



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 24, 1985

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1985-16

Mr. Robert Neil Weiss
Post Office Box 76084
Washington, D.C. 20013

Dear Mr. Weiss:

This responds to your letter of April 11, 1985, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to your proposed search of Commission records for names contained in reports of political contributions.

You state that you own a list of potential contributors to Federal election campaigns which you could market "for commercial and/or solicitation purposes." You indicate that you desire to increase the market value of the list. You propose to search reports filed by political committees with the Commission to compare the names on your list with those individuals who have actually contributed to Federal election campaigns. You state that no new names or other information would be added to your list from Commission records. You ask whether this proposed activity is permissible under the Act and Commission regulations.

The Act provides that the Commission shall make reports and statements filed with it available to the public for inspection and copying within 48 hours after receipt. 2 U.S.C. 438(a)(4). However, 433(a)(4) restricts the use of information copied from reports by providing that it may not be sold or used by any person for the purpose of soliciting contributions or for other commercial purposes. Commission regulations provide that any information copied or otherwise obtained from reports filed with the Commission shall not be sold or used by any person for the purpose of soliciting contributions or for any other commercial purpose. 11 CFR 104.15(a). The sole exception to this provision is that the name and address of any political committee may be used for soliciting contributions from such a committee, but this exception does not apply to using the names of individual contributors. See 11 CFR 104.15(c).

The Commission has declared that the purpose of this restriction is to protect individuals who make contributions to campaigns from being victimized by list-brokering. Advisory Opinions 1984-2, 1981-38, 1981-5, 1980-78, and opinions cited therein. The Commission has held that where a publisher proposed to use data from FEC disclosure documents in a newsletter regarding campaign practices, but did not seek to use the names of contributors, this use was permissible. Advisory Opinion 1981-38. Where a candidate proposed to obtain expenditure data submitted by his opponents, to be included in the candidate's solicitation letters, this use was permissible provided the letter did not contain information on the identity of individual contributors. Advisory Opinion 1980-78.

By contrast, the Commission has permitted the use of individual contributor information only in narrow circumstances not related to solicitation or commercial purposes. A candidate who proposed to use reports filed with the Commission to contact contributors to an unauthorized campaign committee to tell those contributors that the committee was unauthorized was permitted to do so, but was not permitted to solicit contributions to the authorized committee. Advisory Opinion 1984-2. And, where a candidate proposed to send a letter to contributors to his opponent's campaign to correct allegedly defamatory statements made by the opponent, this use was permissible provided there was no solicitation or commercial purpose. Advisory Opinion 1981-5.

The Commission concludes that your proposed use of Commission records would not be permissible because it would involve your obtaining and using information from Commission records for commercial or solicitation purposes. A name on your list represents either an active contributor or a passive noncontributor, and the use of information gained from examining reports filed with the Commission would allow you to purge the non-contributors from your list or to otherwise identify the contributors on your list. Your list would have special commercial value because it had been produced as a result of cross verification with contributor information contained in reports filed with the Commission. Such a use to increase the commercial value of your list is a commercial use that is prohibited by 2 U.S.C. 438(a)(4).

This response constitutes an advisory opinion concerning application of the Act and Commission regulations to the specific transaction or activity 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 1984-2, 1983-44, 1981-38, 1981-5, 1980-101, 1980-78, 1979-18, 1977-16)