



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CONCURRING OPINION OF TREVOR POTTER
TO ADVISORY OPINION 1995-5

The General Counsel is correct that TRIM's proposed communication would be in violation of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Act is clear that no information copied from reports filed with the Commission may be used "for the purpose of soliciting contributions or for commercial purposes." 2 U.S.C. § 438(a)(4); 11 CFR 104.15(a). This proposed communication offers the recipient an opportunity to order more TRIM bulletins over the phone by credit card, and solicits donations in order to help print and distribute TRIM Bulletins. Thus, the TRIM bulletin would constitute a prohibited solicitation.

However, I write this Concurring Opinion to note that, absent this solicitation, the TRIM communication would not violate 2 U.S.C. § 438(a)(4). Indeed, the Commission has noted in previous advisory opinions that contributor lists may be used to communicate political views, so long as a solicitation is not present. Advisory Opinions 1981-5 and 1984-2. Thus, without the solicitation request, the communication proposed by TRIM would clearly be political speech, and not a violation of Section 438 of the Act.

March 2, 1995

Date

Handwritten signature of Trevor Potter in black ink.

Trevor Potter
Commissioner