

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

In the Matter of the Investigation
of Voteauction.com

STATE OF NEW YORK :
:SS.:
COUNTY OF ALBANY :

JAMES M. BAUMGARTNER, being duly sworn, deposes and says:

1. I am a resident of the State of New York, and a graduate student at Rensselaer Polytechnic Institute ("RPI"). I am providing this affidavit to assist the federal government in connection with their investigation of a website entitled "Voteauction.com".

2. I developed the idea for Voteauction.com in approximately March of 2000, as a part of a graduate thesis that I am scheduled to deliver at RPI in November (A copy of the announcement of my thesis is attached as Exhibit A). The thesis is in the area of electronic art. I had, through my research, become genuinely concerned about the topic of money in politics. I wanted to create a website that would evoke public commentary concerning an issue which is the core of this nation, democracy, and whether or not elections are in essence for sale. It appeared to me that there was an election industry in America, and voters were considered to be a commodity, to be purchased and sold.

3. I then went to work trying to develop a website which I thought could be realistic enough to generate the attention that I

felt this issue deserved. The website is consistent with a long tradition of Internet art which seeks to fool the media by parodying a corporate site. In addition, in interviews that I gave, I would pass myself off as a business entrepreneur. This was done to make people question the site, and to generate discussion on the topic.

4. I believe, however, that a review of the complete website demonstrates that the site is in fact a political parody, and satire. This was adequately pointed out by the comments contained on the message board by those who had spent some time studying the site. (Selected comments are attached as Exhibit B).

5. At no time did I ever intend to buy or sell any votes, or facilitate any third party buying or selling a vote. As far as I am aware, no vote was ever sold or purchased. The site itself had no way to verify the names of the individuals who signed up to sell their vote. There was no mechanism to transfer the names of potential buyers with potential sellers. Based on my review, it was clear many individuals who signed up were in fact fictional. For example, Michael Eisner of the Disney Corporation signed up. As far as I know, only a very small number of people, possibly in the area of seven, ever actually signed up to purchase a vote while I had it up and running. Of those, I don't know of any who did not understand that it was a political parody.

6. On or about August 17, 2000, I had an interview at Wirednews.com concerning the site. There was a substantial amount of traffic on the site after that interview. However, the site was only up and running for two days after the interview. On the second day, I received, through an intermediary, information from an official with the New York State Board of Elections. Based upon that information, I shut the site down, and I never reopened it.

7. At some time thereafter, I came in contact with Hans Bernhard, also known as Luzius Bernhard, who indicated his desire to rejuvenate the site. I did not know Hans Bernhard prior to this, although I was aware that he was an Internet activist, having previously been involved in etoy. It is my understanding that the purpose for him to resurrect the site would be the same purpose I had, which was to generate publicity on the issue, both here and abroad, of the effect of money on politics.

8. I executed a domain name registration change, so that Hans could restart the site. None of my information on the site was copyrighted. It is my understanding that the site was then reopened, and remained open until it was recently closed, as required by a court in Chicago, Illinois after the filing of a preliminary injunction by the Chicago Board of Elections.

9. It should be noted that on the website, there was information concerning the present status of bids on votes, and

dollar amounts were assigned. The numbers contained therein were all fictional. I generated fake numbers at first on a daily basis, and then I went on a weekly basis until approximately October 16, 2000. I am no longer in communication with Hans Bernhard, nor do I have any involvement with the website.

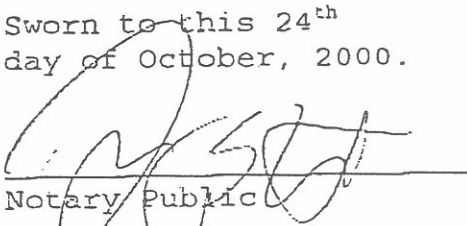
10. There has been some press concerning the fact that I allegedly sold "this business" to Hans in Austria, and that Hans had a profit motive for pursuing the website. In fact, Hans and I agreed that I would sell the site for one Eurodollar, and even that was never provided. Nor was it my understanding that Hans intended to make money off this site. His interest, as was mine, was purely that of political satire and parody. It was also felt that by introducing a "foreigner", the site would generate even more attention.

11. I want to emphasize that at no time was it my intent to have people buy or sell votes. Indeed, my intent was exactly the opposite. I wanted to bring attention to the fact that companies and political parties are treating votes as commodities in a way which I feel is destructive to our country. Free elections are the underpinning of our democracy, which is our most sacred and cherished value. I regret that anyone believed that Voteauction.com was a direct threat to the integrity of a particular election.

12. This affidavit is submitted in part so that any interested governmental agency can understand the true facts behind the website, and can release this information to the public to assure the public of the integrity of the November 7, 2000 elections. Again, the purpose of Voteauction.com was not to undermine the integrity of the election process, but simply to point out for public discussion that there is a problem with money in politics.


James M. Baumgartner

Sworn to this 24th
day of October, 2000.


Notary Public

DANIEL J. STEWART
Notary Public, State of New York
No. 02ST4953215
Qualified in Warren County
Commission Expires July 10, 2002

INTEGRATED ELECTRONIC ARTS AT RENSSELAER

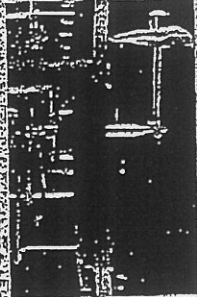
EAPS

ELECTRONIC ARTS PERFORMANCE SERIES

EAPS mission is to program public performances and lectures of pioneering and emerging artists who explore the boundaries of electronic art.

Electronic Arts Performance Series (EAPS) is presented by the Rensselaer Institute for the Arts and Sciences (RIAS) in collaboration with the Rensselaer School of Art and Design. The series is a platform for the work of emerging and established artists who explore the boundaries of electronic art. The series is presented in a variety of venues, including the Rensselaer School of Art and Design, the Rensselaer Institute for the Arts and Sciences, and the Rensselaer School of Music.

ELECTRONIC ARTS PERFORMANCE SERIES fall 2000



Achievement Award at the turn of a crank, the clockwork of letter life, the message, INVENTION AND INNOVATION, is assembled and dissolved. He is also the inventor of the popular children's toy, toothers and zous, and is a partner in the company Handson Toys which was responsible for its realization in the market.



Imena Guevas is obsessed with the micro-movements of daily life, with the border between truth and fiction, with the impossibility of reality. Her work relentlessly seeks out the layers of lies covering the everyday representations of reality and systematically explores the fictions of national identity and gender. Her videos have been shown in festivals such as the New York Film Festival, Sundance, Berlin, and Montreal, and she was the featured artist at Video Viewpoints in the Museum of Modern Art in New York. Among the many grants she has received are those from the FONCA (Mexican National Endowment for the Arts), the Fastnat Kodak Worldwide Independent Filmmaker Product Grant, and a Rockefeller MacArthur Foundation grant. Her most recent work includes *Domimundo*, a documentary about the discomfort of being - she lives and works in Mexico City.



We feel what we have always been and what we have already become. Prosthetics were once a sign of lack. Now prosthetics become a symptom of excess. The body must operate with extended awareness, liability and with surrogate bodies and machines. Stearic discusses issues of identity and awareness through a presentation of his performances with visual material and a demonstration of the Third Hand and the Muscle Stimulation system.

Stearic, an Australian artist who has performed extensively in Japan, Europe, and the USA, his works incorporate new music, dance and experimental theater. He has used such diverse technologies as medical prosthetics, robotics, virtual reality and the internet to explore alternate, intimate and involuntary interfaces between human and non-human bodies. His work in fact focuses on the confusion of this distinction as he pushes the limits of our understanding of inanimate and animate, human and non-human, science, Stearic actively explores the role of body and movement in the unfolding narratives of our highly technologized contemporary environment.



Of course, Jan Kerkhof, Frank Schreier, Mada Klein, Alexander Oe, Miriam Knutson, Rob Schroder, Joost Peijve, Probalter, Frank Schreier, assembled a group of artists from diverse backgrounds: experimental, feature and documentary, filmmaking, TV production, graphic design, fine art and weaving, to firmly and reassemble a pair of earlier video works. Sonic Acts and Sonic Images, two series of shorts on the inter-
electronic, cinema and electronic music.

Voteauction.com Message Board

WHY?*Re: Welcome to the Voteauction.com Message Board (Admin)**Date: Oct 15, 12:34**From: irenicon*

when we registered to sell our vote we gave reasons for doing so. i would personally like to be able to read the reasons that people gave for selling their votes. anyone else interested? i think this could be accomplished without breach of confidentiality.

Good Suggestion*Re: WHY? (irenicon)**Date: Oct 15, 12:37**From: Admin <voteauction@mail.com>*

Good suggestion, we will forward your message to voteauction.com and hopefully they will include some of the "reasons" in the next update.

does your vote really matter?*Re: Welcome to the Voteauction.com Message Board (Admin)**Date: Oct 18, 11:01**From: Optional*

It seems like everyone thinks that the person (people) elected actually do(es) something. Grow up and face the truth. It will get done regardless if you vote, don't vote or sell your vote. If you can get a few bucks...why not. After all the American dream is to "live long and prosper". Whoops...that is the vulcan greeting.

Effect of Voteauction.com on Electoral College*Date: Sep 15, 11:19**From: Red Porphyry <porphyry@vnet.net>*

I've taken a close look at your entire site and I must admit that as a political parody site, voteauction.com is exceptionally well done. As a real auction site for putting up votes for bid, however, there's at least one fascinating possible consequence. If it turns out that a lot of Americans are willing to sell their votes and a lot of other Americans are willing to buy them, voteauction.com may end up tipping the popular vote for U.S. President one way or the other in a particular state. If that were to happen, the electors for that particular state may simply decide to ignore their state's popular vote and instead "vote their conscience". In most states the electors still retain this prerogative, since technically the popular vote in a state is merely a "suggestion" that the citizens of a state give to the electors on who they think would make the best president. The electors are not necessarily required to follow this "suggestion", and in the event that the popular vote in a state is tipped one way or another through vote buying, probably won't. Ironically, voteauction.com may thus end up helping to restore the Electoral College as a functional political institution in the U.S.

Voteauction.com Message Board

Red --

no, i think...Re: Effect of Voteauction.com on Electoral College (Red Porphyry)

Date: Sep 27, 17:15

From: Hal

...you are wrong. It is against the law for the electorate to disregard the popular vote.

Also, by empowering the electorate, you empower the chuminess and back-scratching that has long been the staple of American politics.

Also, it will further strengthen the bipartisanship that is tearing this country apart. The dominant party in the electorate will vote for their party's candidate.

However, ideas like voteauction.com, contrary to what the politicians who are trying to keep the status quo are trying to lead us to believe, empower the voters, nobody else.

Using this service allows us to say what has long been ignored by the politicians: Americans feel disenchanted by politics and are emotionally and personally distant from the politicians.

The fact that there are only 6k voters registered to use voteauction.com says even more: American voters are so disenchanted that they don't care about the vote at all. Just look at the public apathy towards both the elections as well as voteauction.

Cite, please.Re: no, i think... (Hal)

Date: Sep 29, 11:03

From: Red Porphyry <porphvry@vnet.net>

Hal writes:

...you are wrong. It is against the law for the electorate to disregard the popular vote.

My response:

Cite, please.

Red --

Half rightRe: Cite, please. (Red Porphyry)

Date: Oct 01, 19:56

Whatever you may think of the intellectual underpinnings of a law that criminalizes the sale or purchase of votes, or the offer to do so, the sale or purchase of a vote is still a class 4 felony in Illinois and the offer to purchase a vote or to sell a vote is the inchoate offense of solicitation. Illinois residents who sell their votes or offer to do so expose themselves to criminal penalties, like it or not.

Reply to Cautionary Reply

Re: CAUTIONARY REPLY

Date: Oct 05, 09:21

From: Steven Imparl, Esq. <steven@imparl.net>

Here is the problem I see. This site is clearly a funny parody and public education site. I don't think any reasonable person could construe this site as a real solicitation, conspiracy, or attempt to buy or sell votes.

Look at the entire Web site--the totality of the circumstances. You will see many links to commentary about issues to voters. However, you will not see any specifics regarding how the alleged buying and selling of votes will take place or any real steps in furtherance of such an activity. What I do see is a heavy-handed attempt by the government to quash political speech.

This uproar in Illinois all apparently started because an oversensitive commissioner of Chicago's Board of Elections was offended by this site which recalled unpleasant memories of corruption in the city government of Chicago. That really is just too bad. This site offers a lot of valuable links to other sites that will be of interest to voters.

To attempt to shut this site down would be to trammel on free political speech protected by both the United States and Illinois Constitutions. That government officials have nothing better to do with their time than to harass a Web site that exemplifies our treasured legal and social traditions of freedom of expression is gravely disappointing.

Steven D. Imparl, Attorney and Counselor at Law, Chicago, Illinois

So why move to a server in Bulgaria?

Re: Reply to Cautionary Reply (Steven Imparl, Esq.)

Date: Oct 05, 14:23

From: Reality Check

Well Steven it is fine to say, "this site is clearly a funny parody and public education site". However if that is so then why was it sold to Vienna businessman, Hans Bernhard who put this site up on a server in Bulgaira? This is no longer in the hands of James Baumgartner who created it.

As for not seeing "any[thing] regarding how the alleged buying and selling of votes will take place or any real steps in furtherance of such an activity", if I give my name and address it is just a matter of mailing me the specifics and a check. Are you really so naive as to think that just because it doesn't spell out the details that there aren't any?

Voteauction.com Message Board

The real threat here isn't so much in the legality of buying or selling votes but the transfer of votes to people outside of the voting district. Specifically to persons who are otherwise ineligible to vote such as foreign nationals. This in theory can result in someone such as Slobodan Milosevic or Saddam Husayn buying votes. Do you really want either of these men voting in U.S. elections? And no this is not like them having influence. This is them having votes! Votes with the same power as though you or I voted.

The site is clearly a parody

Re: So why move to a server in Bulgaria? (Reality Check)

Date: Oct 05, 17:54

From: Boho

The VoteAuction web site is clearly a parody based on the lack of details regarding payment, exemplified by the total lack of voter authentication. There's no check to make sure that a voter is actually registered in a given district, nor that the voter doesn't register multiple times with VoteAuction. Without these fundamental protections (and more), no serious auction could occur, and thus VoteAuction must be considered a parody.

On a second topic, I don't understand how VoteAuction looks any more sinister than PACs and other soft money in terms of allowing people outside of a voting district to have influence within that district. In particular, consider the contributions from residents of the state of Utah to the last governor's race in Idaho, and to a recent senatorial race in Massachusetts. In both elections, the LDS (mormons) from Utah contributed significant funds to back LDS candidates. I think such behavior weird, but I don't think it's illegal (according to the laws of the three states in question).

Once you allow monetary contributions that end up going for political advertising, you lose any moral high ground regarding selling votes. Donors are contributing money with the expectation that voters will be swayed. Why not make the process more efficient?

Boho

Untitled

Re: So why move to a server in Bulgaria? (Reality Check)

Date: Oct 05, 18:42

From: Steven Imparl, Esq. <steven@imparl.net>

>Well Steven it is fine to say, "this site is clearly a funny >parody and public education site". However if that is so then >why was it sold to Vienna businessman, Hans Bernhard who put >this site up on a server in Bulgaira? This is no longer in >the hands of James Baumgartner who created it.

My guess is that it was sold to a purchaser who was willing to pay money for it. People sell things all the time. The mere fact that a sale occurred does not imply that the object of the sale is or was illegal.

> As for not seeing "any[thing] regarding how the alleged >buying and selling of votes will take place or any real steps >in furtherance of such an activity", if I give my name and >address it is just a

Voteauction.com Message Board

matter of mailing me the specifics and a >check.

I don't think there will be any mailing. As an author who writes about Internet legal issues, I filled in their form, making very clear in the comments box that I am a researcher and not selling my vote or doing anything illegal or attempting to do anything illegal. I received no response, despite the promise that I would receive e-mail.

>Are you really so naive as to think that just because it >doesn't spell out the details that there aren't any?

Me? Naive. Please, don't insult my intelligence. I have been practicing law for nearly 8 years now. There aren't many stories I haven't heard. I have seen conspiracy and I have seen solicitation. This does not appear to be either.

Furthermore, if the details are not spelled out, how can any reasonable person believe that this site does what it claims it does? Why haven't the bidding numbers changed? Why is there no posting of the highest bid? Time is running out. The election is a little over 4 weeks away. If this were some grand scheme to buy votes, I think there would have to be a much more sophisticated bidding method displayed.

> The real threat here isn't so much in the legality of buying >or selling votes but the transfer of votes to people outside >of the voting district. Specifically to persons who are >otherwise ineligible to vote such as foreign nationals. This >in theory can result in someone such as Slobodan Milosovic or >Saddam Husayn buying votes. Do you really want either of these >men voting in U.S. elections? And no this is not like them >having influence. This is them having votes! Votes with the >same power as though you or I voted.

With all due respect, this smacks of a conspiracy theory and I just don't buy it. Notice how this site has a message board. Real auction sites don't really have message boards like this one. I think this site is accomplishing exactly what it's original owner intended for it to accomplish: to shock people and to generate discussion.

Steven Imparl, Esq., Attorney and Counselor at Law, Chicago, Illinois

I don't shock easily

Re: Untitled (Steven Imparl, Esq.)

Date: Oct 09, 13:39

From: Reality Check

>I think this site is accomplishing exactly what it's original owner intended for it to accomplish: to shock people and to generate discussion.

Steve I don't shock easily. I do however enjoy the opportunity to stir the pot, thus my taking the role of Devils Advocate. While I do agree that it appears that this site was intended as a parody you still haven't responded to the issue of the sale.

>The mere fact that a sale occurred does not imply that the object of the sale is or was illegal.

Voteauction.com Message Board

I never said anything about the legality of the site. Just it's potential for abuse as a result of the sale.

>I have been practicing law for nearly 8 years now. There aren't many stories I haven't heard. I have seen conspiracy and I have seen solicitation.

You can hit me with that one in thirteen more years.

All in all Steve I am impressed with your comments and observations. Believe it or not, I agree with you for the most part. But you have to admit that when there is potential for abuse there is always someone ready to do so. This site merely opens the door. Now we must look to see who comes through it.

Bulgaria?

Re: So why move to a server in Bulgaria? (Reality Check)

Date: Oct 18, 07:19

From: Clemens Zauner <czauner@sil.at>

- a) This site **is** a parody. Quite obvious for any intelligent person.
- b) The Server is **not** in Bulgaria, but Vienna, Austria
- c) Hans ist not an artist. no businessman here.
- d) Think before you type.

Clemens.

Get a clue, A.L.

Re: CAUTIONARY REPLY

Date: Oct 06, 10:40

From: C Wegrzyn <wegrzyn@garbage-dump.com>

Come on A.L. all you've done with your heavy handed P.C. attitude is show how really "clueless" you are. Going to state or federal court won't do much. And the fact that it gets national or world-wide attention will only show what a fool you really are in Chicago.

From an ex-Chicagoan.

How will anyone know?

Re: CAUTIONARY REPLY

Date: Oct 12, 07:39

From: C Wegrzyn <wegrzyn@garbage-dump.com>

What I want to know is how will A.L. Zimmer and the slime balls know whether or not I sold my vote? First you can use any of the digital money type of systems on the Internet to transfer money to

They've always been able to buy my vote

Re: Why should selling your vote be criminal? (Mr. Cynical)

Date: Oct 17, 16:41

From: Kept Man

Gore & Dubya can take as much money as they want from the rest of you and use it to buy my vote in the form of prescription drugs, "tax credits", and other programs. Strikes me as far more moral to sell my vote to people who put up the money voluntarily instead of letting them take the money at gunpoint.

I agree

Re: They've always been able to buy my vote (Kept Man)

Date: Oct 18, 20:31

From: Curtis <Curtisf@Ruraltel.net>

I also agree. I would much rather vote for someone that really wants my vote. If they want my vote and are willing to do anything to get it then they can have it. In this day and age it doesn't really matter who gets to be president or who gets to be governor. The bottom line they all lie and screw us the american people straight up the tail pipes. If you want my vote you can have it.

Why does bottled water have an expiration date?

Satisfaction guaranteed?

Date: Sep 26, 21:51

From: Aphrodite

How can an investor be sure that the voters will actually vote for the specified candidate? What if they just take the money and run?

By the way- I think this site is great! Thanks for bringing this issue to light in such a creative way. Sometimes I think politicians and corporations WANT people to be bored with politics in order to keep them from going to the polls. We need more things like this site to keep things interesting.

How can you question this?

Re: Satisfaction guaranteed? (Aphrodite)

Date: Sep 26, 22:24

From: Raoul Duke, Jr.

Come on, anyone that would sell their vote is obviously of the highest moral caliber. They would never be the type to not show the integrity or honor to keep a sacred commitment.

But seriously folks, this is a great site. Scary, but great.

Voteauction.com Message Board

Re: Why just sell votes from America?

Date: Sep 30, 12:18

From: Admin <voteauction@mail.com>

We are concentrating on just the U.S. Presidential election this year. We are treating this as a test run for the voteauction.com business model. If we feel that this is a suitably profitable venture, we will expand into many other elections all over the world, perhaps even Australia.

aussie situation

Re: Untitled (Admin)

Date: Oct 06, 05:03

From: Hal

What is the difference between "free to vote" and "forced to vote?"

If you say we are free to vote in the US, yet cannot sell our vote, are we truly free?

Too bad NY'ers are excluded! >8-(

Date: Oct 01, 06:21

From: Jaded NYer <oldslimshady@eminem.com>

Too bad I have to sit this one out as an observer. Ironical that selling votes is only illegal for the "little people" while the most blatant political whores in DC routinely engage in turning 6-figure tricks with their CorpAmerica johns.

The cries of "unfair!", "illegal!" and my favorite: "What a sad, sad, shame...people fought and dies so you can vote" ring hollow and fall largely on deaf ears, since it is the very people in power, and their Corporate pimps who have succeeded in turning the entire electoral process into a fraud and a sham. I think the main reason they are complaining is that they don't want any competition;-p

Keep up the good work, and good luck to all you vote-sellers who have seen the light. You aren't doing anything new, just doing it on a smaller scale (and, might I add, deliciously overt, to boot;) The power exposed and emulated, and want a monopoly on corruption, so don't listen to them. Screw 'em if they can't take a joke, because they've been screwing the voters for decades.

GREAT site, GREAT idea, Great implementation:) Congrats to all concerned! Don't let the hypocrits and naive sheeple get you down.

Untitled

Re: Too bad NY'ers are excluded! >8-((Jaded NYer)

Date: Oct 16, 17:11

From: al

Voteauction.com Message Board

was 1995, but you probably wouldn't believe me.

Horrible, I think not

Re: This is Horrible! (A True American!)

Date: Oct 05, 10:14

From: Russell Kicklighter

This is the very freedom invisioned I think. We the people, have the right to choose, and if we choose to have someone else determine who will lead this country why is that choice not respected. I also think it makes a very interesting civics lesson, (How much is your vote worth) the more valuable it is the more likely people are to examine their choices more closely.

For The People

Re: This is Horrible! (A True American!)

Date: Oct 05, 12:24

From: Selling My Vote <dupree4@yahoo.com>

This is not horrible. This is a step in the direction of True Democracy. This will stop the corporations from wasting their money on political adverstising which insults America and give the money that is being taken from the people back to the people. This is GREAT!

Don't you know a joke when you see it people??

Re: For The People (Selling My Vote)

Date: Oct 17, 09:41

From: <maryzemail@aol.com>

This site has to be pulling legs. On the other hand, the democrats have been doing this in a more discreet way for years. I have friends who are election judges and they have discovered any number of ballots cast by dead people!! The locals dems check voter lists against obituaries and haul in a bunch of unregistered voters to vote (usually absentee) using the name of the deceased. This honorable tradition was used to its ultimate by the late "Landslide Lyndon Johnson". The voters they recruit are usually homeless alcoholics willing to do anything for a drink or in a few cases a meal!!

"True Americans" make me sick

Re: This is Horrible! (A True American!)

Date: Oct 13, 07:42

From: nick

where do people who think like you live? have any "true americans" stopped to consider what a true democracy looks like? it is not what we have... when the only candidates (if you can even call them that) let into our presidential debates answer to exactly the same wealthy interests, what choice do

Voteauction.com Message Board

Just calculate how much my vote is worth based on the going rate. It seems, according to the voteauction site, this is about \$16. Submit your vote as payment of \$16 to another auction site. This pays for your CD. Now instead of empty promises, you have Beethoven's 9th.
Dov

Why not sell your vote?

Date: Oct 05, 12:55

From: [webitgrl](#) <webitgrl@mailcity.com>

Come on people, let's face it, He or she with the most money generally wins! So, let's see, just how fair is that anyway. I know that I believe Gore and Bush are both idiots. I have mentally declared them equal idiots and since I can't vote for them both, I'd rather sell my vote and let someone use it that is passionate in what they believe in. Meanwhile, I'll go and enjoy a movie and popcorn Nov 7.

There ARE other options!

Re: Why not sell your vote? (webitgrl)

Date: Oct 05, 21:23

From: [Lori Whalen](#) <lwhalen@gardener.com>

Please remember guys, there are other candidates running for president. Each year more people vote for third party candidates. If we all did it would make a difference.

Re: There are other options

Re: There ARE other options! (Lori Whalen)

Date: Oct 05, 22:40

From: [Admin](#) <voteauction@mail.com>

Although the majority of bidders are from one of the two major parties, there is a significant number who support a third party candidate. Who knows, maybe Pat Buchanan and Ralph Nader supporters will be able to buy some additional votes for their candidates.

Some Thoughts About this Site and Government's Reaction to It

Date: Oct 05, 13:11

From: [Steven Imparl. Esq.](#) <steven@imparl.net>

Just a few thoughts . . .

1. Somehow, looking at the entire site, I can't just see a conspiracy or a solicitation to commit voting fraud, as some governmental officials have alleged. I don't think voteauction.com is making any serious offers.

2. I have looked at the site extensively. It does appear to be a joke and a political commentary. This is especially apparent when one looks at the "Links" page, which contains several links to pages offering commentary about and suggesting the reform of campaign financing.
 3. I do not see any real mechanisms in place for collecting information and turning that information into fraudulent votes, or even for accomplishing the purported auction. There seem to be no means for collecting any payments and no means for bidding.
 4. The site refers to a "corporate bidder's agreement" which gives a "404" error when one tries to access it. The site does not contain a comparable "individual bidder's agreement."
 5. The bidders' "ID" numbers of the persons supposedly having the high bid are suspicious: they all end in "01," "10," and "15," and several of these "ID" numbers are duplicates. Further, the amount of the current "high bid" is not even displayed--most peculiar for an auction site. If this were a real auction, how could any bidders know what bid they have to beat?
 6. There are no specifics about payment or anything.
 7. There has been some comment on another list I moderate that the presence of the New York disclaimer implies that some law has been violated. I reject that view.
- Here's a news story about the New York issue:
- <http://www.cnn.com/2000/TECH/computing/08/23/voteauction.shutdown.idg/index.h>
- Further support for the view that the site is a joke and a political commentary is available at:
- <http://www.fsb.com/fortunesb/articles/0,2227,966,00.html>
- Moreover, the mere fact that the site says "Not Valid in New York" merely means that New York officials have successfully pressured the owner of the site to display that message. New York has tried to regulate the entire Internet before. Remember American Library Ass'n v. Pataki, 969 F.Supp. 160 (S.D.N.Y. 1997)?
8. While some government officials claim that this site is buying and selling votes, I find little support for that claim when I analyze the entire site. There are too many things missing on the site. (See paragraphs 3 through 6 above for a more detailed explanation of the problems inherent in claiming this site is soliciting election fraud.)
 9. While I do think the site is a joke; it does not appear to be "doing" much of anything. However, it does contain quite a lot of commentary--commentary that is valuable to an informed electorate.
 10. I think the original owner of the site presented it precisely for its shock value. That, IMO, is protected political speech.
 11. With a considerable amount of imagination, one might conclude that this site is engaged in illegal activity. I am talking of the kind of imagination that can envision the cow jumping over the moon.

Voteauction.com Message Board

12. I don't see any real buying and selling of votes actually occurring; the "bidding" process is highly suspect and the site does not have any of the features of real auction sites like eBay, Yahoo! Auctions, and so forth.

13. Much of the commentary I have read assumes (in a rather circular fashion) that this site is indeed an auction. To that claim, I pose the following questions. Where are the notices of binding agreements to the bidders? Where are the particulars about how the "sales" are to be accomplished? Where is PayPal? <grin>

14. At best, I see a caricature of an auction that has ruffled the feathers of politicians, perhaps because it hits a bit too close to home. This site is clearly a funny parody and public education site. I don't think any reasonable person could construe this site as a real solicitation, conspiracy, or attempt to buy or sell votes.

15. Look at the entire Web site--the totality of the circumstances. You will see many links to commentary about issues to voters. However, you will not see any specifics regarding how the alleged buying and selling of votes will take place or any real steps in furtherance of such an activity. What I do see is a heavy-handed attempt by the government to quash political speech.

16. The uproar in Illinois all apparently started because an oversensitive commissioner of Chicago's Board of Elections was offended by this site which recalled unpleasant memories of corruption in the city government of Chicago. (Some of us, including me, feel that corruption still runs rampant in Chicago government.)

17. That the site offends the sensibilities of government officials--who aren't even named on the site--really is just too bad. This site offers a lot of valuable links to other sites that will be of interest to voters. If you look at the "News & Press" link, you will find some stories there that offer fascinating commentary about the American political system, cynicism in the electorate, the role of corporations and special interest groups in campaign financing, "soft money," and the role of political parties.

18. To attempt to shut this site down would be to trammel on free political speech protected by the United States Constitution. That government officials have nothing better to do with their time than to harass a Web site that exemplifies our treasured legal and social traditions of freedom of expression is gravely disappointing.

Steven Imparl, Esq.

Slowest freakin bboard I've ever used

Date: Oct 06, 05:32

From: Hal

I have a plane to catch, and I need to go to bed, so rather than post individually, I'd like to post my comments all in one place:

Slavery: You mean it's over? Since when did they outlaw salaried employees?

Third party candidates: Pat Buchanan is the closest thing to evil we have yet to see in American

politics. However, when Ross Perot garnered 24% of the vote a few years back, the bigwigs got a clear message: don't include Ross Perot anymore.

Value of a vote: My God, my indifference is only worth 2 bucks?? My lack of interest is worth far more than that!!

Other numbers: 50% divorce rate; most people take the full 10% charitable donation deduction on their taxes, illiteracy rate for high school graduates is 50%, and 75% of sampled Americans polled believe the sun revolves around the Earth.

Selling my vote for \$X is far easier to stomach by comparison.

"Real American": I see you are in the 50% of high school graduates.

Voteauction.com: Sheesh, improve the bboard please. It's a pain in the butt to use and as slow as hell. Maybe some Bulgarian mafia-boss will put up some cash to aid in the corruption and inevitable collapse of the Defenders of the Free World. And God, too.

Racism and politics: This year, both candidates appeared on the Oprah Winfrey show, the number 1 forum for both black and female "scores" (ie. voters, but politicians don't think of us in that way.) It was the first time she ever allowed candidates to appear prior to the election, and she insisted on both candidates appearing, because she is quite conscious about her popular influence. If you think votes can't be influenced by race, and more importantly, Oprah, I recommend you check the correlation between the New York Times bestseller list (for books) with Oprah's Book of the Month Club.

I have the sneaking suspicion that her job security comes from the fact that her taskmasters make sure she has a cushy, well-paying job to keep her out of politics.

The first female president will also be the first black president. Mark my words.

Final thought: Thank you all for keeping this board from degrading into a forum of name-calling and Nazi comparisons. The writing is actually half-decent here.

And funny as hell. Especially this "Hal" guy.

Voting for President

Date: Oct 06, 08:01.

From: slinkvtech slinkyte

To those of you who are going to go see movies, sit at home, etc. on Nov 7th because you don't like either Presidential Candidate...99% of the elections are local and state elections and issues. If you don't want your taxes raised, you'd better vote. If you want more funding for your local library, you'd better vote. If you don't like how your Reps at the State and Federal levels voted on issues that are important to you, you'd better vote. It is very myopic to think that Nov 7th is entirely about the office of President.

You don't know what you have until you lose it.

JAMES M. SCANLON & ASSOCIATES, P.C.

Attorneys at Law

Suite 3600
Three First National Plaza
70 West Madison Street
Chicago, Illinois 60602

Tel. 312.977.4881
Fax. 312.782.8162

JAMES M. SCANLON

VIA FACSIMILE #518.463.4039
ORIGINAL TO FOLLOW VIA U.S. MAIL

October 25, 2000

Mr. Daniel Stewart
Dreyer Boyajian LLP
75 Columbia Street
Albany, NY 12210

Re: Board of Election Commissioners of the City of Chicago, et al. v. Hans
Bernhard, et al

Dear Mr. Stewart:

Thank you for forwarding a copy of Mr. Baumgartner's October 24 affidavit. Per our telephone discussion this morning, there are, however, more questions that need to be resolved. Therefore, I would ask if you could pose the following questions to Mr. Baumgartner and respond by way of an additional or supplementary affidavit.

1. Regarding paragraphs 2 and 3 of the affidavit, Mr. Baumgartner states that he developed the idea for Voteauction.com in March 2000 and then went to work trying to develop the website. When did Voteauction.com begin to appear on the Internet and become operational?

2. Paragraph 5 of the affidavit addresses Mr. Baumgartner's intentions, as well as his belief that no vote was ever sold or purchased. However, no time line is indicated as to when he had access to the web site and its contents to verify that "no vote was ever sold or purchased." Paragraph 9 of the affidavit suggests that Mr. Baumgartner had access to if not control over the contents of the Voteauction.com web site as late as October 16. Can Mr. Baumgartner state from personal knowledge that as of October 16 no vote was ever sold or purchased? How about after that date?

3. Again relating to paragraph 5, although Mr. Baumgartner states that the web site itself had no way to verify the names of the individuals who signed up to sell their vote and there was no mechanism to transfer the names of potential buyers with potential sellers, this does not necessarily mean that the names of potential buyers and sellers could not have been exchanged outside the framework of the web-site either through the mail, via e-mail, or by other means. Also, the bidder's verification of the votes he or she purchased could be done outside of the web site framework - e.g., as

EXHIBIT

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Hans Bernhard suggested in press statements, the highest bidders could demand that the voters deliver their absentee ballots directly to the bidders for them to check to see how they voted. Can Mr. Baumgartner state from personal knowledge that no names were exchanged between bidders and sellers? As of when? Can he state from personal knowledge that no money exchanged hands between sellers, bidders and Voteauction.com? As of when?

4. Again relating to paragraph 5, Mr. Baumgartner states, "As far as I know, only a very small number of people, possibly in the area of seven, ever actually signed up to purchase a vote while I had it up and running." What period of time is Mr. Baumgartner speaking of when he says "while I had it up and running?" Again, paragraph 9 seems to indicate that Mr. Baumgartner had some involvement and control as of October 16. And when Mr. Baumgartner says that "Based on my review, it was clear many individuals who signed up were in fact fictional," when was that review made?

5. Regarding paragraph 6, was the site shut down on August 19?

6. Regarding paragraph 7, how did Mr. Baumgartner come in contact with Hans Bernhard and when? Did these two individuals meet personally?

7. When did Mr. Baumgartner execute the domain name registration change referred to in paragraph 8?

8. Regarding paragraph 9, what was the relationship between Mr. Baumgartner and Mr. Bernhard and what is their relationship now. Because it is apparent from paragraph 9 that Mr. Baumgartner was still involved with the contents of the web site at least until October 16, were Mr. Baumgartner and Mr. Bernhard partners? Are there other partners or operatives to Mr. Baumgartner's knowledge? What precisely was Mr. Baumgartner's involvement with the web site after he "sold" the site to Mr. Bernhard? Did he have access to and control over the contents of the web site and when? Does he still have access to or control over the web site contents? When did Mr. Baumgartner's involvement with the web site end? When was the last time that Mr. Baumgartner was in contact with Mr. Bernhard? How did they communicate? Does Mr. Baumgartner know where Mr. Bernhard is now located?

9. Regarding paragraph 10 and the "sale" of the web site, were there any written agreements between Mr. Baumgartner and Mr. Bernhard? Were there any witnesses to the "sale" or to any discussions between the two parties regarding the transfer of rights to the site or the operation of the site?

10. Does Mr. Baumgartner know whether Hans Bernhard and Luzius Bernhard are one and the same person?

11. Does Mr. Baumgartner have in his possession copies of any records related to the Voteauction.com web site? Do any of those records pertain to the names and addresses of Illinois residents who registered to sell their vote or who offered to bid

Mr. Daniel Stewart
October 25, 2000
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JAMES M. SCANLON & ASSOCIATES, P.C.

on those votes? Does he know whether such records were maintained and, if so, in whose possession?

12. Does Mr. Baumgartner have any knowledge of, involvement with or control over the new web site known as "Vote-auction.com?" Does he have in his possession any documents concerning Vote-auction.com?

As I mentioned in our telephone discussion, our primary objective is to be able to determine with certainty that no vote in Illinois has been sold or purchased, and that no Illinois ballot has been compromised or subjected to fraud. Mr. Baumgartner's cooperation in supplying the above information will be instrumental in our effort to uncover the facts and to assure Illinois voters that the integrity of the November 7, 2000 election has not been compromised.

If you have any questions or wish to discuss, please do not hesitate to call me.

Sincerely,



James Scanlon

Copy: Langdon D. Neal
Richard A. Cowen
Theresa M. Petrone
Mary Bucaro, Assistant Cook County State's Attorney
Phil Robertson, Assistant Illinois Attorney General