

March 13, 1998

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

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AOR 1998-04
Supplement

Dear Mr. Noble,

This letter is in response to a phone call from your staff attorney Michael Marinelli on 3/12/98 requesting further clarification regarding White Oak Technologies, Inc.'s ("WOTI") Request for Advisory Opinion (AOR 1998-4).

Specifically, Mr. Marinelli has requested that we provide further detail regarding whether or how WOTI might provide services to politically oriented organizations.

As I stated in my previous correspondence, WOTI's intent in this Request for Advisory Opinion is to determine whether FEC data may be used in its general technology marketing materials. WOTI's marketing campaign is targeted at private sector organizations with an interest in fraud control (such as financial and health-care institutions), as well as government organizations concerned with fraud control or law enforcement. Also, as stated previously, products delivered to any clients by WOTI will not include information derived from FEC reports. WOTI wishes to have the above matter considered separately from any decisions relating to the issues described below.

In response to Mr. Marinelli's request, we wish to inform the FEC that WOTI is not currently actively marketing to any politically oriented organization. As such, we do not have promotional materials that are specifically oriented towards soliciting such clients. However, in the event that a political organization (e.g. a political party committee) wished to retain WOTI's technological services, we would anticipate proceeding as follows:

1. **Fraud detection applications** – In this case, the client might wish to apply WOTI technology to the detection of patterns of improper campaign fundraising practices by opposing parties or candidates. WOTI would provide a license to the client for WOTI's Data Mining software that would be installed and operated at the client's own facilities on the client's own computer equipment. WOTI would not provide any FEC data or data derived from FEC data. The software would be operated by the client's own staff following training by WOTI. Alternately, the software would be operated by WOTI staff, under the direction of client staff, at the client facility, under a separate professional services contract.

The client would be responsible for independently obtaining from the FEC any data to be analyzed. And, the client would make the decision whether to initiate any compliance complaints against individuals or organizations that were identified by WOTI's software.



White Oak

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WOTI contends that such an application is *precisely* the intent of the Federal Election Campaign Act. Namely, to enhance the integrity of the political process by facilitating the public scrutiny of campaign contribution data. WOTI's Data Mining technology furthers this cause by enabling the detection of significant, yet subtle, patterns of contributor collaborations that are otherwise impossible to detect. WOTI further contends that its rights to market Data Mining software and professional services to support the use of such software should not be restricted by the FEC.

2. **Fundraising applications** – In this case, the client might wish to apply WOTI technology to detect collaborative patterns of giving *among its own contributor base* for the purpose of identifying legitimately influential contributors. The data used for such an application would be limited to the client's own data regarding its own contributors, or data legitimately obtained by the client directly from other cooperating campaigns.

WOTI contends that this application of its technology and services is not prohibited by the FECA since the data being processed is the property of the client.

Please direct all correspondence regarding this Request for Advisory Opinion to the undersigned.

Sincerely,



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