

FEC Says "No" to Candidate Endorsement on Corporate Website

March 2005

The FEC has recently closed an investigation into web-based candidate endorsements by a non-profit corporation. Wisconsin Right to Life, Inc., (WRTL) allegedly endorsed the reelection of President George W. Bush on a publicly available portion of its website. Though the FEC initially determined that there was reason to believe that this endorsement violated the federal prohibition against corporate political contributions and expenditures, the FEC ultimately decided to take no further action and to close the investigation. Nonetheless, the FEC admonished WRTL that it had, in fact, violated the law.

The FEC's legal interpretation was based on previous enforcement matters and an advisory opinion it issued in 1997 concluding that access to corporate web-based candidate endorsements may not be made available to the general public, but must be limited to the corporation's so-called "restricted class." Nonetheless, a rulemaking by the FEC that has been pending since 2001 would loosen this requirement to allow corporations to post press releases of their candidate endorsements on their publicly available websites provided:

- The corporation ordinarily makes press releases on its website available to the general public.
- The press release is limited to an announcement of the corporation's endorsement, or pending endorsement, and a statement of the reasons therefore.
- The press release is made available in the same manner as other press releases made available on the website.
- The cost of making the press release available on the website is *de minimus*.

Authors

Caleb P. Burns
Partner
202.719.7451
cburns@wiley.law

Importantly, however, the FEC has never adopted the proposals contained in this rulemaking.