



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 13, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-38

Mr. Christopher J. Daly
CAMPAC Publications
610 East Capitol Street
Washington, D.C. 20003

Dear Mr. Daly:

This responds to your letter of August 18, 1981, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the use by CAMPAC Publications ("CAMPAC") of certain information contained in reports filed with the Commission.

You state that CAMPAC Publications is in the process of formulating a new national newsletter aimed at covering the political campaigns of Presidential, Senatorial, and U.S. House of Representatives candidates. This newsletter will be published bi-weekly in Washington, D.C. and will contain information about the inner workings of campaigns and the campaign industry. You add that CAMPAC Publications wishes to use the information contained in candidate filings with the FEC to provide leads for news articles and other information which will be used in the newsletter. Specifically, names and addresses which are contained in the FEC files might be used for solicitation of both information and subscriptions. You emphasize that the information which will be the focus of your publication does not include the names and addresses of any contributors to any campaigns. Rather, you seek the names and addresses of candidates, campaign workers, campaign consultants and firms or individuals who have provided services to the various campaigns. Under these circumstances, you ask whether the use of the described information, contained in reports filed with the Commission, is permissible under the Act.

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(a) which elaborates on 438(a)(4) states, in part:

[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.

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 1980-101, 1980-78, and 1977-66.

The focus of the proponents of 2 U.S.C. 438(a)(4) centered on protecting the privacy of the "very public spirited citizens" who make contributions to campaigns. The purpose of the provision was to protect contributor information and lists from being used for commercial purposes. 117 Cong. Rec. 30058 (1971) (remarks of Senator Bellman, amendment sponsor). This view is further reinforced by subsequent legislative history. Specifically, it appears from the history of the 1979 Amendments to the Act, that a commercial vendor may compile information from FEC reports for the purpose of selling that information 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). The prevention of list brokering, not the suppression of financial information, is the purpose of 2 U.S.C. 438(a)(4) and 11 CFR 104.15. See Advisory Opinion 1980-78.

The information which CAMPAC proposes to use in articles and publish and sell is apparently information which is derived from a Schedule B of the FEC reports filed by political committees (i.e. expenditures by a political committee). Information from Schedule B generally does not contain information relating to individual contributors (except where a refund is made to a contributor). If the information sought to be used by CAMPAC is not information relating to individual contributors, the use of that information for a commercial purpose would not be prohibited by 2 U.S.C. 438(a)(4).

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

Sincerely yours,

(signed)

John Warren McGarry
Chairman for the
Federal Election Commission

Enclosures (AOs 1980-101, 1980-78, 1977-66)