



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

17 AUG 1976

RE: AOR 1976-31

Robert J. Billings  
Billings for Congress  
Post Office Box 1586  
Highland, Indiana 46322

Dear Mr. Billings:

This is in response to your letter of March 8, 1976 asking for a ruling as to whether the donation of a church membership list constitutes an in-kind contribution.

We regret the delay in answering your inquiry, but, subsequent to the Supreme Court's decision in *Buckley v. Valeo*, 424 U.S. 1 (1976), the Commission was required to suspend the issuance of advisory opinions until after the date of its reconstitution. Moreover, 2 U.S.C. §437f, as amended by the Federal Election Campaign Act Amendments of 1976, now requires the Commission to formulate its rules of general applicability by proposing formal regulations, rather than by the advisory opinion process. The Commission has recently given final approval to proposed regulations, for transmission to Congress, which directly bear on the issue you raise.

The Act's definition of contribution includes the term "anything of value." 2 U.S.C. §431(e)(1). However, the Commission's proposed regulations interpret the term "anything of value" to include "a membership list" only if "commonly offered or used commercially." Federal Election Commission regulations §100.4(a)(1)(iii)(A), copy enclosed. A list of the membership of a local congregation, which had never been sold or leased (e.g., to a mail order marketing company, to a magazine, or to another political candidate), would not be the kind commonly offered or used commercially, and thus its donation would not constitute a contribution to your campaign.

This response relates to your opinion request but may be regarded as informational only and not as an advisory opinion since it is based in part on proposed regulations of the Commission which have been submitted to Congress. The proposed regulations may be prescribed in final form by the Commission only if not disapproved either by the House or the Senate within thirty legislative days from the date received by them. 2 U.S.C. §438(c). The proposed regulations were submitted to Congress on August 3, 1976. It is the Commission's view that no enforcement or compliance action should be initiated in this matter if your actions conform to the conclusions and views stated in this letter.

Sincerely yours,

(signed)  
Vernon W. Thomson  
Chairman for the  
Federal Election Commission

Enclosure