

060 0397

Edward D. Feigenbaum
Attorney at Law
Post Office Box 383
Noblesville, Indiana 46060

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 MAR 18 AM 9:41

317/773-8715

March 14, 1991

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

91 MAR 18 PM 3:49

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE CLERK
CIVIL JLT

Dear Larry:

This letter requests an Advisory Opinion from the Federal Election Commission on the applicability of 2 U.S.C. §434(b)(3)(A) to an activity that I would like to undertake in Indiana.

I am planning to create a campaign finance database for Indiana state and legislative offices only--not for any federal candidates. The database--and resulting publication--would detail what individuals, Indiana political committees, candidates, and other persons have contributed what amounts to whom in Indiana; which individuals, candidates, Indiana political committees, and other persons have benefited from expenditures from campaigns and committees, and the like. The information will help Hoosiers understand more about who is financing campaigns and in what amounts. I do not intend to publish any address information for any individual, candidate, committee, or other person.

So far, there is no intersection of my proposed activity with federal law. If my activity is permitted under Indiana law, I should not have any fear of running afoul of the Federal Election Campaign Act and its interpretations.

Where my question arises is under an Indiana provision which permits a political committee to file a copy of its FEC Form 3-X with the State Election Board to comply with Indiana law. I.C. 3-9-5-13 states in pertinent part that:

A person may file duplicates of the reports required to be filed under the Federal Election Campaign Act (2 U.S.C. 431 et seq.) to comply with this chapter. Such a duplicate must cover all activity of the committee, and the committee shall file a supplementary report as directed by the state election board to provide information required by this article but not included in the federal report.

Indeed, the State Election Board has promulgated a rule that requires itemization of contributions and expenditures between Indiana's \$100 threshold and the \$200 federal threshold.

Edward D. Feigenbaum

Lawrence M. Noble, Esq.

March 14, 1991

Page 2

My specific question is this: if Indiana law would permit me to undertake the activity that I have outlined above, may I use information from the FEC Form 3-X that federally registered political committees have filed with the Indiana State Election Board (in lieu of their filing the Indiana-required form)? Stated in other terms, if a federally registered political committee had chosen to file the Indiana form, and my use of that information was legal under Indiana law, would my use of such information from the FEC Form 3-X filed in Indiana (in lieu of filing the Indiana-required form) be lawful activity?

Common sense would seem to dictate that the Indiana filing of the FEC Form 3-X should not serve as a means to exempt a political committee from scrutiny that it might otherwise be afforded if the same information--indeed, in greater detail--had been filed on an Indiana form.

A prompt response to this Advisory Opinion Request would be appreciated.

With best wishes,



Edward D. Feigenbaum

encl.: I.C. 3-9-5-13

3-9-5-9. Candidates not appearing on ballots or seeking nomination during year — Report required. — In a year in which a candidate does not appear on an election ballot for an office to which this article applies or does not seek nomination at a caucus or state convention for election to an office to which this article applies, the treasurer of the candidate's committee shall file only the report required by section 10 [3-9-5-10] of this chapter [P L 5-1986, § 5]

3-9-5-10. Annual committee reports — The treasurer of each committee shall file a report each year that is complete as of December 31 of the previous year and covers the period since the last report. This annual report is due by noon

- (1) January 15, in the case of a candidate's committee or political action committee, or
- (2) March 1, in the case of a regular party committee

[P L 5-1986, § 5, P L 10-1988, § 73]

3-9-5-11. Disbanding committee reports. — No later than noon thirty (30) days after the date a committee disbands, the last person to be treasurer of the committee shall file a final report that is complete as of the last day the committee existed and covers the period since the last report [P L 5-1986, § 5, P L 10-1988, § 74]

3-9-5-12. Change of treasurer reports. — No later than noon thirty (30) days after the date a treasurer of a continuing committee leaves office, the outgoing treasurer shall file a final report that is complete as of the last day the person was treasurer and covers the period since the last report [P L 5-1986, § 5, P L 10-1988, § 75]

3-9-5-13 Use of federal election reports. — A person may file duplicates of the reports required to be filed under the Federal Election Campaign Act (2 U S C 431 et seq) to comply with this chapter. Such a duplicate must cover all activity of the committee, and the committee shall file a supplementary report as directed by the state election board to provide information required by this article but not included in the federal report. Each candidate for United States Senator or Representative and the treasurer of the candidate's committee may file with the state election board duplicates of the reports required by federal law [P L 5-1986, § 5]

3-9-5-14 Committee's treasurer reports — Applicability to political action committees — Adoption of rules to establish value of donations. — (a) The report of each committee's treasurer must disclose the following

- (1) The amount of cash on hand at the beginning of the reporting period
- (2) The total sum of individual contributions, including transfers-in, accepted by the committee during its reporting period
- (3) The full name and mailing address of each person who has made one (1) or more contributions within the year in an aggregate amount that

(A) Exceeds one hundred dollars (\$100), in the case of a candidate's committee or political action committee, or

(B) Exceeds two hundred dollars (\$200), in the case of a regular party committee, in actual value to or for the committee, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, together with the date and amount of the contributions

(4) The name and address of each committee from which the reporting committee received, or to which that committee made, a transfer of funds, together with the amounts and dates of all transfers

(5) Each loan to or from a person within the reporting period together with

(A) The full names and mailing addresses of the lender and endorsers, if any, and

(B) The date and amount of the loans

(6) The total sum of all receipts of the committee during the reporting period

(7) The full name, mailing address, occupation, and principal place of business, if any, of each person other than a committee to whom an expenditure was made by the committee or on behalf of the committee within the year in an aggregate amount that

(A) Exceeds one hundred dollars (\$100), in the case of a candidate's committee or political action committee, or

(B) Exceeds two hundred dollars (\$200), in the case of a regular party committee,

(8) The name, address, and office sought by each candidate for whom any expenditure was made or a statement identifying the public question for which any expenditure was made,



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

March 25, 1991

Edward D. Feigenbaum
Attorney at Law
P.O. Box 383
Noblesville, IN 46060

Dear Mr. Feigenbaum:

This responds to your letter dated March 14, 1991, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the publication of a campaign finance database.

You plan to publish a campaign finance database for Indiana state and legislative offices only, not for any Federal candidates. The database would detail the individuals, Indiana political committees, candidates, and other persons that have contributed, the amounts they have contributed, and the recipients. You also plan to detail the individuals, candidates, Indiana political committees, and other persons that "have benefited from expenditures from campaigns and committees, and the like." You do not intend to publish any address information for any individual, candidate, committee, or any other person.

You make reference to a provision of Indiana law which permits a political committee to file a copy of its FEC Form 3-X (i.e., for other than authorized committees) with the State Election Board to comply with Indiana law. That provision also states that the committee shall file a supplementary report as directed by the State Election Board to disclose information required by the State but not included in the Federal report. The Board requires itemization of contributions between \$100 and \$200.

Assuming Indiana law permits you to undertake the activity described above, you wish to know whether you may use information from the FEC Forms 3-X filed with the State.

The Act authorizes the Commission to issue an advisory opinion in response to a "complete written request" from any person with respect to a specific transaction or activity by the requesting person. 2 U.S.C. §437f(a). Commission regulations explain that such a request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made." 11 CFR 112.1(c).

In view of the cited requirements, you will need to provide some clarification as to a number of relevant factors referred to in the questions set out below.

- (1) State what information you intend to publish from the FEC Forms 3-X. Specifically, state whether you intend to publish the names of contributors to those committees.
- (2) If you are publishing the names of contributors, state whether you will be listing their home cities or states.
- (3) State whether you will be using or publishing information from reports filed by the principal campaign committees (or authorized committees) of Federal candidates.
- (4) State whether this database or publication will be sold or distributed for free.

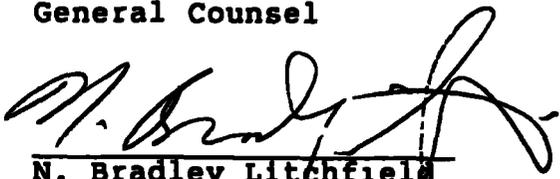
For your information and review, I am enclosing copies of Advisory Opinions 1989-19, 1988-2, 1986-25, and 1980-101.

Upon receiving your responses to the above questions, this office and the Commission will give further consideration to your inquiry as an advisory opinion request. If you have any questions concerning the advisory opinion process, the enclosed opinions, or this letter, please contact the undersigned.

Sincerely,

Lawrence M. Noble
General Counsel

BY:


N. Bradley Litchfield
Associate General Counsel

Enclosures

066 0648

Edward D. Feigenbaum
Attorney at Law
Post Office Box 383
Noblesville, Indiana 46060

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 APR -4 AM 9:30 17/773-8715

March 31, 1991

N. Bradley Litchfield, Esq.
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

91 APR -5 PM 12:20

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

Dear Mr. Litchfield:

Thank you for your letter of March 25 responding to my Advisory Opinion Request. You have correctly restated and interpreted the points that I raised in my March 14 AOR.

You also raised several "relevant factors" for which you required additional clarification under 11 CFR 112.1(c). This letter is intended to provide that information.

- [1] **State what information you intend to publish from the FEC Forms 3-X. Specifically, state whether you intend to publish the names of contributors to those committees.**

Response: There are some Indiana political committees that are registered with the Federal Election Commission, but which also engage in activity within the State of Indiana. I intend to publish the names of certain contributors (and the amounts they have contributed) to those Indiana political committees which, for reasons of convenience, have chosen to file FEC Forms 3-X with the Indiana State Election Board in lieu of filing the required Indiana campaign finance statement. I also intend to publish the names of certain contributors (and the amounts they have contributed) to such committees as may be found on the Indiana-required supplemental reports that may be appended to the FEC Forms 3-X. Finally, I intend to publish the names of certain recipients of expenditures (and amounts received) for such committees from the FEC Forms 3-X and supplemental state-mandated forms.

N. Bradley Litchfield, Esq.

March 31, 1991

Page 2

- [2] **If you are publishing the names of contributors, state whether you will be listing their home cities or states.**

Response: I intend to publish the names and home cities or states of certain contributors to Indiana political committees which, for reasons of convenience, have chosen to file FEC Forms 3-X with the Indiana State Election Board in lieu of filing the required Indiana campaign finance statement. I also intend to publish the names and home cities or states of certain contributors (and the amounts they have contributed) to such committees as may be found on the Indiana-required supplemental reports that may be appended to the FEC Forms 3-X. Finally, I intend to publish the names and home cities and states of certain recipients of expenditures (and amounts received) for such committees from the FEC Forms 3-X and supplemental state-mandated forms. I do not intend to publish addresses for any such persons.

- [3] **State whether you will be using or publishing information from reports filed by the principal campaign committees (or authorized committees) of Federal candidates.**

Response: As my Advisory Opinion Request stated, I am only interested in publishing information about contributions to and expenditures by candidates for state and legislative office in Indiana, and Indiana-registered political committees. I will not be using or publishing any information from reports filed by the principal campaign committees (or authorized committees of Federal candidates.

- [3] **State whether this database or publication will be sold or distributed for free.**

Response: This database or publication will be offered for sale.

I must reiterate that the information that I am seeking to compile from the FEC Forms 3-X filed in Indiana would ordinarily be filed on state forms, and not subject to the jurisdiction of the Federal Election Commission under the Federal Election Campaign Act of 1971, as amended, and Commission regulations. The sole reason that the Indiana political committees have chosen to file the FEC Forms 3-X with the Indiana State Election Board is

N. Bradley Litchfield
March 31, 1991
Page 3

merely for reasons of reporting convenience. Such action should not, in my view, serve to insulate them from publication of material which, if filed on the Indiana-required campaign finance statement, could be made available for publication under Indiana law.

Thank you again for your prompt reply to my Advisory Opinion Request. I look forward to the Commission's prompt resolution of the issues posed by my Request. Please don't hesitate to contact me again should you or the members of the Commission require any additional information to determine your answer.

Cordially,

A handwritten signature in cursive script, appearing to read "Edward D. Feigenbaum".

Edward D. Feigenbaum



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

April 16, 1991

Edward D. Feigenbaum
Attorney at Law
P.O. Box 383
Noblesville, IN 46060

Dear Mr. Feigenbaum:

This is in further response to your letters dated March 14 and March 31, 1991, with respect to the publication of a campaign finance database. The Office of General Counsel needs to clarify certain information before considering your inquiry to be a complete advisory opinion request.

Specifically, this office needs to clarify the types of names that you propose to copy, i.e., whether they are names that are being reported to the Commission on Form 3X or are names that are being added only to the 3X that is being filed with the State of Indiana. In order to have this point illustrated most clearly, we are enclosing sample Detailed Summary Pages and sample Schedule A's for a hypothetical committee.

The first sample set (Sample 1) represents a report filed with the Commission and, pursuant to 2 U.S.C. §439, filed with the State. The second sample set (Sample 2) represents a report filed only with the State of Indiana. These reports cover the same contribution activity. They each include a reference on the Detailed Summary Page to the total of contributions received and the totals for itemized and unitemized contributions. They each also include one Schedule A page listing the itemized contributors and reflecting all of the itemized activity and all contributions received for the report. Please review the enclosed samples and state which contributor entries you would propose to include in your publication. Assume all contributors are listed with Indiana addresses.

We have also enclosed a blank set of FEC Form 3X's and Schedule A's in the event you wish to prepare your own

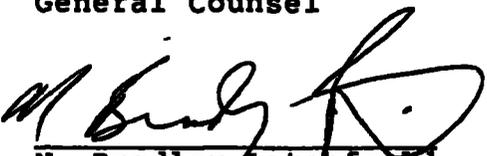
Letter to Edward D. Feigenbaum
Page 2

illustration of what entries you propose to copy for your
database project.

If you have any questions concerning this letter or the
advisory opinion process, please contact the undersigned.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
N. Bradley Litchfield
Associate General Counsel

Enclosures

Sample 1

DETAILED SUMMARY PAGE
OF RECEIPTS AND DISBURSEMENTS
PAGE 2, FEC FORM 3X

Filed with FEC copy under 2 U.S.C. 5439

(revised 1/1/91)

NAME OF COMMITTEE <i>Fund for a Better Government 40999888</i>		REPORT COVERING PERIOD FROM <i>1/1/91</i> TO <i>3/31/91</i>	
		COLUMN A Total This Period	COLUMN B Calendar Year
I. Receipts			
11	Contributions (other than loans) From		
a	Individual/Persons Other Than Political Committees		
i	Itemized (use Schedule A)	<i>\$800</i>	<i>\$800</i>
ii	Unitemized	<i>400</i>	<i>400</i>
iii	Total (add i and ii) >	<i>1,200</i>	<i>1,200</i>
b	Political Party Committees		
c	Other Political Committees (such as PACs)		
d	Total Contributions (add a iii, b and c) >		
12	Transfers From Affiliated/Other Party Committees		
13	All Loans Received		
14	Loan Repayments Received		
15	Offsets To Operating Expenditures (Refunds, Rebates, etc)		
16	Refunds of Contributions Made to Federal Candidates and Other Political Committees		
17	Other Federal Receipts (Dividends, Interest, etc)		
18	Transfers from Nonfederal Account for Joint Activity		
19	Total Receipts (add 11d, 12, 13, 14, 15, 16, 17, and 18) >		
20	Total Federal Receipts (subtract line 18 from line 19) >		
II Disbursements			
21	Operating Expenditures		
a	Shared Federal/Non-Federal Activity (from Schedule H4)		
i	Federal Share		
ii	Non-Federal Share		
b	Other Federal Operating Expenditures		
c	Total Operating Expenditures (Add a i, a ii, and b) >		
22	Transfers to Affiliated/Other Party Committees		
23	Contributions to Federal Candidates/Committees and Other Political Committees		
24	Independent Expenditures (use Schedule E)		
25	Coordinated Expenditures Made by Party Committees (2 U S C 441a(d)) (use Schedule F)		
26	Loan Repayments Made		
27	Loans Made		
28	Refunds of Contributions To		
a	Individuals/Persons Other Than Political Committees		
b	Political Party Committees		
c	Other Political Committees (such as PACs)		
d	Total Contribution Refunds (Add a, b and c) >		
29	Other Disbursements		
30	Total Disbursements (add 21c, 22, 23, 24, 25, 26, 27, 28d, and 29) >		
31	Total Federal Disbursements (subtract line 21 a ii from line 30) >		
III Net Contributions/Operating Expenditures			
32	Total Contributions (other than loans)(from line 11d)		
33	Total Contribution Refunds (from line 28d)		
34	Net Contributions (other than loans)(subtract line 33 from 32)		
35	Total Federal Operating Expenditures (add 21 a i and 21 b) >		
36	Offsets to Operating Expenditures (from line 15)		
37	Net Operating Expenditures (subtract line 36 from 35) >		

Sample 1 (cont.)

SCHEDULE A

ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 1 OF 1
FOR LINE NUMBER 11a

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (In Full) **Fund for a Better Government** C00999888

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Paul Church 4932 Cathedral Street City, State 00000	City Construction Co.	1/14/91	\$ 250
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Occupation foreman	Aggregate Year-to-Date > \$ 250	
B Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Martha King 637 Main Street City, State 00000	Marlowe School	2/4/91	\$ 150
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Occupation teacher	Aggregate Year-to-Date > \$ 150	
C. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Joseph Winkers 933 Atwood Street City, State 00000	State Steel Corp.	2/20/91	\$ 250
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Occupation accountant	Aggregate Year-to-Date > \$ 250	
D Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
James E. Porter 2540 Elsworth Avenue City, State 00000	State University	3/1/91	\$ 150
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Occupation professor	Aggregate Year-to-Date > \$ 150	
E Full Name Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Occupation	Aggregate Year-to-Date > \$	
F Full Name Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Occupation	Aggregate Year-to-Date > \$	
G. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Occupation	Aggregate Year-to-Date > \$	

SUBTOTAL of Receipts This Page (optional) .. \$ 800

\$ 1,200

Sample 2

DETAILED SUMMARY PAGE
OF RECEIPTS AND DISBURSEMENTS
PAGE 2, FEC FORM 3X

not pursuant to
2 U.S.C. 5439

(revised 1/1/91)

NAME OF COMMITTEE <i>Fund for a Better Government</i>		REPORT COVERING PERIOD FROM <i>1/1/91</i> TO <i>3/31/91</i>	
		COLUMN A Total This Period	COLUMN B Calendar Year
I Receipts			
11	Contributions (other than loans) From		
a	Individual/Persons Other Than Political Committees		
	I Itemized (use Schedule A)	<i>8950</i>	<i>8950</i>
	II Unitemized	<i>250</i>	<i>250</i>
	III Total (add I and II) >	<i>1,200</i>	<i>1,200</i>
b	Political Party Committees		
c	Other Political Committees (such as PACs)		
d	Total Contributions (add a III, b and c) >		
12	Transfers From Affiliated/Other Party Committees		
13	All Loans Received		
14	Loan Repayments Received		
15	Offsets To Operating Expenditures (Refunds, Rebates, etc)		
16	Refunds of Contributions Made to Federal Candidates and Other Political Committees		
17	Other Federal Receipts (Dividends, Interest, etc)		
18	Transfers from Nonfederal Account for Joint Activity		
19	Total Receipts (add 11d, 12, 13, 14, 15, 16, 17, and 18) >		
20	Total Federal Receipts (subtract line 18 from line 19) >		
II Disbursements			
21	Operating Expenditures		
a	Shared Federal/Non-Federal Activity (from Schedule H4)		
	I Federal Share		
	II Non-Federal Share		
b	Other Federal Operating Expenditures		
c	Total Operating Expenditures (Add a I, a II, and b) >		
22	Transfers to Affiliated/Other Party Committees		
23	Contributions to Federal Candidates/Committees and Other Political Committees		
24	Independent Expenditures (use Schedule E)		
25	Coordinated Expenditures Made by Party Committees (2 U S C 441a(d)) (use Schedule F)		
26	Loan Repayments Made		
27	Loans Made		
28	Refunds of Contributions To		
	a Individuals/Persons Other Than Political Committees		
	b Political Party Committees		
	c Other Political Committees (such as PACs)		
d	Total Contribution Refunds (Add a, b and c) >		
29	Other Disbursements		
30	Total Disbursements (add 21c, 22, 23, 24, 25, 26, 27, 28d, and 29) >		
31	Total Federal Disbursements (subtract line 21 a II from line 30) >		
III Net Contributions/Operating Expenditures			
32	Total Contributions (other than loans)(from line 11d)		
33	Total Contribution Refunds (from line 28d)		
34	Net Contributions (other than loans)(subtract line 33 from 32)		
35	Total Federal Operating Expenditures (add 21 a I and 21 b) >		
36	Offsets to Operating Expenditures (from line 15)		
37	Net Operating Expenditures (subtract line 36 from 35) >		

SCHEDULE A

ITEMIZED RECEIPTS

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (in Full)
Fund for a Better Government

A. Full Name, Mailing Address and ZIP Code Paul Church 4932 Cathedral Street City, State 00000		Name of Employer City Construction Co.	Date (month, day, year) 1/14/91	Amount of Each Receipt this Period \$ 250
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Occupation foreman	Aggregate Year-to-Date > \$ 250	
B. Full Name, Mailing Address and ZIP Code Martha King 637 Main Street City, State 00000		Name of Employer Marlone School	Date (month, day, year) 2/4/91	Amount of Each Receipt this Period \$ 150
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Occupation teacher	Aggregate Year-to-Date > \$ 150	
C. Full Name, Mailing Address and ZIP Code Joseph Winkers 933 Atwood Street City, State 00000		Name of Employer State Steel Corp.	Date (month, day, year) 2/20/91	Amount of Each Receipt this Period \$ 250
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Occupation accountant	Aggregate Year-to-Date > \$ 250	
D. Full Name, Mailing Address and ZIP Code James E. Porter 2540 Elsworth Avenue City, State 00000		Name of Employer State University	Date (month, day, year) 3/1/91	Amount of Each Receipt this Period \$ 150
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Occupation professor	Aggregate Year-to-Date > \$ 150	
E. Full Name, Mailing Address and ZIP Code Vernon Jones 428 Pinchill Road City, State 00000		Name of Employer Pinchill Auto Body	Date (month, day, year) 2/19/91	Amount of Each Receipt this Period \$ 125
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Occupation owner	Aggregate Year-to-Date > \$ 125	
F. Full Name, Mailing Address and ZIP Code Frank Pfeiffer 625 Griffin Court City, State 00000		Name of Employer Graphics Unlimited	Date (month, day, year) 3/7/91	Amount of Each Receipt this Period \$ 125
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Occupation designer	Aggregate Year-to-Date > \$ 125	
G. Full Name, Mailing Address and ZIP Code		Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Occupation	Aggregate Year-to-Date > \$	

SUBTOTAL of Receipts This Page (optional) \$ 950
\$ 1,200

Edward D. Feigenbaum
Attorney at Law
Post Office Box 383
Noblesville, Indiana 46060

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 APR 24 AM 9: 12

317/773-8715

April 21, 1991

N. Bradley Litchfield, Esq.
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
91 APR 24 AM 9: 47

Dear Mr. Litchfield:

Thank you for your letter of April 16, 1991 responding to my Advisory Opinion Request of March 14, and further information sent on March 31, 1991.

Your current query seeks "to clarify the types of names that [I] propose to copy, i.e., whether they are names that are being reported to the Commission on Form 3X or are names that are being added only to the 3X that is being filed with the State of Indiana."

The Indiana Election Code requires all Indiana political action committees to file periodic reports of contributions and expenditures. I.C. 3-9-5-1; I.C. 3-9-5-2. If an Indiana political action committee also happens to be required to file reports with the Federal Election Commission, it may fulfill its Indiana reporting obligation by filing "duplicates of the reports required to be filed under the Federal Election Campaign Act (2 U.S.C. 431 et seq.) to comply with this chapter. Such a duplicate must cover all of the activity of the committee, and the committee shall file a supplementary report as directed by the state election board to provide information required by this article but not included in the federal report." I.C. 3-9-5-13. The "supplementary information" required by the State Election Board is disclosure of all contributions and expenditures falling between Indiana's \$100 disclosure threshold and the FECA's \$200 level.

What I am seeking to do is copy some of the information included on the reports filed with the Indiana State Election Board by Indiana political action committees. This information would likely include both the names being reported to the Federal Election Commission on Form 3X and the names being added to the Form 3X that is filed with the State of Indiana.

N. Bradley Litchfield, Esq.

April 21, 1991

Page 2

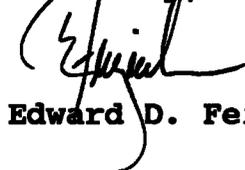
If I am not permitted to copy the information from the Form 3X voluntarily filed with the State of Indiana, but may do so from the supplementary report filed with the State, then I am left with a most perplexing situation that certainly was not intended by those who drafted the law: I would be permitted to report, to the extent permitted by state law, all contributions and expenditures by Indiana-registered political action committees which have chosen to file the state-required disclosure report, but only information on contributions and expenditures between \$100 and \$199.99 for Indiana-registered political action committees which have voluntarily chosen to file the FEC Form 3X and Indiana supplementary report with the Indiana State Election Board.

My understanding of the FECA and the regulations is that the Form 3X is covered by the commercial use prohibitions only [1] when it is filed with the Federal Election Commission; [2] when it is filed as a required report with state authorities; and [3] when it is made available for public inspection by the candidate or political committee.

Here, the State of Indiana has required certain reports to be filed. Strictly as a matter of convenience, it has allowed an Indiana political action committee the option to file its FEC Form 3X (and a supplement to bring it up to Indiana's disclosure standards) to meet this statutory requirement. By voluntarily filing a Form 3X and supplement in lieu of the Indiana form, the political action committee should not find itself imbued with federal statutory protections that would not otherwise apply if they had filed the Indiana form that they could have instead chosen to submit.

Thank you again for your prompt reply to my Advisory Opinion Request. I look forward to the Commission's prompt resolution of the issues posed by my Request. Please don't hesitate to contact me again should you or the members of the Commission require any additional information to determine your answer.

Cordially,



Edward D. Feigenbaum

APR-29-91 MON 20:07 INDIANA LEGIS INSIGHT 811110013 P.02

Edward D. Feigenbaum
Attorney at Law
Post Office Box 383
Noblesville, Indiana 46060

317/773-8715

April 29, 1991

91 APR 30 AM 9:06

RECEIVED
FEDERAL ELECTION COMMISSION

N. Bradley Litchfield, Esq.
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Litchfield:

This letter should serve to further clarify your questions about my Advisory Opinion Request of March 14, 1991 and subsequent correspondence between us.

From my discussion with Mr. Jonathan Levin of the Office of General Counsel earlier today, it appears that I didn't make Indiana's unique situation clearer to you in my initial request. As I told Mr. Levin, Indiana's system for campaign finance reporting is different from that employed in many other states.

The duplicate report to be filed with "a State officer" as required by 2 U.S.C. § 434(a)(2) and specified by 11 C.F.R. § 108.5 is filed with the Secretary of State in Indiana, who functionally serves as the state chief election officer. The Federal Election Commission designates the Indiana Secretary of State as the "state records office." Fed. Elec. Camp. Fin. Guide § 91 at 191 (CCH). The Secretary of State has not delegated any of this authority, and maintains all copies of required duplicate disclosure reports under 11 C.F.R. § 108.6.

I have no intention of using--for any purposes--the required reports filed with the Indiana Secretary of State as required by law. I am seeking to copy information from reports on FEC Form 3X voluntarily filed by Indiana political action committees with the Indiana State Election Board to fulfill state law requirements.

Indiana political action committees registered with the Federal Election Commission are permitted under state law to file a copy of their FEC-required reports of contributions and expenditures in lieu of the state-required reports if they append information that details information sufficient to comply with Indiana's lower reporting threshold.

N. Bradley Litchfield, Esq.
April 29, 1991
Page 2

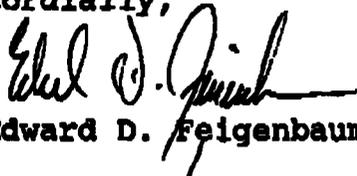
The Indiana State Election Board receives no information from the Secretary of State. If a political action committee is required by the FEC to file with the State of Indiana, that filing is made with the Secretary of State. If an Indiana political action committee is required to file reports with the State of Indiana, that filing is made with the State Election Board.

The Secretary of State and the State Election Board have no common members, staff, facilities, or responsibilities.

I hope that this information clears up any concerns that you might have before the Office of General Counsel presents its draft Advisory Opinion to the Commission members for consideration. Your forbearance in this matter is much appreciated.

As before, please don't hesitate to contact me again should you or the members of the Commission require any additional information to determine your answer.

Cordially,


Edward D. Feigenbaum

Edward D. Feigenbaum
Attorney at Law
Post Office Box 383
Noblesville, Indiana 46060

317/773-8715

91 MAY - 1 PM 3:55

FEDERAL ELECTION COMMISSION

April 30, 1991

N. Bradley Litchfield, Esq.
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

AOR
1991-16

Dear Mr. Litchfield:

In hopes of putting to a rest your inquiries about my Advisory Opinion Request of March 14, 1991 and subsequent correspondence . . . I am sending along this response to questions posed to me earlier today by Mr. Jonathan Levin in a telephone call.

I intend to use most of the Schedule A information from the FEC Form 3X that may be voluntarily filed with the Indiana State Election Board by an Indiana registered political action committee that chooses to file the FEC Form 3-X in lieu of the Indiana-required report. Referring to your letter of April 16, 1991, this would correspond to the Schedule A appended to your "Sample 2," which, as you note, would be "[f]iled only with state under state law, not pursuant to 2 U.S.C § 439."

I do not intend to use any information from any FEC Form 3X that may be filed with the Indiana Secretary of State by a political action committee registered with the Federal Election Commission as required by federal law. Referring again to your letter of April 16, I will not be using for any purpose the Schedule A appended to your "Sample 1," which, as you note, would be "[f]iled with FEC & copy with state under 2 U.S.C. § 439."

Practically speaking, the way the process works in Indiana is that an Indiana-based federal political action committee will file its Form 3X with the Federal Election Commission, and also file an identical duplicate with the Indiana Secretary of State. The committee will then typically make a copy of this report, either make additions to its Schedule A (in the form of changing the numbers to comply with Indiana threshold reporting requirements, or adding the names of those who have contributed or received in excess of the Indiana threshold but less than the federal threshold and the amounts between the thresholds to the end of the Schedule A), or append a separate statement to the Schedule A itemizing those contributions and expenditures exceeding the Indiana state threshold and not reported to the FEC

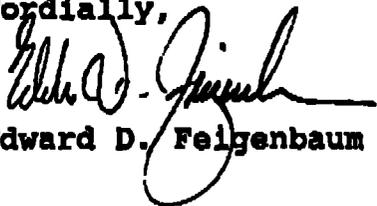
N. Bradley Litchfield, Esq.
April 30, 1991
Page 2

on the Form 3-X. This new report, not required or covered by federal law, would then be filed with the Indiana State Election Board to fulfill Indiana's statutory reporting requirements.

I hope that this serves to enlighten you further as to Indiana's unique manner of trying to ease the reporting burden on political action committees.

As before, please don't hesitate to contact me again should you or the members of the Commission require any additional information to determine your answer.

Cordially,



Edward D. Feigenbaum