



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 9, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-5

The Honorable Paul Findley
United States House of Representatives
Room 2113 Rayburn Building
Washington, D.C. 20515

Dear Mr. Findley:

This refers to your letter dated January 12, 1981, which we received on January 19, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act").

Your letter states your intention to write a letter to selected persons who made contributions to the campaign of your opponent in the 1980 general election. You wish to send these letters "to set the record straight on certain defamatory charges made against me." You further state that the letters will not have any commercial purpose, nor will they solicit "any contribution of any kind." Moreover, you state that the letters will not solicit "the recipient's support or vote in any future election."

You ask for an opinion as to whether the production and mailing of such a letter would be permitted under 2 U.S.C. 438(a)(4). As you know, the cited 438(a)(4) provides that the Commission is required to make reports and statements filed with it available for public inspection and copying. However, any information copied from such reports or statements "may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes...". Commission regulations explaining this provision state in part that information copied or otherwise obtained from any report or statement filed with the Commission, the Clerk of the House, the Secretary of the Senate, or any Secretary of State (or other equivalent state officer), shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose. 11 CFR 104.15(a). Soliciting contributions is defined to include soliciting any type of contribution or donation such as political or charitable contributions. 11 CFR 104.15(b). In addition, the regulations state that information copied or obtained from reports may be used in newspapers, magazines, books or other similar communications "as long

as the principal purpose of such communications is not to communicate any contributor information listed on such reports for the purpose of soliciting contributions or for other commercial purposes." 11 CFR 104.15(c).

Commission advisory opinions pertaining to 438(a)(4) and 11 CFR 104.15 have concluded that the principal, if not sole, purpose of restricting the use of information copied from reports was to protect individual contributors from having their names used for commercial purposes, or from inclusion on contributor lists that are used for commercial purposes. See Advisory Opinions 1980-101, 1980-78, and 1977-66, copies enclosed. Accordingly, the Commission concludes that copying the names and addresses of contributors listed on reports, which were filed under the Act by your opponent's campaign committee, for the purpose described in your request, would not be a prohibited use of contributor information under 2 U.S.C. 438(a)(4) or Commission regulations at 11 CFR 104.15. Of course, any disbursements made for this purpose by your campaign committee would be subject to the reporting requirements of the Act and regulations. 2 U.S.C. 434(b) and 11 CFR 104.3(b).

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 yours,

(signed)

John Warren McGarry
Chairman for the
Federal Election Commission

Enclosures