



## The Bidness of Voting

Cara Feinberg | November 30, 2002

---

Colin Goldman is trying very hard to break the law. But it hasn't been easy. In the months leading up to the election, Goldman, a libertarian candidate for the California assembly, has been running an election sweepstakes. He promises a \$1,000-cash prize to one lucky winner to be chosen from those who sign up on his Web site and pledge to vote for him. Goldman plans to pay from his own pocket and is scheduled to dole out the cash in a televised ceremony on election day.

Of course, buying and selling votes is illegal. In fact, it is punishable by a \$10,000 fine and up to five years in jail, according to the Department of Justice. And Goldman acknowledges he's pushing the limits. Yet as of mid-October, three months after he set up his Web site, he had heard nothing from authorities. "I'm trying to buy a vote here," he says. "The funny part is, I just can't get anyone to call me on it."

It's not that he wants to go to jail. But he had hoped his offer would provoke controversy and stimulate public debate. Frustrated with other politicians' vote-garnering methods, Goldman dreamed up the sweepstakes as a way to make a point. After all, the mainstream parties promise benefits and services in return for constituents' votes. "In both cases, it could be considered bribery," says Goldman. "Only in their case, it's with millions of dollars."

Similar ideas have occurred to others. In August, an eBay user offered to sell his vote to the highest bidder and was followed by five copycat vote-sellers before the online auction house pulled the "wares" off the market. At about the same time, James Baumgartner, a graduate student in Troy, New York, launched [Voteauction.com](http://Voteauction.com), a Web site devoted to buying and selling votes en masse. While Baumgartner, who studies new media and Internet commerce, has since sold the auction house to a European businessman, the site is still operating, in spite of numerous inquiries and pending investigations by both federal and state attorneys.

Though [Voteauction.com](http://Voteauction.com)'s new owner claims to be interested in profit potential, it's not hard to detect an underlying satirical point. According to the site, "spending money to influence voters is protected by the free speech clause of the First Amendment of the U.S.

constitution"--a tenet Voteauction.com claims is supported by the Supreme Court's 1976 *Buckley v. Valeo* decision, which nullified campaign spending limits. Baumgartner didn't test this claim in court; he sold his Web site in August immediately after the state of New York began to question its legality. It was probably a wise decision for Baumgartner to bail out. The Supreme Court's 1982 *Brown v. Hartlage* ruling established that buying and selling votes was not protected by the First Amendment, as "no body politic worthy of being called a democracy entrusts the selection of leaders to a process of auction or barter."

Yet the vote auctioneers press on, even citing the *Buckley* decision in its "voter empowerment kit," a collection of downloadable materials, including business cards, bumper stickers, and form letters to candidates that say, "I look forward to doing business with you." To date several states have begun to take legal action-- most recently, California and Illinois. But the site, now registered in Austria, presents an obvious jurisdictional challenge for U.S. authorities. Nevertheless, the Chicago Board of Election Commissioners--ever conscious of that city's reputation for creative voting schemes--filed a lawsuit October 16 asking a court to prohibit Illinois voters from participating in the auction. And the California secretary of state's office announced an investigation and informed Domain Bank, the registrar of Internet domain names, that Voteauction.com was in violation of state election codes. Domain Bank said the Web site's owners were given a 30-day notice to stop illegal activities or else risk losing their domain name. The November 14 deadline, however, left open the question of whether the site would function through election day.

As of mid-October, Voteauction.com had registered a total of 21,079 voters for the auction. The site reported that the number of Illinois participants more than doubled within a week of the state's announcement of its complaints. It's hard to say if any business will really be transacted on election day. "It's one thing if it's a joke," said Fred Wertheimer, president of Democracy 21, a nonpartisan public-policy group. "But to the extent that people are actually implementing it, it should be shut down." Wertheimer's group explores ways that the Internet can be used to improve democracy, but he doesn't see vote auctions as one of them. "This is a classic example of why keeping the Internet exempt from regulation is a ridiculous notion," said Wertheimer. "We cannot let the Internet become a basic way to evade fundamental laws, whether it's selling drugs or selling votes."

Nor is Wertheimer, a former head of Common Cause, impressed with the political point the vote-sellers are trying to make. "This *is* a new democracy ... a *corrupt* democracy. Other than being immoral, unethical, and illegal, it seems like a terrifically creative idea."