



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2215

Date Filmed 2/2/87 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

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Signed E Kleinfelds.
date 11/25/86

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF TAPE # 2215

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 25, 1986

Margaret E. McCormick, Esquire
815 16th Street, N.W.
Room 804
Washington, D.C. 20006

RE: MUR 2215
Missouri State Labor
Council
Missouri Registered
Voters, Inc.

Dear Ms. McCormick:

Per your telephone request of Eric Kleinfeld of this office, enclosed is a copy of the General Counsel's Report in MUR 2215.

Should you have any further questions, please direct them to Mr. Kleinfeld at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel


BY: Lois G. Lerner
Associate General Counsel

Enclosure



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Margaret E. McCormick, Esquire
815 16th Street, N.W.
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Sincerely,

Charles N. Steele
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 21, 1986

Shannon Daily Cave
204 E. Dunklin
Jefferson City, MO 65102

Re: MUR 2215

Dear Ms. Cave:

The Federal Election Commission has reviewed the allegations of your complaint received August 6, 1986 and determined on November 18, 1986 that on the basis of the information provided in your complaint and information provided by the Respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Lawrence M. Noble
Deputy General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 21, 1986

Margaret E. McCormick, Esquire
815 16th Street, N.W.
Room 804
Washington, D.C. 20006

RE: MUR 2215
Missouri State Labor Council
Missouri Registered Voters, Inc.

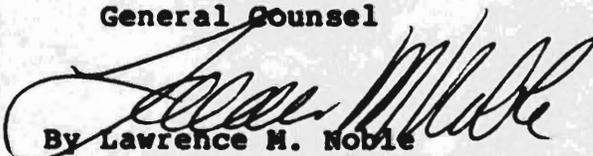
Dear Ms. McCormick:

On August 27, 1986, the Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on November 18, 1986, determined that on the basis of the information in the complaint, and information provided by your clients, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel


By Lawrence M. Noble
Deputy General Counsel

cc: Jerome A. Diekemper, Esquire

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Margaret E. McCormick, Esquire
815 16th Street, N.W.
Room 804
Washington, D.C. 20006

RE: MUR 2215
Missouri State Labor Council
Missouri Registered Voters, Inc.

Dear Ms. McCormick:

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Sincerely,

Charles N. Steele
General Counsel

By Lawrence M. Noble
Deputy General Counsel

cc: Jerome A. Diekenper, Esquire

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Shannon Daily Cave
204 E. Dunklin
Jefferson City, MO 65102

Re: MUR 2215

Dear Ms. Cave:

The Federal Election Commission has reviewed the allegations of your complaint received August 6, 1986 and determined on that on the basis of the information provided in your complaint and information provided by the Respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Lawrence M. Noble
Deputy General Counsel

Enclosure
General Counsel's Report

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2/6/87

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Missouri State Labor Council) MUR 2215
Missouri Registered Voters, Inc.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of November 18, 1986, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2215:

1. Find no reason to believe that the Missouri State Labor Council violated 2 U.S.C. § 441b.
2. Find no reason to believe that Missouri Registered Voters, Inc. violated 2 U.S.C. § 441b.
3. Approve the letters attached to the General Counsel's report dated October 31, 1986.
4. Close the file.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens dissented.

Attest:

11-19-86
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Missouri State Labor) MUR 2215
Council)
Missouri Registered)
Voters, Inc.)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On August 7, 1986, the Office of General Counsel received a signed, sworn and notarized complaint from Shannon Daily Cave, alleging violations of the Federal Election Campaign Act of 1971, as amended, ("Act"), by the Missouri State Labor Council, AFL-CIO ("Labor Council") and Missouri Registered Voters, Inc. ("MRV").

Respondents were notified of the complaint in this matter by letter dated August 27, 1986. On September 3, 1986, counsel for respondents requested an extension of time to respond to the complaint. Counsel requested a second extension of time to respond on September 19, 1986. The Office of General Counsel received a response from the Labor Council and MRV on October 9, 1986.

II. LEGAL ANALYSIS

According to complainant, the Labor Council formed a corporation, MRV, to sell lists of registered voters to candidates endorsed by the labor council. Complainant alleges that respondents spend approximately \$100,000 to \$120,000 per year in compiling lists of registered voters which are in turn sold to various candidates. Complainant argues that any use of these lists is a prohibited contribution by respondents, in violation of 2 U.S.C. § 441b. In the alternative, complainant

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OFFICE OF THE FEDERAL ELECTION COMMISSION

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alleges that respondents are selling their lists for an amount less than the usual or normal charge, and thus making a prohibited contribution to the purchasers. In support of this allegation, complainant states that respondents sell their lists at a price of \$7 per 1000 names, which complainant claims is far below the market rate. Complainant claims that "the evidence thus strongly indicates that the Labor Council and MRV, Inc. are selling the compiled names of voters at below the market rate, thereby violating federal election laws by making indirect contributions to federal campaigns."

Attached to the complaint is a affidavit purportedly supporting complainant's claim that the list price of \$7 per 1000 names is far below the market price and further stating that a fair market price for a voter registration list in Missouri would be approximately \$35 per 1000 names.

In response to the complaint in this matter, respondents indicated that MRV is a not-for-profit corporation established by the Labor Council for the purpose of assembling, owning and marketing a computerized list of registered Missouri voters. Thus, MRV's major asset is a registered voter computer tape containing those names and addresses. However, respondents state that MRV does not and will not sell its computer tape. Instead, the information is sold in a variety of formats such as paper lists, labels, 3x5 cards or computer letters.

Respondents devote a substantial portion of their response to demonstrating that their customers are charged the usual or

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normal charge. MRV asserts that all of its customers are charged standard rates according to its rate sheets.

MRV attached a price list to its response which is apparently a sliding scale based on what is being purchased, i.e., voter lists, labels, etc, and the quantity being purchased. A portion of the price list is reproduced below:

QUANTITY	Price Per Thousand Voters		Price Per Thousand Labels or Cards		
	VOTER LISTS	WALKING LISTS	CHESHIRE LABELS	PEEL OFF LABELS	3"x5" CARDS
Less than 10,000	\$18.35	\$19.29	\$22.20	\$24.95	\$29.95
10,001 - 15,000	16.15	17.40	20.75	22.88	28.62
15,001 - 25,000	14.25	15.82	18.25	21.63	26.12
25,001 - 50,000	10.95	12.95	15.25	18.95	23.19
50,001 - 75,000	9.90	11.15	13.95	17.18	21.93
75,001 - 100,000	7.69	8.68	12.75	16.43	20.56
100,001 - 150,000	6.48	8.07	11.50	14.88	19.37
150,001 - 250,000	5.93	6.81	10.38	13.75	18.25
Over 250,000	5.49	5.49	9.56	13.75	17.43

Respondents also submitted price lists of "two independent companies comparable to MRV that sell voter lists and other products similar to MRV's." Respondents argue that these comparables demonstrate that MRV's prices are in line with the market rate, whereas the figures cited by complainant inaccurately reflect both the prices charged by MRV as well as the market rate itself.

A contribution includes anything of value made for the

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purpose of influencing an election for federal office. 2 U.S.C. § 431(8)(A). The term "anything of value" includes the provision of any goods or services at a charge less than the usual or normal charge. 11 C.F.R. § 100.7(a)(1)(iii)(A). Membership lists are an example of such a good. 11 C.F.R. § 100.7(a)(1)(iii)(A). Thus, the sale of a voter list to a federal candidate could involve the making of a contribution by the seller of the list, if the purchase price is less than the usual or normal charge. Such a contribution, if made by a labor union or corporation to a federal candidate, is prohibited by 2 U.S.C. § 441b.

Respondents' activity in selling voter lists, mailing labels and other products generated from their computerized voter registration lists is permissible under the Act. The sale, in and of itself, is not a contribution, as complainants allege. The issue here is whether respondents sold their product at a charge less than the usual or normal charge, resulting in a prohibited contribution to any federal candidate who may have been the purchaser.^{1/} Complainant answers this in the affirmative, relying upon its allegations that while the lists costs between \$100,000 and \$120,000 to compile, they were being sold for \$7 per thousand, a figure substantially below the \$35 per thousand which complainant claims is the market price.

^{1/} Although complainant does not identify which federal candidates may have purchased respondents' products, this information is not necessary to reach the General Counsel's recommendations.

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The "usual and normal" charge for goods means the price of those goods in the market from which they would have ordinarily been purchased. See 11 C.F.R. § 100.7(a)(1)(iii)(B) and Advisory Opinion 1981-53. As indicated above, respondents do not have a set price for its products of \$7 per 1000 as complainant contends, but rather they use a sliding scale of charges. Respondents submitted data comparing the prices charged by MRV for voter lists and labels with those charged by two other companies. These comparisons appear to reflect that MRV's prices are set at comparable rates:

VOTER LIST

	<u>Ridder/Braden</u>	<u>Below, Tobe & Assoc.</u>	<u>MRV</u>
Less than 10,000	\$13.00 per M	\$25.00 per M (10 M)	\$18.35 per M
10,001-15,000	\$11.00 per M	N.A.	\$16.15 per M
15,001-25,000	\$ 9.00 per M	\$14.75 per M (20 M)	\$14.25 per M
25,001-50,000	\$ 8.00 per M	N.A.	\$10.95 per M
50,001-75,000	\$ 7.00 per M	\$ 8.75 per M (40 M)	\$ 9.90 per M
75,001-100,000	\$ 6.00 per M	N.A.	\$ 7.69 per M
100,001-150,000	\$ 5.00 per M	\$6.50 per M (80 M)	\$ 6.48 per M
150,001-250,000	\$ 4.50 per M	\$4.75 per M (160 M)	\$ 5.93 per M
Over 250,000	\$ 4.00 per M	\$4.25 per M (200 M)	\$ 5.49 per M
		\$4.00 per M (280 M)	

LABELS

	<u>Ridder/Braden</u>	<u>Below, Tobe & Assoc.</u>	<u>MRV</u>
Less than 10,000	\$14.00 per M	\$27.50 (10 M)	\$22.20 per M
10,001-15,001	\$12.00 per M	N.A.	\$20.75 per M
15,001-25,000	\$11.00 per M	\$17.75 (20 M)	\$18.25 per M
25,001-50,000	\$10.00 per M	\$14.50 (40 M)	\$15.25 per M
50,001-75,000	\$ 9.00 per M	N.A.	\$13.95 per M
75,001-100,000	\$ 8.00 per M	\$12.00 (80 M)	\$12.75 per M
100,001-150,000	\$ 7.00 per M	\$10.75 (120 M)	\$11.50 per M
150,001-250,000	\$ 6.00 per M	\$10.00 (160 M)	\$10.38 per M
Over 250,000	\$ 5.00 per M	\$ 9.50 (200 M)	\$ 9.56 per M

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In addition to supplying this data, respondents go on to rebut complainants allegations in detail. First, respondents argue that the total cost of compiling the list of voters is irrelevant to the issue of usual or normal charge. The list of voters is a computerized tape which respondent continually updates. This tape itself is not sold. Instead, respondent is selling use of the tape in the form of various paper products. Thus, the relevant inquiry is the price at which respondent sells its products. It is that figure which, if less than usual or normal, gives rise to a prohibited contribution. Further, the fact that MRV is organized as a non-profit corporation is not, in and of itself, evidence that respondents' prices are too low. Indeed, respondents state that MRV is not intended to lose money, but is instead, intended through the marketing of tapes at fair market rates, to realize income sufficient to continually update the computerized list of voters.

Second, respondents point out that the information contained in the complaint does not accurately support complainant's allegations that respondents are charging below the usual and normal charge. Respondents submitted an affidavit to demonstrate that the \$35 per thousand figure is not helpful for comparison except on orders of mailing labels of less than 25,000. It is anomalous to compare the \$35 figure for mailing labels, as complainant desires, with a \$7 figure for voter lists. These two figures represent amounts charged for different products, i.e., labels v. lists, and different quantities, i.e., 25,000 v.

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100,000 (assuming as respondents point out that the \$7 cited by complainant is actually the \$7.69 of MRV's price list).

Upon examination of respondents' submission, it appears that MRV is not selling voter lists or other goods at prices "far below any reasonable and acceptable market charge." Instead, respondents have submitted a considerable amount of information demonstrating that MRV's voter lists and other products are being sold at prices comparable to those of other companies selling similar goods. Through the presentation of this evidence, respondents have sustained the burden of showing that their charges are the usual and normal charges and that complainant's allegations are groundless.

It appears, then, that respondents charges are within the usual or normal charge for its goods and as such, no prohibited contribution would result from respondents to any federal candidates. Accordingly, the Office of General Counsel recommends that the Commission find no reason to believe that the Labor Council or MRV violated 2 U.S.C. § 441b, and close the file in this matter.

III. RECOMMENDATIONS

The Office of General Counsel recommends that the Commission:

1. Find no reason to believe that the Missouri State Labor Council violated 2 U.S.C. § 441b.
2. Find no reason to believe that Missouri Registered Voters, Inc. violated 2 U.S.C. § 441b.

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3. Approve the attached letters.
4. Close the file.

Charles N. Steele
General Counsel

10/31/86
Date

BY: 
Lawrence M. Noble
Deputy General Counsel

- Attachment
1. Response
 2. Letters

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American Federation of Labor and Congress of Industrial Organizations

CC#1715

Kirkland



515 Sixteenth Street, N.W.
Washington, D.C. 20036
(202) 637-5000

LANE KIRKLAND PRESIDENT

Thomas W. Gleason
Albert Shaneser
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Marvin J. Soeda
John T. Joyce
Larry L. Dugan, Jr.
Gene Upshaw

October 9, 1986

Mr. Charles N. Steele, General Counsel
Federal Election Commission
999 E Street, N. W.
Washington, D. C. 20463

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Re: FEC MUR 2215

Dear Mr. Steele:

This letter constitutes the response of the Missouri State Labor Council, AFL-CIO ("the Labor Council") and MRV, Inc. ("MRV") to the complaint filed with the Commission alleging that the Labor Council and MRV ("respondents") have violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

The gist of that complaint is that respondents are proposing to sell "voter lists" to federal candidates for less than those lists' fair market value and are therefore making in-kind contributions to such candidates in the amount of the difference between the fair market value and the price charged in violation of 2 U.S.C. §441b. Specifically, the complaint alleges that respondents are proposing to sell Missouri voter registration lists for approximately \$7.00 per thousand names, a price which complainant alleges is "far below any reasonable and acceptable market charge". Complaint at 5. The complaint also alleges that respondents are violating the Act "by withholding the voter lists from those candidates who refuse to 'toe the Labor line'". As we show below, the first allegation is without any basis in fact and the second without any basis in law.

ATTACHMENT 1

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L. FACTS

A. The Genesis of MUR 2215

The Missouri State Labor Council regularly communicates with its members regarding political issues and urges all of its members to register and to vote in all elections. In connection with these communications, it is necessary for the Labor Council to know which of its members are registered to vote. In the past, the Labor Council has been required to spend approximately \$100,000.00 to \$120,000.00 every two years to compile a current computerized list of AFL-CIO union members in Missouri who are registered to vote. That figure represents both the cost of acquiring voter registration lists from every county in Missouri and the cost of matching those lists against the Council's membership list and transferring the results of that match onto a computer tape.^{1/}

Aware that other organizations and individuals also needed the registered voter information that the Labor Council had been compiling, the Council, along with others, began investigating alternate methods for compiling, and making use of, a computer tape of Missouri registered voters. This investigation revealed that a complete list of registered voters could be assembled and stored on magnetic computer tape and that the list so stored could be enhanced with additional information, such as birthdates and telephone numbers, derived from public records. Further, it was learned that the information so stored could be accessed on the basis of a number of variables such as sex, age, or address and that it is possible to use the information in producing labels, letters,

^{1/} In Missouri, the cities and urban counties maintain their voter registration lists in computerized form, and the Labor Council has in the past purchased the computer tapes and has converted the tapes, if necessary, to a form compatible with the Labor Council's list of members. However, many of the rural counties maintain their records in card files, or in some other form that makes it necessary for anyone who wishes registered voter information, including the Labor Council, to pay individuals to collect the information by hand. The hand-collected information must then be matched against the Council's membership list and added to the computerized information from the cities and urban areas.

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lists and other marketable printed products. Both the Labor Council's experience and this investigation also revealed that registered voter lists are quickly outdated; such tapes, therefore, have to be updated for every election. (That is why, in the past, the Labor Council had simply thrown out its lists of registered Missouri voters after each election and then paid to compile another such list for the next election.) These findings indicated that a computerized state-wide list of registered voters would be a marketable commodity because use of the information on that tape could be sold to political candidates and groups in the form of printed materials, e.g., paper lists, labels, mailings, etc. The prospect for this approach appeared particularly promising since vendors successfully market such products on a state-wide basis in other states but there appeared to be no vendor with a complete computer list of registered Missouri voters. The benefits to be realized would include paying for the cost of updating the complete list out of the income realized thereby saving the Labor Council money.

After much consideration as to what entity should establish, own and market the computer tape of registered voters, it was decided that a corporation separate from the Labor Council should be established. This decision was based on the Labor Council's officers' determination not to become involved in the day-to-day tasks associated with marketing registered-voter-computer-tape products and the conclusion of legal counsel that establishing a separate entity was a sound means of protecting the Labor Council's exemption from the federal income tax.

B. The Establishment of MRV

MRV, Inc., was therefore established for the purpose of assembling, owning and marketing a computerized list of registered Missouri voters. MRV is a not-for-profit corporation organized pursuant to Chapter 355 of the Missouri Revised Statutes. MRV has no shareholders or members. The Board of Directors of MRV is composed of the individuals serving as president and secretary-treasurer of the Missouri State Labor Council, AFL-CIO, and of the Greater St. Louis, Missouri Labor Council, AFL-CIO. MRV

has not applied, and does not intend to apply, for exemption from state and federal taxes.

The fact that MRV is a non-profit corporation under Missouri law does not mean that the corporation is intended to lose money. To the contrary, the corporation is intended to be self-supporting and through the marketing of its computer tape products at fair market rates to realize income sufficient to perpetually update and improve the corporation's computerized list of registered voters. But because of MRV's non-profit status, none of the income realized by the corporation may inure to the benefit of any officer or director of the corporation.

In order to market the use of its registered voter tape, MRV has entered into contracts with two for-profit corporations: Simmons/Schafer, Inc. ("SSI"), a political consulting firm, and Capital Data Communications, Inc. ("CDC"), a direct mail company.

MRV's agreement with CDC provides that CDC will be the exclusive supplier of all product (e.g., voter lists, labels, laser letters, etc.) sold by MRV and that in return CDC will pay MRV a 20% commission on all MRV customers' purchases and/or orders.

Under its agreement with MRV, SSI is the exclusive marketing agent for goods and services sold by MRV. SSI handles all the day-to-day operations of MRV, subject to MRV's right to approve or disapprove any transaction proposed by SSI for its services. SSI enters into agreements and receives payments on MRV's behalf, and coordinates all aspects of MRV's transactions with customers and suppliers. SSI has been actively promoting MRV and its products by making personal contacts with potential customers and by conducting seminars for potential customers. Persons invited to the seminars have included candidates from both political parties, persons involved in political organizations, members of the press, and others. For its services, SSI is paid one-half of the 20% commission MRV receives from CDC.

C. MRV's Sale Practices

As explained above, MRV's major asset is a registered voter computer tape containing the names and addresses of most but not all of the registered voters in

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Missouri. The tape is enhanced with certain other information such as phone numbers, gender, and age. However, like many companies in the direct mail industry which possess such tapes, MRV has not and will not sell its computer tape.^{2/} Instead, what MRV sells through its exclusive marketing agent, SSI, is use of the information contained on MRV's tape. See Affidavit of Daniel J. McVey at 3. The information is sold in different formats — paper lists (voter lists, check lists, walking lists), labels, 3 x 5 cards, computer letters, etc. (see attached price list) — commonly known in the direct mail industry as "product". All MRV's products are sold with the understanding that the customer may not reproduce or transfer the product or use the product for any purpose other than the purpose specifically approved by MRV. See Affidavit of Cathryn Simmons at 9. What a candidate or organization gets when they buy MRV product is a one-shot use of certain parts of the information on MRV's computer tape.

Thus, for example, a candidate who buys a walking list gets a list of the names and addresses of registered voters sorted by street and odd and even street numbers.^{3/} A walking list is useful for only one purpose: door-to-door canvasses. By the same token, a candidate purchasing 3 x 5 cards or phone lists could not use those products for mailings since the names and addresses on those lists would have to be handcopied onto envelopes. For example, when a candidate buys labels, the labels are affixed to letters which are then mailed; the next time the candidate wishes to do a mailing, he or she has to buy labels again.

^{2/} MRV may lease diskettes or tapes of portions of its list, but only under an agreement which provides that the lessee must have permission from MRV for each use the lessee makes of the tape and that the lessee must pay MRV a set amount for each such use. The list is salted and the lease agreement provides a \$100,000 penalty for unauthorized use of a MRV list by lessee. For example, MRV has leased a portion of its registered computer tape to a political consultant. However, the tape has only been used on behalf of state and local candidates and will not be used on behalf of any federal candidate.

^{3/} Normally such a list does not even contain phone numbers. Even if the walking list contained phone numbers, it would not be useful as a phone list because the format of a phone list is different — a phone list is alphabetical by last name so that callers can conveniently look up missing phone numbers.

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Even if a candidate were to purchase a paper list of all registered votes on MRV's computer tape, that list would have little value and would certainly not constitute the equivalent of MRV's tape. A MRV voter list consists of registered voters, either in alphabetical order or by precinct or ward with the following additional information if requested by the purchaser: address, zip code, precinct, gender, ward, birthdate, and phone number, if listed. There is little utility to such a list in terms of political campaigning. See Affidavit of Cathryn Simmons at 11. The list of 3,000,000 voters would be 120,000 pages long. The list could not be used for mailings unless the letters or cards or envelopes were hand-produced. And the list cannot be used for a walking list because it isn't sorted by street and odd and even street numbers. The list could not, moreover, be used for phone banks, even if it had phone numbers on it, because it isn't sorted by area codes and isn't formatted to leave room for coding responses. In order for a campaign to use a voter list this large for anything useful, the campaign would have to keypunch all of the information into a computer and then program the computer to print out the information on the list in some useful format. In other words, in order to get the equivalent of the MRV computer tape from a paper list, a MRV customer would basically have to create another computer tape from that paper list at his or her considerable expense. Furthermore, in doing so that customer would, of course, breach the condition under which the paper list was purchased from MRV, i.e., that the product not be used for any purpose other than that for which it is purchased and would thereby violate MRV's proprietary rights in the list.

These examples make it plain that the product which MRV sells does not have the same value as the computer tape which MRV owns and from which that product is derived. What MRV's customers are buying in the form of product is use of the MRV computer tape to produce information from that tape in a format adapted to a particular campaign activity, e.g., a walking list, a phone list, labels for mailing or laser letters.

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D. MRV Selling Prices

With one exception, all buyers of MRV's products and services, labor endorsed and non-labor endorsed, have been and will be charged the standard rates set forth in the MRV rate sheet. See Affidavit of Cathryn Simmons at ¶ 7. The only exception to this practice is that MRV has agreed to exchange printed product with several organizations, including a local party committee, and individuals (none of them federal candidates) who performed for MRV the task of manually collecting voter registration information in those areas. The value of the product to be supplied by MRV is in each instance much less the payment to MRV would have been required to make to collect that information.

In a competitive market, it is to be expected that there will be a range of prices being charged at any given time for a particular good or service. It is obviously far beyond respondent's capacity, particularly in the relatively brief time allotted to a respondent to answer an FECA complaint, for respondents to do a complete survey of the prices charges by all of the companies selling voter lists and similar products. But, respondents have secured the price lists of two independent companies comparable to MRV that sell voter lists and other products similar to MRV's.

The first company, Ridder/Braden, markets products for a company called Voter Contact Services which owns computer tapes of registered voters in the the states of Colorado, Utah, and Missouri. The Missouri tape from which Ridder/Braden markets product contains over half of the registered voters in Missouri. Like MRV, Ridder/Braden markets voter lists, labels, 3 x 5 cards, and direct mail services. A current voter file price list for Ridder/Braden is attached hereto. Ridder/Braden has in the past sold its products to a number of federal candidates.

The second company — Below, Tobe & Associates, one of the giants in the political communications/direct mail industry — markets products — voter lists, labels, 3 x 5 cards, direct mail — based on computer tapes of registered voters which Below, Tobe owns or has the right to exploit. For example, Below, Tobe sells products based on a computer tape of registered voters in Iowa.

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A comparison of the MRV prices, Ridder/Braden prices and the Below, Tobe prices per thousand names (per M) for "voter lists" reflects that MRV is selling its voters lists (and other products as well) for the "usual and normal" charge for such lists in the market place.

	<u>Ridder/Braden</u> <u>Voter List</u> (geographic list)	<u>MRV</u> <u>Voter List</u>	<u>Below, Tobe & Assoc.</u> ^{4/} <u>Voter List (check list)</u>
Less than 10,000	\$13.00 per M	\$18.35 per M	\$25.00 per M (10 M)
10,001-15,000	\$11.00 per M	\$16.15 per M	N.A.
15,001-25,000	\$9.00 per M	\$14.25 per M	\$14.75 per M (20 M)
25,001-50,000	\$8.00 per M	\$10.95 per M	N.A.
50,001-75,000	\$7.00 per M	\$9.90 per M	\$8.75 per M (40 M)
75,001-100,000	\$6.00 per M	\$7.69 per M	N.A.
100,001-150,000	\$5.00 per M	\$6.48 per M	\$6.50 per M (80 M)
150,001-250,000	\$4.50 per M	\$5.93 per M	\$4.75 per M (160 M)
Over 250,000	\$4.00 per M	\$5.49 per M	(\$4.25 per M (200 M) (\$4.00 per M (280 M))

Similar comparisons of prices for other types of product, e.g., walk lists, cheshire labels, 3 x 5 cards, reflect that MRV's prices are usually somewhat higher than Ridder/Braden's and somewhat lower than Below, Tobe's. For example, the three companies' charges for cheshire labels compare as follows:

	<u>Ridder/Braden</u>	<u>MRV</u>	<u>Below, Tobe & Assoc.</u>
Less than 10 M	\$14.00 per M	\$22.20 per M	\$27.50 (10 M)
10,001-15,001	\$12.00 per M	\$20.75 per M	N.A.
15,001-25,000	\$11.00 per M	\$18.25 per M	\$17.75 (20 M)
25,001-50,000	\$10.00 per M	\$15.25 per M	\$14.50 (40 M)
50,001-75,000	\$9.00 per M	\$13.95 per M	N.A.
75,001-100,000	\$8.00 per M	\$12.75 per M	\$12.00 (80 M)
100,001-150,000	\$7.00 per M	\$11.50 per M	\$10.75 (120 M)
150,001-250,000	\$6.00 per M	\$10.38 per M	\$10.00 (160 M)
Over 250,000	\$5.00 per M	\$9.56 per M	\$9.50 (200 M)

^{4/} While Ridder/Braden and Below, Tobe call their voter lists "geographic list" and "check list" respectively, the information on those lists is substantially the same as MRV's voter list. Ridder/Braden's voter list contains: name of registered voters, address, precinct, party affiliation, registration date and birthdate. While Ridder/Braden's geographic list does not contain phone numbers, it does contain party affiliation, which information is equally valuable especially in a state like Missouri which does not have party registration. Below, Tobe's "check list" contains the name, address and precinct of registered voters and their voter identification number, but not phone numbers. However, even with phone numbers added to the list (see "phone list" on Below, Tobe price list) the prices charged per thousand are comparable to MRV's.

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These comparisons, as well as a comparison of the other prices shown on the price lists of MRV and these two companies — both of which also market the use of information from the computer tapes of registered voters and one of which also markets a Missouri registration list — demonstrates that MRV's prices for the voter lists and other product fall within the usual range of prices being charged at this time for such goods and services and thus represent the "usual and normal charge", as defined by 11 C.F.R. 100.7(a)(1)(ii)(B), for the goods and services being provided.

II. ARGUMENT

A. MRV's Products Are Sold For The "Usual and Normal" Fair Market Value.

1. The Law

The Commission has long recognized that a labor organization or a corporation which sells goods or services to a candidate at a price that represents the usual and normal market charge for those goods or services does not make a contribution to or expenditure on behalf of the candidate within the meaning of 2 U.S.C. §441b. The Commission's regulations thus permit both unions and corporations to allow candidates to use their facilities to produce campaign materials or to use space or other corporate or union facilities provided that the candidate reimburses the corporation or union for the "normal and usual charge" of the facilities used within a commercially reasonable time. See 11 C.F.R. §114.9. And the Commission has also ruled that a candidate may exchange lists with a corporation so long as the value of the lists exchanged is equal based on the "usual and normal charge" for such lists as determined by industry practice and that such an exchange will not result in an illegal corporate contribution "but rather, a bargained-for exchange of consideration in a commercial transaction". FEC AO 1981-46 CCH Fed. Election Camp. Fin. Guide ¶ 5629.

As the foregoing implies, the Commission has also determined that the sale "of any goods or services ... at a charge which is less than the usual and normal charge for such goods or services" constitutes an in-kind contribution in the amount of the difference between the fair market value of the goods or services provided and the price charged. 11

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C.F.R. §100.7(a)(1)(iii)(A). The term "usual and normal charge" for goods is defined as "the price of those goods in the market from which they ordinarily would have been purchased at the time..." 11 C.F.R. §100.7(a)(1)(iii)(B).

2. MRV's Status

As fully explained in Part I, supra, the Labor Council established MRV, Inc. as a separate corporation in order to market the use of a computerized list of registered Missouri voters and to do so in a manner that is compatible with the sound functioning of the Labor Council. MRV, viewed separately, is a corporation governed by the Act. MRV is also, we freely acknowledge, controlled by the officers of the Missouri State Labor Council, AFL-CIO, and by the officers of the Greater St. Louis Labor Council, AFL-CIO. In that sense, MRV could be treated as a labor organization for purposes of this proceeding. But there is no need to belabor this question of classification.

Under the governing law, it makes no difference whether the goods and services at issue herein are being sold by the Labor Council or by a corporation which the Labor Council established for its convenience. In either case, the basic question presented here is whether the goods and services being marketed by MRV are being sold at a price that represents the "usual and normal" market charge for those goods and services. As we show below, that is the price MRV charges.

3. Complainant Is Wrong In Asserting That MRV Doesn't Charge The "Usual and Normal" Market Rate

The complaint asserts that the Labor Council/MRV "does not sell (or intend to sell) ... voter lists at anything approaching the market rate." Complaint at 4. In support of this contention, complainant cites the \$7.00 per thousand rate described in the St. Louis Business Journal article attached to the complaint as the price of a MRV voter list.

That article does not, in the first place, accurately depict MRV's voter list price. The correct rate, as reflected on the attached MRV price list, is \$7.69 per thousand names not \$7.00 per thousand names. Moreover, since all MRV prices are on a sliding scale, that rate only applies if a customer orders a voter list containing between 75,000 and 100,000

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names. As is apparent from the attached MRV price list, the rate per thousand names is much higher for smaller quantities. For example, on orders of less than 10,000 names, the price per 1,000 names is \$18.35 per thousand names. Finally, and most importantly, the "voter list" that is sold at the rates described above isn't a computer tape, it is a paper list of registered voters.

a. Complainant argues first that because the Labor Council spent from \$100,000.00 to \$120,000.00 every two years (not every year as the complaint states) in compiling its computerized list of registered AFL-CIO members and because a candidate could conceivably buy a MRV "voter list" of all registered voters in Missouri for approximately \$16,500.00 — not \$21,000.00 as complainant contends — (since the MRV price per thousand names drops to \$5.49 for voter lists containing over 250,000 names), respondents must be subsidizing the cost of the voter list that they are or will be selling to candidates and are therefore making a prohibited contribution to any federal candidate to whom such a list is sold.

This argument starts from a false premise and, not surprisingly, reaches an erroneous conclusion. Complainant's premise is that the fair market value of a paper voter list of registered Missouri voters sold by MRV is the same as the fair market value of the computer tape from which that list is derived. But what MRV's customers are buying is use of the information on MRV's computer tape of registered voters in the form of "product" and not the computerized voter list itself. MRV's products, including paper voter lists, are sold subject to the understanding that the product may be used only for a particular agreed-on purpose and that the information will not be transferred to anyone else or reproduced. Thus, buyers of MRV product do not acquire any proprietary interest in the information MRV's computer tape or in the tape itself. Furthermore, as we have demonstrated above, a paper voter list, even if the paper list contained all of the registered voters on MRV's computer tape, would not have the equivalent value of that tape since the paper list could not readily be translated into different formats, e.g., labels, phone cards, direct mail, without first being converted to a computer tape.

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Accordingly, the fair market value of a paper voter list or any other product sold by MRV cannot, as complainant argues, be derived from the Labor Council's cost of producing its list of registered AFL-CIO members or from the MRV's cost of producing its computer tape of registered Missouri voters but rather can only be ascertained from the "usual and normal charge" in the market for the goods and services which MRV sells.

That charge is most accurately ascertained by reference to the prices charged by independent companies similar to MRV — such as Ridder/Braden and Below, Tobe — which own or have the use of computerized registered voter tapes in various states and which, like MRV, sell goods and services (product) based on those tapes. As demonstrated in Section I, supra, a comparison of MRV with Ridder/Braden and Below, Tobe — makes it plain that MRV's prices for voter lists and for the other goods and services that MRV markets are in line with the prices being charged by other companies marketing like goods and services and thus represent the "usual and normal charge" for those goods and services as defined by 11 C.F.R. §100.7(a)(1)(iii)(B).

b. The complainant suggests that the "usual and normal charge" for a "voter list" of Missouri registered voters is approximately \$35.00 per thousand names. In support of this suggestion, complainant offers the affidavit of an employee of a Washington, D.C. law firm who states that he surveyed "individuals who are active in the direct-mail industry nationally" in five states and that all of them said that the fair market price for a voter registration list in Missouri would be approximately \$35.00 per thousand names. See Affidavit of Christopher Yukins at ¶6. The affiant also refers to a catalog, Direct Mail, Rates and Data, as the standard rate book for direct mail lists. And, finally, Mr. Yukins says that he spoke to a sales representative of Lead Marketing International, a company that sells voter registration lists covering approximately twenty states, and that the sales representative told him that Lead Marketing's uniform price was \$35.00 per thousand names. Each of these supports for complainant's position is made of sand.

Information supplied in the form of opinions of unnamed individuals is not entitled to any substantial weight. The publication Direct Mail List, Rates and Data, (Direct Mail

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List"), is a 1,700 page catalog of direct mail lists being sold by various companies. The lists offered for sale range from lists of rifle club members, to lists of health care consumers and to mail order purchasers. Some of the lists offered in the catalog are candidate contributor lists. Only one company is listed in the catalog as selling voter registration lists and that is Lead Marketing International (see below). None of the political direct mail vendors with which respondents are familiar, including the companies whose prices lists are attached hereto are listed in the Direct Mail List. While the Direct Mail List may provide useful information for determining the market value of other types of lists, that publication is not authoritative with regard to the fair market value of voter registration lists.

The only specific "voter list" price quoted in Mr. Yukin's affidavit is the Lead Marketing International price. As the attached affidavit of Mary Pat McInnis states, the \$35.00 per thousand price quoted in Mr. Yukin's affidavit, and in the complaint, as Lead Marketing's price for "voter lists" is, in reality, Lead Marketing's price for cheshire labels, not voter registration lists. Lead Marketing's price for cheshire labels is somewhat higher than the price charged by MRV and by the other two companies whose prices are quoted herein; all that shows is that Lead Marketing's price is at the high end of the scale. As noted above, the political direct mail market is a competitive market and there is bound to be some variation in the prices charged by companies in that market.

c. To support the allegation that MRV is not selling its voter lists for the "usual and normal" market price, the complainant also cites to FEC Advisory Opinion 1981-53 in which, as the complaint describes, a "Congressional candidate's committee sold a list of 80,000 names for \$4,000.00, a "usual and normal charge" (according to the committee) for that type of list. Complaint at 5. A close reading of the advisory opinion in question reveals that the good sold was not a paper list but computer tapes of the candidate's mailing list, derived from lists of registered voters. The fair market value of computer tapes, as we have explained above, is more than the value of paper lists. Furthermore, in the advisory opinion the candidate was selling not just the use of information on his tapes

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but the tapes themselves. Accordingly, the buyer acquired ownership of the tapes, not just information from the tapes. Finally, it was the candidate committee not the Commission which represented that the price for which the tapes were sold was the fair market value of the tapes.

In sum, MRV is not, as complainant argues, selling voter lists or any other goods and services at rates "far below any reasonable and acceptable market charge". Instead, as demonstrated above, MRV's voter lists and other products are sold at prices that are comparable with the prices of other companies selling similar goods in the market at the time and that are, therefore, the "usual and normal charge" for the goods.

B. The Act Does Not Require Corporations or Labor Organizations To Sell To All Candidates

The complaint alleges that respondents have also violated the Act by "withholding the vote lists from those candidates who refuse to 'toe the Labor line'." As the Commission is fully aware, there is no requirement in the Act that a corporation or a labor union sell goods or services to any candidate who requests to buy such goods or services. Furthermore, it is common, in fact standard, in the direct mail industry as with political consultants, for vendors to sell only to candidates and organizations of a certain political party or political persuasion.

III. Conclusion

For the reasons outlined above, respondents respectfully request that the Commission take no further action in this matter and that the Commission close the file.

Respectfully submitted,

Jerry Diekemper

Jerry Diekemper
Counsel for respondents

Margaret E. McCormick

Margaret E. McCormick
Counsel for respondents

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SLIDING SCALE PRICE LIST AS OF 12/30/85

(Prices include carrier and/or 5-digit presorting)

LASER PRODUCTS	Min.	10M	20M	40M	80M	120M	160M	200M	280M*
7x10 letter pkg (1)	\$2,500	\$270	\$241	\$207	\$164	\$148	\$143	\$140	\$137
8x11 letter pkg (2)	2,500	266	235	201	158	142	137	134	131
2-sht/pg 1 prnizd	2,750	300	285	222	210	187	179	174	169
2-sht/pg 1&3 prnizd	3,000	326	312	291	286	279	270	264	256
3x8 reply/prtd ltr/BRE	3,000	338	294	271	220	205	192	187	180
7x14 letter pkg (3)	2,500	325	275	225	197	177	170	166	163
Same but perfed	2,500	324	272	221	192	172	165	161	158
8x14 letter pkg (3)	2,500	323	272	222	191	172	165	161	158
Same but perfed	2,500	322	269	218	186	166	159	155	152
5x8 2/2 self mailer (4)	2,250	235	213	157	123	114	111	109	105
Same but laser 2 sides	2,250	260	248	201	156	143	139	137	135
8x11 2/2 self mailer (5)	2,500	298	269	220	190	180	177	175	174
Same but laser 2 sides	2,500	325	303	269	240	235	231	228	225
Mailogram pkg (6)	2,500	275	225	178	136	121	115	112	105
Long version	2,500	289	239	201	158	142	137	134	131
Long, trim & nest	2,500	292	242	205	162	146	139	136	133

UPCHARGES AND OPTIONAL SERVICES

2nd color envelope prtg	\$75 + \$3/M
Colored stock - std quality	\$350 + \$12/M (subject to availability)
Colored stock - hi quality	Must be individually quoted
Rush turnaround	150% for each late procedure
Low density mailing list	\$40 + \$2.65/M
Bag tags	\$60 flat
3x5 phone cards	\$50 + \$11.10/M HH

SLIDING SCALE PRICE LIST AS OF 12/30/85

(Prices include carrier and/or 5-digit presorting)

IMPACT PRODUCTS	Min.	10M	20M	40M	80M	120M	160M	200M	280M*
7x10 letter pkg (1)	\$2,250	\$225	\$210	\$165	\$135	\$125	\$121	\$119	\$115
2-sht/pg 1 prnlsd	2,500	275	260	215	175	158	154	152	148
2-sht/pg 1&4 prnlsd	2,500	275	270	255	224	209	203	199	192
8x11 letter pkg (2)	2,250	240	223	168	137	127	123	121	117
2-sht/pg 1 prnlsd	2,500	290	273	218	177	160	156	154	150
2-sht/pg 1&4 prnlsd	2,750	290	275	259	230	215	209	205	198
3x8 reply/prtd ltr/BRE	2,750	290	278	238	195	183	174	171	166
7x14 letter pkg (3)	2,500	296	240	200	163	152	146	143	138
Same but perfed	2,500	295	237	196	159	146	141	138	133
5x8 2/2 self mailer (4)	2,250	229	164	123	95	89	86	85	83
8x11 2/2 self mailer (5)	2,250	235	210	155	137	132	129	128	126
White gram pkg (6)	2,250	216	173	141	109	98	94	91	87
Long version	2,250	229	190	161	127	117	112	109	105
Long, trim & nest	2,250	225	200	166	133	122	118	115	111
Canary gram pkg (6)	2,250	218	175	146	114	103	99	96	92
Long version	2,250	225	190	167	133	123	118	115	111
Long, trim & nest	2,250	225	200	176	139	128	124	121	117
Mailogram pkg (6)	2,500	259	197	145	111	100	96	93	89
Long version	2,500	265	225	165	130	119	114	111	107
Long, trim & nest	2,500	265	232	170	135	124	120	117	112
Walk list (7)	300	29.25	16.00	11.25	8.00	6.75	6.25	5.75	4.50
2nd/add'l copy	75	6.50	6.25	6.00	5.75	5.00	4.50	4.00	3.75
Phone list (8)	300	28.25	14.75	10.25	7.00	5.75	5.50	5.00	4.75
2nd/add'l copy	75	6.50	6.25	6.00	5.75	5.00	4.50	4.00	4.00
Check list/galley (9)	300	25.00	14.75	8.75	6.50	5.50	4.75	4.25	4.00
2nd/add'l copy	75	6.25	6.00	5.50	5.00	4.75	4.00	3.75	3.25
5-up cheshire lbls (10)	275	27.50	17.50	14.25	11.75	10.50	9.75	9.25	8.50
2nd/add'l copy	75	6.25	4.75	4.00	3.50	3.25	3.25	3.25	3.00
4-up cheshire lbls (10)	275	27.50	17.75	14.50	12.00	10.75	10.00	9.50	9.25
2nd/add'l copy	75	6.25	5.25	4.75	4.00	3.75	3.75	3.75	3.50
3-up polling lbls (11)	350	31.75	23.50	20.50	18.00	16.75	15.75	15.00	14.00
5-up peel-off lbls (10)	300	29.75	19.75	16.50	14.00	12.75	12.00	11.50	10.75
2nd/add'l copy	75	8.75	7.75	7.25	7.00	6.25	6.25	6.00	6.00
4-up peel-off lbls (10)	300	30.75	21.00	17.75	15.25	14.00	13.25	12.75	12.50
2nd/add'l copy	75	10.00	9.00	8.50	8.25	7.50	7.50	7.25	7.25

PRICE LIST FOR FILE WORK AS OF 12/30/85

Description	Item(s) Counted	Qty.	Qty.	Qty.
		<= 50M	<= 250M	> 250M
Matching	Voters Both files	\$450 flat	\$550 flat	\$2.20/M
Converting	Voter	\$350 flat	\$425 flat	\$1.95/M
Sort and/or sort & apply ID numbers	Voter or HH Voter	\$125 flat	\$125 flat	\$20 + \$.46/M
Update a file	Voter	\$225 flat	\$275 flat	\$160 + \$.46/M
Machine encode	Voter	\$875 flat	\$950 flat	\$725 + \$.91/M
Ethnic encode	HH	\$500 flat	\$550 flat	\$125 + \$1.70/M
Carryover codes from previous file	Voter	\$500 flat	\$550 flat	\$125 + \$1.70/M
Cross reference count sheet (voter or HH)	Voter	\$175 flat	\$175 flat	\$60 + \$.46/M
Download file to micro	Record	Same costs as for 5-up peel-off labels		
Receive, edit & sort data over modem	Record	\$7/M	\$7/M	\$7/M
Pull a sub-set from a larger file	Voter or HH	\$60+\$.51/M	\$60+\$.51/M	\$60 + \$.51/M
Understand & program for new file (1st two hours free)	N/A	-----\$65/hour-----		
Random sample 1/4 10M	Voter	\$350 flat	\$325 flat	\$265 + \$.34/M
Multiple samples done at the same time	2-5	\$290 each	\$240 each	\$220 + \$.28/M
	6-9	\$250 each	\$215 each	\$190 + \$.24/M
	10 +	\$220 each	\$215 each	\$170 + \$.20/M
Move tracking routine	Voter	\$125 flat	\$135 flat	\$20 + \$0.46/M
Gender identification	Voter	\$125 flat	\$135 flat	\$20 + \$0.46/M
Census match/overlay (plus acquisition cost of census files)	HH	\$550 flat	\$250+\$10/M	\$10/M

FOOTNOTES FOR IMPACT AND LASER PRODUCTS

- (1) Letter package consists of one color printing on one side of a 24¢ #7-3/4 white window envelope, 24¢ or 60¢ book white letterhead printed two colors, full text computer letter with as many variations as desired, and all folding, stuffing and mailing services. Extra costs are (as applicable): sales tax, metering, stamping, postage, typesetting, keypunching, special delivery, freight, rush services and low density carrier-routing or sort costs.
- (2) Same as (1), except that components are for a #10 envelope package. For the 3x8 reply package, the reply card is printed two-color on one side on card stock, the 2-color printed letter is 8-1/2 x 11, printed two-color on 20¢ bond or 50¢ or 60¢ book stock. The ARE is a 49 printed one-color, one-side.
- (3) Same as (1) except that this letter package can either have a 7 x 3-1/2 tear-off (perforated) coupon or the coupon is trimmed to stand separately in the envelope (slightly more expensive). Three color letterhead and coupon printing is included.
- (4) Printed two-colors, two-sides on postcard stock. Includes unlimited text variations, postal sorting and mailhouse.
- (5) Same as (4), but includes either folding or the upcharge for an over-size piece.
- (6) All gram packages include the inserting of polling places into the text of the gram. Regular gram is 5-1/2 x 7, long gram is 5-1/2 x 11. The long gram version may also be trimmed and nested in the envelope. Printing for the gram is one-color. Extra charges include the costs for data entry, editing, proofing and acquiring polling places, and all extra charges as stated in (1). Mailgrams include a specially fitted and printed envelope.
- (7) Standard sort sequence is address within street within precinct. Standard format is printed on 14-7/8 x 11" easy-to-read green-bar stock with even addresses on the left side and odd numbers on the right. Sales tax may be added to additional copies.
- (8) There is no standard sequence for phone lists consequently a sort charge is required in all cases. Sales tax may be added to additional copies.
- (9) Standard sort sequence is alphabetically by last name within precinct. Sales tax may be added to additional copies.
- (10) Includes full carrier routing. Bag tags are optional and cost more. Sorting to any sequence other than postal sequence requires a sort charge. Sales tax may be added to additional copies.
- (11) These labels come 3-up on a page, 4-1/2" wide with the polling place on the left and includes an extra line for client coding. Additional charges include the acquisition, entering and proofing of polling places. Sales tax may be added to additional copies.

Below, Tobe & Associates

Robert Blaemire

Bill - here is our return
plus list. These would
apply to Iowa files or
others we have to use.

Bob

8
7
0
4
0
6
3
4
2
9
8

(213) 645-5870 Los Angeles, CA

(703) 533-8510 Falls Church, VA

(M)

RIDDER/BRADEN

Union Station, Suite 210, 17th & Wynkoop, Denver, CO 80202 (303) 893-2001

VOTER FILE PRICE LIST

LISTS Per 1,000 Voters

<u>Quantity</u>	<u>Geo List</u>	<u>Walking List</u>
Less than 10,000	13.00	15.00
10,001- 15,000	11.00	13.00
15,001- 25,000	9.00	11.00
25,001- 50,000	8.00	10.00
50,001- 75,000	7.00	10.00
75,001- 100,000	6.00	9.00
100,001- 150,000	5.00	8.00
150,001- 250,000	4.50	7.00
Over 250,000	4.00	6.00

LABELS/CARDS Per 1,000 Households

<u>Quantity</u>	<u>Cheshire Labels</u>	<u>Gunned Labels</u>	<u>3X5 Cards</u>
Less than 10,000	14.00	18.00	30.00
10,001- 15,000	12.00	17.00	28.00
15,001- 25,000	11.00	16.00	27.00
25,001- 50,000	10.00	15.00	26.00
50,001- 75,000	9.00	14.00	26.00
75,001- 100,000	8.00	13.00	26.00
100,001- 150,000	7.00	12.00	26.00
150,001- 250,000	6.00	12.00	26.00
Over 250,000	5.00	12.00	26.00

Minimum order: \$80.00

Handling charge: 5% on all standard products shipped U.S.
Air Mail

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SELECTIONS AND OPTIONS

- No charge:** Party Affiliation
Zip Sort on Cheshire Labels
Codes on Voter List
Householding Labels
- \$2.00/1000** Age
Alpha within jurisdiction
Date of registration
Gender
Zip sort on gummed labels
Only with phones
Codes on 3X5 cards
- \$4.00/1000** Ethnic
Size of building
Purity of party
Multiple/single voter household
Past voting history
Voter flags
- \$5.00/1000** Telephone numbers
Carrier route sort
- \$1.00/1000** Added 5th line on label: Carrier route
sort
- \$6.00/1000** Select by zip code

Precinct selections: charge for multiple individual precincts selected. Must be submitted in numerical order.

Under 30: \$1.00 each
Over 30: \$25.00 + \$.20 each

Double and triple spaced lists:

Double spaced:	\$1.00	Double spaced walking:	\$2.00
Triple spaced:	\$2.00	Triple spaced walking:	\$3.00

Extra copies:

Cheshire labels	\$4.00	Voter lists	\$2.00
Gummed labels	\$12.00	Walking lists	\$4.00
3X5 cards	\$26.00		

Polling place labels:

Same price as labels. Name, address and polling place: double label cost.

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Assign Affidavit numbers and save tape:

\$150.00 plus \$.25/1000 voters

RANDOM SAMPLES: Based on file passed:

\$1.00/1000 first 500,000*

\$.30/1000 over 500,000*

*plus cost of product

minimum order \$70.00

pure affiliation sample = 25% surcharge

pure sex sample = 25% surcharge

ANALYSIS PRODUCTS

Targeting/Ranking

	<u>1-3</u>	<u>4-6</u>	<u>7-12</u>
Fixed	\$80.00	\$100.00	\$120.00
Per Precinct	.25	.30	.35

Minimum order: \$100.00

Data only -- omit precinct detail: minus 50%

Add cross tabs: plus 50%

Demographic Profiles

	<u>1 pg</u>	<u>2 pg</u>	<u>3 pg</u>	<u>4 pg</u>
Fixed	\$100.00	\$120.00	\$140.00	\$160.00
Per Precinct	.60	.80	1.00	1.20

Summary only: 75% of detail

Minimum order: \$100.00

Comparison Report: 1 pg demographic price

COMPUTER LETTERS

Computer letter costs run \$.06 -.09 per letter for the print tape for an upper and lower case letter depending on volume. The printing itself will cost approximately \$.01 per letter for impact and \$.035 for laser not including stationery.

CODES

Codes on lists for phone bank purposes incur a \$10.00 charge.

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PRICE LIST

QUANTITY	Price Per Thousand Voters		Price Per Thousand Labels or Cards		
	VOTER LISTS	WALKING LISTS	CHESHIRE LABELS	PEEL OFF LABELS	3"x5" CARDS
Less than 10,000	\$18.35	\$19.29	\$22.20	\$24.95	\$29.95
10,001 - 15,000	16.15	17.40	20.75	22.88	28.62
15,001 - 25,000	14.25	15.82	18.25	21.63	26.12
25,001 - 50,000	10.95	12.95	15.25	18.95	23.19
50,001 - 75,000	9.90	11.15	13.95	17.18	21.93
75,001 - 100,000	7.69	8.68	12.75	16.43	20.56
100,001 - 150,000	6.48	8.07	11.50	14.88	19.37
150,001 - 250,000	5.93	6.81	10.38	13.75	18.25
Over 250,000	5.49	5.49	9.56	13.75	17.43

Voter and walking lists are laser printed on 8 1/2" X 11" stock.
All label prices include carrier routing.

\$35.00 processing charge on all orders.

\$50.00 access fee on all orders.

\$150 minimum order on labels

\$250 minimum order on lists

Standard selections available: voters by household, gender, age group,
ward, precinct, and zip code.

Effective April 15, 1986.

PROCESSING AND SPECIAL CHARGES

Ethnic selection from precoded file:	\$7.00/M
Burst (voter and walking lists only)	4.00/M
Additional copies of lists:	4.00/M
Additional copies of Cheshire labels:	3.50/M
Double spaced lists:	1.50/M
Triple spaced lists:	3.00/M
Matching files:	2.00/M records passed (both files)
Reformatting:	2.75/M + any outside costs MINIMUM CHARGE - \$400.00
Encode a file with ethnicity:	2.25/M records in file MINIMUM CHARGE - \$450.00
Subgroup coding:	.75/M records passed MINIMUM CHARGE - \$800.00
Up-date a file:	.45/M records passed MINIMUM CHARGE - \$200.00
Code current: file with codes from previous file:	1.50/M records passed MINIMUM CHARGE - \$450.00
Pull a subset from larger file:	50.00 + .50/M passed
Precinct selection:	20.00 MINIMUM CHARGE
First 25 precincts	1.00 each
Next 25 to 75 precincts	.75 each
Additional precincts	.50 each

Precincts must be submitted in numerical order or above prices will be doubled.

Programming: 70.00/hour

Rush charges: Standard turnaround time for shipping label and list orders is 48 hours after receipt of payment and order. For requested faster processing, the cost of the order will be double the standard charges.

Price estimates for identifying voters who voted in previous elections are available upon request.

IMPORTANT NOTES

\$50.00 access fee on all orders
All prices F.O.B. Palo Alto, CA
Sales tax will be added to all products except labels.

Effective April 15, 1986.

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COMPUTER LETTER PACKAGE

PRODUCT	MINIMUM	10M	25M	50M	75M	100M	150M	175M	225M	275M
		(Price per thousand)								
7" x 10" IBM Laser Letter	2,500	\$217	194	161	142	132	122	117	113	107
8 1/2" X 11" IBM Laser Letter	2,500	\$239	204	161	143	136	124	118	115	109
8 1/2" X 11" Xerox Laser Letter	3,500	\$335	223	180	155	144	136	131	131	128
White Laser Gram	3,000	\$229	167	133	119	108	99	93	91	85
Absentee Ballot Self-mailer	3,500	\$343	233	189	171	159	148	144	142	140

Set up charge on letter, gram and absentee orders: \$190.00

Computer Letter Packages include: 2 color printed stationery, variable laser computer letter, 1 color/1 side white window envelope, bursting, folding, inserting, and mailing service. Prices also include 3 tier sort to carrier route, 5 digit and residual.

Absentee ballot mailer includes: 2 color printed self mailer, xerox laser printing on two sides, folding and mailing services.

Key punching, art work, postage, shipping or delivery to post office are extra.

ENVELOPE PRINTING SURCHARGES

Quantity	2nd color on front	1 color front & back	2 colors front & back	Additional insert
51M - 100M	7.60/M	11.90/M	15.20/M	3.25/M
Over 101M	5.40/M	8.70/M	10.80/M	3.25/M

Use of Metallic ink on either letterhead or envelope - \$4.60/M

CROSS TABULATION REPORT

District size - less than 250,000 voters	\$275.00 flat
250,000 - 400,000 voters	400.00 flat
400,000 - 1,000,000 voters	1,000.00 flat

RANDOM AND CLUSTER SAMPLES

Files under 250,000 records	\$325.00 flat
Files over 250,000 records	\$325.00 plus 30 cents per thousand records over 250,000

\$50 access fee on all orders

Effective April 15, 1986

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AFFIDAVIT OF DANIEL J. McVEY

Daniel J. McVey, being duly sworn on his oath, states as follows:

1. I am the President of the Missouri State Labor Council and the President and a Director of MRV, Inc.

2. In the past, the Labor Council, in order to determine which of its members were registered to vote, has spent between \$100,000.00 and \$120,000.00 every two years in compiling a list of registered voters in the State of Missouri. Those sums were expended to purchase lists of voters in those counties and cities where such lists are maintained in computerized form, to pay for the hand-gathering and keypunching of the voter registration information lists in counties where that information is not computerized, to convert all that information to a form compatible with the Labor Council's computer files, and to match all the information gathered with Labor Council's list of members. The voter registration list was then discarded. This process was repeated every two years.

3. MRV, Inc. was organized to assemble and maintain a complete list of Missouri registered voters. Further, the corporation was formed to market the use of that list and products produced in conjunction with that list and to produce sufficient income to enhance and perpetually update the list of voters.

4. It was and is the intent of the organizers of MRV, Inc. that the corporation generate sufficient income to pay its own costs and to pay for the cost of maintaining and updating the voter registration list of Missouri voters.

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5. The existence of the corporation will enable the Labor Council to purchase only that use of the list which it requires instead of having to pay to assemble the entire list every two years, thereby saving the Labor Council money.

6. MRV was not established to side-step any state or federal laws or regulations. Rather, it was determined to establish a corporation separate from the Labor Council to assemble and own the list to insure that any income produced from the list did not inure to the benefit of the Labor Council, a tax-exempt organization, but instead flowed to a tax-paying corporation. Further, the organizers of the project determined that we wanted as little day-to-day involvement as possible in the operation of assembling the list and marketing the products and services produced in conjunction with the list.

7. MRV has contracted with Simmons/Schafer/Inc. to market the list. The only involvement the officers and directors of MRV have in the day-to-day operation of MRV is that we approve or disapprove each transaction Simmons/Schafer/Inc. proposes. Simmons/Schafer enters into agreements, receives payments on behalf of MRV, and coordinates all aspects of transactions between MRV and its customers and between Capitol Data Communications.

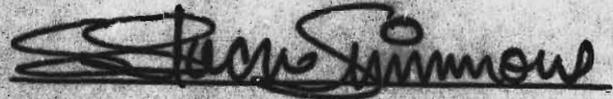
8. While MRV will not sell any product or services to any group or individual who has or does support the right-to-work movement, MRV is not limiting its sales to only those candidates who have been endorsed by organized labor. For example, we have approved the sale of product to a Kansas City group which is campaigning in favor of a library tax proposition. To my

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knowledge, this proposition has not been endorsed by organized labor.


DANIEL J. McVEY

Subscribed and sworn to before me this 3rd day of OCTOBER, 1986.


Notary Public

My Commission Expires:

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AFFIDAVIT OF CATHRYN SIMMONS

Cathryn Simmons, being duly sworn upon her oath, states as follows:

1. I am a principal in the firm of Simmons/Schafer/Inc., (SSI) a political consulting and public relations firm. I have been in the political consulting business for approximately 15 years, and SSI has been in existence since 1980.

2. I was originally retained by the organizers of MRV to help them in investigating the possibility of assembling, enhancing, updating, and marketing a complete list of registered voters in the State of Missouri.

3. I sent requests for proposals to a number of computer, communication, and political consulting firms around the country seeking proposals for the initial assembly of such a list and for the production of print materials using such a list.

4. I received detailed proposals from five vendors. Based on a consideration of the proposals themselves and on the reputations, experience, and capacity of the various vendors who responded to the request, Below, Tobe & Associates, Inc., and Capital Data Communications, Inc., were the final contenders. After further negotiations, CDC was chosen to assemble the list and produce the print materials for sale by MRV. CDC and MRV entered into a contract which sets forth the prices at which MRV will sell the products CDC produces.

5. MRV and SSI have entered into an agreement pursuant to which SSI is MRV's exclusive agent for promoting and marketing

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MRV's products. SSI coordinates and handles all transactions between MRV and its customers and between MRV and CDC. SSI receives payments from MRV's customers and distributes appropriate portions to CDC, MRV, and SSI. For performing these services, SSI earns a 10 percent commission on all sales of MRV's products.

6. SSI is a profit-making enterprise. In order to increase SSI's profits from its relationship with MRV, SSI is actively promoting MRV and its products by making direct contact with potential customers and by conducting seminars for potential customers. SSI is attempting to market MRV's products to a wide variety of candidates and organizations. SSI has not limited its efforts to candidates who have been endorsed by organized labor, but is attempting to market MRV's products to the greatest number of customers possible.

7. SSI sells MRV's products to all customers at the rates set forth in the rate list attached to the contract between CDC and MRV.

8. The only exception to this general rule is that SSI has arranged for MRV to trade small amounts of product to several candidates and organizations in exchange for those local candidates and organizations providing MRV with voter registration information. In each case, the cost to MRV of the product it will provide is much less than MRV would have had to pay to collect the voter registration information itself. MRV has made substantial savings through these exchanges.

9. All sales of MRV's products are made with the

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understanding that the customer may not reproduce or transfer the product or use the product for any purpose other than the purpose specifically approved by MRV. Even when MRV leases a part of its tape to a customer, that lease provides that the customer cannot make any use of that tape without MRV's written permission and must pay MRV a fee for each thousand names on the tape each time the tape is used. Furthermore, the list is "salted" and the lease contains a \$100,000.00 damage clause for any unauthorized use of the list.

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10. As a political consultant, I am generally familiar with the practices and procedures used in political campaigns. A candidate or organization which intends to communicate with voters can have its campaign literature produced and distributed in two ways. The candidate or political organization can pay the costs involved in assembling a list of voters for its own use or can order print materials from a vendor which owns the list. Obviously, the cost to the candidate or organization is greater if it assembles its own list, but the candidate or organization could also make unlimited use of such a list in communicating with voters. MRV, like other firms around the country, sells products produced in conjunction with a list MRV owns. For the fee paid to MRV, the customer gets only the product and gets no proprietary interest or control over the list. Further, the customer cannot make any further use of the list.

11. It would be impractical for a candidate or organization to purchase a paper list of all the registered voters in Missouri. Such paper voter lists are of marginal utility since the information on them would have to be used manually, making them very cumbersome and/or expensive.

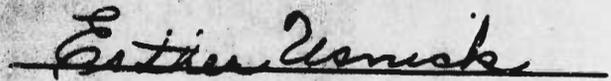
Therefore, a paper list would only be useful to a small campaign such as a state legislative race where it would be possible to hand produce a mailing to voters or hand copy the list onto phone cards. The cost of using a paper list to hand-produce correspondence with a great number of voters, for example in a Congressional District or State-wide race, would be prohibitive. It would be greater than the cost of assembling the list or portion thereof.

12. Further affiant sayeth not.



CATHRYN SIMMONS

Subscribed and sworn to before me this 3rd day of October, 1986.



Notary Public

My Commission Expires: 3/12/90

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AFFIDAVIT OF MARY PAT McINNIS

Mary Pat McInnis, being duly sworn upon her oath, states as follows:

1. I am a law student employed by the law firm of Diekemper, Hammond and Shinnars.

2. At the direction of Janet Young, one of the attorneys in the firm, on either September 16 or 17, 1986, I telephoned Lead Marketing International (LMI) and spoke with Robbi Nichols, a sales representative. I inquired about LMI's prices for voter registration lists. Ms. Nichols told me that LMI's price of \$35.00 per thousand is the price for cheshire labels. She further informed me that the price of such labels decreases as the size of the order increases. According to Ms. Nichols, The prices LMI charges for cheshire labels are as follows:

- Under 25,000 names - \$35.00 per thousand
- 50,000 names - \$32.50 per thousand
- 100,000 names - \$27.50 per thousand
- 250,000 names - \$25.00 per thousand
- 500,000 names - \$22.50 per thousand

For larger orders, Ms. Nichols said the price is negotiable.

3. Ms. Nichols indicated that LMI does not have a list of registered voters in Missouri.

Further affiant sayeth not.

Mary Pat McInnis
MARY PAT McINNIS

Subscribed and sworn to before me this 17th day of October, 1986.

Catherine A. Serati
Notary Public

My Commission Expires:
CATHERINE A. SERATI
NOTARY PUBLIC, STATE OF MISSOURI
MY COMMISSION EXPIRES 1/30/90

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Margaret E. McCormick, Esquire
815 16th Street, N.W.
Room 804
Washington, D.C. 20006

RE: MUR 2215
Missouri State Labor Council
Missouri Registered Voters, Inc.

Dear Ms. McCormick:

On , 1986, the Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1986, determined that on the basis of the information in the complaint, and information provided by your clients, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Lawrence M. Noble
Deputy General Counsel

cc: Jerome A. Diekenper, Esquire

ATTACHMENT 2

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Shannon Daily Cave
204 E. Dunklin
Jefferson City, MO 65102

Re: MUR 2215

Dear Ms. Cave:

The Federal Election Commission has reviewed the allegations of your complaint received August 6, 1986 and determined on that on the basis of the information provided in your complaint and information provided by the Respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Lawrence M. Noble
Deputy General Counsel

Enclosure
General Counsel's Report

87040634314

American Federation of Labor and Congress of Industrial Organizations

CC#1715



815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

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Marvin J. Boede
John T. Joyce
Larry L. Dugan, Jr.
Gene Upshaw

October 9, 1986

Mr. Charles N. Steele, General Counsel
Federal Election Commission
999 E Street, N. W.
Washington, D. C. 20463

36 OCT 9 P 5:38

RECEIVED
GENERAL COUNSEL

Re: FEC MUR 2215

Dear Mr. Steele:

This letter constitutes the response of the Missouri State Labor Council, AFL-CIO ("the Labor Council") and MRV, Inc. ("MRV") to the complaint filed with the Commission alleging that the Labor Council and MRV ("respondents") have violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

The gist of that complaint is that respondents are proposing to sell "voter lists" to federal candidates for less than those lists' fair market value and are therefore making in-kind contributions to such candidates in the amount of the difference between the fair market value and the price charged in violation of 2 U.S.C. §441b. Specifically, the complaint alleges that respondents are proposing to sell Missouri voter registration lists for approximately \$7.00 per thousand names, a price which complainant alleges is "far below any reasonable and acceptable market charge". Complaint at 5. The complaint also alleges that respondents are violating the Act "by withholding the voter lists from those candidates who refuse to 'toe the Labor line'". As we show below, the first allegation is without any basis in fact and the second without any basis in law.

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UNION MADE

UNION MADE
LIBRARY 1477
L. FACTS

A. The Genesis of MUR 2215

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The Missouri State Labor Council regularly communicates with its members regarding political issues and urges all of its members to register and to vote in all elections. In connection with these communications, it is necessary for the Labor Council to know which of its members are registered to vote. In the past, the Labor Council has been required to spend approximately \$100,000.00 to \$120,000.00 every two years to compile a current computerized list of AFL-CIO union members in Missouri who are registered to vote. That figure represents both the cost of acquiring voter registration lists from every county in Missouri and the cost of matching those lists against the Council's membership list and transferring the results of that match onto a computer tape.^{1/}

Aware that other organizations and individuals also needed the registered voter information that the Labor Council had been compiling, the Council, along with others, began investigating alternate methods for compiling, and making use of, a computer tape of Missouri registered voters. This investigation revealed that a complete list of registered voters could be assembled and stored on magnetic computer tape and that the list so stored could be enhanced with additional information, such as birthdates and telephone numbers, derived from public records. Further, it was learned that the information so stored could be accessed on the basis of a number of variables such as sex, age, or address and that it is possible to use the information in producing labels, letters,

^{1/} In Missouri, the cities and urban counties maintain their voter registration lists in computerized form, and the Labor Council has in the past purchased the computer tapes and has converted the tapes, if necessary, to a form compatible with the Labor Council's list of members. However, many of the rural counties maintain their records in card files, or in some other form that makes it necessary for anyone who wishes registered voter information, including the Labor Council, to pay individuals to collect the information by hand. The hand-collected information must then be matched against the Council's membership list and added to the computerized information from the cities and urban areas.

lists and other marketable printed products. Both the Labor Council's experience and this investigation also revealed that registered voter lists are quickly outdated; such tapes, therefore, have to be updated for every election. (That is why, in the past, the Labor Council had simply thrown out its lists of registered Missouri voters after each election and then paid to compile another such list for the next election.) These findings indicated that a computerized state-wide list of registered voters would be a marketable commodity because use of the information on that tape could be sold to political candidates and groups in the form of printed materials, e.g., paper lists, labels, mailings, etc. The prospect for this approach appeared particularly promising since vendors successfully market such products on a state-wide basis in other states but there appeared to be no vendor with a complete computer list of registered Missouri voters. The benefits to be realized would include paying for the cost of updating the complete list out of the income realized thereby saving the Labor Council money.

After much consideration as to what entity should establish, own and market the computer tape of registered voters, it was decided that a corporation separate from the Labor Council should be established. This decision was based on the Labor Council's officers' determination not to become involved in the day-to-day tasks associated with marketing registered-voter-computer-tape products and the conclusion of legal counsel that establishing a separate entity was a sound means of protecting the Labor Council's exemption from the federal income tax.

B. The Establishment of MRV

MRV, Inc., was therefore established for the purpose of assembling, owning and marketing a computerized list of registered Missouri voters. MRV is a not-for-profit corporation organized pursuant to Chapter 355 of the Missouri Revised Statutes. MRV has no shareholders or members. The Board of Directors of MRV is composed of the individuals serving as president and secretary-treasurer of the Missouri State Labor Council, AFL-CIO, and of the Greater St. Louis, Missouri Labor Council, AFL-CIO. MRV

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has not applied, and does not intend to apply, for exemption from state and federal taxes.

The fact that MRV is a non-profit corporation under Missouri law does not mean that the corporation is intended to lose money. To the contrary, the corporation is intended to be self-supporting and through the marketing of its computer tape products at fair market rates to realize income sufficient to perpetually update and improve the corporation's computerized list of registered voters. But because of MRV's non-profit status, none of the income realized by the corporation may inure to the benefit of any officer or director of the corporation.

In order to market the use of its registered voter tape, MRV has entered into contracts with two for-profit corporations: Simmons/Schafer, Inc. ("SSI"), a political consulting firm, and Capital Data Communications, Inc. ("CDC"), a direct mail company.

MRV's agreement with CDC provides that CDC will be the exclusive supplier of all product (e.g., voter lists, labels, laser letters, etc.) sold by MRV and that in return CDC will pay MRV a 20% commission on all MRV customers' purchases and/or orders.

Under its agreement with MRV, SSI is the exclusive marketing agent for goods and services sold by MRV. SSI handles all the day-to-day operations of MRV, subject to MRV's right to approve or disapprove any transaction proposed by SSI for its services. SSI enters into agreements and receives payments on MRV's behalf, and coordinates all aspects of MRV's transactions with customers and suppliers. SSI has been actively promoting MRV and its products by making personal contacts with potential customers and by conducting seminars for potential customers. Persons invited to the seminars have included candidates from both political parties, persons involved in political organizations, members of the press, and others. For its services, SSI is paid one-half of the 20% commission MRV receives from CDC.

C. MRV's Sale Practices

As explained above, MRV's major asset is a registered voter computer tape containing the names and addresses of most but not all of the registered voters in

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Missouri. The tape is enhanced with certain other information such as phone numbers, gender, and age. However, like many companies in the direct mail industry which possess such tapes, MRV has not and will not sell its computer tape.^{2/} Instead, what MRV sells through its exclusive marketing agent, SSI, is use of the information contained on MRV's tape. See Affidavit of Daniel J. McVey at 3. The information is sold in different formats — paper lists (voter lists, check lists, walking lists), labels, 3 x 5 cards, computer letters, etc. (see attached price list) — commonly known in the direct mail industry as "product". All MRV's products are sold with the understanding that the customer may not reproduce or transfer the product or use the product for any purpose other than the purpose specifically approved by MRV. See Affidavit of Cathryn Simmons at 9. What a candidate or organization gets when they buy MRV product is a one-shot use of certain parts of the information on MRV's computer tape.

Thus, for example, a candidate who buys a walking list gets a list of the names and addresses of registered voters sorted by street and odd and even street numbers.^{3/} A walking list is useful for only one purpose: door-to-door canvasses. By the same token, a candidate purchasing 3 x 5 cards or phone lists could not use those products for mailings since the names and addresses on those lists would have to be handcopied onto envelopes. For example, when a candidate buys labels, the labels are affixed to letters which are then mailed; the next time the candidate wishes to do a mailing, he or she has to buy labels again.

^{2/} MRV may lease diskettes or tapes of portions of its list, but only under an agreement which provides that the lessee must have permission from MRV for each use the lessee makes of the tape and that the lessee must pay MRV a set amount for each such use. The list is salted and the lease agreement provides a \$100,000 penalty for unauthorized use of a MRV list by lessee. For example, MRV has leased a portion of its registered computer tape to a political consultant. However, the tape has only been used on behalf of state and local candidates and will not be used on behalf of any federal candidate.

^{3/} Normally such a list does not even contain phone numbers. Even if the walking list contained phone numbers, it would not be useful as a phone list because the format of a phone list is different — a phone list is alphabetical by last name so that callers can conveniently look up missing phone numbers.

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Even if a candidate were to purchase a paper list of all registered votes on MRV's computer tape, that list would have little value and would certainly not constitute the equivalent of MRV's tape. A MRV voter list consists of registered voters, either in alphabetical order or by precinct or ward with the following additional information if requested by the purchaser: address, zip code, precinct, gender, ward, birthdate, and phone number, if listed. There is little utility to such a list in terms of political campaigning. See Affidavit of Cathryn Simmons at 11. The list of 3,000,000 voters would be 120,000 pages long. The list could not be used for mailings unless the letters or cards or envelopes were hand-produced. And the list cannot be used for a walking list because it isn't sorted by street and odd and even street numbers. The list could not, moreover, be used for phone banks, even if it had phone numbers on it, because it isn't sorted by area codes and isn't formatted to leave room for coding responses. In order for a campaign to use a voter list this large for anything useful, the campaign would have to keypunch all of the information into a computer and then program the computer to print out the information on the list in some useful format. In other words, in order to get the equivalent of the MRV computer tape from a paper list, a MRV customer would basically have to create another computer tape from that paper list at his or her considerable expense. Furthermore, in doing so that customer would, of course, breach the condition under which the paper list was purchased from MRV, i.e., that the product not be used for any purpose other than that for which it is purchased and would thereby violate MRV's proprietary rights in the list.

These examples make it plain that the product which MRV sells does not have the same value as the computer tape which MRV owns and from which that product is derived. What MRV's customers are buying in the form of product is use of the MRV computer tape to produce information from that tape in a format adapted to a particular campaign activity, e.g., a walking list, a phone list, labels for mailing or laser letters.

D. MRV Selling Prices

With one exception, all buyers of MRV's products and services, labor endorsed and non-labor endorsed, have been and will be charged the standard rates set forth in the MRV rate sheet. See Affidavit of Cathryn Simmons at ¶7. The only exception to this practice is that MRV has agreed to exchange printed product with several organizations, including a local party committee, and individuals (none of them federal candidates) who performed for MRV the task of manually collecting voter registration information in those areas. The value of the product to be supplied by MRV is in each instance much less the payment to MRV would have been required to make to collect that information.

In a competitive market, it is to be expected that there will be a range of prices being charged at any given time for a particular good or service. It is obviously far beyond respondent's capacity, particularly in the relatively brief time allotted to a respondent to answer an FECA complaint, for respondents to do a complete survey of the prices charges by all of the companies selling voter lists and similar products. But, respondents have secured the price lists of two independent companies comparable to MRV that sell voter lists and other products similar to MRV's.

The first company, Ridder/Braden, markets products for a company called Voter Contact Services which owns computer tapes of registered voters in the the states of Colorado, Utah, and Missouri. The Missouri tape from which Ridder/Braden markets product contains over half of the registered voters in Missouri. Like MRV, Ridder/Braden markets voter lists, labels, 3 x 5 cards, and direct mail services. A current voter file price list for Ridder/Braden is attached hereto. Ridder/Braden has in the past sold its products to a number of federal candidates.

The second company — Below, Tobe & Associates, one of the giants in the political communications/direct mail industry — markets products — voter lists, labels, 3 x 5 cards, direct mail — based on computer tapes of registered voters which Below, Tobe owns or has the right to exploit. For example, Below, Tobe sells products based on a computer tape of registered voters in Iowa.

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A comparison of the MRV prices, Ridder/Braden prices and the Below, Tobe prices per thousand names (per M) for "voter lists" reflects that MRV is selling its voters lists (and other products as well) for the "usual and normal" charge for such lists in the market place.

	<u>Ridder/Braden</u> <u>Voter List</u> (geographic list)	<u>MRV</u> <u>Voter List</u>	<u>Below, Tobe & Assoc.</u> ^{4/} <u>Voter List (check list)</u>
Less than 10,000	\$13.00 per M	\$18.35 per M	\$25.00 per M (10 M)
10,001-15,000	\$11.00 per M	\$16.15 per M	N.A.
15,001-25,000	\$9.00 per M	\$14.25 per M	\$14.75 per M (20 M)
25,001-50,000	\$8.00 per M	\$10.95 per M	N.A.
50,001-75,000	\$7.00 per M	\$9.90 per M	\$8.75 per M (40 M)
75,001-100,000	\$6.00 per M	\$7.69 per M	N.A.
100,001-150,000	\$5.00 per M	\$6.48 per M	\$6.50 per M (80 M)
150,001-250,000	\$4.50 per M	\$5.93 per M	\$4.75 per M (160 M)
Over 250,000	\$4.00 per M	\$5.49 per M	(\$4.25 per M (200 M)) (\$4.00 per M (280 M))

Similar comparisons of prices for other types of product, e.g., walk lists, cheshire labels, 3 x 5 cards, reflect that MRV's prices are usually somewhat higher than Ridder/Braden's and somewhat lower than Below, Tobe's. For example, the three companies' charges for cheshire labels compare as follows:

	<u>Ridder/Braden</u>	<u>MRV</u>	<u>Below, Tobe & Assoc.</u>
Less than 10 M	\$14.00 per M	\$22.20 per M	\$27.50 (10 M)
10,001-15,001	\$12.00 per M	\$20.75 per M	N.A.
15,001-25,000	\$11.00 per M	\$18.25 per M	\$17.75 (20 M)
25,001-50,000	\$10.00 per M	\$15.25 per M	\$14.50 (40 M)
50,001-75,000	\$9.00 per M	\$13.95 per M	N.A.
75,001-100,000	\$8.00 per M	\$12.75 per M	\$12.00 (80 M)
100,001-150,000	\$7.00 per M	\$11.50 per M	\$10.75 (120 M)
150,001-250,000	\$6.00 per M	\$10.38 per M	\$10.00 (160 M)
Over 250,000	\$5.00 per M	\$9.56 per M	\$9.50 (200 M)

^{4/} While Ridder/Braden and Below, Tobe call their voter lists "geographic list" and "check list" respectively, the information on those lists is substantially the same as MRV's voter list. Ridder/Braden's voter list contains: name of registered voters, address, precinct, party affiliation, registration date and birthdate. While Ridder/Braden's geographic list does not contain phone numbers, it does contain party affiliation, which information is equally valuable especially in a state like Missouri which does not have party registration. Below, Tobe's "check list" contains the name, address and precinct of registered voters and their voter identification number, but not phone numbers. However, even with phone numbers added to the list (see "phone list" on Below, Tobe price list) the prices charged per thousand are comparable to MRV's.

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These comparisons, as well as a comparison of the other prices shown on the price lists of MRV and these two companies — both of which also market the use of information from the computer tapes of registered voters and one of which also markets a Missouri registration list — demonstrates that MRV's prices for the voter lists and other product fall within the usual range of prices being charged at this time for such goods and services and thus represent the "usual and normal charge", as defined by 11 C.F.R. 100.7(a)(1)(ii)(B), for the goods and services being provided.

II. ARGUMENT

A. MRV's Products Are Sold For The "Usual and Normal" Fair Market Value.

1. The Law

The Commission has long recognized that a labor organization or a corporation which sells goods or services to a candidate at a price that represents the usual and normal market charge for those goods or services does not make a contribution to or expenditure on behalf of the candidate within the meaning of 2 U.S.C. §441b. The Commission's regulations thus permit both unions and corporations to allow candidates to use their facilities to produce campaign materials or to use space or other corporate or union facilities provided that the candidate reimburses the corporation or union for the "normal and usual charge" of the facilities used within a commercially reasonable time. See 11 C.F.R. §114.9. And the Commission has also ruled that a candidate may exchange lists with a corporation so long as the value of the lists exchanged is equal based on the "usual and normal charge" for such lists as determined by industry practice and that such an exchange will not result in an illegal corporate contribution "but rather, a bargained-for exchange of consideration in a commercial transaction". FEC AO 1981-46 CCH Fed. Election Camp. Fin. Guide ¶ 5629.

As the foregoing implies, the Commission has also determined that the sale "of any goods or services ... at a charge which is less than the usual and normal charge for such goods or services" constitutes an in-kind contribution in the amount of the difference between the fair market value of the goods or services provided and the price charged. 11

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C.F.R. §100.7(a)(1)(iii)(A). The term "usual and normal charge" for goods is defined as "the price of those goods in the market from which they ordinarily would have been purchased at the time..." II C.F.R. §100.7(a)(1)(iii)(B).

2. MRV's Status

As fully explained in Part I, supra, the Labor Council established MRV, Inc. as a separate corporation in order to market the use of a computerized list of registered Missouri voters and to do so in a manner that is compatible with the sound functioning of the Labor Council. MRV, viewed separately, is a corporation governed by the Act. MRV is also, we freely acknowledge, controlled by the officers of the Missouri State Labor Council, AFL-CIO, and by the officers of the Greater St. Louis Labor Council, AFL-CIO. In that sense, MRV could be treated as a labor organization for purposes of this proceeding. But there is no need to belabor this question of classification.

Under the governing law, it makes no difference whether the goods and services at issue herein are being sold by the Labor Council or by a corporation which the Labor Council established for its convenience. In either case, the basic question presented here is whether the goods and services being marketed by MRV are being sold at a price that represents the "usual and normal" market charge for those goods and services. As we show below, that is the price MRV charges.

3. Complainant Is Wrong In Asserting That MRV Doesn't Charge The "Usual and Normal" Market Rate

The complaint asserts that the Labor Council/MRV "does not sell (or intend to sell) ... voter lists at anything approaching the market rate." Complaint at 4. In support of this contention, complainant cites the \$7.00 per thousand rate described in the St. Louis Business Journal article attached to the complaint as the price of a MRV voter list.

That article does not, in the first place, accurately depict MRV's voter list price. The correct rate, as reflected on the attached MRV price list, is \$7.69 per thousand names not \$7.00 per thousand names. Moreover, since all MRV prices are on a sliding scale, that rate only applies if a customer orders a voter list containing between 75,000 and 100,000

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names. As is apparent from the attached MRV price list, the rate per thousand names is much higher for smaller quantities. For example, on orders of less than 10,000 names, the price per 1,000 names is \$18.35 per thousand names. Finally, and most importantly, the "voter list" that is sold at the rates described above isn't a computer tape, it is a paper list of registered voters.

a. Complainant argues first that because the Labor Council spent from \$100,000.00 to \$120,000.00 every two years (not every year as the complaint states) in compiling its computerized list of registered AFL-CIO members and because a candidate could conceivably buy a MRV "voter list" of all registered voters in Missouri for approximately \$16,500.00 — not \$21,000.00 as complainant contends — (since the MRV price per thousand names drops to \$5.49 for voter lists containing over 250,000 names), respondents must be subsidizing the cost of the voter list that they are or will be selling to candidates and are therefore making a prohibited contribution to any federal candidate to whom such a list is sold.

This argument starts from a false premise and, not surprisingly, reaches an erroneous conclusion. Complainant's premise is that the fair market value of a paper voter list of registered Missouri voters sold by MRV is the same as the fair market value of the computer tape from which that list is derived. But what MRV's customers are buying is use of the information on MRV's computer tape of registered voters in the form of "product" and not the computerized voter list itself. MRV's products, including paper voter lists, are sold subject to the understanding that the product may be used only for a particular agreed-on purpose and that the information will not be transferred to anyone else or reproduced. Thus, buyers of MRV product do not acquire any proprietary interest in the information MRV's computer tape or in the tape itself. Furthermore, as we have demonstrated above, a paper voter list, even if the paper list contained all of the registered voters on MRV's computer tape, would not have the equivalent value of that tape since the paper list could not readily be translated into different formats, e.g., labels, phone cards, direct mail, without first being converted to a computer tape.

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Accordingly, the fair market value of a paper voter list or any other product sold by MRV cannot, as complainant argues, be derived from the Labor Council's cost of producing its list of registered AFL-CIO members or from the MRV's cost of producing its computer tape of registered Missouri voters but rather can only be ascertained from the "usual and normal charge" in the market for the goods and services which MRV sells.

That charge is most accurately ascertained by reference to the prices charged by independent companies similar to MRV -- such as Ridder/Braden and Below, Tobe -- which own or have the use of computerized registered voter tapes in various states and which, like MRV, sell goods and services (product) based on those tapes. As demonstrated in Section I, supra, a comparison of MRV with Ridder/Braden and Below, Tobe -- makes it plain that MRV's prices for voter lists and for the other goods and services that MRV markets are in line with the prices being charged by other companies marketing like goods and services and thus represent the "usual and normal charge" for those goods and services as defined by 11 C.F.R. §106.7(a)(1)(iii)(B).

b. The complainant suggests that the "usual and normal charge" for a "voter list" of Missouri registered voters is approximately \$35.00 per thousand names. In support of this suggestion, complainant offers the affidavit of an employee of a Washington, D.C. law firm who states that he surveyed "individuals who are active in the direct-mail industry nationally" in five states and that all of them said that the fair market price for a voter registration list in Missouri would be approximately \$35.00 per thousand names. See Affidavit of Christopher Yukins at ¶6. The affiant also refers to a catalog, Direct Mail, Rates and Data, as the standard rate book for direct mail lists. And, finally, Mr. Yukins says that he spoke to a sales representative of Lead Marketing International, a company that sells voter registration lists covering approximately twenty states, and that the sales representative told him that Lead Marketing's uniform price was \$35.00 per thousand names. Each of these supports for complainant's position is made of sand.

Information supplied in the form of opinions of unnamed individuals is not entitled to any substantial weight. The publication Direct Mail List, Rates and Data, ("Direct Mail

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List"), is a 1,700 page catalog of direct mail lists being sold by various companies. The lists offered for sale range from lists of rifle club members, to lists of health care consumers and to mail order purchasers. Some of the lists offered in the catalog are candidate contributor lists. Only one company is listed in the catalog as selling voter registration lists and that is Lead Marketing International (see below). None of the political direct mail vendors with which respondents are familiar, including the companies whose prices lists are attached hereto are listed in the Direct Mail List. While the Direct Mail List may provide useful information for determining the market value of other types of lists, that publication is not authoritative with regard to the fair market value of voter registration lists.

The only specific "voter list" price quoted in Mr. Yukin's affidavit is the Lead Marketing International price. As the attached affidavit of Mary Pat McInnis states, the \$35.00 per thousand price quoted in Mr. Yukin's affidavit, and in the complaint, as Lead Marketing's price for "voter lists" is, in reality, Lead Marketing's price for cheshire labels, not voter registration lists. Lead Marketing's price for cheshire labels is somewhat higher than the price charged by MRV and by the other two companies whose prices are quoted herein; all that shows is that Lead Marketing's price is at the high end of the scale. As noted above, the political direct mail market is a competitive market and there is bound to be some variation in the prices charged by companies in that market.

c. To support the allegation that MRV is not selling its voter lists for the "usual and normal" market price, the complainant also cites to FEC Advisory Opinion 1981-53 in which, as the complaint describes, a "Congressional candidate's committee sold a list of 80,000 names for \$4,000.00, a "usual and normal charge" (according to the committee) for that type of list. Complaint at 5. A close reading of the advisory opinion in question reveals that the good sold was not a paper list but computer tapes of the candidate's mailing list, derived from lists of registered voters. The fair market value of computer tapes, as we have explained above, is more than the value of paper lists. Furthermore, in the advisory opinion the candidate was selling not just the use of information on his tapes

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but the tapes themselves. Accordingly, the buyer acquired ownership of the tapes, not just information from the tapes. Finally, it was the candidate committee not the Commission which represented that the price for which the tapes were sold was the fair market value of the tapes.

In sum, MRV is not, as complainant argues, selling voter lists or any other goods and services at rates "far below any reasonable and acceptable market charge". Instead, as demonstrated above, MRV's voter lists and other products are sold at prices that are comparable with the prices of other companies selling similar goods in the market at the time and that are, therefore, the "usual and normal charge" for the goods.

B. The Act Does Not Require Corporations or Labor Organizations To Sell To All Candidates

The complaint alleges that respondents have also violated the Act by "withholding the vote lists from those candidates who refuse to 'toe the Labor line'." As the Commission is fully aware, there is no requirement in the Act that a corporation or a labor union sell goods or services to any candidate who requests to buy such goods or services. Furthermore, it is common, in fact standard, in the direct mail industry as with political consultants, for vendors to sell only to candidates and organizations of a certain political party or political persuasion.

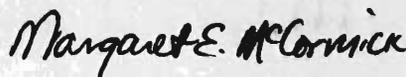
III. Conclusion

For the reasons outlined above, respondents respectfully request that the Commission take no further action in this matter and that the Commission close the file.

Respectfully submitted,



Jerry Diekemper
Counsel for respondents



Margaret E. McCormick
Counsel for respondents

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SLIDING SCALE PRICE LIST AS OF 12/30/85

(Prices include carrier and/or 5-digit presorting)

LASER PRODUCTS	Min.	10M	20M	40M	80M	120M	160M	200M	280M*
7x10 letter pkg (1)	\$2,500	\$270	\$241	\$207	\$164	\$148	\$143	\$140	\$137
8x11 letter pkg (2)	2,500	266	235	201	158	142	137	134	131
2-sht/pg 1 prsnlzd	2,750	300	285	222	210	187	179	174	169
2-sht/pg 1&3 prsnlzd	3,000	326	312	291	286	279	270	264	256
3x8 reply/prtd ltr/BRE	3,000	338	294	271	220	205	192	187	180
7x14 letter pkg (3)	2,500	325	275	225	197	177	170	166	163
Same but perfed	2,500	324	272	221	192	172	165	161	158
8x14 letter pkg (3)	2,500	323	272	222	191	172	165	161	158
Same but perfed	2,500	322	269	218	186	166	159	155	152
5x8 2/2 self mailer (4)	2,250	235	213	157	123	114	111	109	105
Same but laser 2 sides	2,250	260	248	201	156	143	139	137	135
8x11 2/2 self mailer (5)	2,500	298	269	220	190	180	177	175	174
Same but laser 2 sides	2,500	325	303	269	240	235	231	228	225
Mailogram pkg (6)	2,500	275	225	178	136	121	115	112	105
Long version	2,500	289	239	201	158	142	137	134	131
Long, trim & nest	2,500	292	242	205	162	146	139	136	133

UPCHARGES AND OPTIONAL SERVICES

2nd color envelope prtg	\$75 + \$3/M
Colored stock - std quality	\$350 + \$12/M (subject to availability)
Colored stock - hi quality	Must be individually quoted
Rush turnaround	150% for each late procedure
Low density mailing list	\$40 + \$2.65/M
Bag tags	\$60 flat
3x5 phone cards	\$50 + \$11.10/M HH

SLIDING SCALE PRICE LIST AS OF 12/30/85

(Prices include carrier and/or 5-digit presorting)

IMPACT PRODUCTS	Min.	10M	20M	40M	80M	120M	160M	200M	280M*
7x10 letter pkg (1)	\$2,250	\$225	\$210	\$165	\$135	\$125	\$121	\$119	\$115
2-sht/pg 1 presnzd	2,500	275	260	215	175	158	154	152	148
2-sht/pg 1&4 presnzd	2,500	275	270	255	224	209	203	199	192
8x11 letter pkg (2)	2,250	240	223	168	137	127	123	121	117
2-sht/pg 1 presnzd	2,500	290	273	218	177	160	156	154	150
2-sht/pg 1&4 presnzd	2,750	290	275	259	230	215	209	205	198
3x8 reply/prtd ltr/BRE	2,750	290	278	238	195	183	174	171	166
7x14 letter pkg (3)	2,500	296	240	200	163	152	146	143	138
Same but perfed	2,500	295	237	196	159	146	141	138	133
5x8 2/2 self mailer (4)	2,250	229	164	123	95	89	86	85	83
8x11 2/2 self mailer (5)	2,250	235	210	155	137	132	129	128	126
White gram pkg (6)	2,250	216	173	141	109	98	94	91	87
Long version	2,250	225	190	161	127	117	112	109	105
Long, trim & nest	2,250	225	200	166	133	122	118	115	111
Canary gram pkg (6)	2,250	218	175	146	114	103	99	96	92
Long version	2,250	225	190	167	133	123	118	115	111
Long, trim & nest	2,250	225	200	176	139	128	124	121	117
Hallogram pkg (6)	2,500	259	197	145	111	100	96	93	89
Long version	2,500	265	225	165	130	119	114	111	107
Long, trim & nest	2,500	265	232	170	135	124	120	117	112
Walk list (7)	300	29.25	16.00	11.25	8.00	6.75	6.25	5.75	4.50
2nd/add'l copy	75	6.50	6.25	6.00	5.75	5.00	4.50	4.00	3.75
Phone list (8)	300	28.25	14.75	10.25	7.00	5.75	5.50	5.00	4.75
2nd/add'l copy	75	6.50	6.25	6.00	5.75	5.00	4.50	4.00	4.00
Check list/galley (9)	300	25.00	14.75	8.75	6.50	5.50	4.75	4.25	4.00
2nd/add'l copy	75	6.25	6.00	5.50	5.00	4.75	4.00	3.75	3.25
5-up cheshire lbls (10)	275	27.50	17.50	14.25	11.75	10.50	9.75	9.25	8.50
2nd/add'l copy	75	6.25	4.75	4.00	3.50	3.25	3.25	3.25	3.00
4-up cheshire lbls (10)	275	27.50	17.75	14.50	12.00	10.75	10.00	9.50	9.25
2nd/add'l copy	75	6.25	5.25	4.75	4.00	3.75	3.75	3.75	3.50
3-up polling lbls (11)	350	31.75	23.50	20.50	18.00	16.75	15.75	15.00	14.00
5-up peel-off lbls (10)	300	29.75	19.75	16.50	14.00	12.75	12.00	11.50	10.75
2nd/add'l copy	75	8.75	7.75	7.25	7.00	6.25	6.25	6.00	6.00
4-up peel-off lbls (10)	300	30.75	21.00	17.75	15.25	14.00	13.25	12.75	12.50
2nd/add'l copy	75	10.00	9.00	8.50	8.25	7.50	7.50	7.25	7.25

PRICE LIST FOR FILE WORK AS OF 12/30/85

Description	Item(s) Counted	Qty ≤ 50M	Qty ≤ 250M	Qty > 250M
Matching	Voters Both files	\$450 flat	\$550 flat	\$2.20/M
Converting	Voter	\$350 flat	\$425 flat	\$1.95/M
Sort and/or sort & apply ID numbers	Voter or HH Voter	\$125 flat	\$125 flat	\$20 + \$.46/M
Update a file	Voter	\$225 flat	\$275 flat	\$160 + \$.46/M
Machine encode	Voter	\$875 flat	\$950 flat	\$725 + \$.91/M
Ethnic encode	HH	\$500 flat	\$550 flat	\$125 + \$1.70/M
Carryover codes from previous file	Voter	\$500 flat	\$550 flat	\$125 + \$1.70/M
Cross reference count sheet (voter or HH)	Voter	\$175 flat	\$175 flat	\$60 + \$.46/M
Download file to micro	Record	Same costs as for 5-up peel-off labels		
Receive, edit & sort data over modem	Record	\$7/M	\$7/M	\$7/M
Pull a sub-set from a larger file	Voter or HH	\$60+\$.51/M	\$60+\$.51/M	\$60 + \$.51/M
Understand & program for new file (1st two hours free)	N/A	-----\$65/hour-----		
Random sample 1/4 10M	Voter	\$350 flat	\$325 flat	\$265 + \$.34/M
Multiple samples done at the same time	2-5	\$290 each	\$240 each	\$220 + \$.28/M
	6-9	\$250 each	\$215 each	\$190 + \$.24/M
	10 +	\$220 each	\$215 each	\$170 + \$.20/M
Move tracking routine	Voter	\$125 flat	\$135 flat	\$20 + \$0.46/M
Gender identification	Voter	\$125 flat	\$135 flat	\$20 + \$0.46/M
Census match/overlay (plus acquisition cost of census files)	HH	\$550 flat	\$250+\$10/M	\$10/M

FOOTNOTES FOR IMPACT AND LASER PRODUCTS

- (1) Letter package consists of one color printing on one side of a 24¢ #7-3/4 white window envelope, 24¢ or 60¢ book white letterhead printed two colors, full text computer letter with as many variations as desired, and all folding, stuffing and mailing services. Extra costs are (as applicable): sales tax, metering, stamping, postage, type-setting, keypunching, special delivery, freight, rush services and low density carrier-routing or sort costs.
- (2) Same as (1), except that components are for a #10 envelope package. For the 3x8 reply package, the reply card is printed two-color on one side on card stock, the 2-color printed letter is 8-1/2 x 11, printed two-color on 20¢ bond or 50¢ or 60¢ book stock. The ARE is a #9 printed one-color, one-side.
- (3) Same as (1) except that this letter package can either have a 7 x 3-1/2 tear-off (perforated) coupon or the coupon is trimmed to stand separately in the envelope (slightly more expensive). Three color letterhead and coupon printing is included.
- (4) Printed two-colors, two-sides on postcard stock. Includes unlimited text variations, postal sorting and mailhouse.
- (5) Same as (4), but includes either folding or the upcharge for an over-size piece.
- (6) All gram packages include the inserting of polling places into the text of the gram. Regular gram is 5-1/2 x 7, long gram is 5-1/2 x 11. The long gram version may also be trimmed and nested in the envelope. Printing for the gram is one-color. Extra charges include the costs for data entry, editing, proofing and acquiring polling places, and all extra charges as stated in (1). Mailgrams include a specially fitted and printed envelope.
- (7) Standard sort sequence is address within street within precinct. Standard format is printed on 14-7/8 x 11" easy-to-read green-bar stock with even addresses on the left side and odd numbers on the right. Sales tax may be added to additional copies.
- (8) There is no standard sequence for phone lists consequently a sort charge is required in all cases. Sales tax may be added to additional copies.
- (9) Standard sort sequence is alphabetically by last name within precinct. Sales tax may be added to additional copies.
- (10) Includes full carrier routing. Bag tags are optional and cost more. Sorting to any sequence other than postal sequence requires a sort charge. Sales tax may be added to additional copies.
- (11) These labels come 3-up on a page, 4-1/2" wide with the polling place on the left and includes an extra line for client coding. Additional charges include the acquisition, entering and proofing of polling places. Sales tax may be added to additional copies.

REFER TO PRICE LIST FOR OTHER POSSIBLE OPTIONAL COSTS

Bill - here is our retail
price list. These would
apply to Iowa files or
others we have to use.

Bob

87040634333

RIDDER/BRADEN

Union Station, Suite 210, 17th & Wynkoop, Denver, CO 80202 (303) 893-2001

VOTER FILE PRICE LIST

LISTS Per 1,000 Voters

<u>Quantity</u>	<u>Geo List</u>	<u>Walking List</u>
Less than 10,000	13.00	15.00
10,001- 15,000	11.00	13.00
15,001- 25,000	9.00	11.00
25,001- 50,000	8.00	10.00
50,001- 75,000	7.00	10.00
75,001- 100,000	6.00	9.00
100,001- 150,000	5.00	8.00
150,001- 250,000	4.50	7.00
Over 250,000	4.00	6.00

LABELS/CARDS Per 1,000 Households

<u>Quantity</u>	<u>Cheshire Labels</u>	<u>Gummed Labels</u>	<u>3X5 Cards</u>
Less than 10,000	14.00	18.00	30.00
10,001- 15,000	12.00	17.00	28.00
15,001- 25,000	11.00	16.00	27.00
25,001- 50,000	10.00	15.00	26.00
50,001- 75,000	9.00	14.00	26.00
75,001- 100,000	8.00	13.00	26.00
100,001- 150,000	7.00	12.00	26.00
150,001- 250,000	6.00	12.00	26.00
Over 250,000	5.00	12.00	26.00

Minimum order: \$80.00

Handling charge: 5% on all standard products shipped U.S.
Air Mail

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SELECTIONS AND OPTIONS

- No charge:** Party Affiliation
Zip Sort on Cheshire Labels
Codes on Voter List
Householding Labels
- \$2.00/1000** Age
Alpha within jurisdiction
Date of registration
Gender
Zip sort on gummed labels
Only with phones
Codes on 3X5 cards
- \$4.00/1000** Ethnic
Size of building
Purity of party
Multiple/single voter household
Past voting history
Voter flags
- \$5.00/1000** Telephone numbers
Carrier route sort
- \$1.00/1000** Added 5th line on label: Carrier route
sort
- \$6.00/1000** Select by zip code

Precinct selections: charge for multiple individual precincts selected. Must be submitted in numerical order.

Under 30: \$1.00 each
Over 30: \$25.00 + \$.20 each

Double and triple spaced lists:

Double spaced:	\$1.00	Double spaced walking:	\$2.00
Triple spaced:	\$2.00	Triple spaced walking:	\$3.00

Extra copies:

Cheshire labels	\$4.00	Voter lists	\$2.00
Gummed labels	\$12.00	Walking lists	\$4.00
3X5 cards	\$26.00		

Polling place labels:

Same price as labels. Name, address and polling place: double label cost.

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Assign Affidavit numbers and save tape:

\$150.00 plus \$.25/1000 voters

RANDOM SAMPLES: Based on file passed:

\$1.00/1000 first 500,000*

\$.30/1000 over 500,000*

*plus cost of product
minimum order \$70.00

pure affiliation sample = 25% surcharge

pure sex sample = 25% surcharge

ANALYSIS PRODUCTS

Targeting/Ranking

	<u>1-3</u>	<u>4-6</u>	<u>7-12</u>
Fixed	\$80.00	\$100.00	\$120.00
Per Precinct	.25	.30	.35

Minimum order: \$100.00

Data only -- omit precinct detail: minus 50%

Add cross tabs: plus 50%

Demographic Profiles

	<u>1 pg</u>	<u>2 pg</u>	<u>3 pg</u>	<u>4 pg</u>
Fixed	\$100.00	\$120.00	\$140.00	\$160.00
Per Precinct	.60	.80	1.00	1.20

Summary only: 75% of detail

Minimum order: \$100.00

Comparison Report: 1 pg demographic price

COMPUTER LETTERS

Computer letter costs run \$.06 -.09 per letter for the print tape for an upper and lower case letter depending on volume. The printing itself will cost approximately \$.01 per letter for impact and \$.035 for laser not including stationairy.

CODES

Codes on lists for phone bank purposes incur a \$10.00 charge.

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2510 Holmes, Kansas City, Missouri 64108 (816) 221-0111

PRICE LIST

Price Per
Thousand Voters

Price Per
Thousand Labels or Cards

QUANTITY	VOTER LISTS	WALKING LISTS	CHESHIRE LABELS	PEEL OFF LABELS	3"x5" CARDS
Less than 10,000	\$18.35	\$19.29	\$22.20	\$24.95	\$29.95
10,001 - 15,000	16.15	17.40	20.75	22.88	28.62
15,001 - 25,000	14.25	15.82	18.25	21.63	26.12
25,001 - 50,000	10.95	12.95	15.25	18.95	23.19
50,001 - 75,000	9.90	11.15	13.95	17.18	21.93
75,001 - 100,000	7.69	8.68	12.75	16.43	20.56
100,001 - 150,000	6.48	8.07	11.50	14.88	19.37
150,001 - 250,000	5.93	6.81	10.38	13.75	18.25
Over 250,000	5.49	5.49	9.56	13.75	17.43

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Voter and walking lists are laser printed on 8 1/2" X 11" stock.
All label prices include carrier routing.

\$35.00 processing charge on all orders.
\$50.00 access fee on all orders.
\$150 minimum order on labels
\$250 minimum order on lists

Standard selections available: voters by household, gender, age group,
ward, precinct, and zip code.

Effective April 15, 1986.

PROCESSING AND SPECIAL CHARGES

Ethnic selection from precoded file: \$7.00/M

Burst (voter and walking lists only) 4.00/M
 Additional copies of lists: 4.00/M
 Additional copies of Cheshire labels: 3.50/M

Double spaced lists: 1.50/M
 Triple spaced lists: 3.00/M

Matching files: 2.00/M records passed (both files)

Reformatting: 2.75/M + any outside costs
 MINIMUM CHARGE - \$400.00

Encode a file with ethnicity: 2.25/M records in file
 MINIMUM CHARGE - \$450.00

Subgroup coding: .75/M records passed
 MINIMUM CHARGE - \$800.00

Up-date a file: .45/M records passed
 MINIMUM CHARGE - \$200.00

Code current file with codes from previous file: 1.50/M records passed
 MINIMUM CHARGE - \$450.00

Pull a subset from larger file: 50.00 + .50/M passed

Precinct selection: 20.00 MINIMUM CHARGE

First 25 precincts 1.00 each
 Next 25 to 75 precincts .75 each
 Additional precincts .50 each

Precincts must be submitted in numerical order or above prices will be doubled.

Programming: 70.00/hour

Rush charges: Standard turnaround time for shipping label and list orders is 48 hours after receipt of payment and order. For requested faster processing, the cost of the order will be double the standard charges.

Price estimates for identifying voters who voted in previous elections are available upon request.

IMPORTANT NOTES

\$50.00 access fee on all orders
All prices F.O.B. Palo Alto, CA
Sales tax will be added to all products except labels.

Effective April 15, 1986.

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COMPUTER LETTER PACKAGE

<u>PRODUCT</u>	<u>MINIMUM</u>	<u>10M</u>	<u>25M</u>	<u>50M</u>	<u>75M</u>	<u>100M</u>	<u>150M</u>	<u>175M</u>	<u>225M</u>	<u>275M</u>
(Price per thousand)										
7" x 10"										
IBM Laser Letter	2,500	\$217	194	161	142	132	122	117	113	107
8 1/2" X 11"										
IBM Laser Letter	2,500	\$239	204	161	143	136	124	118	115	109
8 1/2" X 11"										
Xerox Laser Letter	3,500	\$335	223	180	155	144	136	131	131	128
White Laser Gram	3,000	\$229	167	133	119	108	99	93	91	85
Absentee Ballot Self-mailer	3,500	\$343	233	189	171	159	148	144	142	140

Set up charge on letter, gram and absentee orders: \$190.00

Computer Letter Packages include: 2 color printed stationery, variable laser computer letter, 1 color/1 side white window envelope, bursting, folding, inserting, and mailing service. Prices also include 3 tier sort to carrier route, 5 digit and residual.

Absentee ballot mailer includes: 2 color printed self mailer, xerox laser printing on two sides, folding and mailing services.

Key punching, art work, postage, shipping or delivery to post office are extra.

ENVELOPE PRINTING SURCHARGES

<u>Quantity</u>	<u>2nd color on front</u>	<u>1 color front & back</u>	<u>2 colors front & back</u>	<u>Additional insert</u>
51M - 100M	7.60/M	11.90/M	15.20/M	3.25/M
Over 101M	5.40/M	8.70/M	10.80/M	3.25/M

Use of Metallic ink on either letterhead or envelope - \$4.60/M

CROSS TABULATION REPORT

District size - less than 250,000 voters	\$275.00 flat
250,000 - 400,000 voters	400.00 flat
400,000 - 1,000,000 voters	1,000.00 flat

RANDOM AND CLUSTER SAMPLES

Files under 250,000 records	\$325.00 flat
Files over 250,000 records	\$325.00 plus 30 cents per thousand records over 250,000

\$50 access fee on all orders

Effective April 15, 1986

8 7 0 4 0 5 3 4 3 3 9

AFFIDAVIT OF DANIEL J. McVEY

Daniel J. McVey, being duly sworn on his oath, states as follows:

1. I am the President of the Missouri State Labor Council and the President and a Director of MRV, Inc.

2. In the past, the Labor Council, in order to determine which of its members were registered to vote, has spent between \$100,000.00 and \$120,000.00 every two years in compiling a list of registered voters in the State of Missouri. Those sums were expended to purchase lists of voters in those counties and cities where such lists are maintained in computerized form, to pay for the hand-gathering and keypunching of the voter registration information lists in counties where that information is not computerized, to convert all that information to a form compatible with the Labor Council's computer files, and to match all the information gathered with Labor Council's list of members. The voter registration list was then discarded. This process was repeated every two years.

3. MRV, Inc. was organized to assemble and maintain a complete list of Missouri registered voters. Further, the corporation was formed to market the use of that list and products produced in conjunction with that list and to produce sufficient income to enhance and perpetually update the list of voters.

4. It was and is the intent of the organizers of MRV, Inc. that the corporation generate sufficient income to pay its own costs and to pay for the cost of maintaining and updating the voter registration list of Missouri voters.

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5. The existence of the corporation will enable the Labor Council to purchase only that use of the list which it requires instead of having to pay to assemble the entire list every two years, thereby saving the Labor Council money.

6. MRV was not established to side-step any state or federal laws or regulations. Rather, it was determined to establish a corporation separate from the Labor Council to assemble and own the list to insure that any income produced from the list did not inure to the benefit of the Labor Council, a tax-exempt organization, but instead flowed to a tax-paying corporation. Further, the organizers of the project determined that we wanted as little day-to-day involvement as possible in the operation of assembling the list and marketing the products and services produced in conjunction with the list.

7. MRV has contracted with Simmons/Schafer/Inc. to market the list. The only involvement the officers and directors of MRV have in the day-to-day operation of MRV is that we approve or disapprove each transaction Simmons/Schafer/Inc. proposes. Simmons/Schafer enters into agreements, receives payments on behalf of MRV, and coordinates all aspects of transactions between MRV and its customers and between Capitol Data Communications.

8. While MRV will not sell any product or services to any group or individual who has or does support the right-to-work movement, MRV is not limiting its sales to only those candidates who have been endorsed by organized labor. For example, we have approved the sale of product to a Kansas City group which is campaigning in favor of a library tax proposition. To my

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knowledge, this proposition has not been endorsed by organized labor.

[Handwritten Signature]
DANIEL J. McVEY

Subscribed and sworn to before me this 3rd day of OCTOBER, 1986.

[Handwritten Signature]
Notary Public

S. SLOANE SIMMONS
Notary Public - State of Missouri
Commissioned in Jackson County
My Commission Expires November 4, 1989



My Commission Expires:

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AFFIDAVIT OF CATHRYN SIMMONS

Cathryn Simmons, being duly sworn upon her oath, states as follows:

1. I am a principal in the firm of Simmons/Schafer/Inc., (SSI) a political consulting and public relations firm. I have been in the political consulting business for approximately 15 years, and SSI has been in existence since 1980.

2. I was originally retained by the organizers of MRV to help them in investigating the possibility of assembling, enhancing, updating, and marketing a complete list of registered voters in the State of Missouri.

3. I sent requests for proposals to a number of computer, communication, and political consulting firms around the country seeking proposals for the initial assembly of such a list and for the production of print materials using such a list.

4. I received detailed proposals from five vendors. Based on a consideration of the proposals themselves and on the reputations, experience, and capacity of the various vendors who responded to the request, Below, Tobe & Associates, Inc., and Capital Data Communications, Inc., were the final contenders. After further negotiations, CDC was chosen to assemble the list and produce the print materials for sale by MRV. CDC and MRV entered into a contract which sets forth the prices at which MRV will sell the products CDC produces.

5. MRV and SSI have entered into an agreement pursuant to which SSI is MRV's exclusive agent for promoting and marketing

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MRV's products. SSI coordinates and handles all transactions between MRV and its customers and between MRV and CDC. SSI receives payments from MRV's customers and distributes appropriate portions to CDC, MRV, and SSI. For performing these services, SSI earns a 10 percent commission on all sales of MRV's products.

6. SSI is a profit-making enterprise. In order to increase SSI's profits from its relationship with MRV, SSI is actively promoting MRV and its products by making direct contact with potential customers and by conducting seminars for potential customers. SSI is attempting to market MRV's products to a wide variety of candidates and organizations. SSI has not limited its efforts to candidates who have been endorsed by organized labor, but is attempting to market MRV's products to the greatest number of customers possible.

7. SSI sells MRV's products to all customers at the rates set forth in the rate list attached to the contract between CDC and MRV.

8. The only exception to this general rule is that SSI has arranged for MRV to trade small amounts of product to several candidates and organizations in exchange for those local candidates and organizations providing MRV with voter registration information. In each case, the cost to MRV of the product it will provide is much less than MRV would have had to pay to collect the voter registration information itself. MRV has made substantial savings through these exchanges.

9. All sales of MRV's products are made with the

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understanding that the customer may not reproduce or transfer the product or use the product for any purpose other than the purpose specifically approved by MRV. Even when MRV leases a part of its tape to a customer, that lease provides that the customer cannot make any use of that tape without MRV's written permission and must pay MRV a fee for each thousand names on the tape each time the tape is used. Furthermore, the list is "salted" and the lease contains a \$100,000.00 damage clause for any unauthorized use of the list.

10. As a political consultant, I am generally familiar with the practices and procedures used in political campaigns. A candidate or organization which intends to communicate with voters can have its campaign literature produced and distributed in two ways. The candidate or political organization can pay the costs involved in assembling a list of voters for its own use or can order print materials from a vendor which owns the list.

Obviously, the cost to the candidate or organization is greater if it assembles its own list, but the candidate or organization could also make unlimited use of such a list in communicating with voters. MRV, like other firms around the country, sells products produced in conjunction with a list MRV owns. For the fee paid to MRV, the customer gets only the product and gets no proprietary interest or control over the list. Further, the customer cannot make any further use of the list.

11. It would be impractical for a candidate or organization to purchase a paper list of all the registered voters in Missouri. Such paper voter lists are of marginal utility since the information on them would have to be used manually, making them very cumbersome and/or expensive.

R 7 0 4 0 3 4 3 4 5

Therefore, a paper list would only be useful to a small campaign such as a state legislative race where it would be possible to hand produce a mailing to voters or hand copy the list onto phone cards. The cost of using a paper list to hand-produce correspondence with a great number of voters, for example in a Congressional District or State-wide race, would be prohibitive. It would be greater than the cost of assembling the list or portion thereof.

12. Further affiant sayeth not.

Cathryn Simmons

CATHRYN SIMMONS

Subscribed and sworn to before me this 3rd day of October, 1986.

Esther Usnick

Notary Public

My Commission Expires: 3/12/90

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AFFIDAVIT OF MARY PAT McINNIS

Mary Pat McInnis, being duly sworn upon her oath, states as follows:

1. I am a law student employed by the law firm of Diekemper, Hammond and Shinnars.

2. At the direction of Janet Young, one of the attorneys in the firm, on either September 16 or 17, 1986, I telephoned Lead Marketing International (LMI) and spoke with Robbi Nichols, a sales representative. I inquired about LMI's prices for voter registration lists. Ms. Nichols told me that LMI's price of \$35.00 per thousand is the price for cheshire labels. She further informed me that the price of such labels decreases as the size of the order increases. According to Ms. Nichols, The prices LMI charges for cheshire labels are as follows:

- Under 25,000 names - \$35.00 per thousand
- 50,000 names - \$32.50 per thousand
- 100,000 names - \$27.50 per thousand
- 250,000 names - \$25.00 per thousand
- 500,000 names - \$22.50 per thousand

For larger orders, Ms. Nichols said the price is negotiable.

3. Ms. Nichols indicated that LMI does not have a list of registered voters in Missouri.

Further affiant sayeth not.

Mary Pat McInnis
MARY PAT McINNIS

Subscribed and sworn to before me this 3rd day of October, 1986.

Catherine A. Serati
Notary Public

My Commission Expires:
CATHERINE A. SERATI
NOTARY PUBLIC, STATE OF MISSOURI
MY COMMISSION EXPIRES 1/30/90
CITY OF ST. LOUIS

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 24, 1986

September 22, 1986

Margaret E. McCormick, Esq.
AFL-CIO
815 15th Street, N.W.
Room 804
Washington, D.C. 20006

RE: MUR 2215
Missouri State
Labor Council

Dear Ms. McCormick:

This is in reference to your letter dated September 19, 1986, requesting an additional seven (7) day extension to respond to the complaint in the above-captioned matter. After considering the circumstances presented in your letter, the Commission has determined to grant you your requested extension. Accordingly, your response will be due on October 7, 1986.

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble
BY: Lawrence M. Noble
Deputy General Counsel

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plm



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 22, 1986

Margaret E. McCormick, Esq.
AFL-CIO
815 15th Street, N.W.
Room 804
Washington, D.C. 20006

RE: MUR 2215
Missouri State
Labor Council

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Sincerely,

Charles N. Steele
General Counsel

BY: Lawrence M. Noble
Deputy General Counsel

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American Federation of Labor and Congress of Industrial Organizations

GCC 1507

W. Clemfeld



815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT

THOMAS R. DONAHUE SECRETARY-TREASURER

Thomas W. Gleason
Albert Shanker
Angelo Fosso
Alvin E. Hoops
John DeConcini
John J. Swenby
Barbara Hutchinson
Gerald W. McEneaney
Patrick J. Campbell
Lynn R. Williams
Robert A. George

Frederick O'Neal
Sol C. Chaitin
Charles H. Pittard
William W. Winkler
Wayne E. Glenn
Frank Drozak
Richard I. Kilroy
William H. Bywater
Owen Sieber
Morton Bahr
Milan Stone

Murray H. Finley
Edward T. Hanley
Kenneth T. Blaylock
William H. Wynn
Joyce D. Miller
James E. Hatfield
Vincent R. Sombrotto
Marvin J. Soos
John T. Joyce
Larry L. Dugan, Jr.
Gene Upshaw

September 19, 1986

Mr. Charles N. Steele, General Counsel
Federal Election Commission
999 E Street, N. W.
Washington, D. C. 20463

Re: FEC MUR 2215

Dear Mr. Steele:

I have just been designated co-counsel for the Missouri State Labor Council, AFL-CIO (hereinafter "respondent") in the above-referenced matter.

I am writing on behalf of my co-counsel Jerry Diekemper and myself to request an extension of time to and including October 7, 1986 in which to file respondent's reply to the complaint in this matter. Respondent received the complaint herein on September 2, 1986, thus we are requesting an extension of 20 days. (Mr. Diekemper previously requested an extension of time from September 17, 1986 until September 25, 1986 but this has proved to be insufficient.)

The requested extension is necessary in order to enable me to familiarize myself with the underlying facts in this case and to allow my co-counsel and I sufficient time to interview witnesses, gather documents from diverse geographic locations, and to sift through large amounts of information in order to prepare a proper response.

Please contact me immediately if you have any questions regarding this request. My office number is (202) 637-5397.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for respondent: Missouri
State Labor Council, AFL-CIO

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GCC 1307

American Federation of Labor and Congress of Industrial Organizations



815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT

Thomas W. Gleason
Albert Shanker
Angelo Fiasco
Alvin E. Hoops
John DeConcini
John J. Sweeney
Barbara Hutchinson
Gerald W. McEntee
Patrick J. Campbell
Lynn R. Williams
Robert A. Georgine

THOMAS R. DONAHUE SECRETARY-TREASURER

Frederick O'Neal
Sol C. Chaikin
Charles H. Pillard
William W. Winkler
Wayne E. Glenn
Frank Drozak
Richard J. Kilroy
William H. Bywater
Owen Bieber
Morton Bahr
Milan Stone

Morris H. Finley
Edward T. Hanley
Kenneth T. Blaylock
William H. Wynn
Joyce D. Miller
James E. Hatfield
Vincent R. Sombrotto
Marvin J. Boede
John T. Joyce
Larry L. Dugan, Jr.
Gene Upshaw

September 19, 1986

**Mr. Charles N. Steele, General Counsel
Federal Election Commission
999 E Street, N. W.
Washington, D. C. 20463**

Re: **FEC MUR 2215**

Dear Mr. Steele:

I have just been designated co-counsel for the Missouri State Labor Council, AFL-CIO (hereinafter "respondent") in the above-referenced matter.

I am writing on behalf of my co-counsel Jerry Diekemper and myself to request an extension of time to and including October 7, 1986 in which to file respondent's reply to the complaint in this matter. Respondent received the complaint herein on September 2, 1986, thus we are requesting an extension of 20 days. (Mr. Diekemper previously requested an extension of time from September 17, 1986 until September 25, 1986 but this has proved to be insufficient.)

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Please contact me immediately if you have any questions regarding this request. My office number is (202) 637-5397.

Sincerely,

Margaret E. McCormick

**Margaret E. McCormick
Counsel for respondent Missouri
State Labor Council, AFL-CIO**

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00 SEP 19 P 4 : 19

RECEIVED
GENERAL COUNSEL
FEDERAL ELECTION COMMISSION
SEP 22 1986

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STATEMENT OF DESIGNATION OF COUNSEL

NR 2215

NAME OF COUNSEL: Margaret E. McCormick

ADDRESS: 815 16th St., N.W. Room 804
Washington, D. C. 20006

TELEPHONE: 202-637-5397

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

9/18/86
Date

Daniel J. McVey
Signature

RESPONDENT'S NAME: Daniel J. McVey, President

ADDRESS: Missouri State Labor Council, AFL-CIO
208 Madison St.
Jefferson City, MO 65101

HOME PHONE: 314-635-3969

BUSINESS PHONE: 314-634-2115

87040534352

Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE
RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

First General Counsel's Report

06 SEP 17 AID: 43

Date and Time of Transmittal By
OGC to the Commission _____

MUR 2215
Date Complaint Received
By OGC August 6, 1986
Date of Notification to
Respondent August 27, 1986
Staff Eric Kleinfeld

Complainant's Name: Shannon Daily Cave
Respondents' Names: Missouri State Labor Council
Missouri Registered Voters, Inc.
Relevant Statutes: 2 U.S.C. § 441b
Internal Reports Checked: Advisory Opinion 1979-18
Federal Agencies Checked: None

Summary of Allegations

On August 7, 1986, the Office of General Counsel received a signed, sworn and notarized complaint from Shannon Daily Cave, alleging violations of the Federal Election Campaign Act of 1971, as amended, by the Missouri State Labor Council, AFL-CIO ("Labor Council") and its affiliated corporation, Missouri Registered Voters, Inc. ("MRV"). Specifically, complainant alleges that the Labor Council, through its corporation, donates lists to candidates approved by the Labor Council. Complainant argues that MRV is a sham corporation and that the lists are actually compiled and sold by the Labor Council. Further, complainant alleged that the lists are sold to candidates for amounts far below the market rate, thus below the usual and normal charge. To support this allegation, complainant attached an affidavit to the complaint concerning market price for voter registration lists.

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Respondents were notified of the complaint in this matter on August 27, 1986. By letter dated September 3, 1986, counsel for MRV requested an extension of time to respond to the complaint. MRV's response is currently due on September 25, 1986. Once all of the responses are received, the Office of General Counsel will undertake a review of them and make a further report to the Commission.

Charles N. Steele
General Counsel

9/16/86
Date

By: 
Lawrence M. Noble
Deputy General Counsel

87040634354



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 9, 1986

Jerome A. Diekemper, Esquire
Diekemper, Hammond and Shinnars
Suite 222
7730 Carondelet Avenue
St. Louis, MO 63105

Re: MUR 2215
MRV, Inc.

Dear Mr. Diekemper:

This is in reference to your letter dated September 3, 1986, requesting an extension of 14 days to respond to the complaint in the above-captioned matter. After considering the circumstances presented in your letter, the Commission has determined to grant you your requested extension. Accordingly, your response will be due on September 25, 1986.

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

87040634355



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Jerome A. Diekemper, Esquire
Diekemper, Hammond and Shinnars
Suite 222
7730 Carondelet Avenue
St. Louis, MO 63105

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MRV, Inc.

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If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

87040634356

DIEKEMPER, HAMMOND AND SHINNERS
ATTORNEYS AND COUNSELORS
SUITE 225
7730 CARONDELET AVENUE
ST. LOUIS (CLAYTON), MISSOURI 63105

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HAND DELIVERED
26 SEP 4 11:30

JEROME A. DIEKEMPER
GARY HAMMOND
RICHARD SHINNERS
JOHN A. TURCOTTE, JR.
JOSEPH W. LARREW
JAN BOND
JANET E. YOUNG
GREG A. CAMPBELL

(314) 727-1010

EXPRESS MAIL

September 3, 1986

Mr. Lawrence M. Noble
Deputy General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 2215 - MRV, Inc.

Dear Mr. Noble:

Our firm represents the respondent in the above-referenced matter under review. I am writing to request that we be granted an additional 14 days up to and including September 25 in which to demonstrate in writing that no action should be taken against the respondent in this matter. This extension is requested because my unusually heavy schedule during the next several weeks does not permit me to devote the time necessary to adequately respond to the complaint within the normal 15 days. Further, those persons who have information relevant to this matter and whom we may ask to submit statements in support of the respondent's position reside throughout the State of Missouri and in California. Thus, the logistics of preparing and executing any statements will require additional time.

Please let me know as soon as possible as to whether this request will be granted.

Thank you for your consideration in this matter.

Very truly yours,

Jerome A. Diekemper
JEROME A. DIEKEMPER

JAD:cs

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GENERAL COUNSEL

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86 SEP 4 AM 11:30

DIEKEMPER, HAMMOND AND SHINNERS
ATTORNEYS AND COUNSELORS
SUITE 222
7730 CARONDELET AVENUE
ST. LOUIS (CLAYTON), MISSOURI 63105

JEROME A. DIEKEMPER
CARY HAMMOND
RICHARD SHINNERS
JOHN A. TURCOTTE, JR.
JOSEPH W. LARREW
JAN BOND
JANET E. YOUNG
GREG A. CAMPBELL

(314) 727-1015

EXPRESS MAIL

September 3, 1986

Mr. Lawrence M. Noble
Deputy General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 2215 - MRV, Inc.

Dear Mr. Noble:

Our firm represents the respondent in the above-referenced matter under review. I am writing to request that we be granted an additional 14 days up to and including September 25 in which to demonstrate in writing that no action should be taken against the respondent in this matter. This extension is requested because my unusually heavy schedule during the next several weeks does not permit me to devote the time necessary to adequately respond to the complaint within the normal 15 days. Further, those persons who have information relevant to this matter and whom we may ask to submit statements in support of the respondent's position reside throughout the State of Missouri and in California. Thus, the logistics of preparing and executing any statements will require additional time.

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Very truly yours,

Jerome A. Diekemper
JEROME A. DIEKEMPER

JAD:cs

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RECEIVED
OFFICE OF THE
GENERAL COUNSEL

STATEMENT OF DESIGNATION OF COUNSEL

NR 2215

NAME OF COUNSEL: Jerry Diekemper

ADDRESS: 7730 Carondelet
Suite 222
St. Louis, Missouri 63105

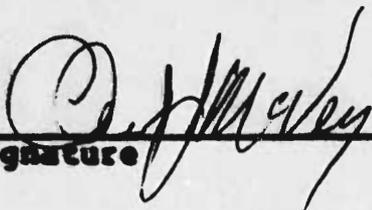
TELEPHONE: (314) 727-1015

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RECEIVED
OFFICE OF THE
GENERAL COUNSEL

The above-named individual is hereby designated as counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

September 2, 1986
Date


Signature

RESPONDENT'S NAME: Mr. Daniel J. "Duke" McVey, President

ADDRESS: Missouri State Labor Council, AFL-CIO
208 Madison Street
Jefferson City, Missouri 65101

HOME PHONE: 314-635-3969

BUSINESS PHONE: 314-634-2115

87040534359



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

perm
August 27, 1986

Ms. Shannon Daily Cave
204 E. Dunklin
P.O. Box 73
Jefferson City, MO 65102

Dear Ms. Cave:

This letter will acknowledge receipt of a complaint filed by you which we received on August 6, 1986, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Missouri Registered Voters, Inc. and Missouri State Labor Council, AFL-CIO.

You will be notified as soon as the Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as the original complaint. For your information, we have attached a brief description of the Commission's procedures for handling complaints. We have numbered this matter under review MUR 2215. Please refer to this number in all future correspondence. If you have any questions, please contact Retha Dixon at (202) 376-3110.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosure

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PLAN



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 27, 1986

Missouri Registered Voters, Inc.
c/o Missouri State Labor Council
298 Madison St.
Jefferson City, MO 65101

Re: MUR 2215

Gentlemen:

The Federal Election Commission received a complaint which alleges that Missouri Registered Voters, Inc. may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2215. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

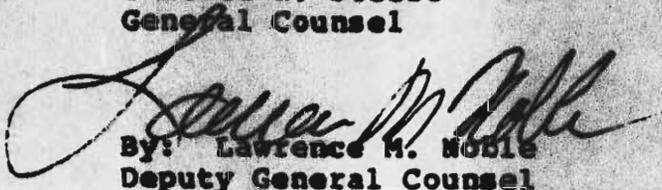
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

87040634361

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel



By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

87040534362



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 27, 1986

Missouri State Labor Council, AFL-CIO
288 Madison St.
Jefferson City, MO 65101

Re: MUR 2215

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Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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Plum

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Sincerely,

Charles M. Steele
General Counsel


By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

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MUR 2115

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

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RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Re: Missouri Registered Voters, Inc.

Dear Mr. Steele:

The Missouri State Labor Council, AFL-CIO (the "Labor Council") is apparently attempting to influence federal elections in Missouri by using a sham corporation to provide voter lists to labor-approved candidates in direct contravention of federal election laws. For the reasons given below, and based on available information (including that set forth in the attached news article), we are hereby formally complaining against these illegal practices of the Missouri State Labor Council and its affiliated corporation, the Missouri Registered Voters, Inc. Given the serious implications of efforts by the labor unions to influence federal elections, we ask the Commission to find reason to believe that a violation of the Federal Election Campaign Act has occurred and to initiate an immediate investigation into the Labor Council's practices.

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FACTS

The Missouri State Labor Council, AFL-CIO, has formed a corporation called Missouri Registered Voters, Inc. (also known as MRV, Inc.) to sell (for a nominal "fee") voter lists to those candidates gaining the approval of the Labor Council. Only those candidates who are approved by the Missouri AFL-CIO will be able to purchase lists from MRV, Inc.. As stated in the attached news report by Duke McVey, president of the Labor Council, the Labor Council has "veto power" over which candidates do, and do not, get the lists.

According to the report, the lists are compiled by the Labor Council from the rolls of voter names kept by county registrars around the State. The Labor Council reportedly expends approximately \$100,000 to \$120,000 every year in gathering this information. The Labor Council, through MRV, Inc., will provide this vital campaign resource --- gathered at significant cost --- only to those candidates who favor the policies espoused by the Labor Council.

There can be no question that MRV, Inc. serves only as a "front" for the Labor Council. Information on file with the Missouri Secretary of State's office indicates that the board of directors of MRV, Inc. consists of the

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Charles N. Steele, Esquire

Page 3

following Labor Council officials:

Duke McVey - president of the Missouri State Labor Council (AFL-CIO);

Don Ownes - secretary-treasurer, Missouri State Labor Council (AFL-CIO);

Robert Kelley - president, St. Louis Labor Council (AFL-CIO); and

Robert Kortkamp - secretary-treasurer, St. Louis Labor Council (AFL-CIO).

As a Labor Council vehicle, MRV, Inc.'s activities clearly are illegal because they constitute a scheme to engage in illegal activity by a labor organization in connection with a federal election. Moreover, even if the contributions are considered made by MRV as a corporate entity, as distinguished from the Labor Council itself, the activities are still illegal as federal law allows neither corporations nor labor unions to make contributions in connection with federal elections. 2 U.S.C. Sec. 441b.

ARGUMENT

The Federal Election Commission has specifically held on several occasions that the donation of a mailing list to a campaign constitutes a campaign contribution. See, e.g., Federal Election Commission Advisory Opinion No. 1979-18, 1 Fed. Election Camp. Fin. Guide (CCH) Para. 5405 (June

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Charles N. Steele, Esquire

Page 4

5, 1979). As noted above, any contribution to a campaign by a labor union or corporation is illegal under federal law. The donation of the use of the mailing lists therefore constitutes an illegal contribution by MRV, Inc. and/or its "parent", the Labor Council.

The Labor Council and/or MRV, Inc. might contend that, in accordance with 11 C.F.R. Sec. 100.7(a)(1)(iii)(B), the voter-registration lists are being sold at the "usual and normal" charge, i.e., the market rate.

However, it is apparent that the Labor Council does not sell (or intend to sell) these voter lists at anything approaching the market rate. As described in the attached article, the Labor Council reportedly spends approximately \$100,000 - \$120,000 annually to compile its Missouri voter registration lists. The Council proposes to sell the lists for approximately \$7 per 1000 names. In 1984, there were just under 3 million registered voters in Missouri; the name of every registered voter in Missouri therefore could be bought from the Labor Council/MRV, Inc. for roughly \$21,000. This would still leave the \$100,000 - \$120,000 costs of the program vastly underfunded. There is therefore abundant reason to believe that the Labor Council is subsidizing this project, thereby making an indirect --- and illegal --- contribution to the campaigns it chooses to help.

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Charles N. Steele, Esquire

Page 5

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Significantly, telephone inquiries to direct-mail specialists confirm that MRV's transactions are not made at the "usual and normal" rate. Professionals in the direct-mail field contacted in Washington, D.C., New Jersey, and Virginia stated unequivocally that MRV, Inc.'s rate of \$7 per 1000 names is far below any reasonable and acceptable market charge. See Affidavit of Christopher Yukins, attached. Lead Marketing International, of Denton, Texas, for example, sells voter lists in approximately twenty states around the country, at a standard rate of \$35 per 1000. Id. The Commission's attention is also directed to Direct Mail Lists, Rates and Data, published by Standard Rate and Data Service of Wilmette, Illinois. That publication is essentially the direct-mail industry's own mail catalogue. The rates quoted therein demonstrate \$7 per 1000 is an improbable --- indeed, impossible --- fair market rate.

The conclusion that these transactions are subsidized by the Labor Council is further bolstered by evidence gathered by the Commission itself in connection with a similar 1982 case, Federal Election Commission Advisory Opinion No. 1981-53, 1 Fed. Election Camp. Fin. Guide (CCH) Para. 5643 (Feb. 19, 1982). There, an Indiana Congressional candidate's committee sold a list of 80,000 names for \$4000, a "usual and normal charge" (according to the committee) for that type of list. In comparison, the Labor Council (through

Charles N. Steele, Esquire

Page 6

MRV, Inc.) will reportedly sell a similar list of 85,000 names for \$595, less than one-sixth of the amount charged in the 1982 case - a strange example of reverse inflation. The evidence thus strongly indicates that the Labor Council and MRV, Inc. are selling the compiled names of voters at below the market rate, thereby violating federal election laws by making indirect contributions to federal campaigns.

The Act is clear. Section 441b explicitly provides that it is "unlawful for ... any labor organization ... to make any contribution or expenditure in connection with" any federal election. In addition, the section goes on to make it illegal for "any officer of any labor organization to consent to any contribution or expenditure by the ... labor organization" to a federal campaign. Id. Not only, therefore, are the Labor Council's activities illegal; the reported participation of the state and county labor leaders also renders them potentially liable as individuals for the union's actions.

Further, we believe that the Labor Council and MRV, Inc.'s actions must be stopped because they threaten to undermine the integrity of the election process. As Justice Frankfurter stated in United States v. International Union United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), 352 U.S. 567 (1957), the prohibition on union contributions was

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enacted immediately after World War II because, "just as the great corporations had made huge political contributions to influence governmental action or inaction ... the powerful unions were pursuing a similar course, and with the same untoward consequences for the democratic process." Id. at 578.

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Significantly, the news article in which Mr. McVey describes the scheme notes that these subsidized voting lists are extremely valuable to Missouri candidates. The lists can thus serve as leverage for the Labor Council in their efforts to convince candidates to seek the Council's endorsement. Only by gaining the Council's approval can the candidates gain access to the voter lists.

The Labor Council's selective distribution of these lists represents an improper attempt both directly and indirectly to influence a federal campaign. First, the actual distribution of the lists to campaigns, as discussed above, is patently illegal when the lists are sold (as is evident) at below market rate.

Even more insidious, however, is the Labor Council's cynical attempt to manipulate candidates by withholding the voter lists from those candidates who

Charles N. Steele, Esquire

Page 8

refuse to "toe the Labor line". The actions of the Labor Council and its subsidiary, MRV, Inc., clearly run counter to the purpose of the Campaign Act, which seeks to insulate the election process from unions and corporations. Such conduct constitutes a clear violation both of the letter and the spirit of the Act.

REQUEST FOR RELIEF

We therefore urgently request that the Commission (1) find reason to believe the Act has been violated and fully investigate this activity, and (2) take all lawful steps to put a halt to these practices.

Very truly yours,

SHANNON DAILY CAVE

204 E. Dunklin
Post Office Box 73
Jefferson City, MO 65102

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

Subscribed and sworn to before me this 31st day of July, 1986.



DUANE BENTON
NOTARY PUBLIC State of Missouri,
County of Cole

My Commission Expires May 6, 1988.

87040634372

AFFIDAVIT OF CHRISTOPHER R. YUKINS

CHRISTOPHER R. YUKINS being duly sworn states as follows:

1. I reside at 1213 Janney's Lane, Alexandria, Virginia 22302.

2. I am presently employed by the law firm of Epstein Becker Borsody & Green, P.C., 1140 19th Street, N.W., Washington, D.C. 20036.

3. On July 15-18, 1986, and at the request of my supervising attorneys, I conducted research regarding what constitutes the usual and normal value, i.e., the market price, of voter registration lists in Missouri.

4. As part of that investigation, I conducted a telephonic survey of individuals who are active in the direct-mail industry nationally. I spoke to such persons located in the states of Michigan, New Jersey, Texas, Virginia, and in the District of Columbia.

5. I asked each of those persons noted in paragraph 4, supra, three fundamental questions:

- a) What would be the market price for a list of registered voters in Missouri, per 1000 names?
- b) Is \$7 per 1000 names a tenable market price for voter-registration lists?
- c) Is there a widely-accepted published resource in the direct-mail industry to which I could turn for reliable data?

6. In response to question (a), paragraph 5, supra, those direct-mail industry participants noted in paragraph 4, supra, all said that a fair market price for a voter registration list in Missouri would be approximately \$35 per 1000 names.

7. In response to question (b), paragraph 5, supra, those direct-mail participants noted in paragraph 4, supra, all said that \$7 per 1000 names was far below what they would expect to be the market price for lists of voter names.

8. In response to question (c), paragraph 5, supra, those direct-mail industry participants noted in paragraph 4, supra, all directed me to the catalogue, Direct Mail List, Rates and Data, published by Standard Rate and Data Service, Inc., Wilmette, Illinois, 60091. Among the direct-mail industry

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Labor chiefs form corporation to sell voter lists to candidates

A group of Missouri labor leaders has formed a corporation to sell lists of registered voters to labor-approved political candidates.

MRV Inc., which stands for Missouri Registered Voters, was incorporated about three months ago, according to Duke McVey, president of the Missouri State Labor Council, AFL-CIO. An independent corporation was established to sidestep laws prohibiting the labor council from providing the lists to political candidates directly, McVey said.

Registered voter lists are basic elements in political campaigns. MRV will sell "augmented" lists, which will include not only names and addresses but also information such as telephone numbers, age, gender, and ethnic group.

Candidates can get lists of voters "with blue noses or green ears," McVey said.

The lists are being marketed by Simmons & Schafer Inc., a Kansas City-based political consulting firm.

Final approval over which candidates will be allowed to buy the lists rests with the board of MRV, which consists of McVey, Don Owens, secretary-treasurer of the state labor council, and Robert Kelley and Robert Kortkamp, respectively president and secretary-treasurer of the St. Louis Labor Council AFL-CIO.

"All I want is a veto power" over who gets the lists, McVey said.

McVey's insistence on a veto ended the labor council's cooperation with the Missouri Democratic Party on the project. Had the party been involved, the lists would have to be available to any Democratic candidate, which was unacceptable to McVey and the other labor leaders.

It was an amiable parting, according to Marjorie Klearman, state Democratic



chairman, but "cooperation would have been very desirable."

McVey said the voter information would be sold to both Republican and Democratic candidates favorable to labor.

Acquiring lists of registered voters is simple in urban areas, where the information is available on computer tapes. But in the rural counties, where about 30 percent of the state's registered voters live, registration lists can be gotten only by going to county courthouses and physically going through the voter rolls.

McVey said the labor council spends about \$100,000 to \$120,000 every year assembling lists of registered voters in order to identify registered union members. MRV was set up to share that information with labor-approved candidates and also to generate revenues to permit the lists to be updated and augmented.

The lists could be a major resource for labor-endorsed candidates. They could also be a lever in convincing candidates to seek labor endorsements.

Grant said a simple list of registered voters in a state senate district will be \$7 for each 1,000 voters, or about \$595 for a typical district with 85,000 registered voters. Stick-on mailing labels are \$14.60 a thousand, and a variety of other variations are available.

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Flynn wants tactic changed

Matthew J. Flynn has demanded that applicants for unemployment-discount cards not be asked to work in the campaign of his political rival, Edward R. Garvey.

Garvey and Flynn are vying for the Democratic nomination for the US Senate.

In a letter to Thomas Parker, Milwaukee County Labor Council president, Flynn wrote:

"It is inherently coercive to suggest to an unemployed individual that he contribute his time to a political campaign when he registers for a public benefit. ... (Garvey) will not be permitted to conscript Milwaukee's unemployed into forced service in his campaign."

William Christofferson, Garvey's campaign manager, said, "I don't know anything about what's going on down there, and I don't think Matt Flynn does, either."

The cards allow unemployed people to receive discounts on bus fare and merchandise. Separate investigations by The Milwaukee Sentinel and the Milwaukee County Transit System have revealed they were being distributed without proof the applicants were jobless.

Two bus system employees who posed as unemployed workers to apply for cards were asked if they wanted to work in Garvey's campaign, a bus system spokesman said.

Parker declined comment on Flynn's statement. He said representatives of the council and the Wisconsin Action Coalition, which administers the discount program, would hold a news conference to respond to the investigations. Jeffrey Egan, coalition director, did not return a reporter's telephone call.

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MWR 2215

RECEIVED
OFFICE OF THE SEC
COMMISSION SECRETARY

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SENSITIVE

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: Missouri Registered Voters, Inc.

R 7 0 4 0 5 3 4 3 7 6

Dear Mr. Steele:

The Missouri State Labor Council, AFL-CIO (the "Labor Council") is apparently attempting to influence federal elections in Missouri by using a sham corporation to provide voter lists to labor-approved candidates in direct contravention of federal election laws. For the reasons given below, and based on available information (including that set forth in the attached news article), we are hereby formally complaining against these illegal practices of the Missouri State Labor Council and its affiliated corporation, the Missouri Registered Voters, Inc. Given the serious implications of efforts by the labor unions to influence federal elections, we ask the Commission to find reason to believe that a violation of the Federal Election Campaign Act has occurred and to initiate an immediate investigation into the Labor Council's practices.

FACTS

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According to the report, the lists are compiled by the Labor Council from the rolls of voter names kept by county registrars around the State. The Labor Council reportedly expends approximately \$100,000 to \$120,000 every year in gathering this information. The Labor Council, through MRV, Inc., will provide this vital campaign resource --- gathered at significant cost --- only to those candidates who favor the policies espoused by the Labor Council.

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7040634377

following Labor Council officials:

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Robert Kelley - president, St. Louis Labor Council (AFL-CIO); and

Robert Kortkamp - secretary-treasurer, St. Louis Labor Council (AFL-CIO).

As a Labor Council vehicle, MRV, Inc.'s activities clearly are illegal because they constitute a scheme to engage in illegal activity by a labor organization in connection with a federal election. Moreover, even if the contributions are considered made by MRV as a corporate entity, as distinguished from the Labor Council itself, the activities are still illegal as federal law allows neither corporations nor labor unions to make contributions in connection with federal elections. 2 U.S.C. Sec. 441b.

ARGUMENT

The Federal Election Commission has specifically held on several occasions that the donation of a mailing list to a campaign constitutes a campaign contribution. See, e.g., Federal Election Commission Advisory Opinion No. 1979-18, 1 Fed. Election Camp. Fin. Guide (CCH) Para. 5405 (June

87040534378

5, 1979). As noted above, any contribution to a campaign by a labor union or corporation is illegal under federal law. The donation of the use of the mailing lists therefore constitutes an illegal contribution by MRV, Inc. and/or its "parent", the Labor Council.

The Labor Council and/or MRV, Inc. might contend that, in accordance with 11 C.F.R. Sec. 100.7(a)(1)(iii)(B), the voter-registration lists are being sold at the "usual and normal" charge, i.e., the market rate.

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However, it is apparent that the Labor Council does not sell (or intend to sell) these voter lists at anything approaching the market rate. As described in the attached article, the Labor Council reportedly spends approximately \$100,000 - \$120,000 annually to compile its Missouri voter registration lists. The Council proposes to sell the lists for approximately \$7 per 1000 names. In 1984, there were just under 3 million registered voters in Missouri; the name of every registered voter in Missouri therefore could be bought from the Labor Council/MRV, Inc. for roughly \$21,000. This would still leave the \$100,000 - \$120,000 costs of the program vastly underfunded. There is therefore abundant reason to believe that the Labor Council is subsidizing this project, thereby making an indirect --- and illegal --- contribution to the campaigns it chooses to help.

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Significantly, telephone inquiries to direct-mail specialists confirm that MRV's transactions are not made at the "usual and normal" rate. Professionals in the direct-mail field contacted in Washington, D.C., New Jersey, and Virginia stated unequivocally that MRV, Inc.'s rate of \$7 per 1000 names is far below any reasonable and acceptable market charge. See Affidavit of Christopher Yukins, attached. Lead Marketing International, of Denton, Texas, for example, sells voter lists in approximately twenty states around the country, at a standard rate of \$35 per 1000. Id. The Commission's attention is also directed to Direct Mail Lists, Rates and Data, published by Standard Rate and Data Service of Wilmette, Illinois. That publication is essentially the direct-mail industry's own mail catalogue. The rates quoted therein demonstrate \$7 per 1000 is an improbable --- indeed, impossible --- fair market rate.

The conclusion that these transactions are subsidized by the Labor Council is further bolstered by evidence gathered by the Commission itself in connection with a similar 1982 case, Federal Election Commission Advisory Opinion No. 1981-53, 1 Fed. Election Camp. Fin. Guide (CCH) Para. 5643 (Feb. 19, 1982). There, an Indiana Congressional candidate's committee sold a list of 80,000 names for \$4000, a "usual and normal charge" (according to the committee) for that type of list. In comparison, the Labor Council (through

MRV, Inc.) will reportedly sell a similar list of 85,000 names for \$595, less than one-sixth of the amount charged in the 1982 case - a strange example of reverse inflation. The evidence thus strongly indicates that the Labor Council and MRV, Inc. are selling the compiled names of voters at below the market rate, thereby violating federal election laws by making indirect contributions to federal campaigns.

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The Act is clear. Section 441b explicitly provides that it is "unlawful for ... any labor organization ... to make any contribution or expenditure in connection with" any federal election. In addition, the section goes on to make it illegal for "any officer of any labor organization to consent to any contribution or expenditure by the ... labor organization" to a federal campaign. Id. Not only, therefore, are the Labor Council's activities illegal; the reported participation of the state and county labor leaders also renders them potentially liable as individuals for the union's actions.

Further, we believe that the Labor Council and MRV, Inc.'s actions must be stopped because they threaten to undermine the integrity of the election process. As Justice Frankfurter stated in United States v. International Union United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), 352 U.S. 567 (1957), the prohibition on union contributions was

enacted immediately after World War II because, "just as the great corporations had made huge political contributions to influence governmental action or inaction ... the powerful unions were pursuing a similar course, and with the same untoward consequences for the democratic process." Id. at 578.

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Significantly, the news article in which Mr. McVey describes the scheme notes that these subsidized voting lists are extremely valuable to Missouri candidates. The lists can thus serve as leverage for the Labor Council in their efforts to convince candidates to seek the Council's endorsement. Only by gaining the Council's approval can the candidates gain access to the voter lists.

The Labor Council's selective distribution of these lists represents an improper attempt both directly and indirectly to influence a federal campaign. First, the actual distribution of the lists to campaigns, as discussed above, is patently illegal when the lists are sold (as is evident) at below market rate.

Even more insidious, however, is the Labor Council's cynical attempt to manipulate candidates by withholding the voter lists from those candidates who

Charles N. Steele, Esquire

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refuse to "toe the Labor line". The actions of the Labor Council and its subsidiary, MRV, Inc., clearly run counter to the purpose of the Campaign Act, which seeks to insulate the election process from unions and corporations. Such conduct constitutes a clear violation both of the letter and the spirit of the Act.

REQUEST FOR RELIEF

We therefore urgently request that the Commission (1) find reason to believe the Act has been violated and fully investigate this activity, and (2) take all lawful steps to put a halt to these practices.

Very truly yours,

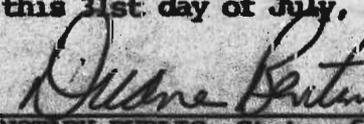


SHANNON DAILY CAVE

204 E. Dunklin
Post Office Box 73
Jefferson City, MO 65102

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

Subscribed and sworn to before me this 31st day of July, 1986.


DUANE BENTON
NOTARY PUBLIC State of Missouri,
County of Cole

My Commission Expires May 6, 1988.



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AFFIDAVIT OF CHRISTOPHER R. YUKINS

CHRISTOPHER R. YUKINS being duly sworn states as follows:

1. I reside at 1213 Janney's Lane, Alexandria, Virginia 22302.

2. I am presently employed by the law firm of Epstein Becker Borsody & Green, P.C., 1140 19th Street, N.W., Washington, D.C. 20036.

3. On July 15-18, 1986, and at the request of my supervising attorneys, I conducted research regarding what constitutes the usual and normal value, i.e., the market price, of voter registration lists in Missouri.

4. As part of that investigation, I conducted a telephonic survey of individuals who are active in the direct-mail industry nationally. I spoke to such persons located in the states of Michigan, New Jersey, Texas, Virginia, and in the District of Columbia.

5. I asked each of those persons noted in paragraph 4, supra, three fundamental questions:

- a) What would be the market price for a list of registered voters in Missouri, per 1000 names?
- b) Is \$7 per 1000 names a tenable market price for voter-registration lists?
- c) Is there a widely-accepted published resource in the direct-mail industry to which I could turn for reliable data?

6. In response to question (a), paragraph 5, supra, those direct-mail industry participants noted in paragraph 4, supra, all said that a fair market price for a voter registration list in Missouri would be approximately \$35 per 1000 names.

7. In response to question (b), paragraph 5, supra, those direct-mail participants noted in paragraph 4, supra, all said that \$7 per 1000 names was far below what they would expect to be the market price for lists of voter names.

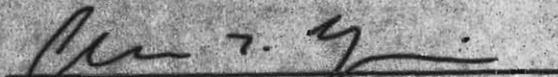
8. In response to question (c), paragraph 5, supra, those direct-mail industry participants noted in paragraph 4, supra, all directed me to the catalogue, Direct Mail List, Rates and Data, published by Standard Rate and Data Service, Inc., Wilmette, Illinois, 60091. Among the direct-mail industry

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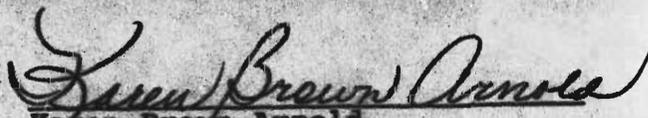
participants with whom I spoke, the publication was often referred to colloquially as the "Standard Rate book."

9. According to its Wilmette, Illinois office, Standard Rate and Data Service, Inc., publishes the aforementioned catalogue six times per year.

10. I spoke to a sales representative of Lead Marketing International, Denton, Texas, who told me that that company would sell voter registration lists from approximately twenty states around the United States. Their uniform price, the Lead Marketing International sales representative said, is \$35 per 1000 names, with a minimum order of 5000 names.


Christopher R. Ykins

Subscribed and sworn to before me this 18th day of July, 1986.


Karen Brown Arnold
Notary Public for the District
of Columbia

My Commission Expires 1-1-89

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Labor chiefs form corporation to sell voter lists to candidates

A group of Missouri labor leaders has formed a corporation to sell lists of registered voters to labor-approved political candidates.

MRV Inc., which stands for Missouri Registered Voters, was incorporated about three months ago, according to Duke McVey, president of the Missouri State Labor Council, AFL-CIO. An independent corporation was established to sidestep laws prohibiting the labor council from providing the lists to political candidates directly, McVey said.

Registered voter lists are basic elements in political campaigns. MRV will sell "augmented" lists, which will include not only names and addresses but also information such as telephone numbers, age, gender, and ethnic group.

Candidates can get lists of voters "with blue noses or green ears," McVey said.

The lists are being marketed by Simmons & Schafer Inc., a Kansas City-based political consulting firm.

Final approval over which candidates will be allowed to buy the lists rests with the board of MRV, which consists of McVey, Don Owens, secretary-treasurer of the state labor council, and Robert Kelley and Robert Kortkamp, respectively president and secretary-treasurer of the St. Louis Labor Council AFL-CIO.

"All I want is a veto power" over who gets the lists, McVey said.

McVey's insistence on a veto ended the labor council's cooperation with the Missouri Democratic Party on the project. Had the party been involved, the lists would have to be available to any Democratic candidate, which was unacceptable to McVey and the other labor leaders.

It was an amiable parting, according to Marjorie Klearman, state Democratic



chairman, but "cooperation would have been very desirable."

McVey said the voter information would be sold to both Republican and Democratic candidates favorable to labor.

Acquiring lists of registered voters is simple in urban areas, where the information is available on computer tapes. But in the rural counties, where about 30 percent of the state's registered voters live, registration lists can be gotten only by going to county courthouses and physically going through the voter rolls.

McVey said the labor council spends about \$100,000 to \$120,000 every year assembling lists of registered voters in order to identify registered union members. MRV was set up to share that information with labor-approved candidates and also to generate revenues to permit the lists to be updated and augmented.

The lists could be a major resource for labor-endorsed candidates. They could also be a lever in convincing candidates to seek labor endorsements.

Grant said a simple list of registered voters in a state senate district will be \$7 for each 1,000 voters, or about \$595 for a typical district with 85,000 registered voters. Stick-on mailing labels are \$14.60 a thousand, and a variety of other variations are available.

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FEDERAL ELECTION COMMISSION

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