



Ohio Elections Commission

21 West Broad Street, Suite 600
Columbus, Ohio 43215
614•466•3205

Alphonse P. Cincione
Chairman

William M. Connelly
Vice-Chairman

Dale W. Bayer

Judith Sheerer

Mary W. Sullivan

Norton R. Webster

William D. West

Philip C. Richter
Executive Director

April 15, 1999

OHIO ELECTIONS COMMISSION

Advisory Opinion 99ELC-01

SYLLABUS: The use of the term "The Flag Lady" in connection with the campaign of Mary Eckert for Columbus City Council is not a violation of the prohibitions in Ohio Revised Code §3599.03.

TO: Mary Eckert

You have requested an advisory opinion on the following questions:

Is the use of the term "The Flag Lady" in connection with the campaign of Mary Eckert for Columbus City Council a violation of the prohibitions in Ohio Revised Code §3599.03?

In Advisory Opinion 97ELC-05, the Ohio Elections Commission stated that "(t)he use of a logo on an endorsement letter is considered a corporate contribution in violation of R.C. §3599.03." In that opinion the Commission stated that "(t)he prohibitions in R.C. §3599.03 ... are against the use of any of the corporation's property ... such as service marks, trademarks and logos." In the situation at issue in that opinion, a corporation which had an established logo was prohibited from using that logo for the benefit of a separate, distinct candidate who was running for elective office.

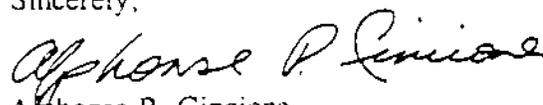
The situation at issue in this advisory opinion, however, is that the individual who is a candidate for elective office has demonstrated that the identity which is closely associated with her corporation had its origins as an identification of her, which she then transferred to the corporation. According to the letter requesting this advisory opinion, Mary Eckert was first identified as "The Flag Lady" in a newspaper article in 1980. Subsequently, in 1985, she incorporated The Flag Lady, Inc. and established The Flag Lady's Flag Store. It would appear, therefore, that the identification of the term, "The Flag Lady," with The Flag Lady's Flag Store is a derivative of her individual identification by that nickname.

In Advisory Opinion 96ELC-03, this Commission recited the history and genesis of R.C. §3599.03. As stated in that opinion, the 77th General Assembly first enacted Amended House Bill No. 719 in 1908 in an effort "(t)o prevent the corruption of elections and political parties by corporations." In that opinion the Commission stated that it continued to recognize the danger of this type of corruption to Ohio's electoral system. In this situation, however, the identification of the candidate as, "The Flag Lady," preceded the organization of the corporation by Ms. Eckert. Additionally, her identification by this nickname is separate and distinct from the corporate entity which she caused to be created. While the corporation may have some interest in the name, "The Flag Lady," Ms. Eckert's identification as, "The Flag Lady", is of a greater duration and is independent from the corporation. She cannot be precluded from using a nickname which she had been given prior to the creation of the corporation, which is the basis for concern and which lead to the request for this advisory opinion.

The Commission, however, does believe that it is important to advise Ms. Eckert that it is necessary that her campaign and her corporation maintain a complete separation during this campaign for city council. While the nickname given to her is a separate identity from the corporation, the Commission recognizes that there is a sufficient relationship to cause an ongoing concern with regard to the original impetus for this law, "...the corruption of elections and political parties by corporations." Ms. Eckert must remain cognizant of this situation and do everything in her power to promote this separation so as to assure the integrity of this election.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that the use of the term, "The Flag Lady," in connection with the campaign of Mary Eckert for Columbus City Council is not a violation of the prohibitions in Ohio Revised Code §3599.03.

Sincerely,


Alphonse P. Cincione
Chairman