



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEB 10 1995
JAN 19 1995

January 19, 1995

MEMORANDUM

TO: The Commission

THROUGH: John C. Surina
Staff Director

FROM: Lawrence M. Noble
General Counsel

N. Bradley Litchfield
Associate General Counsel

Michael E. Marinelli
Staff Attorney

SUBJECT: Draft AO 1994-40

Attached is a proposed draft of the subject advisory opinion.

We request that this draft be placed on the agenda for January 26, 1995.

Attachment

AGENDA ITEM
For Meeting of: 1-26-95

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3 CERTIFIED MAIL
4 RETURN RECEIPT REQUESTED

5 ADVISORY OPINION 1994-40

6 David S. Addington, Treasurer
7 Alliance for American Leadership
8 1707 L Street Northwest, Suite 333
9 Washington, D.C. 20036-4200

DRAFT

10 Dear Mr. Addington:

11 This refers to your letter of December 21, 1994,
12 concerning the application of the Federal Election Campaign
13 Act of 1971, as amended ("the Act"), and Commission
14 regulations to the use of a microfilm procedure for records
15 maintained by the Alliance for American Leadership (the
16 "Committee").

17 You state that the Committee is a non-connected,
18 qualified multicandidate PAC.^{1/} During 1994, the Committee
19 received and disbursed substantial sums of money and
20 generated a substantial volume of records. You state that
21 these records include those described in Commission
22 regulations, at 11 CFR 102.9 and 104.14, which the Committee
23 is required to maintain.

24 You explain that the Committee currently maintains most
25 of its records in paper form. To reduce the physical storage
26 space required for such records, and to preserve them more
27 effectively from the potential of fire loss or degradation of

28 1/ The Committee, formerly known as the Cheney for Congress
29 Committee, was the principal campaign committee for Dick
30 Cheney. On February 18, 1994, it filed with the Commission a
notice of its modified status as a non-connected
multicandidate committee.

3 paper over time, the Committee plans to hire a professional
4 firm that would microfilm the paper records and mount them in
5 "5-channel, 12-images-per-channel microfilm jackets." You
6 state that the jackets will, for ease of use, be labeled the
7 same way as the file folders in which the paper records are
8 filed. You indicate that upon completion of the microfilming
9 of the paper records, and verification that the microfilm has
10 legibly and reproducibly captured the images of the paper
11 records, the Committee would destroy many of the underlying
12 paper records. The microfilm form of the records may be
13 viewed through the use of a microfilm reader machine. Paper
14 copies of the record could be reproduced from the microfilm
15 form of the record by a microfilm printer.

16 You ask whether the provisions of the Act and Commission
17 regulations, which require a political committee and its
18 treasurer to keep, maintain, and preserve records, are
19 satisfied if the required records are retained solely in
20 microfilm form as described above.

21 The Act and Commission regulations require that the
22 treasurer of a political committee maintain certain
23 documentation and financial records. 2 U.S.C. §432(c)
24 requires that an account shall be kept of all contributions
25 received by or on behalf of the committee. See also 11 CFR
26 102.9(a). In addition, the political committee must maintain
27 an account of all disbursements made by or on behalf of the
28 committee with information identifying the specific
29 disbursement, the person receiving the disbursement and
30

4 identifying any Federal candidate who has received a
5 committee disbursement. 11 CFR 102.9(b)(1) The committee is
6 also obligated to maintain receipts and invoices from (or
7 canceled checks issued to) the payee of any committee
8 disbursement in excess of \$200. 11 CFR 102.9(b)(2).^{2/}

9 Likewise, 11 CFR 104.14(b)(1) requires that a treasurer
10 of a political committee:

11 Maintain records, including bank records,
12 with respect to the matters required to
13 be reported, including vouchers,
14 worksheets, receipts, bills and accounts,
15 which shall provide in sufficient detail
16 the necessary information and data from
17 which the filed reports and statements
18 may be verified, explained, clarified and
19 checked for accuracy and completeness.

20 The documentation required under 2 U.S.C. §432(c) and
21 sections 102.9 and 104.14 must be preserved and available for
22 audit, inspection or examination by the Commission for at
23 least 3 years after the filing of report to which the
24 documentation relates. See 2 U.S.C. §432(d) and 11 CFR
25 102.9(c) and 104.14(b)(3).

26 When applying the requirements of these regulations, the
27 Commission has previously permitted the maintenance of a
28 committee's records in non-paper form. See Advisory Opinion
29 1993-4. In that opinion, a committee wished to make some of
30 its disbursements by computer, including electronic
transactions that would, in some cases, produce no paper

2/ Special requirements exist for the documentation of
advances for travel and subsistence, and credit card
transactions. See 11 CFR 102.9(b)(2)(i)(A) and (i)(B), and
102.9(b)(2)(ii).

documentation. In permitting this procedure, the Commission concluded that section 104.14(b) could be construed to permit the maintenance of banking records "in the form of computer magnetic media (such as disks, diskettes or tapes) pertaining to these payment transactions." Advisory Opinion 1993-4.

Your proposal is more modest in that the original transaction records you now propose to place on microfilm were paper transaction records that would be photographed and preserved in non-paper form. The Commission concludes that this conversion of paper records to microfilm records is also permissible. The resulting record, however, must fulfill the requirement of providing necessary information and data such that the Committee's reports and statements may be verified, explained, clarified and checked for accuracy and completeness. This means that all portions of a document such as a committee check, for example, should be photographed so as to preserve in legible form any added writing on the front or back or in the margins. Any memos or notes originally attached to these documents should also be photographed. Furthermore, the Committee should maintain a usable indexing and retrieval system for locating and using the microfilm records.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the

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2 **AO 1994-40**

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3 **Commission, to the specific transaction or activity set forth**
4 **in your request. See 2 U.S.C. §437f.**

5
6 **For the Commission,**

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8 **Danny L. McDonald**
Chairman

9 **Enclosure (AO 1993-4)**
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