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Leading Edge Communications
PO Box 7178
Riverside, CA 92513
714-784-9131
October 9, 1992

Office of General Counsel
Federal Elections Commission
999 E St. N.W.
Washington, D C. 20463

Dear Sir

I need an advisory opinion from the elections commission on a fund raising idea for a political party. I realize federal law does not allow corporate contributions to political parties that use national accounts. I need to know if what I am proposing is considered a contribution or earned income.

What we would do is sign up a state party as a non-profit organization, to do a telephone service fund raiser with our company. We are a telecommunications marketing company, marketing the discounted long-distance phone services of several carriers. The supporters would sign up their long-distance service with us, pay their monthly long-distance phone bill to us, and we would send a percentage to the political party each month as a commission (11% of long-distance charges maximum).

I have 3 questions:

1. Would the commission LEC pays to the party be considered a contribution from LEC to the party, or earned income? (The IRS considers it earned income, and we would issue a form 1099 at the end of the year)
2. If it's a contribution, is it from LEC or the supporter?
3. If it's not a contribution, can we sign up business phones on the service?

I have enclosed a sample copy of the contract we use to do fund raisers. I would like to know if this type of fund raiser would be legal within federal guidelines, and if there would be any restrictions placed on it.

Thank you for your help.

Sincerely,

Patrick M. Poor

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RECEIVED
FEDERAL ELECTIONS COMMISSION

**LEC
ADVANTAGE
FUND RAISER**



Leading Edge Communications, Inc.
 813 Ridge Lake Blvd., Suite 400
 Memphis, TN 38120
 (801) 781-5800
 FAX (801) 781-0388

ORGANIZATION AGREEMENT

Tax ID No. _____

This Agreement is entered this _____ day of _____, 19____, between Leading Edge Communications, Inc. ("LEC") and _____ ("Organization"), referred to collectively at times as "Parties," and together with any Riders or other Exhibits which may be attached to it, this agreement is the entire and final expression of Parties intended agreement and supersedes all previous agreements between them and replaces any others that are or could be in existence.

Organization members, employees and friends (collectively, "Customers") will be eligible to apply for participation in certain long distance service programs ("Programs") which LEC offers from time to time.

Organization agrees to take reasonable and necessary steps to effectively market Programs to Customers and to solicit Customers to apply for service under Programs, all at Organizations sole cost. Use of LEC's name, logo, letterhead, or in any other way, and reference in any form to Programs in publicity releases, printed materials, graphic materials, any text, any audio, any video, or in any other marketing or advertising, or in any other way, shall be at the Organization's sole cost and is subject to advance written approval by LEC's President or Chief Operating Officer.

In return for performing under this agreement, Organization shall be paid that amount ("Fee") which equals the following percentage of the total amounts received ("Receipts") by LEC (exclusive of taxes, service charges, directory assistance charges and other non-long distance charges) from Customers during a month under program.

| Non-AT&T/Residential | Non-AT&T/Commercial | AT&T/Commercial Only |
|---|---|--|
| 0% of Receipts from interstate and interstate calling charges. 0% of Receipts from calling card charges. | 0% of Receipts from interstate and interstate calling charges. 0% of Receipts from calling card and 800-numbercharges. | 0% of Receipts from interstate and interstate calling charges. 0% of Receipts from AT&T calling card charges. |

Where Organization itself participates in Programs, receipts by LEC from Organization shall be deemed part of Receipts.

Fee shall be forwarded by LEC to Organization on or before the 10th of the month following the month in which Receipts were received

All terms, conditions and other matters relating to Programs, to those Organizations and Customers who may and will be allowed to participate in Programs, to whether a party or person is a Customer for purposes of this agreement, and to whose Customer such party or person is will all be determined by and in the sole discretion of LEC, whose decision in this regard is final.

LEC agrees to hold in confidence and not to divulge to any third party, other than to effect Programs, the names or other information concerning Customers which Organization provides.

This agreement may be terminated by either party at any time for any reason. In the event LEC terminates this agreement, Organization agrees to cease any and all activity in connection with LEC and its services. However, in the event of a termination, LEC will continue to forward Fee to Organization, per this agreement, so long as Organization or its Customers continue using the long distance service as offered through LEC.

This agreement shall bind and inure to the benefit of LEC and Organization's heirs, successors and assigns, provided however that organization may not assign its rights or obligations under this agreement without the prior written approval of LEC. All modifications of this agreement shall be ineffective, including a modification of this paragraph, unless signed by LEC and Organization.

Any notice or other communication required, desired or allowed hereunder shall be deemed given and received on the date it is personally delivered to the party to whom it is directed or, if mailed, on the date after the day on which it is mailed to such party by certified or registered mail to the address of that party shown at the foot of this agreement.

LEC may disclose and share with Organization certain information and records relating to Customers, Programs, and other sensitive information. Organization shall not disclose to any other, nor use or benefit, financially or otherwise, from such information or records, without the prior and express written consent of LEC.

Parties represent that they have read the terms of this Agreement, that they understand the same, that they have voluntarily signed this Agreement, and that no representations, warranties, statements, promises, inducements or other agreements have been made nor entered into by them or anyone else, other than those enumerated or set out herein, to obtain their signatures hereon or their agreement to the terms hereof, and further agree to execute any other documents which may be necessary to effectuate the terms hereof.

Organization:
 By _____
 It: _____
 Address: _____

 Phone: _____

LEC:
 By _____
 It: _____
 LEC Consultant
 Signature: _____
 Print: _____
 ID Code No. _____



TEL: ...
Oct 21 11 21 AM '92

Leading Edge Communications
PO Box 7178
Riverside, CA 92513
714-784-8181
October 19, 1992

Office of General Counsel
Federal Elections Commission
999 E. St. N.W.
Washington, D.C. 20463

Dear Sir:

In response to my request for information, I received from your office copies of Advisory Opinions 1979-17, 1988-12, and dissenting opinion to 1979-17. I will probably need a separate advisory opinion, as our program is different from the two in these other opinions in several significant ways: we are not a bank; we are not offering a credit card; we do not buy lists of supporters, we do not solicit the supporters--the political party does that; we offer this program to any non-profit organization.

Our telecommunications affinity fund raiser would not involve the selling of membership lists. The party would do all of the work. They would contact the supporter, explain the services, obtain their signature on a long-distance phone service contract, and forward to us. We would provide the service and billing to the supporter, and send the party a commission each month. This would be the normal commission paid to any individual or non-profit organization who signed up for this type of promotion. The benefit to LEC would come in the form of a larger customer base. The party would be acting as an outside salesperson, and receive the normal commission for sales. The IRS considers this earned income, and LEC would issue a form 1099 at the end of the year. The party would be paid only upon value being received, as their commission is determined each month by the total paid billings received by LEC. Also, the supporters would be treated the same as any other LEC customer. They would be charged the same rates for services, and receive the same services as all other LEC customers. This is a bona fide commercial transaction between a political party and a corporation.

On the national level, would this program be allowed as a normal and ordinary business arrangement between a political party and a corporation, since the transactions would be valued at their usual and normal charge, and therefore not a contribution? (See 11 C.F.R. §100.41a [1] [11].)

Sincerely,


Patrick M. Poor

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FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

October 26, 1992

Mr. Patrick M. Poor
Leading Edge Communications
PO Box 7178
Riverside, CA 92513

Dear Mr. Poor:

This refers to your letters dated October 9, and October 12, 1992, concerning the application of the Federal Election Campaign Act of 1971, as amended, to the involvement of Leading Edge Communications, Inc. ("LEC") in a fundraising proposal for a political party.

You state that LEC is a telecommunications marketing company marketing the discounted long-distance phone services of several carriers. LEC proposes to sign up a state political party, as a non-profit organization, to do a telephone service fund raiser. Supporters of the state party would sign up for their long-distance service with LEC and pay their monthly long-distance phone bill to LEC. LEC, in turn, would send a percentage to the political party each month as a commission (11% of long-distance charges maximum).

You ask three questions:

1. Would the commission LEC pays to the party be considered a contribution from LEC to the state party or earned income?
2. If it is a contribution, is it a contribution from LEC or from the supporter?
3. If it is not a contribution, can LEC sign up business phones on the service?

This office notes that your inquiry concerns the application of the Act to the involvement of vendors and political entities in commercial activity for fundraising purposes. Your October 19, 1992 letter indicates that you have reviewed Advisory Opinions 1988-12 and 1979-17. Your attention is further directed to Advisory Opinion 1991-34 which addresses issues similar to those raised in your inquiry. This opinion also explains the basis for this office's second question to you listed below. For your information and guidance, a copy of the opinion is enclosed.

Letter to Mr. Patrick M. Poor

Page 2

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).

After reviewing the enclosed opinion, you may still wish to request an advisory opinion. If so, this office has determined that additional information from you is necessary to consider your inquiry. Please provide the following information regarding your proposal:

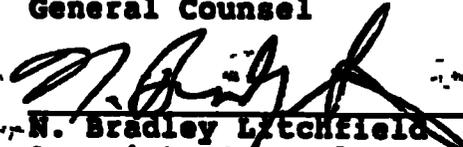
1. Please identify the political organizations LEC plans to solicit for its proposal, as well as those that have already shown interest in it.
2. With respect to political organizations that enter contracts with LEC, describe the specific purpose for which they will spend the fees paid to them by LEC.
3. Your inquiry includes a sample contract for your proposal which obligates a signatory organization to market LEC's program to customers. Advanced written approval of LEC is required for certain marketing activity. Please state what guidelines LEC plans to impose regarding marketing activity, including guidelines for written solicitations. Provide copies of sample solicitations that may be used by the political party.

Upon receiving your response to this request for information, 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 advisory opinion enclosed, or this letter, please contact the undersigned.

Sincerely,

Lawrence M. Noble
General Counsel

BY:


N. Bradley Litchfield
Associate General Counsel

Enclosure
Advisory Opinion 1991-34.



Leading Edge Communications
PO Box 7178
Riverside, CA 92513
714-784-8181
November 5, 1992

N. Bradley Litchfield
Associate General Counsel
Office of General Counsel
Federal Elections Commission
999 E. St. N.W.
Washington, D.C. 20463

AOR 1992-40

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Dear Mr. Litchfield:

After reading Advisory Opinion 1991-34, I wish to still request an opinion about Leading Edge Communications' proposal. You asked for additional information in order to issue an opinion.

1. The political organizations I have contacted with varying degrees of interest are the state Republican parties of: Arizona, California, Colorado, Georgia, Illinois, Indiana, Iowa, Idaho, Kansas, Kentucky, Minnesota, Montana, Missouri, Nebraska, Nevada, New Mexico, New Jersey, Oklahoma, Ohio, Oregon, Pennsylvania, Tennessee, Utah, Virginia, and Wyoming. All of the other state parties are potentials as well.

2. The specific purposes for which they will spend the fees paid to them by LEC will be determined by your Advisory Opinion. LEC places no limitations on how the money can be spent, and none of the organizations contacted have expressed how they want to spend it. The whole purpose for my contacting your office is to determine if there are specific limitations on how the parties can spend the funds.

3. The contract between LEC and the non-profit organization obligating the organization to market LEC's program serves only as a way to let them know that LEC will not do the marketing for them. They will have to do it themselves. They can cancel the contract at any time for any reason.

The only restrictions LEC places on the organizations are that they not violate their contract with LEC; do not represent themselves as something they are not; do not violate the law in any way; and any "hard copy" materials they develop and wish to distribute must be approved by LEC, to insure it is accurate and legal. They are given a lot of freedom to promote this. LEC is concerned only that it be done properly.

I realize state parties can receive funds from corporations if their state allows it, for local and state election activities. My concern is whether or not this promotion can also provide funds for Federal election activities.

The feeling I get from the opinions I have read, is that political parties cannot spend money received from corporations for Federal election activities, no matter how the money is generated. If this is how the commission is interpreting the regulations, not allowing funds from an ordinary business arrangement between a corporation and a political party for Federal election activities, it would seem to contradict the spirit of 11 C.F.R. §100.4(a) (1) (111).

Is it inappropriate for political parties to "earn" money, or must all of it be contributed? If an individual or organization performs a service for a company, and is compensated what anyone else would be paid for the same service, it seems to me to require a considerable stretch of the imagination to say it is a "contribution" rather than "earned income".

If your opinion is that the spending of these funds would be restricted in some way, I would appreciate having your justification for it as well.

I have enclosed a sample telephone solicitation they could use, including some questions and answers. A written solicitation would include essentially the same information.

Sincerely,



Patrick M. Poor

LEC REPUBLICAN PARTY FUND RAISER SCRIPT

Good morning. Is this registered Republican _____?
I'm _____ from the Texas Republican Party Headquarters.
How are you today?
Great.

The Republican Party in Texas appreciates your support
very much.

As a way to say "thank you", and also gain further support
without costing you anything, we have arranged with Leading Edge
Communications to offer discounted residential and business long
distance phone service to registered Republicans in our state.

You will receive the same high quality long distance phone
service you have now, save 10-40% on your long distance bill, and
9 1/2% of all of the phone bills we sign up in Texas, will go to
the Republican Party each month. We are very short on funds
right now, and we project this will bring in about \$800,000 per
month to support our Republican cause. To do that, we need for
you to sign up today.

In addition, if you sign up today, we will send you a beautiful
red, white, and blue, Republican Party discounted calling card,
using the network services of AT&T, which can save you up to 30%
over the traditional AT&T calling card.

This is an opportunity for you to save and support at the same
time, and for the Republican Party to set up a true residual
income without asking anyone for money.

Can we count on your support?

Great.

Is this residential or business or both?

Residential:

I'll need your name; address of the phone; phone numbers you
want to sign up; and average monthly usage.

Do you also have a business phone we could sign up, or work for
someone who does?

We will send you a form to fill out. Please fill it out
completely, sign it, and send it back right away.

The Republican Party thanks you. Have a great day.

Business:

I'll need your company name; address of the phone; phone
numbers you want to include; name of the responsible person; and
average monthly usage.

We will send you a form to fill out. Please fill it out
completely, sign it, and return with a copy of the summary page
from a recent phone bill.

Do you have a residential phone we could sign up, or know
someone who does?

The Republican Party thanks you. Have a great day.

COMMON QUESTIONS

Who is LEC?

Leading Edge Communications is a telecommunications marketing company in Memphis, Tennessee. They are a long-distance broker, marketing the services of several of the 92 long-distance carriers in the United States.

How can they save me money?

LEC pools together the long-distance volume of thousands of business and residential users, and is able to get a Multi-Location, Volume Discount, that is only available to very large users. This became possible in 1988 by Federal Judge Harold Green's Descent Decree. We are able to lower your cost per minute, and thereby lower your phone bill. We also bill in partial minutes (18 second start-up, with 6 second increments), which saves you about 12% more over whole minute billing.

What if I don't like the service, or don't save enough?

LEC will switch you back to your old carrier free.

Which carrier will I get?

If you have a business phone, you can choose AT&T or non-AT&T. If you have AT&T business now, our AT&T plan will save you about 20%. If you are willing to use a non-AT&T carrier, we can save you about 40%. We get it wholesale.

Residential service is non-AT&T. Our non-AT&T rates are 10-15% less than MCI and Sprint, 20-30% less than AT&T.

What is the non-AT&T carrier?

By contract with this carrier, we can't divulge their name. However, when the service is turned on, if you will push "00" on your phone, the Sprint operator will handle any questions or problems you may have.

How long does it take to turn the service on?

About 30 days from the time we receive the order.

Will I be charged for an unanswered call?

No.

Will I be charged for a wrong number?

No. Simply call the 800 number on your bill.

Do I need to contact my old carrier to have my service changed?

No. We will take care of all the details.

Will my service be disrupted in any way by enrolling in this program?

No.

What phone calls are discounted?

All of your interstate, intrastate, and international long-distance calls.

If I move or change my phone number, what should I do?

Call the Customer Service 800 number on your bill and tell them your new address and phone number as soon as you know what they are.

Can I sign up someone in another state?

Yes. We can include an extra application with yours, and if you will have them fill it out and send it back to us, we will sign them up for the discounts, also.

Can I sign up 800 numbers, or payphones, or hotels, motels, and hospitals?

In some cases. We will need to have an LEC consultant contact you.

How do I know my bill will go down?

You won't until you receive your first bill. If we are right, your bill will be less. If you are right, it will stay the same. If you don't like the service or prices for any reason during the first 90 days, LEC will change you back to your old carrier free, and you can go back to paying retail. There is no risk.

What does it cost to sign up?

Nothing. Your local phone company will charge you a nominal fee to change the long distance carrier, but it will be more than made up in the first month's savings.

What exactly are the prices for the services?

Prime Net (AT&T) business long-distance varies on the time of day and distance. Out of state calls made in the daytime, range from \$.17 to \$.22 per minute. Eves, nites, and weekends: \$.169. Calls made within the state of Texas are \$.244 daytime, \$.196 eves, nites, weekends. Billing is 18 second startup, with 6 second increments. There is a \$5.00 per month service charge.

Prime Net Calling Card: \$.50 per call access charge (AT&T is \$.80; MCI \$.70; Sprint \$.75); and \$.179 to \$.231, averaging about \$.20 per minute. There is a monthly service charge of \$2.50, only during the months the card is used, or if there is a balance on the account. If you use a calling card at least \$6.50 per month, this card will save you money. It is designed for people who actually use a calling card several times per month.

Flex Net (non-AT&T) residential or business with nite calling pattern is, \$.18 daytime, \$.12 nite. \$5.00 per month service charge.

Flex Net Plus is business: \$.16 day; \$.15 eve.; \$.14 nite/wknd. \$3.00 per month service charge.

Can I count any part of this as a donation on my tax return?

No. The IRS does not consider this a donation.

Who do I call if I have a problem with the service?

You will be provided with an 800 number to call.