



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

November 10, 1999

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1999-17

Benjamin L. Ginsberg  
Patton Boggs LLP  
2550 M Street, NW  
Washington, DC 20037-1350

Dear Mr. Ginsberg:

This refers to your letters dated September 23, July 8 and June 7, 1999, which request an advisory opinion on behalf of Governor George W. Bush for President Exploratory Committee, Inc. ("the Committee") concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to various issues, including fundraising and polling, relating to Internet use by the Committee.

**FACTUAL BACKGROUND**

The Committee requests clarification concerning a number of issues that, you state, have arisen regarding the possible uses of the Internet by the Committee in the 2000 election cycle. They relate to several areas.

*Valuation of web site and volunteer activities:*

You note that the Commission's past opinions and enforcement actions regarding Internet activity indicate that a web site and links from one Internet site to another may be something of value to a campaign.<sup>1</sup> You ask whether a campaign must assess value for having its name mentioned by a web site that it does not control (and may not even

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<sup>1</sup> The request cites to Advisory Opinions 1995-9, 1995-35, 1997-16 and 1998-22, as well as Matters Under Review 4340 and 3980.

know about). You ask how a campaign should treat a web site supportive of Mr. Bush that is established by either Committee volunteers or by individuals unconnected with the campaign, but about which the campaign may know nothing. You inquire as to the basis for determining the fair market value of a web site.

You state your request is concerned with web sites featuring Mr. Bush's presidential candidacy created by individuals who are both "volunteers" under 2 U.S.C. §431(8)(B)(i), and who wish to conduct their own Internet activities using Mr. Bush's name. You state that, in some instances, the individuals may have considered themselves volunteers and described themselves to the campaign as volunteers, but may have expended money on their Internet projects before contacting the campaign. Some had a relationship with the campaign prior to the preparation of their web sites (without the Committee's knowledge or approval). Others volunteered, and then sought to establish sites. Of these, some wished to amplify their volunteer efforts. Others, you state, wished to talk about the Governor's positions on various campaign issues outside of their volunteer activities. Others had been attempting to line up political support, and then wished to raise funds for Bush through their own web sites. You affirm that the campaign was aware of some of these sites and individuals but not others. You state that the Committee has also faced the situation of individuals who have first set up sites, and then contacted the campaign personnel afterwards to inform them of their activity. Some of the people involved in the above situations were also contributors to the campaign.<sup>2</sup>

The request materials also include several web addresses to sites that served as examples of individuals who have created web sites supporting Mr. Bush. You know that the campaign search on the Internet indicated the existence of hundreds of sites incorporating the name of Mr. Bush and that the new sites are added and old sites are deleted on a daily basis.

You further ask how the situations should be handled where the web site changes messages on a regular basis, without the knowledge of the campaign.

You also ask how the Committee should assess the value of a link between itself and another web site. You describe several different types of web sites where such links to the Committee web site could exist. These are sites operated by volunteers with the campaign, media outlets, commercial enterprises both related and unrelated to the campaign, and corporate sites discussing the Presidential race or candidates for a variety of reasons.

You state that, because the Committee is uncertain as to the Commission's position on these issues, it has been forced to discourage Internet activity on the part of individuals supporting the campaign where its opinion has been sought or such activity was brought to the attention of the Committee by those conducting the activity. Where such sites had already been established, prior to informing the Committee, the Committee

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<sup>2</sup> You state that it is your belief that none of the individuals involved with these sites have official administrative duties with the Committee or have a paid position with the Committee.

has told the individuals informing the campaign of their actions that they must act independently without campaign or committee support.

Regarding links to the Bush campaign's official web site by corporate owned web sites, pending the outcome of this request, the Committee had asked that these corporate entities (of which it was aware) to remove the links. Since this was done, the Committee is not aware of any current links to the campaign's official web site by corporate entities.

*Vendor issues:*

You note the increasing phenomenon of Internet commerce-- the selling of various products over the World Wide Web. This development has implications for the Committee regarding the marketing of items (pins, bumper stickers, tee shirts, hats, etc.) which advocate the election of a candidate. You ask whether the campaign may provide a link on its web site to that of a vendor selling items about Mr. Bush's candidacy and how it would value that link. You also ask about the reporting obligations in this situation. You ask whether a vendor selling a candidate's campaign materials may provide a link to the candidate's web site and what obligations exist for the Committee in this situation. You further ask if the Committee may pay a vendor for a link to the campaign's web site. In this situation, you ask how the Committee should value the link and what, if any, disclaimers are required.

As an example of the situations the Committee has encountered, you explain that a merchandise vendor was using the Governor's name to sell various goods (shirts, bumper stickers, etc.). The vendor also wished to collect supporters' names and forward them to the campaign, as well as to provide a link to the campaign's web site. You affirm that the Committee asked that the effort cease. You, however, wish to know if the vendor's activities were permitted under the Act and regulations.<sup>3</sup>

You also state that the Committee's search of the Internet revealed a number of sites with a political message, but whose prime motivation seems commercial. None of these sites have any relationship with the Committee as best as you can establish. However, all of them carry a pro-Bush message. Again, you wish to know if their activity has any implications for the Bush campaign.

*Internet polls:*

You note the increasing frequency of polls concerning possible Presidential candidates and the appearance of these polls on the Internet. You ask whether these polls fall under the news media exception, regardless of the sponsor or source of the poll. Further, does the dissemination of the results of a poll become a reportable event under

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<sup>3</sup> Your request also included questions relating to the Internet practices of the Gore campaign. An advisory opinion request must concern a specific transaction or activity the requester is planning to undertake. See 11 CFR 112.1(b) and (c). The activities of third parties cannot be included in a request. Therefore, your questions concerning the activities of the Gore campaign are not addressed in this opinion.

the Act? Again, if so, you ask what is the valuation and description for the related disbursement. You ask what are the applications of the Act if the Committee, through the Internet, urges its supporters to participate in the polling.

As an example of the Internet polling, you site an on-line straw poll conducted by the Indiana Republican Party. You also cite the straw polls conducted by an Internet shopping web site (Shabang) and straw polls found on various web sites by news organizations such as [www.Austin360.com](http://www.Austin360.com).

*E-Mail:*

You ask how the campaign should determine the fair market value of the use of e-mail where a Committee volunteer uses it to solicit friends and associates to contribute to the campaign. You ask whether the campaign is required to report such activity and how it should be valued. You also ask whether it must be counted against the volunteer's contribution limit.

*Solicitation of contributions through the Internet:*

Several issues have emerged regarding the Committee's fundraising efforts through the Internet.<sup>4</sup> One on which you ask guidance is whether a campaign can use e-mail to fulfill the Committee's best efforts obligation, whether or not the original contribution was solicited over the Internet.<sup>5</sup>

*Republication of candidate materials:*

You state that a group of individuals was planning to establish a web site to post materials advocating the Governor's election and to use this web site to bolster their volunteer fundraising for the Committee. The Committee informed these individuals that they should not establish the web site. However, you state that an informal inquiry of others in the regulated community revealed confusion over whether the Commission considers this proposed reproduction of materials from the Committee's official web site a contribution. You ask whether such a reproduction on the Internet would be considered "unique," or if, instead, the provisions of 11 CFR 109.1(d)(1) would apply.

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<sup>4</sup> In your original submission, you indicated that the Committee was considering whether to accept Federal matching funds. On July 15, 1999, the Committee announced that it would not seek matching funds. Therefore, the draft will only address those fundraising issues which relate to the Act and not those which concern obligations under the Presidential Primary Matching Payment Account Act at 26 U.S.C. §§9031-9042.

<sup>5</sup> In your original submission you included a request that the Commission examine whether the Committee using the services of a vendor to conduct its Internet fundraising activities was required to have the vendor provide the Committee with a separate and unique Merchant ID number. You have subsequently withdrawn this question from your advisory opinion request. The Commission has, however, recently examined this issue in Advisory Opinion 1999-22.

## ACT AND COMMISSION REGULATIONS

The Act requires the Commission to respond to a “complete request concerning the application of this Act . . . or a rule or regulation prescribed by the Commission, with respect to a specific transaction or activity by the person. . .” 2 U.S.C. §437f(a)(1).

The Act prohibits contributions and expenditures by a corporation in connection with a Federal election. 2 U.S.C. §441b(a); 11 CFR 114.2(b). The term "contribution" is defined to include "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value ... to any candidate, campaign committee, or political party or organization," in connection with any Federal election. 2 U.S.C. §441b(b)(2); 11 CFR 114.1(a)(1). See 2 U.S.C. §431(8)(A)(i) and (9)(A)(i); 11 CFR 100.7(a)(1) and 100.8(a)(1). The phrase "anything of value" includes goods or services provided without charge, or at less than the usual and normal charge. 11 CFR 100.7(a)(1)(iii)(A) and 100.8(a)(1)(iv)(A). However, the term "contribution" under the Act does not include, among other categories, the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee. 2 U.S.C. §431(8)(B)(i).

The definition of "expenditure" in 2 U.S.C. §431(9) includes “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for” Federal office. See also 11 CFR 100.8(a)(1). Whenever any person makes an expenditure to finance communications expressly advocating the election or defeat of a clearly identified candidate or soliciting any contribution, and does so through various types of mass media (e.g., a broadcasting station) or via “any other type of general public political advertising,” the communication is required to include a statement of sponsorship or disclaimer. 2 U.S.C. §441d, 11 CFR 110.11.

The Act, 2 U.S.C. §431(9)(B)(i), specifically exempts from the definition of "expenditure":

ny news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate.

Commission regulations similarly exclude from the definitions of contribution and expenditure "[a]ny cost incurred in covering or carrying" a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication. 11 CFR 100.7(b)(2) and 100.8(b)(2). According to the legislative history of this "press exemption," Congress intended to preserve the traditional role of the press with respect to campaigns:

[I]t is not the intent of the Congress in the present legislation to limit or burden in any way the First Amendment freedoms of the press and of association. Thus, [the exemption] assures the unfettered right of the newspapers, TV networks, and other media to cover and comment on political campaigns.

H.R. Rep. No. 93-1239, 93d Cong., 2d Sess. at 4 (1974).

The financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered an expenditure. 2 U.S.C §441a(a)(7)(B)(ii). This expenditure shall be considered to be a contribution for the purpose of contribution limitations and reporting responsibilities by the person making the expenditure, but shall not be considered an expenditure by the candidate or his authorized committees unless made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any authorized agent or committee thereof. 11 CFR 109.1(d)(1).

## **DISPOSITION OF QUESTIONS**

### *Valuation issues*

#### Web sites established by volunteers

Commission regulations offer relevant guidance in two areas: volunteer activity by an individual conducted at home and at corporate facilities. Both these situations (depending on the circumstances) could result in no reporting obligations by the Committee because it would not have received a contribution.

In the first situation, Commission regulations provide under 11 CFR 100.7(b)(4) that no contribution results where an individual, in the course of volunteering personal services on his or her residential premises to any candidate, provides the use of his or her real or personal property to such candidate for candidate-related activity. Therefore, if a volunteer for the campaign chooses to prepare a web site supporting the campaign using his or her personal property at home, i.e., a home computer, that action would not be a contribution. Further, the ongoing related costs (such as maintaining Internet service with a provider) that are part of the upkeep of a home-run web site would also fall into this exception. The Commission notes that the cost to register the domain name for a web site established by a volunteer to support Mr. Bush's candidacy would also be covered by this exception. In short, there would also be no reporting obligation that would attach to the activity. Neither the Act or Commission regulations limit the type of volunteer activity which may receive the benefit of the exception. Therefore, the Commission notes that the exception would apply to individuals known to the campaign who, with the campaign's permission (at some level) engage in volunteer activity that consists of the Internet activity described above, i.e., establishing a web site supportive of Mr. Bush.

The Commission notes that there may be individuals who engage in Internet activity supportive of the campaign and who do not have any prior volunteer experience with the campaign and, further, do not contact the campaign to gain its assent for their activities. In these situations, the Committee is completely unaware of the activity involved, or if it discovers the activity at all it is by a search of the web. Further, the Committee has no control over the activities of these individuals.

The Commission concludes that where the Bush Committee has not coordinated a particular Internet activity with individuals who are not volunteers, and where nothing of value is provided to the Committee, there is no reporting obligation incurred by the Committee. The Commission also agrees with the Committee that, given the constantly changing nature of this activity, it does not have an obligation to search the web to discover the existence of pro-Bush activity.

Further, the Commission notes if the campaign has no control over and has not coordinated the activities of these individuals, then these activities would constitute actions by third parties, rather than proposed activity by the Committee. As stated above, the Act requires the Commission to respond to “a complete written [advisory opinion] request concerning the application of this Act . . . or a rule or regulation prescribed by the Commission with respect to a specific transaction or activity by the person.” 2 U.S.C. §437f(a)(1). For this reason, any further comment on the activity of these individuals would not be an appropriate subject for an advisory opinion. See footnote 3.

#### Links between web sites

Providing a link to web sites operated by the Committee would be considered a service and something of value to the campaign and could, under certain circumstances, meet the definition of “contribution” under the Act and Commission regulations. See Conciliation Agreement in MUR 4340. The Commission notes that any service provided without charge, or at less than the usual and normal charge, would constitute a contribution. 11 CFR 100.7(a)(1)(iii)(A) and 100.8(a)(1)(iv)(A).<sup>6</sup>

Providing a specific link to the Committee web site may not in and of itself necessarily constitute a contribution to the Bush campaign. The issue would turn on whether or not the owner of the web page providing the link would normally charge for the providing of such a link. You suggest that “accepted industry practice” should determine the valuation of such links. You also assert that industry practice is to provide such links without cost.

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<sup>6</sup> The Commission has also examined whether on the basis of its content a web site or a link could be construed as a contribution to a candidate. See Advisory Opinions 1999-7 and 1998-22. Recently, in Advisory Opinion 1999-7, the Commission noted that whatever the content of a web site or the providing of a web link, the exception in the Act at section 431(9)(B)(ii) for nonpartisan activity to encourage voting could apply to remove the activity from being considered an expenditure or contribution. See also Advisory Opinion 1999-25.

The Commission questions whether, with numerous types of web sites and site owners in existence, there is one uniform practice that governs the entire Internet “industry.” For example, while it may be common practice for one type of web site owner to charge little or nothing for a link (i.e., those established by certain smaller, non-profit organizations or sites established by individuals), certain other categories of site owners (such as commercial vendors, Internet service providers or larger non-profits) may, in fact, charge a large amount for including a link to another entity’s web site.

If an owner of a web site would normally charge for a link to another site and chooses not to charge the Committee, or charges the Committee less than a similarly situated nonpolitical organization or entity, the provision of a link would be treated as a contribution to the campaign.<sup>7</sup>

The amount of the contribution would be the difference between what the Committee is normally charged and the amount it paid, if anything, for the link. Additionally, if the owner of the web site is a corporation, then the contribution would be prohibited by section 441b.

You have identified various web sites established by individuals who may or may not be volunteers to the campaign that have established links to the campaign without the Committee’s prior consent. You also state that it is impossible for the Committee to “police the Internet.” In these circumstances, as previously noted, where there is no coordination (and something of value is not being given to the Committee), the Commission concludes that the links provided from individuals’ web sites to the Campaign’s web site would not be reportable in-kind contributions to the Committee.

You have indicated that the various corporate entities which established links to the Bush campaign, which you were aware of, have removed these links at your request. If the links are not established or maintained at the request or suggestion of, or in cooperation, consultation or concert with the Bush campaign, then the Bush campaign has no obligation to request removal of the links and no reporting obligations in regard to them. You provide several examples of various corporate entities that still maintain links to the Bush campaign. However, as you do not suggest that these links are maintained at the request or suggestion of, or in cooperation, consultation or concert with the Bush campaign, they do not appear to constitute activity by the campaign. Therefore, any comment on the status or consequences of such links for entities other than the Bush campaign is beyond the scope of this advisory opinion.

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<sup>7</sup> The Commission notes that there is an exception to following standard business practice. The Commission has determined that services offered free of charge by corporations in the ordinary course of business for promotional or good will purposes (if these services might otherwise have required consideration) are prohibited by 2 U.S.C. §441b. See Advisory Opinions 1996-2, 1988-25, 1988-12. With regard to Internet activity, in Advisory Opinion 1996-2 the Commission determined that CompuServe’s proposal to extend to Federal candidates its program of promotional free Internet accounts would result in a prohibited corporate contribution under section 441b.

*Committee and vendor Internet activity*

The discussion above applies to your questions regarding the Committee's obligations where a vendor that sells campaign materials provides a link to the Committee's web site. Providing the link is permissible. However, if it would be normal industry practice to charge for the link, then the Committee would have to pay the usual and normal charge to avoid the making of a contribution by the vendor. The Committee would also be obligated to report the disbursement as an operating expenditure in its report filings. See 2 U.S.C. §434(b)(4) and 11 CFR 104.3(b)(2). If the Committee pays a web site owner for a link to the Committee's web site, this would be considered an operating expenditure.

You describe the situation in which a merchandise vendor, using Mr. Bush's name to sell various goods, wishes to forward to the Committee the names of supporters and also provide a link to the Bush campaign from the vendor's site. The Commission concludes that this would be permissible as long as the campaign paid the usual and normal charge for the list of supporters and for the link (if it would be standard business practice to be charged for the link).<sup>8</sup>

Your request includes an example of one vendor who has no connection to the campaign but who is selling items bearing the name of the candidate (www.bushwear.com). The vendor's site also has no link to the official web site of the Committee. As with the web sites established by individuals with no attachment to the Bush campaign, the Commission notes that the activities of vendors who have no contact with the campaign, and no Internet link to the campaign's web site, are third party activities, and are beyond the scope of this opinion.<sup>9</sup> However, the Commission notes that the activities of this vendor do not produce a reporting obligation for the Committee. See discussion above.

You also ask whether disclaimers must accompany the possible links. However, you give no indication of the content of the text accompanying any specific link. Generally, the Commission has concluded that, unless an exemption or exception applies, disclaimers are required on web sites that expressly advocate the election or defeat of a Federal candidate, as well as on those that solicit contributions. See 2 U.S.C. §441d; 11 CFR 110.11(a)(1). This would apply to any web site that contained any express advocacy similar to that found in Advisory Opinion 1998-22. Again, without additional factual information regarding the link's accompanying text, the Commission can offer no further guidance on this matter.

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<sup>8</sup> The Commission notes that you have not provided facts indicating that the merchandise vendor would also forward any profits from the merchandise sales to the Committee or otherwise use the merchandise to engage in fundraising activity for the Committee. See Advisory Opinions 1989-21, 1990-19, 1992-24, 1995-24 and 1995-46 for guidance on these issues.

<sup>9</sup> The Commission notes that in Advisory Opinion 1994-30, it examined the situation of a vendor with no connection to any candidate or campaign, who proposed to sell candidate-related merchandise.

### *Internet polling*

Your next questions concern the source and transmission of Internet polling information. You ask whether all Internet polls fall under the news media exemption regardless of the source. You also ask whether the dissemination of poll results causes a reportable event under the Act. The Commission generally notes that only the web sites operated by entities whose activities fulfill the requirements of the “press exemption” could receive the benefit of 2 U.S.C. §431(9)(B)(i). Because the Bush campaign is not eligible for the news media exemption, any observations about the application of that exemption are beyond the scope of this advisory opinion. The Commission further notes that since this opinion is limited to actions taken by the requester and not third parties, it may not determine in this opinion whether the various web sites hosted by other entities would meet the requirements of the news media exemption.

With regard to the Committee’s use of its web site or its e-mail functions to support Mr. Bush via Internet polling, the Commission concludes that the Act and regulations permit such activity. Any costs associated with this activity would be operating expenditures. The related costs for this and any other Internet activity (as discussed above and in Advisory Opinion 1998-22) would include expenses to operate an e-mail account, maintain a web site, purchase hardware, etc. Many of these costs, such as the purchase of computer software and hardware, payment of electric power and overhead costs, the Committee would have been required to report in any event. No additional reporting would be required for each new or other Internet use, unless it entails a separate purchase or fee.

### *E-Mail*

You ask regarding the use of e-mail by volunteer supporters of the campaign to urge support for Mr. Bush’s candidacy. The Committee’s questions regarding the use of e-mail by Committee volunteers are covered in the Commission’s previous discussion regarding the value of a web site. Under section 11 CFR 100.7(b)(4), the use of e-mail by a campaign volunteer using his home equipment would not result in a contribution to the campaign. The ongoing costs for home e-mail activity are likely to be small and in any case would also be covered by section 11 CFR 100.7(b)(4). The contribution limit of the volunteer would not be affected by this activity.

You also pose the question of corporate employees using corporate equipment to perform their volunteer services for Mr. Bush’s campaign, such as preparing and sending e-mail in support of the Bush campaign. Under 11 CFR 114.9(a), stockholders and employees of a corporation may, subject to the rules and practices of the corporation, make occasional, isolated, or incidental use of the facilities of a corporation for individual volunteer activity in connection with a Federal election. Reimbursement of the corporation is only required to the extent that the overhead or operating costs of the

corporation are increased.<sup>10</sup> If the volunteer were to send e-mails on behalf of the Committee or to prepare Internet related material, such as a web site, using corporate owned equipment or facilities and such use went beyond occasional, isolated, or incidental use, the campaign would incur an obligation to reimburse the corporation within a commercially reasonable time for the normal and usual rental charge, as defined in section 100.7(a)(1)(iii). Without such reimbursement, a prohibited corporate contribution would result.<sup>11</sup> The Commission notes that such use could be considered occasional, isolated or incidental use if it meets all the other requirements of 114.9(a). See footnote ten.

### *Solicitation of contributions through Internet*

Your last series of questions relate to Internet fundraising activities. Although your request originally phrased these questions with reference to the Committee's possible application for matching funds, the issues raised are applicable to all fundraising efforts, whether or not the resulting contributions are matched.

You ask whether e-mail communications may be used to fulfill the Committee's "best efforts" obligations, whether or not the original contribution was solicited over the Internet. The Commission notes that a political committee is required to use "best efforts" to obtain, for each contribution aggregating in excess of \$200 per calendar year, any required contribution information which was not provided by the contributor. 11 CFR 104.7(b)(2).<sup>12</sup>

Such follow-up efforts (after the initial solicitation is sent) require either a written request sent to the contributor, or an oral request to the contributor documented in writing. Furthermore, the Explanation and Justification for the Commission's regulations on the matching of credit card contributions noted the special circumstances of contributions raised through the Internet. The Commission, citing Advisory Opinion 1995-9, noted that "in the unique case of a contribution received over the Internet, the [follow-up] request could consist of an electronic message sent to the contributor's e-mail address." See 64 *Fed.Reg.* 32397 (June 17, 1999) and Advisory Opinion 1995-9. It is

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<sup>10</sup> Section 114.9(a) further defines "incidental use" to mean "(a) when used by employees during working hours, an amount of activity during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or (b) when used by stockholders other than employees during the working period, such use does not interfere with the corporation in carrying out its normal activities." The regulation also notes that any such activity which does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours, shall be considered as occasional, isolated, or incidental use of the corporate facilities.

<sup>11</sup> Please take note of the difference between the Act's and the regulation's treatment of volunteers' incidental use of corporate facilities as described here, versus the limitations on corporate communications that endorse candidates. See 2 U.S.C. §441b(b)(2)(A) and 11 CFR 114.3(c)(2) and 114.4(c)(6); see also Advisory Opinion 1997-16.

<sup>12</sup> A political committee is required to use its best efforts to obtain information as to a contributor's full name, mailing address, occupation, and the name of the contributor's employer, where the contributions exceed \$200 in a calendar year. 11 CFR 104.7(b)(1).

logical to assume that a contributor would respond best to the medium which was first used to make the contribution.<sup>13</sup> Therefore, the Commission concludes that the Committee may substitute e-mail communications for written or oral communications as a means of exerting best efforts to obtain missing contributor information where the original contribution was received through the Internet, or where the Committee has otherwise obtained reliable information as to a donor's e-mail address (through, for example, prior up-to-date e-mail communications with the contributor).

*Republication of candidate materials*

You state that a group of individuals was planning use campaign materials advocating Mr. Bush's election in their volunteer Internet fundraising efforts for the Committee. The Commission notes that activities undertaken by volunteers for the Bush campaign would receive the benefit of the volunteer exception at 2 U.S.C. §431(8)(B)(i) and section 100.7(b)(4) of Commission regulations. Therefore, whatever the application of section 100.7(b)(4) with regard to down-loaded Committee materials, the redistribution or other use of downloaded material by volunteers, when using their home computers for e-mail campaign solicitations, or to create pro-Bush web sites, would not be considered a contribution to the Bush campaign. To the extent your request inquires as to the action of other persons who are not volunteers of the Committee, this would concern the activities of third parties and is thus beyond the scope of this opinion.

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,

(signed)

Scott E. Thomas  
Chairman

Enclosures (AOs 1999-25, 1999-22, 1999-7, 1998-22, 1997-16, 1997-7, 1996-2, 1995-46, 1995-24, 1995-9, 1994-30, 1992-24, 1990-19, 1989-21, 1988-25, 1988-12 and 1982-44)

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<sup>13</sup> The Commission notes that while both e-mail and postal addresses are subject to change, e-mail addresses may change with greater rapidity since no change of residence is necessary for an old e-mail address to be rendered inoperative, only a change of job or e-mail provider. Moreover, forwarding service for e-mail is less prevalent than for postal address changes. However, this concern is lessened if the campaign solicited and received the contribution by Internet communication (with an Internet address provided), since that would indicate the existence of a viable e-mail address used for transactions.