



FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 26, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-101

Mr. Marvin I. Weinberger
3 Carleton Road
Belmont, Massachusetts 02178

Dear Mr. Weinberger:

This responds to your letter of August 21, 1980 requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the use of information found in Federal Election Commission documents.

According to your letter you intend to publish and sell a directory of comprehensive information concerning Political Action Committees ("PACs"). You explain that the directory would facilitate coordination among PACs and help candidates better target their funding requests. The directory would not, however, identify individuals who made contributions to the listed PACs. With this in mind and concerned with Commission regulations which address use of information, specifically 11 CFR 104.15, you ask what, if any, information that PACs supply in reports to the Commission which is then published in FEC documents may be commercially republished and under what conditions. You further ask, if direct commercial republication of FEC PAC data is prohibited, whether information may be solicited directly from individual PACs and the responses reprinted. In soliciting information from the PACs, you ask whether you may use a PAC address list compiled from FEC reports or a commercially prepared PAC mail list?

2 U.S.C. 438(a)(4) generally allows for inspection and copying of reports and statements filed with the Commission but prohibits the sale or use of such copied information to solicit contributions or for any other commercial purpose with the exception of using the name and address of any political committee to solicit contributions from such committee. Commission regulations, specifically 104.15 which elaborates on 438(a)(4) states, in part,

(a) [A]ny information copied or otherwise obtained, from any report or statement, or any copy, reproduction, or publication thereof, filed with the Commission,

shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committee.

An exception to this restriction is found in subsection (c) of 104.15. This exception allows for the use of information copied or otherwise obtained from reports filed with the Commission in newspapers, books, or the like, but only if the principal purpose of these communications is not to communicate any contributor information for the purpose of soliciting contributions or for other commercial purposes.

This regulation generally focuses on prohibiting the use of information copied or obtained from reports filed with the Commission. It specifically focuses on prohibiting the use of any contributor information found in those reports.

In a number of advisory opinions the Commission has focused on the apparent Congressional intent behind 2 U.S.C. 438(a)(4). Citing to the language of the proponents of this provision concerning use of information filed with the Commission, those opinions recognize that the principal, if not sole, purpose of the restriction on use of information was to protect contributor information and lists from being used for commercial purposes. See Advisory Opinions 1980-78, 1977-66. It appears from the legislative history of the 1979 Amendments to the Act, that a commercial vendor may compile the names and addresses of political committees for the purpose of selling those names but that the prohibition on the copying and use of names and addresses of individual contributors is crucial and so was maintained. H.R. Rep. No. 422, 96th Cong., 1st Sess. 23 (1979).

In light of the intent behind 2 U.S.C. 438(a)(4) and the language of 11 CFR 104.15 the Commission concludes that, except for information identifying individual contributors, any of the information found in FEC documents or documents filed with the Commission may be used in the subject publication. This conclusion makes it unnecessary for the Commission to address your other questions.

This response constitutes an advisory opinion concerning the application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Max L. Friedersdorf
Chairman for the
Federal Election Commission

Enclosures (AOs 1980-78, 1977-66)