for by the committee itself or received in exchange for fair, bargained-for consideration. As in AO 2003-16 and AO 2006-34, FreeCause would not be facilitating the making of any contributions, because the Political Affinity Sponsor

would pay FreeCause all of the costs of processing remittances and all of the costs of transmitting those funds to the political committee.

Further, the actual provision of the toolbar to political committee, so that the committee can offer it to its members and supporters, does not constitute a contribution to the political committee of anything of value for less than the usual and normal charge, within the meaning of 11 C.F.R. § 100.52(d)(1). Toolbars are offered to sponsoring organizations and individual users free of charge by toolbar providers in the ordinary course of business because the toolbar providers earn revenue from use of the toolbar by individual users, as in the examples of the AGLOCO toolbar and Brookstone affinity shopping program above. And, as explained above, FreeCause would incur no additional costs whatsoever in the provision of the Affinity Toolbar to any particular Affinity Sponsor.

To be sure, the Political Affinity Sponsor would be receiving something of value by being enabled to include news, video or audio feeds in the Affinity Toolbar, but FreeCause would charge the normal and usual fee for access to those features.

Unlike the Providian and Working Assets programs, the FreeCause program will not, with one exception noted below, involve any marketing on behalf of the political committee by FreeCause itself. Rather, once an Political Affinity Sponsor signs up to sponsor the toolbar, it will be up to the Political Affinity Sponsor to post the appropriate links, materials, etc on its own website and to promote the Affinity Toolbar to its members and supporters, all at the political committee's own expense. Thus in this regard the political committee will not, in respect of marketing, be receiving anything of value, at all, let alone for less than the usual and normal charge.

The one exception, as noted above, is that FreeCause may engage in selective marketing of the Affinity Toolbar Program and specific ToolBars of FreeCause's own choosing that FreeCause determines will be of particular benefit to FreeCause—*other* than Affinity Toolbars sponsored by any SSF. There will be no consultation or coordination with any Political Affinity Sponsor in determining which Affinity Toolbars to market. Further, the marketing activities in which FreeCause proposes to engage will not involve any expenditure of funds by FreeCause—rather such marketing will be undertaken solely through e-mail, on FreeCause's own website and through unpaid advertisements on other's websites. No Political Affinity Sponsor will be receiving anything of value from FreeCause through that selective marketing.

Finally, FreeCause understands that its forwarding of contributions to Political Affinity Sponsors does not relieve the Sponsors from obtaining and disclosing contributor information, such as the contributor's address, occupation, and employer information. See 2 U.S.C. § 431(13), and 434(b)(3)(A); 11 C.F.R. § 100.12 and 104.3(a)(4)(i). As explained above, in accordance with Advisory Opinion 2003-16 and

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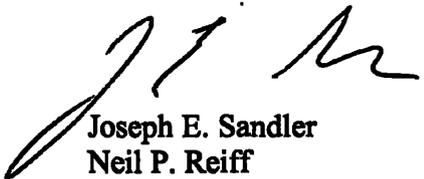
2006-34, FreeCause would collect and provide to the Political Affinity Sponsor the user/contributor's current address, occupation, and employer, and would forward the information to the Political Affinity Sponsor at the same time that the funds are transferred. Any expenses associated with this operation would be charged, in full, to the Political Affinity sponsor.

## VI. CONCLUSION

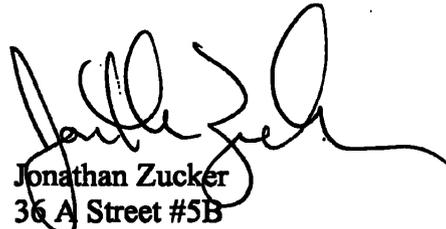
Based on the foregoing, we respectfully request the Commission to determine that FreeCause's proposed Toolbar Affinity Program, insofar as it would be offered to Political Affinity Sponsors as explained above, would be permissible under the Act and the Commission's regulations.

If you have any questions or need any further information, please contact the undersigned.

Sincerely yours,



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# **EXHIBIT 1**



## Frequently Asked Questions

### **About lookPink**

- What is the lookPink Search Engine?
- What happens when I search? Does it cost me anything?
- How can I be sure my searches will help fund mammograms for women in need?
- Why are the sponsors willing to pay for the mammograms?
- How do advertisers pay for mammograms?
- How do you calculate the amount of mammogram funding generated by visitors' searches?
- How many mammograms will be provided because of my clicks?
- How many times can I search in a day? Can I just keep searching and provide hundreds of mammograms to women in need?
- What is the lookPink Search Engine's privacy policy?
- What is the lookPink Search Engine's communication policy?
- How can I do more?
- Can I link my Web site to the lookPink Search Engine?
- Where can I find more information on charities?
- My question is not answered here. Where can I find the answer?

### **About Breast Cancer**

- What is breast cancer?
- What is the incidence of and mortality from breast cancer in the United States?
- Who is at risk for breast cancer?
- Does one's racial or ethnic background affect the risk of breast cancer?
- Can diet, nutrition and exercise influence one's breast cancer risk?
- Will drinking alcohol increase one's risk for breast cancer?
- Are women who use birth control pills at an increased risk for breast cancer?
- Are men at risk for breast cancer?
- How can I get a free mammogram?
- What are the signs of breast cancer?
- What is a mammogram?
- Does Medicare cover mammograms?
- What are the most common treatments for breast cancer?
- What can be done to increase chances of survival from breast cancer?
- When should breast self-examination be performed?
- I do not have insurance. Where can I get a free or low-cost mammogram, or even financial assistance?

**What is the lookPink Search Engine?**

The **lookPink** Search Engine ([www.lookpink.com](http://www.lookpink.com)) is an online activism site that gives Internet users a free and easy way to help reduce the number of mothers, sisters, daughters and friends lost to breast cancer. Merely by getting in the habit of using [lookpink.com](http://lookpink.com) to search the internet, users can donate proceeds from their searches to fund mammograms. Mammography is one the best-known methods of early detection of breast cancer, and early detection is the key to survival and better treatment options. The **lookPink** Search Engine will donate proceeds to several major breast cancer charities including the Susan B. Komen Foundation, the National Breast Cancer Foundation, Y-ME.org, and others. The **lookPink** Search Engine was founded on November 8th, 2006.

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**What happens when I search? Does it cost me anything?**

There is absolutely no charge to you; funding for mammograms comes from the companies paying to be listed in the search results.

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**How can I be sure my searches will help fund mammograms for women in need?**

Funds generated by visitors' searches at the **lookPink** Search Engine go to several major breast cancer prevention foundations, nonprofit organizations dedicated to saving lives through early detection. These foundations use funds from the site specifically to provide free mammograms to minority, low-income and working-poor women living in inner cities across the United States. To learn exactly where and whom your clicks are helping, click here to sign up for the **lookPink** Search Engine newsletter and receive updates via email.

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**Why are the sponsors willing to pay for the mammograms?**

Our sponsors want their companies to be listed at the top of search results for different key terms that are related to the cores of their businesses. Being listed first requires that they bid for this placement against other companies that are also interested in high placement for these search terms. This bidding and search process creates revenue for **lookPink**.

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**How do advertisers pay for mammograms?**

Advertisers bid for certain search terms like "Loan", or "Breast Cancer", or "Mesothelioma" for example. Whenever a visitor searches for one of these terms (or for an infinite amount of others) each advertiser wants to appear on the top of the listings. Since the **lookPink** Search Engine conducted the search, we get revenue for rendering this service to the advertisers.

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**How do you calculate the amount of mammogram funding generated by visitors' searches?**

Your daily searches generate funds used to provide free mammograms to underprivileged women in the United States. The amount of funding generated per search depends on the search term and actions

completed after the search is conducted. We calculate monthly mammogram goals based on expected levels of support. You are the key to the success of the **lookPink** Search Engine. The more visitors we have using our search engine each day, the greater the total number of mammograms we make possible for women in need. So please remember to use the **lookPink** Search Engine for as many of your searches as possible. And if you know of an organization that would want to help sponsor the **lookPink** Search Engine, please contact us.

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#### **How many mammograms will be provided because of my clicks?**

Please see our results page for a detailed breakdown of funding generated.

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#### **How many times can I search in a day? Can I just keep searching and provide hundreds of mammograms to women in need?**

You can search as many times a day as you would like using the **lookPink** Search Engine. However, please only conduct searches that you are actually interested in. If you would normally make the search on another top search engine before having heard about us, then please choose instead to make it using **lookPink**. However, do not make searches that you are not interested in, since these searches will become evident to our sponsors and affiliates and endanger our continued provision of this service.

**To recap:** you can make all the searches you would like to in a day, so long as you are interested in making the search on its own merit.

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#### **What is the lookPink Search Engine's privacy policy?**

The **lookPink** Search Engine deeply respects the privacy of its visitors. You are not required to provide any personal information to visit the site and help fund mammograms for underprivileged women. A link to our complete privacy policy exists on the bottom of the home page.

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#### **What is the lookPink Search Engine's communication policy?**

We respectfully request that people do not send unsolicited messages promoting the **lookPink** Search Engine to people they do not know or post inappropriately to newsgroups or in other places. We understand that this is done with good intentions. However, anything regarded as unsolicited email (spam) is not helping our cause but, in fact, is hurting it. Unsolicited email can alienate people who might otherwise visit the **lookPink** Search Engine and help give the gift of early detection to women in need.

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#### **How can I do more?**

There are several other ways for you to support the **lookPink** Search Engine. There are many organizations dedicated to fighting breast cancer through research, education and promotion of early detection. All of these organizations, including our beneficiaries would appreciate any support that you could give them.

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**Can I link my Web site to the lookPink Search Engine?**

Yes! Anyone can link to the lookPink Search Engine. Another great way to help is to include the lookPink Search Engine's URL (<http://www.lookpink.com>) in the signature block of your outgoing messages. Feel free to copy and paste the sample text below for use in your signature block:

The lookPink Search Engine needs your help in funding free mammograms for women in need! Help make early detection possible every day by searching with us, at no cost to you. Visit <http://www.lookpink.com> today!

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**Where can I find more information on charities?**

A good place to start is with "charity rating" services. These can tell you which organizations do the most good, spend the highest percentage of funds for actual aid and services for those in need and in general meet high standards of giving. The American Institute of Philanthropy, the National Charities Information Bureau, and the Philanthropic Advisory Service of the Council of Better Business Bureaus all publish information for this purpose, some of it available over the Internet. You can also find information about specific charities online from places like Guidestar or the National Charities Information Bureau, available either through their Web site or by writing to NCIB, 19 Union Square West, New York, New York 10003.

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**My question is not answered here. Where can I find the answer?**

Please contact us through the link on our home page and ask the question. This will help us expand our FAQ, since many people have probably had the same question as you.

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**What is breast cancer?**

The body is made up of many types of cells. Normally, cells grow and divide to produce more cells only when the body needs them. Sometimes cells keep dividing when new cells are not needed. These cells may form a mass of extra tissue called a growth or tumor. Tumors can be benign (not cancerous) or malignant (cancerous). The most common type of breast cancer begins in the lining of the ducts and is called ductal carcinoma. (What You Need to Know About Breast Cancer, NCCI Publication, National Cancer Institute)

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**What is the incidence of and mortality from breast cancer in the United States?**

This year, 182,000 women will be diagnosed with breast cancer (one every 3 minutes) and 43,300 women will die (one every 12 minutes). A report from the National Cancer Institute (NCI) estimates that about 1 in 8 women in the United States (approximately 12.6 percent) will develop breast cancer during her lifetime. (National Breast Cancer Foundation, Inc. Web Site)

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**Who is at risk for breast cancer?**

- Most women who have breast cancer have no family history.
- More than twenty percent of breast cancers are diagnosed in women under the age of 50.
- Being a woman is the greatest risk.
- Age increases risk.
- Seventy percent of women with breast cancer have no known risk factors.
- Early detection is the key to a greater chance of survival and more treatment options.

(National Breast Cancer Foundation, Inc. Web Site)

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**Does one's racial or ethnic background affect the risk of breast cancer?**

The leading cause of death for African-American women, ages 30-54, is breast cancer. African-American women die at twice the rate of white women. Breast cancer knows no boundaries of races for attacking women with the disease. (National Breast Cancer Foundation, Inc. Web site) Caucasian, Hawaiian, and African American women have the highest levels of breast cancer risk. Asian/Pacific Islander and Hispanic women have a lower level of risk; their chance of developing breast cancer is less than two-thirds of the risk of Caucasian women. The lowest levels of risk occur among Korean, Native American, and Vietnamese women. ("Lifetime Probability of Breast Cancer in American Women", Cancernet, National Cancer Institute)

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**Can diet, nutrition and exercise influence one's breast cancer risk?**

Fat stores estrogen (some breast cancers are estrogen dependent), so the more fit and trim we are, the better our health. Caloric intake of fat 3 times the norm (obesity) could increase the risk of breast cancer. The risk of breast cancer is higher in industrial nations and lower in Asia, Latin America and Africa. Women who are from Asia, for example, but relocate to an industrial nation (and adopt their eating and exercise habits) will increase their breast cancer risk. A diet rich in fruits, vegetables and grains plays a role in overall better health. (Everyone's Guide to Cancer Therapy, National Cancer Institute)

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**Will drinking alcohol increase one's risk for breast cancer?**

Studies have shown alcohol consumption can cause between 40 - 70% increased risk of breast cancer with 2 drinks daily. (Cancer Rates and Risks, 1996, National Cancer Institute)

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**Are women who use birth control pills at an increased risk for breast cancer?**

A woman's risk of developing breast cancer depends on several factors, some of which are related to her natural hormones. Hormonal factors that increase the risk of breast cancer include conditions that allow high levels of estrogen to persist for long periods of time, such as early age at first menstruation (before age 12), late age at menopause (after age 55), having children after age 30, and not having children at all. A woman's risk of breast cancer increases with the amount of time she is exposed to estrogen. However, studies examining the use of oral contraceptives as a risk factor for breast cancer have produced inconsistent results

Most studies have not found an overall increased risk for breast cancer associated with oral contraceptive use ("Oral Contraceptives and Cancer Risk, Cancer Facts", Cancernet, National Cancer Institute)

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#### **Are men at risk for breast cancer?**

Approximately 1,300 men will be diagnosed with breast cancer this year and 400 will die. While the percentage of men who are diagnosed with breast cancer is small, men should also give themselves monthly exams and note changes to their physicians. (National Breast Cancer Foundation Web site)

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#### **How can I get a free mammogram?**

Our beneficiaries give grants directly through designated programs for homeless, battered, and low-income women in inner city neighborhoods. Go to the Centers for Disease Control in order to find more information regarding free mammograms (<http://www.cdc.gov/cancer/nbccedp/about.htm>).

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#### **What are the signs of breast cancer?**

Early breast cancer usually does not cause pain. In fact, when breast cancer first develops, there may be no symptoms at all. However, as the cancer grows, it can cause any of the following changes, which women should watch for:

- A lump or thickening in or near the breast or in the underarm area
- A change in the size or shape of the breast
- Nipple discharge or tenderness, or the nipple pulled back (inversion) into the breast
- Ridges or pitting of the breast (the skin looks like the skin of an orange)
- A change in the way the skin of the breast, areola, or nipple looks or feels (for example, warm, swollen, red, or scaly).

(National Cancer Institute Web site)

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#### **What is a mammogram?**

A mammogram is a safe, low-dose x-ray picture of the breast. Mammograms are quick and easy. You simply stand in front of an x-ray machine. The person who takes the x-ray places your breast between two plastic plates. The plates press your breast and make it flat. This may be uncomfortable for a few seconds, but it helps to get a clear picture. You will have x-rays taken of each breast. ("Mammograms: Not just once, but for a lifetime", National Cancer Institute) Your mammogram facility (this can include breast clinics, radiology departments, mobile vans and doctor's offices) can send you a report with your mammogram results. There should be an easy-to-understand version and a medical version. Usually the staff of the facility can recommend a doctor if your results indicate you should visit one. (Mammography Today, FDA Mammogram Brochure)

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**Does Medicare cover mammograms?**

Yes. However, more than three-quarters of women (77%) were aware the Medicare will cover the cost of the mammograms, but only slightly more than half (58%) had actually used Medicare for this purpose.

("Misconceptions Persist Among Older Women In Spite Of Rising Mammography Rates", National Cancer Institute Press Release, October 20, 1999)

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**What are the most common treatments for breast cancer?**

Treatment for breast cancer usually includes one or more of the following: surgery, radiation, chemotherapy, and hormone therapy.

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**What can be done to increase chances of survival from breast cancer?**

When breast cancer is found and treated early, the chances for survival are better. Women can take an active part in the early detection of breast cancer by having regular mammograms and clinical breast exams (breast exams performed by health professionals). Women should also perform monthly breast self-exams.

(Cancer.net, National Cancer Institute)

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**When should breast self-examination be performed?**

Give yourself a monthly breast self-exam and watch for any changes in your breasts that may indicate a problem. An early detection plan should include:

- Clinical breast examinations every 3 years from age 20-39 and then every year thereafter.
- Monthly breast self-examinations beginning at age 20. Look for any changes in your breasts.
- Baseline mammogram by the age of 40.
- Mammogram every 1-2 years for women ages 40-49, depending on previous findings.
- Mammogram every year for women over age 50.
- Keep a personal record of your self-exams and mammograms. Mark your calendar well in advance to remind you each month.
- For more detailed breast self-examination information, click here, then scroll down to "How To Do A Self Breast Exam."

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**I do not have insurance. Where can I get a free or low-cost mammogram, or even financial assistance?**

Our beneficiaries do not make grants for mammograms directly to individuals. They give grants directly through designated programs for homeless, battered, and low-income women in inner city neighborhoods. Go to the Centers for Disease Control in order to find more information regarding free mammograms (<http://www.cdc.gov/cancer/nbccedp/about.htm>). You can also read more about how the National Breast Cancer Foundation does this at <http://www.nationalbreastcancer.org>.

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Don't forget -- the **lookPink** Search Engine's goal is to provide free mammograms to underprivileged women in the U.S. Please remember to search with us as much as possible, and tell your friends and family to search with us too!

# **EXHIBIT 2**

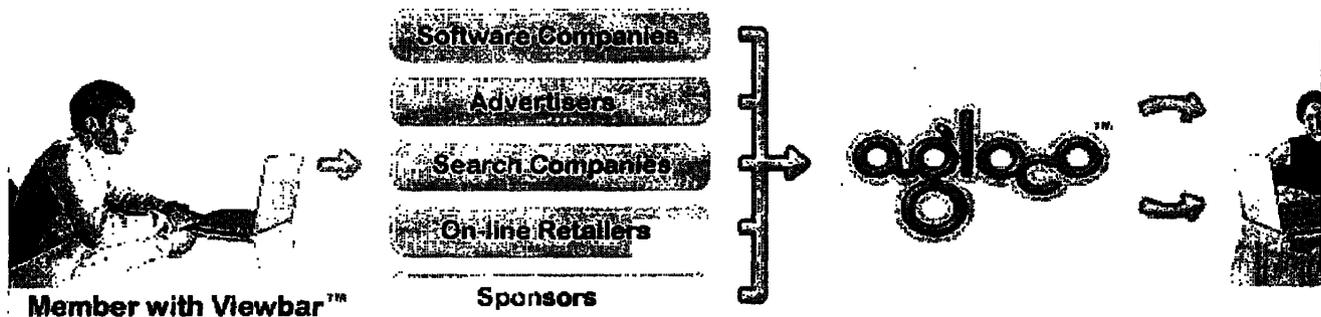
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## How it works



### AGLOCO: The Internet's First Economic Network

Today's hottest Internet businesses are all about the power of social networks. Companies like My Facebook, and YouTube have become worth billions because businesses have realized that these are generating huge advertising and marketing opportunities. As these social networks grow, the potential for its owners – and the advertisers who target the site's users – is remarkable.

At AGLOCO, we asked a simple question: The users created the community, where's their share o

It was from this question that AGLOCO set out to create the Internet's first Economic Network, ha power of Internet-based social networks to directly benefit the Members who help to create the c

Becoming a member of AGLOCO is as simple as completing a brief sign-up page (name, age, loca address.). Once you're a Member, you will be asked to then download the Viewbar™ software. (N Viewbar™ software is currently unavailable, as it is in closed testing. It will be ready for public do weeks, and members will be notified when it is available.)

#### AGLOCO makes money for its Members in many ways:

- ▶ **Search:** Every time you use the Viewbar™ to do an Internet search, AGLOCO earns money from engine providers. (For example, Google pays as much as \$0.10 on average for each search that its search engine.)
- ▶ **Advertising:** The Viewbar™ itself displays ads that are targeted based upon the websites you'r When you click on an ad and make a purchase, AGLOCO receives a referral fee, which we pass Members. (Please note: Individual members do not receive any compensation for clicking on ad Viewbar™, and the Viewbar™ can detect if someone is clicking ads in a fraudulent manner.)

- **Transaction commissions:** Many major retailers pay commissions when you refer customers purchase. AGLOCO collects that commission and passes it on to our members. (For example, At 8.5% commission to most websites who refer customers, and has cut deals for even larger per bigger the AGLOCO community, the better commission we can negotiate for our Members.)
- **Software distribution:** Numerous software companies pay websites to encourage the downlo software releases (for example, Adobe's Flash and Acrobat Reader software), and trial versions programs. AGLOCO members not only get access to the latest and coolest software, they get p
- **Service distribution:** Many online service providers will look to the AGLOCO community as a s and active users for their services. (For example, eBay, Skype, and PayPal, among others, all p people who help them recruit new active users to their services)
- **Product distribution:** When Members agree to use a product, such as cell phones, high-tech g supplies, new credit cards or financial services, AGLOCO can collect referral fees. Some compan special rebate and cash-back programs.

#### **AGLOCO Members make money in four ways.**

- Members earn a monthly share of the AGLOCO revenue based on the use of the AGLOCO Viewb month.
- Members earn part of the company based on the use of the AGLOCO Viewbar™ that month (cur maximum of five hours are rewarded). **Click here for details.**
- Members who use our referral system to help build the AGLOCO network will earn more. (AGLO significant value as a large network and people who help build it should be rewarded. – We also early users who told friends about YouTube or MySpace or even Google probably deserved som no referral system was available to record their work).
- Members will also get a share of any commissions AGLOCO gets when a Member purchases a p service from an AGLOCO Sponsor company.

#### **Why should I join now?**

- First, it costs nothing to **Join** and takes less than one minute.
- Second, you can **help build** the AGLOCO community by recruiting new Members **TODAY**.

Right now, inviting your friends to join AGLOCO is as easy and productive as it will ever be – bu invite your friends before someone else beats you to them.

Remember, the bigger the AGLOCO community, the more attractive AGLOCO is to potential bus advertisers.

- Recruit your friends and family by contacting them through email. (But remember we have a policy.)
- Use your blog and your existing social networks, such as MySpace and Facebook, to contact y encourage them to join a new community that will actually let them earn money.

**Be a part of the Internet's first Member-Owned Economic Community.**

**Join AGLOCO - Own the Internet!**



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# **EXHIBIT 3**

Store Locator | Catalog Request | Volume Pricing | Shopping Cart: 0 Items | My Account | Order Tracking

# Brookstone

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SEARCH

Type keyword(s) or item #

**GIFTS BY PRICE** \$35 & under | \$50 & under | \$75 & under | \$100 & under  
**HOLIDAY DECOR** halloween | candles | lighting | pre-lit trees | wreaths & garland

**Tempur-Pedic Special Offer**

bed & bath	electronics	furniture	games & arcade	home care	h
kitchen & bar	massage & fitness	outdoor living	travel & auto	furnitu	

## customer service >> Affiliate Program >> Overview

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<b>\$100 Rebate</b> with SkyAlign Telescope	<b>Free Shower Mirror</b> with select Panasonic® Shavers	<b>NAP™ Bear—\$10</b> a \$20 value!	<b>Save on "Bob"</b> the amazing wobble clock	<b>2 for \$25</b> buy 2 and save

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November 27, 2007

**Via E-Mail**

Amy Rothstein, Esq.  
Esa Sferra, Esq.  
Office of the General Counsel  
Federal Election Commission  
999 E Street N.W.  
Washington, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

2007 NOV 27 A 11: 43

**Re: Advisory Opinion Request—FreeCause, Inc.—Additional Information**

Dear Ms. Rothstein and Ms. Sferra:

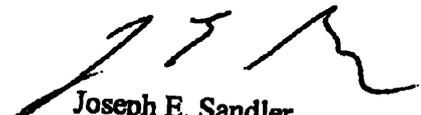
This will follow up our telephone discussion in which you asked for certain additional information relating to the above-referenced advisory opinion request:

- (1) There will be only one list of toolbars on the FreeCause site. Political and nonprofit toolbars will be included in the same list.
- (2) For customization of the toolbar, the industry standard charge is \$50/hour and that is the rate FreeCause would charge any customer, political or otherwise, for customization services.
- (3) You asked whether the arrangement for FreeCause to retain one half of the commissions generated by use of the toolbar will apply both to nonprofit and political affinity sponsors. The answer is yes—the arrangement will be the same for both types of affinity sponsors.
- (4) This will confirm also that users of a toolbar sponsored by a Political Affinity Sponsor will, by logging into the website, be able to determine how much the user has contributed to the political committee at any given point in time.

Amy Rothstein, Esq.  
Esa Sferra, Esq.  
November 27, 2007

If you have any further questions or need any additional information concerning the AOR, please let me know. Thank you for your time and attention to this matter.

Sincerely yours,



Joseph E. Sandler