



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**JUN - 8 2011**

Stephen Hershkowitz, Esq.  
Sandler, Reiff, and Young  
300 M Street, SE  
Washington, DC 20003

RE: MUR 6334  
Aristotle International, Inc.

Dear Mr. Hershkowitz:

On July 28, 2010, the Federal Election Commission notified your client Aristotle International, Inc. 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 client at that time.

Upon further review of the allegations contained in the complaint, and information provided by your client, the Commission, on May 24, 2011, found that there is reason to believe your client Aristotle International, Inc. violated 2 U.S.C. § 438(a)(4), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is 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, along with the enclosed Discovery Request, within 30 days of your receipt of this letter. Statements should be submitted under oath. Any additional materials or statements you wish to submit should accompany the response to the Discovery Request. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause

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conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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 investigation to be made public.

If you have any questions, please contact William Powers, the attorney assigned to this matter, at (202) 694-1650.

On behalf of the Commission,



Cynthia L. Bauerly  
Chair

Enclosures  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3  
4 **RESPONDENT: Aristotle International, Inc.**

**MUR: 6334**

5  
6 **I. INTRODUCTION**

7 This matter was generated by a complaint filed with the Federal Election Commission by  
8 NGP Software, Inc. See 2 U.S.C. § 437g(a)(1).

9 **II. FACTUAL AND LEGAL ANALYSIS**

10 **A. Factual Background**

11 Aristotle introduced the Relationship Viewer application as part of its larger Aristotle 360  
12 software program in 2005. Response at 6. As described in Aristotle's response, the 360  
13 program's "main purpose . . . is to allow political committees to efficiently and accurately  
14 manage and account for contributions and disbursements to permit committees to file federal and  
15 state compliant financial disclosure reports and to manage their data." Response, Declaration of  
16 Dean A. Phillips ¶ 14. In addition, the 360 program includes numerous other functions, some of  
17 which include the ability to: perform compliance/vetting of contributions and contributors;  
18 check contribution and disbursement limits; create contribution history summaries, that are  
19 displayed in the individuals' full detailed record, including contributions by year or election  
20 cycle; and use a Relationship Viewer. See Response, Declaration of Dean A. Phillips ¶16.

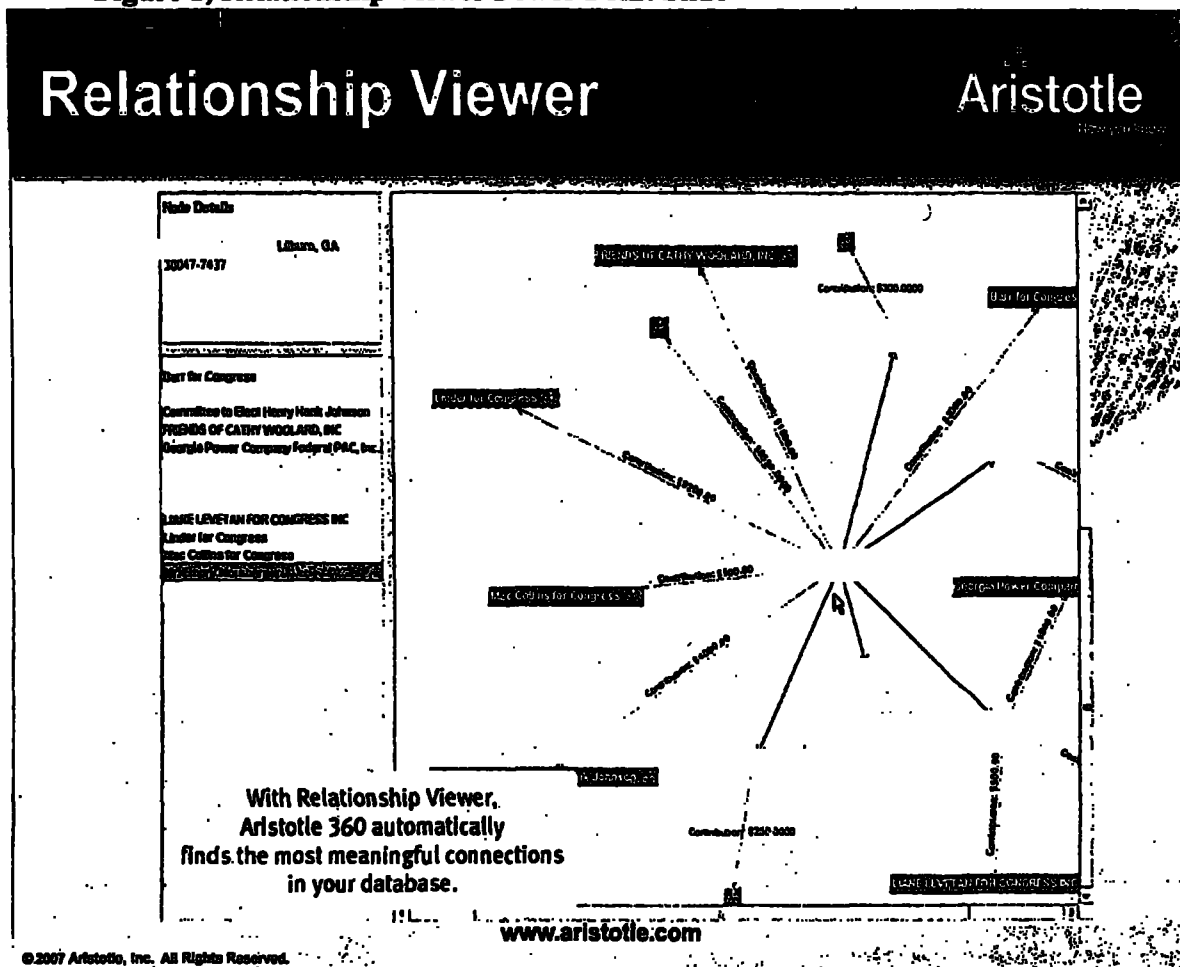
21 As one aspect of the larger Aristotle 360 program, the Relationship Viewer can be used  
22 "to uncover relationships between someone in [a political committee's] own database, through  
23 the voter file, state campaign reports and the Commission's files." Response at 14. The  
24 Relationship Viewer essentially acts as a search tool. The political committee can input the

1 name of an individual. The user would then receive search results of other individuals with  
2 whom the original individual has “relationships.” Response at 15. Importantly, the user must  
3 first have the individual’s name. Response at 14.

4 The search results are displayed both graphically and in list form. Once the user  
5 “searches” for a name, the Relationship Viewer produces a graphical display with the person  
6 searched for appearing at the center of a diagram. For example, in the “connection map” shown  
7 below in Figure 1, “branches” stem from the original individual to other individuals with whom  
8 the original individual has a relationship, as determined by the Relationship Viewer. *See*  
9 *Complaint, Attachments Aristotle 360 Relationship Viewer Demo Screenshots* (hereinafter  
10 *“Relationship Viewer Screenshot”*); *see also Data-centric Grassroots Organizing, displayed*  
11 *below as Figure 1.*

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1. **Figure 1, Relationship Viewer Power Point Slide**



2 © 2007 Aristotle, Inc. All Rights Reserved.

3 As described by Aristotle, the Relationship Viewer’s default settings display one “degree

4 of separation” for search results. Response at 15. This means that the program will display the

5 relationships of the individual searched for, and will also display the relationships for any

6 individual as part of the “connection map.” *Id.* “The [first] degree of separation results include:

7 the identifying information about the first person, names of the individuals personally or

8 professionally linked to the first person or with addresses in the vicinity of the first person, and

9 committees who received contributions from any of the above, *none of whose names came from*

10 *the FEC database.”* (Emphasis in original.) *Id.*

1           The Relationship Viewer's search results also contain contribution histories of both the  
2 individual searched for and the individuals displayed as search results. See Complaint,  
3 *Relationship Viewer Screenshot*. For example, in the "connection map" displayed in Figure 1  
4 above, the Relationship Viewer shows the contribution history of the person searched for, in this  
5 case                   : Through the use of its "connection map," the Relationship Viewer  
6 shows that                   made contributions to six different committees (both federal and  
7 state).

8           The "connection map" also displays the contributions of individuals with a connection or  
9 relationship to                   : These connections can include "names of individuals personally  
10 or professionally linked to the first person or with addresses in the vicinity of the first person,  
11 and committees who received contributions from any of the above." Response, Declaration of  
12 Dean A. Phillips ¶ 21.b. As shown in Figure 1 above, the Relationship Viewer displays a  
13 connection between                   r and an individual named                   . Additionally, the  
14 Relationship Viewer shows a further connection between                   and a federal political  
15 committee, in this case a contribution to Liane Levetan for Congress. The Relationship Viewer  
16 appears to display both the contribution history of the individual searched for, and the  
17 contribution history of individuals displayed as a result of the search.

18           In addition to the "connection map," Relationship Viewer also displays a list of the  
19 individual's "relationships" on the left-hand side of the screen. This list appears to include both  
20 individuals and committees, including the original individual that was searched for. This list also  
21 apparently highlights the name of the individual subject to the search. It is not obvious from the  
22 screenshot whether this list contains any interactive features, such as the ability to highlight other  
23 names.

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1           Some of Relationship Viewer's functions are immediately apparent from the web-based  
2 demonstration (i.e. the "relationship map" and contribution histories), and Aristotle has  
3 explained, in general terms, where it obtains the information that forms the database behind the  
4 Relationship Viewer. For example, Aristotle has stated: "The 360 Relationship Viewer does not  
5 obtain the identity of individuals from the FEC files. . ." Response at 4. Aristotle further  
6 explains that "the 360 Relationship Viewer only searches the FEC files for contribution  
7 information for individuals already in the committee's databases; i.e., the 360 Relationship  
8 Viewer does not extract the names of individuals from the FEC files." Response at 14. Rather  
9 than use a contributor's name, address, employment, and other information available through  
10 FEC reports, Aristotle states "the Viewer [operates] through the voter file, state campaign reports  
11 and the Commission's files." *Id.*

12           The complaint identifies three different ways that Aristotle has marketed its 360 software  
13 program. First, Aristotle has marketed the software through a web-based demonstration that  
14 contains text on each frame that states:

15           It's not science fiction. It's data mining taken to the next level. Our powerful web-based  
16 system quickly uncovers relationships that can be targeted for votes, *dollars*, or *grass-*  
17 *roots* support. Imagine the possibilities. Use it to *access Fat Cats*, elected officials,  
18 corporate board members, or ordinary voters. It's just one of the ways Aristotle gives  
19 you a much-needed edge, via our innovative software, accurate databases and seasoned  
20 staff. But don't take our word for it, take the Aristotle challenge.

21  
22 (Emphasis added.) Complaint, *Relationship Viewer Screenshot*. In addition, the demonstration  
23 features a narrative that appears in the bottom-left corner in each frame. The narrative states, in  
24 successive frames:  
25

1           With Relationship Viewer, Aristotle 360 automatically finds the most meaningful  
2           connections in your database – In the interactive connection map, you can determine the  
3           links between your supporters . . . – and their co-workers . . . – their neighbors . . . – and  
4           more: – The Relationship Viewer allows you to build your connection map with up to six  
5           degrees of separation. – You can use the record listing to automatically drill-down on the  
6           individual organization of your interest – You can also export your connection map to  
7           many different standard formats for customized use.

8  
9           *Id.*

10           Second, Aristotle issued a press release announcing its application to patent its political  
11           data mining technology. In the release, Aristotle referred to its 360 software “as the most  
12           powerful political data mining tool and campaign software.” See Complaint, Press Release:  
13           *Aristotle Files Patent on Political Data Mining Technology; Boosts Compliance and*  
14           *Fundraising (Feb. 25, 2010) (hereinafter “Aristotle Press Release”).* The press release describes  
15           several ways in which the Aristotle 360 software uses the new technology, including enabling  
16           “users to access, mine and harness contribution disclosure records in a manner consistent with  
17           the law and for compliance purposes.” *Id.* The press release further states: “Aristotle’s platform  
18           incorporates detailed state contributor and voter lists with highly accurate consumer databases to  
19           illuminate exactly how much a donor has given, how much they can give, and to suggest the  
20           maximum they might agree to contribute where allowed by law.” *Id.* Finally, the relevant  
21           portion of the press release states:

22           While Aristotle’s technology delivers significant advantage in terms of solicitation, the  
23           software was designed to allow campaigns to comply with Federal Election Commission  
24           restrictions and state laws impacting campaigns and contributor databases. Breakthrough  
25           features show a supporter’s employer and occupation, as well as age and family member  
26           names, if the information is not already known.

27  
28           *Id.* In its response, Aristotle further explains the functions of its 360 software described in the  
29           press release, explaining “There is no increased fee for inclusion or per record usage of such

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1 data, and Aristotle's FEC contributor data look-up feature also is available at no charge on  
2 Aristotle's website at www.Aristotle.com." Response at 13.

3 Finally, Aristotle ran a print advertisement in *Politics Magazine*. See Complaint, *Politics*  
4 *Magazine Ad* (March 10, 2010). The advertisement states: "The only other way to raise as much  
5 money could land you in jail." *Id.* It also features a series of mug shots, and lists a number of  
6 Aristotle's products on the right-hand side, including a "Relationship Finder." *Id.* The  
7 advertisement also includes the statement:

8 Only Aristotle can provide the data needed to point the way to the thousands of donors  
9 predisposed to contributing to your campaign, PAC or grassroots group. Our powerful  
10 web-based system tells you everything you need to know about a prospect or contributor.  
11 It makes the names, addresses, phone numbers and family member names of millions of  
12 contributors to state campaigns instantly available. *It not only tells you which permissible*  
13 *donors are giving to like-minded causes, it can tell you if a person is close to maxing out,*  
14 *the correct amount to ask for and the name of their spouse and their birthday.* You'll  
15 learn if they give passionately to religious, environmental, child welfare, gun owner,  
16 property rights, antiwar, civil rights, Democratic or Republican causes.

17  
18 *Id.* (Emphasis in original.) Further, the advertisement also states: "While raising more money,  
19 you can have the peace of mind knowing that only Aristotle guarantees your donations are  
20 processed are reported in a manner that is 100% FEC and state compliant. To learn more visit  
21 <http://www.fec.gov/pdf/record/2004/oct04.pdf> and to go AO 2004-24 "Use of Contributor  
22 Information" or go to [www.aristotle.com/FECdecision](http://www.aristotle.com/FECdecision)." *Id.*

23 **B. Analysis**

24 In relevant part, 2 U.S.C. § 438(a)(4) provides that the Commission shall provide reports  
25 and statements filed with it to the public, "except that any information copied from such reports  
26 or statements may not be sold or used by any person for the purpose of soliciting contributions or  
27 for commercial purposes, other than using the name and address of any political committee to  
28 solicit contributions from such committee." In addition, Commission regulations prohibit data

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1 from reports from being "sold or used by any person for the purpose of soliciting contributions or  
2 for any commercial purpose, except that the name and address of any political committee may be  
3 used to solicit contributions from such committee." 11 C.F.R. § 104.15(a). However, the  
4 regulations provide for an exception from the prohibition against using FEC data and allows the  
5 use of such data in "newspapers, magazines, books or other similar communications . . . as long  
6 as the principal purpose of such communications is not to communicate any contributor  
7 information listed on such reports for the purpose of soliciting contributions or for other  
8 commercial purposes." 11 C.F.R. § 104.15(c).

9 Like the text of the statute and the regulation, the legislative history also focuses on  
10 preventing both the specific act of soliciting contributions and the general use of FEC data for  
11 commercial purposes. An amendment to what would later be enacted as the Federal Election  
12 Campaign Act of 1971 introduced the "sale and use" provision of the Act, 2 U.S.C. § 438(a)(4).  
13 During debate of this amendment on the Senate floor, the amendment's sponsor, Senator  
14 Bellmon, indicated several times that "the matter of selling lists and list brokering" was the  
15 amendment's prime focus. 117 Cong. Rec. 20,057-58 (daily ed. Aug. 5, 1971 *reprinted in*  
16 *Legislative History of the Federal Election Campaign Act of 1971 at 581*). Senator Bellmon also  
17 addressed the amendment's more general purpose: "to protect the privacy of the generally very  
18 public-spirited citizens who make a contribution to a political campaign or a political party" and  
19 to prevent "open[ing] up the citizens who are generous and public spirited enough to support our  
20 political activities to all kinds of harassment." *Id.*

21 The Commission has addressed the statute and regulations' application to the use of FEC  
22 data in software programs that may be used in soliciting contributions. In Advisory Opinion  
23 2004-24, NGP Software asked whether inclusion of information about contributions that the

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1 client's donors may have made to other candidates, PACs, and party organizations, "regardless  
2 of intended purpose," and "where we might reasonably expect [such information] to be used to  
3 assist in soliciting contributions," would violate the Act and Commission regulations. Advisory  
4 Opinion 2004-24 (NGP), Request at 1-2.<sup>1</sup> In concluding that the sale and use of such  
5 information would be prohibited under the Act, the Commission explained that "[t]he inclusion  
6 of such information in [the commercially available software product], whether sold as a separate  
7 service or as part of a client's purchase of the [software] upgrade, would be a prohibited use of  
8 contributor information obtained from the FEC's public records." Advisory Opinion 2004-24  
9 (NGP) at 3.

10 The Commission recently addressed the use of FEC data in a more specific context. In  
11 MUR 5625 (Aristotle), the Commission did not approve recommendations to find probable cause  
12 that a previous version of Aristotle's software program, Campaign Manager 5, violated 2 U.S.C.  
13 § 438(a)(4). *See* Certification in MUR 5625, dated March 17, 2010 (Vice Chair Bauerly and  
14 Commissioners Walther and Weintraub voted in favor of the recommendations; Chairman  
15 Petersen and Commissioners Hunter and McGahn voted against the recommendations). *See also*  
16 MUR 5625, Statement of Reasons of Chairman Matthew S. Petersen and Commissioners  
17 Caroline C. Hunter and Donald F. McGahn II; Statement of Reasons of Vice Chair Cynthia L.  
18 Bauerly and Commissioners Steven L. Walther and Ellen L. Weintraub.

19 Aristotle's Relationship Viewer in this matter presents a more far-reaching use of FEC  
20 data than the Campaign Manager 5 software program addressed in MUR 5625. Specifically, the  
21 program at issue here allows a committee to view the contribution histories of both the subject of

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<sup>1</sup> The requestor did not detail how such data would actually be used. *See* Request by NGP Software, Inc. in AO 2004-24

1 the search and other individuals with whom the software determines that the original subject has  
2 a “one degree of separation” relationship.

3 In addition, the Relationship Viewer appears to focus primarily on solicitation rather than  
4 compliance purposes, as evidenced by Aristotle’s marketing materials. Specifically, Aristotle  
5 claimed in its web-based demonstration of Relationship Viewer that the program “quickly  
6 uncovers relationships that can be targeted for votes, dollars, or grass-roots support. Imagine the  
7 possibilities. Use it to access Fat Cats, elected officials, corporate board members, or ordinary  
8 voters . . . .” See Complaint, *Relationship Viewer Screenshot*. Aristotle’s press release  
9 announcing its patent application also has focused on the incorporation of “detailed state  
10 contributor and voter lists with highly accurate consumer databases to illuminate exactly how  
11 much a donor has given, how much they can give, and to suggest the maximum they might agree  
12 to contribute where allowed by law.” Complaint, *Aristotle’s Press Release*. Similarly,  
13 Aristotle’s ad in *Politics Magazine* states, “It not only tells you which permissible donors are  
14 giving to like-minded causes, it can tell you if a person is close to maxing out, the correct amount  
15 to ask for and the name of their spouse and their birthday.” Complaint, *Politics Magazine Ad*  
16 (March 10, 2010). By focusing on the additional donors a committee could access and how large  
17 of a contribution to ask for, Aristotle apparently intended its new technology to be used to aid in  
18 making solicitations. Although, as Aristotle points out, its press release focuses on the use of  
19 state contributor lists to help determine the identities and contribution histories of individuals to  
20 solicit for maximum contributions, the Relationship Viewer apparently uses FEC data, including  
21 those individuals’ federal contribution histories, for the purpose of making solicitations.

22 Aristotle has explained that the Relationship Viewer contains an on-screen disclaimer  
23 warning users “that the use of FEC data for solicitation purposes is illegal,” and that its

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1 marketing website warns prospective customers that “Any information copied, or otherwise  
2 obtained, from any FEC report or statement, or any copy, reproduction, or publication thereof,  
3 filed under the Act, shall not be sold or used by any person for the purpose of soliciting  
4 contributions . . . .” However, these disclaimers may be insufficient to convey that the use of the  
5 Relationship Viewer itself for the solicitation purposes touted by Aristotle’s own marketing  
6 materials would be impermissible. Response at 10 and 17. The disclaimers may be confusing if  
7 considered in conjunction with Aristotle’s claim about its Relationship Viewer that “The only  
8 other way to raise as much money could land you in jail.” Complaint, *Politics Magazine Ad*  
9 (March 10, 2010). Taken together, the disclaimers and marketing claim could be understood to  
10 suggest that, while directly accessing FEC data would be illegal, solicitations made using data  
11 from the Relationship Viewer would be permissible.

12 Moreover, although Aristotle explained that the contribution histories cannot be  
13 “exported” to a spreadsheet or other format, nothing prevents end-users from using the  
14 contributor list displayed on the results page to solicit those individuals. Indeed, a committee  
15 may be more likely to decide to solicit an individual because his or her contribution history is  
16 immediately known.

17 Accordingly, the Commission has determined to find reason to believe that Aristotle  
18 International, Inc. violated 2 U.S.C. § 438(a)(4).

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