



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 6, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1983-44

Brad Smith
Cass Communications, Inc.
1633 Central Street
Evanston, Illinois 60201

Dear Mr. Smith:

This responds to your letter of November 30, 1983, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the use by Cass Communications, Inc. ("Cass") of certain information contained in reports filed with the Commission.

You state in your letter that Cass represents college newspapers to national advertisers in order that advertisers may reach the college market more effectively. A sample sales letter which you enclosed states that Cass offers demographic profiles of colleges in the United States, a directory of college newspapers and a cost analysis of the placement of advertisements in each, and information on the media habits and purchasing patterns of college students. You state further that Cass intends to solicit candidates as potential clients and, specifically, you ask whether Cass may use information from FEC records in order to do so.

Under the Act, inspection and copying of reports and statements filed with the Commission generally are permitted, but the sale or use of such copied information to solicit contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee, is prohibited. 2 U.S.C. 438(a)(4). Commission regulations, specifically 104.15(a) which elaborates on 438(a)(4), state:

[A]ny information copied or otherwise obtained, from any report or statement, or any copy, reproduction, or publication thereof, filed with the Commission. . . shall not be sold or used by any person for the purpose of soliciting contributions or for

any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committee.

In a number of advisory opinions the Commission has relied on the legislative history of 2 U.S.C. 438(a)(4), construing that the purpose of the restriction on use of information specifically is to protect contributor information and lists from being used for commercial purposes. See Advisory Opinions 1981-38, 1980-101, 1980-78 and 1977-66, copies enclosed. Moreover, the Commission previously has concluded, based on a similar factual situation presented in Advisory Opinion 1981-38, that names and addresses of candidates found in FEC records may be used for commercial purposes. In this opinion, a publisher was permitted to use information contained in candidate filings with the FEC, excluding the names and addresses of individual contributors, to provide leads for news articles and other information for use in a newsletter and to solicit subscriptions.

The proponents of 2 U.S.C. 438(a)(4) focused on protecting the privacy of the "very public spirited citizens" who make contributions to campaigns. Thus, the purpose of this section was to protect contributor information and lists from being used for commercial purposes. 117 Cong. Rec. 30058 (1971) (remarks of Senator Bellmon, amendment sponsor). Subsequent legislative history further reinforces this view. Specifically, the history of the 1979 Amendments to the Act indicates that a commercial vendor may compile information from FEC reports for the purpose of selling that information, but that the prohibition on copying and use of names and addresses of individual contributors is crucial and so was maintained. H.R. Rep. No. 422, 96th. Cong, 1st Sess. 23 (1979). The purpose of 2 U.S.C. 438(a)(4) is the prevention of list brokering, not the suppression of financial information. See Advisory Opinions 1980-78 and 1981-38.

Cass proposes to use the names and addresses of candidates derived from FEC records to solicit candidates as clients and not any information relating to individual contributors. The use of such candidate information would not be prohibited by 2 U.S.C. 438(a)(4).

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activities set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Lee Ann Elliott
Chairman for the Federal Election Commission

Enclosures (AOs 1981-38, 1980-101, 1980-78, 1977-66)