

# Sale and Use of Campaign Information

Federal Election Commission

Published in September 1992

## Introduction

The Federal Election Commission has written this brochure to help committees and the general public make full use of the information filed under the Federal Election Campaign Act (the Act) and to encourage voluntary compliance with the law. The brochure explains the proper and improper uses of information contained in reports and statements filed under the Act.

## The Restriction

Reports and statements filed by political committees may be inspected and copied by anyone. The names and addresses of individual contributors, however, may not be sold or used for any commercial purpose or to solicit any type of contribution or donation, such as political or charitable contributions. 2 U.S.C. 438(a)(4); 11 CFR 104.15. This restriction applies to Federal reports and statements filed in Washington, as well as in each state. Any person who violates this restriction is subject to the penalties of 2 U.S.C. 437g.

Congress created this restriction to protect the privacy of individual contributors (Advisory Opinions (AOs) 1981-38, 1980-101 and 1980-78).

**Note:** This restriction applies only to the use of individual contributor information, not to the use of names and addresses of political committees. Commercial vendors may compile and sell the names of political committees. AO 1980-101.

## The Exception

The "sale and use" restriction does not, however, apply to the use of individual contributor information in newspapers, magazines, books or similar communications, as long as the principal purpose of the communication is not to solicit contributions or to conduct a commercial activity. 11 CFR 104.15(c).

## Permissible Uses

Applying the "sale and use" rule in a series of advisory opinions, the Commission concluded that the following activities were permissible:

- The use of individual contributor information for "bona fide" academic research projects that do not involve the sale or use of that information for a commercial purpose or for soliciting contributions. AO [1986-25](#).

- A candidate's use of the names and addresses of individual contributors disclosed on the reports of an unauthorized political committee in order to inform the contributors that the candidate did not authorize the committee to solicit them. AO 1984-2.
- A candidate's use of the names and addresses of individual contributors to an opponent's campaign in order to respond to alleged defamatory charges made against the candidate. AO 1981-5.
- The posting of campaign finance reports (including lists of contributors), filed by Federal PACs, on bulletin boards of an incorporated membership organization in order to provide information to members. AO 1988-2
- A business's use of the names and addresses of candidates to solicit them as potential clients. AO 1983-44.
- The use of the names and addresses of candidates, campaign workers, campaign consultants, and others who provide services to political committees in order to solicit newsletter subscriptions or to obtain leads for news articles. AO 1981-38.
- The use of any information (other than information on individual contributors) in a directory of PACs to be sold commercially. AO 1980-101.
- The sale of pages copied from FEC reports as long as the pages do not disclose information on individual contributors. AO 1989-19.
- Candidates' use, in their solicitation materials, of campaign expenditure data reported by other candidates. AO 1980-78.

## **Impermissible Uses**

In other advisory opinions, the Commission determined that the following uses of information were not permissible:

- The use of the names of individual contributors to verify names included on a commercial list. AO 1985-16.
- The use, for solicitation purposes, of a committee's list of individual contributors copied, even with the permission of the committee, from the committee's campaign finance reports. AO 1979-3.

## **Committee's Contributor List**

The sale and use restriction does not prevent a committee from compiling its own list of contributors and distributing it to others. Subject to other applicable requirements of the Act, a committee may donate, sell, rent or trade its contributor list to other committees and organizations. See, for example, AOs 1982-41 and 1981-53.

## **Salting**

A political committee's mail list is one of its most valuable assets. In order to protect this asset, FEC rules provide a method of detecting whether the names and addresses of individual contributors are being used illegally. A political committee may sprinkle throughout or "salt" each report with up to ten fictitious names. 11 CFR 104.3(e).

Salting can be done by taking a portion of the subtotal for unitemized contributions and allocating it, as itemized contributions, among several fictitious contributors. The committee itemizes each fictitious contribution on a Schedule A, providing a real address (such as the address of a committee worker) for each fictitious contributor. The committee must adjust its subtotals for itemized and unitemized contributions accordingly on the Detailed Summary Page. If a solicitation or commercial mailing is sent to one of the fictitious names, the committee will know that someone has illegally used the names of contributors disclosed on its reports. The committee may file a complaint with the FEC.

When a committee uses fictitious names on a report, the list of fictitious contributions should be sent under separate cover directly to the Commission's Reports Analysis Division (not the Secretary of the Senate or the appropriate State filing office) on or before the date the report containing the fictitious names is filed. The fictitious names will be maintained by the Commission and will not become part of the public record.

## **Warning for Treasurers**

Treasurers are responsible for ensuring that the mail lists they lease or purchase have not been derived in violation of the sale and use restriction.

## **Filing a Complaint**

If you believe the sale and use restriction has been violated, you may file a complaint with the FEC. Send the Commission a letter explaining why you (the complainant) believe the law may have been violated. Describe the specific facts, circumstances and names of the individuals or organizations responsible (the respondents). Your complaint should also indicate which allegations are based on personal knowledge and which ones are based on outside sources (for example, newspaper articles). The letter must be signed, sworn to and notarized. Consult the brochure *Filing a Complaint*.