



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

JUN 11 2002

Paul Sullivan, Esq.  
Foley & Lardner  
3000 K Street, N.W.  
Washington, D.C. 20006

RE: MUR 5155  
Friends for a Democratic White House  
Jerome Dewald

Dear Mr. Sullivan:

On November 27, 2000, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time. On December 12, 2000, the Commission notified your clients of an amendment to the above-referenced complaint and forwarded a copy of the amendment at that time.

Upon further review of the allegations contained in the complaint, and information provided by you, the Commission, on June 3, 2002, found that there is reason to believe Friends for a Democratic white House and Lynn Sammartino, as treasurer, violated 2 U.S.C. § 438(a)(4), a provision of the Act. On June 3, 2002, the Commission also found reason to believe Jerome Dewald violated 2 U.S.C. § 438(a)(4). The Factual and Legal Analyses, which formed bases for the Commission's finding, are attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred

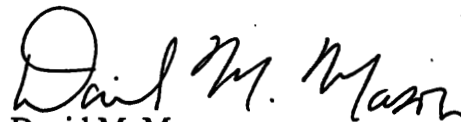
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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact April Sands, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, appearing to read "David M. Mason".

David M. Mason  
Chairman

Enclosures

Factual and Legal Analyses

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**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Friends for a Democratic White House and  
Lynn Sammartino, as Treasurer<sup>1</sup>

MUR: 5155

**I. GENERATION OF MATTER**

This matter was initiated by a Complaint filed with the Federal Election Commission ("the Commission") by Gary R. Gruver, Assistant Treasurer of Gore 2000, Inc. See 2 U.S.C. § 437g(a)(1).

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Applicable Law**

Any information copied from reports filed with the Commission 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. A political committee may submit 10 pseudonyms on each report filed in order to protect against the illegal use of names and addresses of contributors, provided such committee attaches a list of such pseudonyms to the appropriate report. The Clerk, Secretary, or the Commission shall exclude these lists from the public record. 2 U.S.C. § 438(a)(4); 11 C.F.R. 104.15(a). For purposes of this provision, "soliciting contributions" includes soliciting any type of contribution or donation, such as political or charitable contributions. 11 C.F.R. § 104.15(b). The

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<sup>1</sup> Jeanette Hensler was the Treasurer of Friends for a Democratic White House at the time the complaint was filed. An amended Statement of Organization naming Lynn Sammartino as Treasurer was filed with the Commission on May 3, 2002.

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identity of these "salted" or "seeded" names, as they are referred to, is excluded from the public record to provide a means of identifying and proving when names are copied from reports filed with the Commission.

The term "contribution" is defined to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i). The term "person" is defined to include an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. 2 U.S.C. § 431(11).

**B. The Allegations**

Gore 2000, Inc. (the "Committee") makes several allegations in its Complaint and the Amendment thereto. At issue here, the Committee alleges that Friends copied names from the Committee's reports filed with the Commission and sent mailings to those names requesting contributions "to pay for activities in support of the Democratic candidate for President, Al Gore." The Committee states that the names used on the direct mail solicitations by Friends indicate that the source of the names must have been the reports filed with the Commission by the Committee. As purported evidence of this fact, the Committee points to a letter sent to Carolyn Utrecht. Ms. Utrecht is most often referred to as Lyn, but her full first name, Carolyn, was submitted on the Committee's disclosure report of contributors. Because the letter from Friends was addressed to

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Carolyn Utrecht, and not Lyn Utrecht, the Committee concludes that Friends stole the report and illegally used the names when making its solicitations.

**C. Analysis**

The Committee alleges that Friends has illegally copied the Committee's reports filed with the Commission and used those reports to solicit contributions from individuals who contributed to the committee. As apparent evidence of their claim, the Committee attaches a direct mailing from Friends addressed to Carolyn Utrecht. Ms. Utrecht was a contributor to the Committee and was listed on the Committee's reports as Carolyn, rather than the name by which she is commonly referred, Lyn. The Committee claims that Ms. Utrecht's formal name was used on its reports "as a protective measure." The Committee states that Ms. Utrecht's formal name was "available only on the Committee's FEC report," then concludes that "names of other recipients, while possibly available elsewhere, can logically only have come from being copied directly from the Committee's FEC report." Because "[t]he Committee's contributor list has not been marketed or otherwise been made available," the Committee requests that the Commission find reason to believe that Friends has violated 2 U.S.C. § 438(A)(4).

In its response, Friends illustrates that it is possible to obtain information about Carolyn Utrecht sufficient for a direct mailing without directly referencing the Committee's filed reports. TRKC Inc. operates a free Internet news site dedicated to the

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topic of political money. The Political Money Line (Political MoneyLine)<sup>2</sup> is the home page for several other Internet websites, including <http://www.tray.com> and <http://www.fecinfo.com>. Friends then demonstrates that it is relatively simple to obtain the information complained of by the Committee from these websites. Although the steps necessary to obtain this information have changed somewhat since the Complaint was filed, it is still possible to obtain the full, formal name of Carolyn Utrecht, her mailing address, employer, and information regarding her contributions with little effort.

The webhost of the site where this information can be found, TRKC Inc., states that it "routinely collects paper and electronic information from numerous agencies, departments and offices in Washington, D.C. These offices include the Federal Election Commission . . . ." Although the information was not extracted by Friends directly from either paper photocopies of the Committee's reports, reviewing of microfiche in the Public Records Division, or accessing the Commission's website, it does appear that the information on the Political MoneyLine website run by TRKC, Inc. which was used by Friends in its direct mailings, was copied by TRKC, Inc. from the Committee's reports.

Friends has circumvented the Act by relying on information on the Political MoneyLine website where there is no disclaimer that information gleaned from reports filed with the Commission cannot be used to solicit contributions. However, there is no

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<sup>2</sup> From the "What We Do " page found at <http://www.tray.com/cgi-win/indexhtml.exe?MBF=whatwedo>: "PoliticalMoneyLine seeks to facilitate the general public access to information from government [sic] and non-government sources on issues of vital relevance to the poeple [sic]. It also seeks to encourage and assist the dissemination of government information and documents."

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requirement by the Act that the Political MoneyLine website furnish such a disclaimer.

Friends should have determined that the information on the Political MoneyLine websites was culled from reports filed with the Commission. The statute provides "that any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes." Because Friends has tacitly admitted in its response that it used the information from the Political MoneyLine website for the purpose of soliciting contributions and that the information from the Political MoneyLine website was copied from reports filed with the Commission, the Commission finds reason to believe that Friends for a Democratic White House, and Lynn Sammartino, as Treasurer, violated 2 U.S.C. § 438(a)(4).

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**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Jerome Dewald

MUR: 5155

**I. GENERATION OF MATTER**

This matter was initiated by a Complaint filed with the Federal Election Commission ("the Commission") by Gary R. Gruver, Assistant Treasurer of Gore 2000, Inc. *See* 2 U.S.C. § 437g(a)(1).

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Applicable Law**

Any information copied from reports filed with the Commission 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. A political committee may submit 10 pseudonyms on each report filed in order to protect against the illegal use of names and addresses of contributors, provided such committee attaches a list of such pseudonyms to the appropriate report. The Clerk, Secretary, or the Commission shall exclude these lists from the public record. 2 U.S.C. § 438(a)(4); 11 C.F.R. 104.15(a). For purposes of this provision, "soliciting contributions" includes soliciting any type of contribution or donation, such as political or charitable contributions. 11 C.F.R. § 104.15(b). The identity of these "salted" or "seeded" names, as they are referred to, is excluded from the public record to provide a means of identifying and proving when names are copied from reports filed with the Commission.

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The term "contribution" is defined to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i). The term "person" is defined to include an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. 2 U.S.C. § 431(11).

**B. The Allegations**

Gore 2000, Inc. (the "Committee") makes several allegations in its Complaint and the Amendment thereto. At issue here, the Committee alleges that Friends copied names from the Committee's reports filed with the Commission and sent mailings to those names requesting contributions "to pay for activities in support of the Democratic candidate for President, Al Gore." The Committee states that the names used on the direct mail solicitations by Friends indicate that the source of the names must have been the reports filed with the Commission by the Committee. As purported evidence of this fact, the Committee points to a letter sent to Carolyn Utrecht. Ms. Utrecht is most often referred to as Lyn, but her full first name, Carolyn, was submitted on the Committee's disclosure report of contributors. Because the letter from Friends was addressed to Carolyn Utrecht, and not Lyn Utrecht, the Committee concludes that Friends stole the report and illegally used the names when making its solicitations.

In its Amendment, the Gore Committee provides the name of Jeanette Hensler, who is listed as Treasurer on the Friends Statement of Organization filed with the Commission on November 6, 2000. The Gore Committee alleges that, as Treasurer of

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Friends, Ms. Hensler has “participated in the illegal scheme and committed the violations described in” the original Complaint.<sup>1</sup> The Gore Committee also states that a second mailing was sent since the filing of the Complaint. This subsequent mailing requests contributions to “respond to legal challenges” faced by Al Gore based on the election results in Florida, Iowa, Wisconsin, Oregon and New Mexico. Because the alleged violations are ongoing, the Gore Committee states that the violations by Friends are knowing and willful.

The Gore Committee also includes a newspaper article regarding the Swing States PAC in its Amendment to the Complaint. According to the article, this PAC is sending out letters to potential Republican contributors requesting contributions to assist in the legal challenges regarding the 2000 Presidential election. The newspaper article raises questions in that nearly identical letters were sent by Friends to potential Democratic contributors and *both* letters are signed by the same person, Jerome “J.” Dewald.

### **C. Analysis**

The Committee alleges that Friends has illegally copied the Committee’s reports filed with the Commission and used those reports to solicit contributions from individuals who contributed to the committee. As apparent evidence of their claim, the Committee attaches a direct mailing from Friends addressed to Carolyn Utrecht. Ms. Utrecht was a contributor to the Committee and was listed on the Committee’s reports as Carolyn,

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<sup>1</sup> Ms. Hensler is no longer the Treasurer of Friends and, pursuant to standard practice, this Office’s recommendations are being made with respect to the current Treasurer Lynn Sammartino

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rather than the name by which she is commonly referred, Lyn. The Committee claims that Ms. Utrecht's formal name was used on its reports "as a protective measure." The Committee states that Ms. Utrecht's formal name was "available only on the Committee's FEC report," then concludes that "names of other recipients, while possibly available elsewhere, can logically only have come from being copied directly from the Committee's FEC report." Because "[t]he Committee's contributor list has not been marketed or otherwise been made available," the Committee requests that the Commission find reason to believe that Friends has violated 2 U.S.C. § 438(A)(4).

In its response, Friends illustrates that it is possible to obtain information about Carolyn Utrecht sufficient for a direct mailing without directly referencing the Committee's filed reports. TRKC Inc. operates a free Internet news site dedicated to the topic of political money. The Political Money Line (Political MoneyLine)<sup>2</sup> is the home page for several other Internet websites, including <http://www.tray.com> and <http://www.fecinfo.com>. Friends then demonstrates that it is relatively simple to obtain the information complained of by the Committee from these websites. Although the steps necessary to obtain this information have changed somewhat since the Complaint was filed, it is still possible to obtain the full, formal name of Carolyn Utrecht, her mailing address, employer, and information regarding her contributions with little effort.

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The webhost of the site where this information can be found, TRKC Inc., states that it "routinely collects paper and electronic information from numerous agencies, departments and offices in Washington, D.C. These offices include the Federal Election Commission . . . ." Although the information was not extracted by Friends directly from either paper photocopies of the Committee's reports, reviewing of microfiche in the Public Records Division, or accessing the Commission's website, it does appear that the information on the Political MoneyLine website run by TRKC, Inc. which was used by Friends in its direct mailings, was copied by TRKC, Inc. from the Committee's reports.

Friends has circumvented the Act by relying on information on the Political MoneyLine website where there is no disclaimer that information gleaned from reports filed with the Commission cannot be used to solicit contributions. However, there is no requirement by the Act that the Political MoneyLine website furnish such a disclaimer. Friends should have determined that the information on the Political MoneyLine websites was culled from reports filed with the Commission. The statute provides "that any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes."

In letters to Democratic and Republican contributors, Jerome Dewald holds himself out as Chief of Staff to both Friends and the Swing States PAC. Because it appears that Friends indirectly obtained its mailing lists from reports filed by the Commission, there is a reasonable basis on which to conclude that the Swing States PAC also indirectly obtained their mailing lists from reports filed by the Commission.

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Jerome Dewald is inextricably intertwined with both Friends and Swing States. Given that Friends and Swing States appear to be politically opposed to one another, the true motivation for the solicitations signed in his name is currently unclear. Nevertheless, as the person who is at the forefront of these two organizations, he is responsible for improperly soliciting contributions using information obtained from the FEC. Therefore, the Commission finds reason to believe that Jerome Dewald violated 2 U.S.C. § 438(a)(4).

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