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October 9, 2003

Mary Dove  
Commission Secretary  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20463

Dear Ms. Dove:

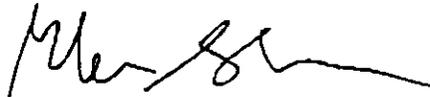
I am writing on behalf of the Campaign Legal Center to provide comments on "Draft B" of Advisory Opinion 2003-24, which, unlike the other draft of this Advisory Opinion, was not circulated via the public e-mail distribution list. We became aware of Draft B only late Wednesday (October 8), after the noon deadline for comments (through consulting the open meeting agenda on the Commission's website). We respectfully request consideration of these comments.

2 U.S.C. § 438(a)(4) prohibits only the sale or use of information copied from reports filed with the FEC "for the purpose of soliciting contributions or for commercial purposes." Draft B, however, extends this prohibition beyond the clear boundaries of the statutory provision, by applying it to communications not determined to involve a solicitation or commercial purpose. The draft compounds this problem by failing to reasonably delineate the boundaries of the extra-statutory prohibition it creates.

In our August 25, 2003 comments on this Advisory Opinion request, we urged the Commission to proceed consistently with its past Advisory Opinions in recognizing the clear boundaries of the statutory prohibition at 2 U.S.C. § 438(a)(4). As the Commission indicated in Advisory Opinion 1995-5, "the Act permits communications to persons whose names were obtained from reports of contributors as long as no solicitation or commercial purpose is involved." Likewise, it noted in Advisory Opinion 1984-2 that 2 U.S.C. § 438(a)(4) "is not intended to foreclose the use of [contribution information taken from disclosure documents filed under the Act] for other, albeit political, purposes."

We urge the Commission to reject Draft B because it contravenes the statute. Instead, the basic framework of the other draft of this Advisory Opinion – acknowledging that “the Act permits communications to persons whose names were obtained from reports of contributors as long as no solicitation or commercial purpose is involved” – should be employed.

Sincerely,



Glen Shor  
FEC Program Director

cc:

The Honorable Ellen Weintraub, Chair, Federal Election Commission  
The Honorable Bradley Smith, Vice-Chair, Federal Election Commission  
The Honorable David Mason, Commissioner, Federal Election Commission  
The Honorable Danny McDonald, Commissioner, Federal Election Commission  
The Honorable Scott Thomas, Commissioner, Federal Election Commission  
The Honorable Michael Toner, Commissioner, Federal Election Commission  
Lawrence H. Norton, Esq., General Counsel, Federal Election Commission