

**West Virginia
Republican
State
Committee**

David B. McKinley
State Chairman
33 Walnut Avenue
Wheeling, WV 26003
(304) 233-0140 (o)
(304) 233-4443 (h)

September 6, 1991

Mr. Brad Litchfield
Associate General Council
Federal Elections Commission
999 E. Street, NW
Washington, D.C. 20463

Dear Mr. Litchfield;

Recently, the West Virginia Republican State Committee purchased a state-of-the-art computer system. Along with that system we acquired a data base of all registered voters in West Virginia, which is extremely valuable.

We are requesting an Advisory Opinion from the General Council, as to whether or not it violates any FECA provisions if we were to sell access to this data base to individuals, PACs, corporations, or other groups.

We would charge each client exactly what it cost us to purchase/lease this data base for one year. We would consider it an offset to an operating expenditure. The money would be used to further the operation of the computer system, pay staff salaries who run the system, and for the supplies needed for such requests. The money would be deposited in the State Committee's Federal Account and not used for any other purposes except those already mentioned.

Assuming that a sale is appropriate and can be considered an offset to an operating expense, can an individual or PAC continue to donate other funds to the Committee?

I look forward to your answer.

Sincerely,


Trent R. Benzo
Acting Executive Director

TRB/jg

cc John Bailey
Ben Ginsburg
David Weidman



FEDERAL ELECTION COMMISSION

WASHINGTON, D. C. 20463

September 18, 1991

Trent R. Benzo
Acting Executive Director
West Virginia Republican State Committee
P.O. Box A
Charleston, WV 25362

Dear Mr. Benzo:

This refers to your letter dated September 6, 1991, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the sale by your committee of access to a data base of registered voters in West Virginia.

You state that the West Virginia Republican State Committee ("the Committee") purchased a computer system and an "extremely valuable" data base of all registered voters in West Virginia. The Committee wishes to sell access to this data to individuals, PACs, corporations, or other groups.

You state that the Committee would charge each client exactly what it cost the Committee "to purchase/lease the data base for one year." The Committee would consider the funds received to be an offset to an operating expenditure. The funds would be used to further the operation of the computer system, to pay the salaries of staff members who run the system, and to pay for "supplies needed for such requests." The funds would be deposited in the Committee's Federal account and not used for any purposes other than those already mentioned. You ask whether, assuming a sale to an individual or PAC is permissible and can be considered an offset to an operating expense, can the individual or PAC donate other funds to the Committee.

The Act authorizes the Commission to issue an advisory opinion in response to a "complete written request" from any person with respect to a specific transaction or activity by the requesting person. 2 U.S.C. §437f(a). Commission regulations explain that such a request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made." 11 CFR 112.1(c).

In view of the cited requirements, you will need to provide information and clarification as to a number of factors referred to in the questions set out below.

- (1) (a) State how and from whom the Committee acquired the computer system and the data base of registered voters. State how the two acquisitions are related.

(b) Please clarify whether you are leasing the data base and receiving updates periodically.
- (2) (a) State the functions for which the Committee will use the computer system. Include in your response uses related to the data base as well as those unrelated to the data base and an estimate as what proportion of the use will be related to the data base.

(b) State the functions for which the Committee will use the data base. Include in your response uses other than the sale of such data base to individuals, PACs, corporations, and other groups. Please estimate what proportion of the use will be related to the sale by the Committee of the data base.
- (3) (a) You state that the Committee would charge each client what it cost to "purchase/lease the data base for one year." State how the Committee decided upon this measurement of cost. Your response should include, but not be limited to, the dollar amounts involved in your purchase/lease of the data base, the amount of customers and sales you anticipate, and the profit margin, if any, that you anticipate.

(b) State what is entailed in "selling access" to the customers. Your response should include, but not be limited to, whether this is a sale or lease, the time period of a lease, and what services are being provided by the Committee in connection with this transaction.
- (4) (a) State how you will determine that the funds received from the sale will be used only for the purposes mentioned. State whether there will be a separate bank account in which the Committee will deposit clients' payments and from which the Committee will make payments for the purposes mentioned.

(b) Please provide a further explanation of the purposes for which the clients' payments will be used, including whether they pertain only to the use of the system for customers, whether the purposes listed entail the use by the Committee of services for any Federal candidates and what such use for candidates entails (e.g., services for particular candidates, services allocable among particular candidates). Please also explain what is meant by the phrase, "supplies needed for such requests."

Letter to Trent R. Benzo

Page 3

For your information and review, I am enclosing a copy of Advisory Opinion 1989-4. Upon receiving your responses to the above questions, this Office and the Commission will give further consideration to your inquiry as an advisory opinion request. If you have any questions concerning the advisory opinion process, the enclosed opinion, or this letter, please contact the undersigned.

Sincerely,

Lawrence M. Noble
General Counsel

BY:


N. Bradley Litchfield
Associate General Counsel

Enclosure



**West Virginia
Republican
State
Committee**

David B. McKinley
State Chairman
33 Walnut Avenue
Wheeling, WV 26003
(304) 233-0140 (o)
(304) 233-4443 (h)

October 16, 1991

Lawrence M. Noble
General Counsel
Federal Election Commission
999 E. Street, NW
Washington, D.C. 20463

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SECRETARIAT
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91 OCT 22 PM 3:30

FEDERAL ELECTION COMMISSION

Dear Mr. Noble,

AOR 1991-34

In answer to your several questions regarding request for an advisory opinion, I give these sponsons:

- (1) (a) Both the computer system and the data base were purchased by the Committee with funds from our Federal Account. The computer system was purchased from PCS, Inc., P.O. Box 6422, Wheeling, WV 26003, Bruce Stuart, President. The data base was purchased from Aristotle Industries, 205 Pennsylvania Ave. S.E., Washington, D.C. 20003, John Aristotle, President.
 - (b) We lease the data base from Aristotle Industries for \$5,000 a year. Aristotle provides updates at least once a year.
- (2) (a) The primary function of our computer system will be to run the data base. However, we have also used the new system to keep track of fundraising and other financial matters. When the campaigns are in full swing next year, it will be difficult to use the new system for anything but running the data base.
 - (b) The primary function the data base will be used for is our direct mail program, both for fundraising and candidate support. During the off-year we may actively attempt to sub-lease the data base, if permitted. However, in a campaign year most time with the data base will be political in nature.
- (3) (a) We intend to charge a maximum of \$5,000 for access to this statewide data base and a lesser amount for smaller areas. This is what it costs us to lease the data base ourselves for one year. Due to a clause in our contract, we are unable to provide anyone with an electronically formatted copy of this data base. We can,

however, supply them with lists, letters, labels, and addressed envelopes. We felt that the expense to supply this information, the value of such information, and the anticipated small demand at this early stage warrant the charge of \$5,000. Considering all this, no profit is anticipated.

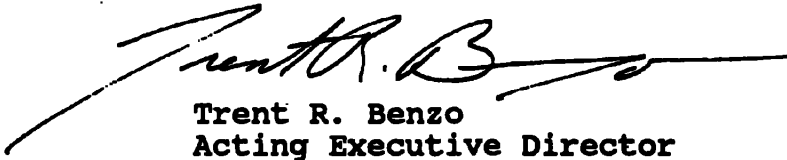
(b) We would sell lists, personalized letters, labels, and/or addressed envelopes.

(4) (a) If necessary, we would open a separate Federal Account for the purposes mentioned.

(b) Once the new account would be opened, this money would only be used in conjunction with the computer system and data base. We would primarily use this money to pay salaries of the people running the system. No candidate, federal or non-federal, would benefit from this account. We would use the money in the new account to buy supplies such as labels, stationary, envelopes, upgrading the system, laser-jet printer cartridges, as well as any others associated with the operation of the system.

Thank you for your efforts in this matter.

Sincerely,



Trent R. Benzo
Acting Executive Director

TRB/gg

cc: John Bailey
Ben Ginsburg
Dave Wiedman
N. Bradley Litchfield