

RECEIVED

By Office of the Commission Secretary at 1:31 pm, Sep 14, 2022

From: Lilian Rodriguez-Baz >
Sent: Wednesday, September 14, 2022 1:00 PM
To: Heather Filemyr < >
Cc: lilian@readyforron.com; Amy Rothstein < >; Neven Stipanovic < >
Subject: Re: Questions from the Commission

Re: Ready for Ron Advisory Opinion Request 2022-12

Dear Ms. Filemyr:

On behalf of Ready for Ron (“RFR”), please accept the following responses to the questions contained in your e-mail of September 12, 2022.

1. *Please describe how Ready for Ron intends to determine whether or not Mr. DeSantis has become a candidate or is engaged in testing-the-waters activity.*

RFR will determine whether Mr. DeSantis has become a candidate or engaged in testing the waters activity by applying the legal standards set forth in 52 U.S.C. § 30101(2) and 11 C.F.R. § 100.72(a) based on press accounts, FEC records, and other publicly available information, including any public announcements Mr. DeSantis may choose to make.

2. *How many signatures has Ready for Ron collected as of September 12, 2022? How many of these signatures include contact information (email or traditional mail addresses or phone numbers)?*

As of September 14, 2022, RFR has collected approximately 43,750 signatures for its petition, including the signatory’s contact information (email, mailing address, and/or phone number), is currently adding in excess of 1000 signatures daily, and reasonably anticipates having over 60,000 signatures by the end of September 2022.

3. *In its initial request, Ready for Ron advised that “[a] reasonable sample market value of contact information in political distribution lists is presently approximately 5 cents each.” However, in its supplemental filing of a comment on its own AOR, Ready for Ron argued that its contact list has no “monetary value,” as it is “neither a membership list nor mailing list, any more than signatures and return addresses on holiday greeting cards.” What is the Requestor’s current belief as to the market value of the list that it has assembled as of September 12, 2022?*

RFR’s initial advisory opinion request specified the reasonable sample market value of “contact information in political distribution lists is presently approximately 5 cents each.” In the event the Commission erroneously chooses to treat a list of petition signatories with their identifying information the same as a “contributor list,” see *FEC v. Int’l Funding Institute*, 969 F.2d 1110, 1116 (D.C. Cir. 1992) (en banc); *Federal Election Commission’s Former Employees Committee*, A.O. 1979-18, at 2 (June 5, 1979), “membership list,” or “mailing list,” Draft A at 7, lines 4-7; Draft B at 7, lines 4-7, RFR believes the Commission should apply an appropriate valuation.

RFR does not believe the list of signatories to a political petition (especially a draft petition) constitutes a “contribution” under 52 U.S.C. § 30101(8)(A) and 11 C.F.R. § 100.52(a), however, because—among other things—it cannot constitute “anything of value.” The phrase “anything of value” is a legal term of art referring to “goods or services” that carry a “usual and normal charge.” 11 C.F.R. § 100.52(d)(1). A list of petition signatories would not ordinarily be understood as a “good.” And since signed petitions are typically provided to public figures free of charge to attempt to persuade them and induce action, there is no “usual and normal charge” associated with them. Moreover, as RFR explained in its comment, to the extent any ambiguity or uncertainty exists, the constitutional avoidance canon, *Nat’l Labor Relations Bd. v. Catholic Bishop of Chicago*, 440 U.S. 490, 507 (1979); the major questions doctrine, *W. Va. v. EPA*, 142 S. Ct. 2587, 2614 (2022); and the rule of lenity, *Cleveland v. United States*, 531 U.S. 12, 25 (2000), all counsel against such a sweepingly broad interpretation that would directly target pure political speech. Accordingly, RFR’s signed petition is materially distinguishable from a contributor list, membership list, or mailing list, and should not be deemed a “contribution” for purposes of the Federal Election Campaign Act.

Please do not hesitate to contact me if you need further information

Dear Ms. Rodriguez-Baz:

The Commission would like Ready for Ron to provide responses to the following questions. Your response to this email may be considered a supplement to your advisory opinion request and posted on the Commission's website.

1. Please describe how Ready for Ron intends to determine whether or not Mr. DeSantis has become a candidate or is engaged in testing-the-waters activity.
2. How many signatures has Ready for Ron collected as of September 12, 2022? How many of these signatures include contact information (email or traditional mail addresses or phone numbers)?
3. In its initial request, Ready for Ron advised that "[a] reasonable sample market value of contact information in political distribution lists is presently approximately 5 cents each." However, in its supplemental filing of a comment on its own AOR, Ready for Ron argued that its contact list has no "monetary value," as it is "neither a membership list nor mailing list, any more than signatures and return addresses on holiday greeting cards."

What is the Requestor's current belief as to the market value of the list that it has assembled as of September 12, 2022?

Sincerely,

Heather Filemyr

Attorney

Federal Election Commission