



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

February 9, 1979

ADVISORY OPINION 1979-3

Marion Edwyn Harrison  
Barnett, Alagia & Carey  
1627 K Street, N.W.  
Washington, D.C. 20006

Dear Mr. Harrison:

This responds to your letter of January 12, 1979 requesting an advisory opinion on behalf of the Committee for the Survival of a Free Congress ("CSFC") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") to the use of a contributor list by CSFC.

Your letter states that a political committee ("donor"), which is required to file reports with the Commission, intends to donate a list of contributors to CSFC. You set forth four alternative methods under which the contributor list might be given and add that in each instance CSFC is authorized specifically by the donor to solicit contributions from those individuals on the list. The four alternative methods are:

1. The donor releases to CSFC by means other than photocopy the names and addresses on a list.
2. The donor releases to CSFC a photocopy of a list.
3. The donor releases to CSFC selected names from a list.
4. The donor in writing authorizes CSFC to copy names from a list on file with FEC.

You ask whether CSFC would violate the Act or Commission regulations under any of these alternatives.

Under the Act, information "copied from [FEC Disclosure] reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose." 2 U.S.C. 438(a)(4). Commission regulations prohibit the use of "any information copied, or otherwise obtained, from any report or statement, or copy, reproduction,

or publication thereof, filed with the Commission" for the purpose of soliciting contributions. 11 CFR 104.13.

The situations you have presented in alternatives 1, 2, and 3 involve circumstances wherein the donor releases to CSFC a list of contributors to the donor. This list is compiled by the donor from its contributor records and is not copied from reports filed under the Act. In those circumstances, the Commission concludes that use of that list by CSFC to solicit contributions is not prohibited by 2 U.S.C. 438(a)(4) or Commission regulations.

In alternative 4, the donor would authorize CSFC to copy names from reports filed by the donor with the Commission and to solicit those individuals for contributions to CSFC. The donor's authorization to CSFC, permitting use of information copied from reports filed under the Act for soliciting contributions, does not change the fact that information copied from filed reports is being used for an unlawful purpose. Thus the Commission concludes that alternative 4 is prohibited by 2 U.S.C. 438(a)(4). The distinction here between alternatives 1-3, and alternative 4 is the source of the contributor list.

In Advisory Opinion 1977-66 the Commission concluded that a political committee's use of its own contributor list is not prohibited by 2 U.S.C. 438(a)(4) and Commission regulations at 11 CFR 104.13. The opinion reasoned that the names of the contributors were not obtained from the committee's reports to the Commission since the committee itself prepared the report on the basis of its own information. Similarly in this case, 438(a)(4) would not prohibit the donor from selling or renting its own contributor list for use by CSFC to solicit contributions to CSFC, but it does prohibit the use of any list to solicit contributions which is copied or otherwise obtained from disclosure reports filed under the Act.

If the donor provides its contributor list without charge, or at less than "usual and normal charge" for a contributor list of the same quality and number of names, the list (or the reduction in price below usual and normal charge) would be a gift of "anything of value" and hence a contribution for purposes of disclosure and limitation under the Act. 2 U.S.C. 431, 434, 441a(a). The amount of the contribution should be determined under Commission regulations at 11 CFR 100.4(a)(1)(iii). See also 104.3 of Commission regulations concerning the reporting and consumption of in-kind contributions.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Joan D. Aikens  
Chairman for the  
Federal Election Commission