



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 23, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-7

Mr. William G. Phillips
Senior Vice President
D.C. Associates Inc.
402 Third Street S.E.
Washington, D.C. 20003

Dear Mr. Phillips:

This responds to your letter of February 9, 1982, with supplement dated February 22, 1982, requesting an advisory opinion on behalf of the Solar Energy Industries Association Political Action Committee ("SEIA-PAC") concerning an interpretation of the Commission regulations at 11 CFR 104.2(c).

Your letter states that in 1981, D.C. Associates, Inc. ("DCA"), a District of Columbia corporation engaged in government relations consulting, contracted with a computer firm to design a computerized record keeping and reporting service for DCA clients operating separate segregated funds in accordance with the Act and regulations. This computer service is known as "PAC-MASTER". SEIA-PAC submitted computer-produced schedules of itemized receipts and disbursements, designed by the computer firm, for Commission approval pursuant to 11 CFR 104.2(d). Subsequent approval was granted SEIA-PAC to utilize the submitted computerized support schedules.

Your letter discusses the capability of the "PAC-MASTER" computer program to design "in every material respect" the FEC Form 3X and support schedules. The computer-designed FEC Form 3X was attached to your request. Furthermore, you propose that approval of the submitted computer form would culminate in a reduction of mathematical errors in reviewing reports of committees required to file with the Commission. In light of this background, you ask for approval of the computer-produced Summary Page and detailed Summary Page submitted by SEIA-PAC, a DCA "PAC-MASTER" client, under 11 CFR 104.2(c).

The Commission regulations at 11 CFR 104.2(c) state that "[a] committee may reproduce FEC forms for its own use provided they are not reduced in size." The term "reproduce" in that subsection of the regulations is interpreted by the Commission to mean a photocopy or an otherwise accurate and exact format which would be uncompromisingly legible and would lend itself to a high degree of clarity in microfilming and indexing for public disclosure purposes. The Commission concludes that the term "reproduce" in 11 CFR 104.2(c), requires a resulting product which is identical in every respect to an original FEC Form 3X.

The regulation provides for the reproduction of FEC forms and does not specify, limit or exclude the manner of reproduction. Therefore, the method of reproduction is unimportant unless the method used does not provide a report which is a reproduction under 104.2(c). The computerized formats submitted by SEIA-PAC are not precise reproductions. The proposed Summary Page and detailed Summary Page deviate in several respects from FEC Form 3X. For instance, the computer format specifically deviates from the FEC form in these and other respects: spacing; placement of lines between entries in Columns A and B; shading; typeface and form language. These deviations render these computer formats altered facsimiles, not reproductions, for purposes of 11 CFR 104.2(c).

Your letter defines a true reproduction of Commission reporting forms as including "the identical, word-for-word language of Form 3X . . ." and the Commission concurs with that reading of "reproduction" as used in 11 CFR 104.2(c). Therefore, due to the deviations from an original FEC Form 3X in your submitted format, the computer-designed Summary Page and detailed Summary Pages are not deemed reproductions under Commission regulations. However, the past practice of the Commission has been to microfilm and provide for public disclosure of computerized Summary Page and detailed Summary Page formats submitted for reporting purposes. This practice of indexing and computer entry of information contained in various computer-designed FEC Form 3X formats has been consistent with the policy of encouraging committees to comply voluntarily with the reporting requirements of the Act.

Pursuant to this practice, and the underlying policy of encouraging voluntary compliance with the Act's reporting mandate, the Commission will accept SEIA-PAC's proposed computerized FEC Form 3X. However, the Commission notes that it intends to design and make available in the future, a computer printable, pre-printed, pin-feed form for use by all committees wishing to use computer-produced Summary Page and detailed Summary Page formats. The implementation of this standardized computer printable, pre-printed, pin-feed form will further the Commission's efforts to "simplify the forms and procedures involved in the law." 120 Cong. Rec. H10339 (daily ed. Oct. 10, 1974). Appropriate advance announcement of the availability of this standardized, computer printable FEC form will be sent to SEIA-PAC, and other committees presently using formats designed and marketed by computer firms. At a time to be specified, the Commission expects that it will require SEIA-PAC and other committees to discontinue reporting on their own computerized formats and use the Commission designed FEC Form 3X. In that connection the Commission will review its regulations at 11 CFR 104.2(c) to determine what revisions are necessary and appropriate to implement use of its described computer printable, pre-printed form.

In addition, approval of SEIA-PAC's formats for the summary pages cannot be granted under 11 CFR 104.2(d), since that subsection is directed to, and provides only for, itemized, receipt and disbursement schedules.

This response constitutes an advisory opinion concerning 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,

(signed)

Frank P. Reiche
Chairman for the
Federal Election Commission