



FEDERAL ELECTION COMMISSION  
WASHINGTON D.C. 20461

THIS IS THE BEGINNING OF MUR # 3345<sup>E</sup>

DATE FILMED 11-9-93 CAMERA NO. 2

CAMERAMAN Jm 14

93043503031

06-C 1630

RECEIVED  
FEDERAL ELECTION COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

91 JUN 20 PM 1:56

In the Matter of  
Aristotle Industries

MUR

3345

This complaint is filed against Aristotle Industries, 205 Pennsylvania Avenue, S.E., Washington, D.C. 20003, and alleges violation of 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15. Upon information and belief, complainant states as follows:

1. Respondent Aristotle Industries ("AI") is in the business, inter alia, of designing and selling computer software and providing computer products and services. AI sells its products to the public for profit and is thus engaged in the sale of its software, computerized data and services for commercial purposes.

2. One of AI's products is called "FAT CATS." This product provides, on CD-ROM Laser Discs, records of individual contributors on file with the FEC and provides the computer software to manipulate that information into various formats. These discs and accompanying software are offered for sale to the public for \$1,000. Copies of an advertisement of this product by AI and an excerpt from a newsletter describing it are attached.

3. One of the purposes for which FAT CATS may be used is to produce mailing lists of individual contributors sorted by zip code, contribution amount or the recipients of contributions. This information is clearly offered to enable solicitation of contributions from these individuals.

91 JUN 21 AM 10:55

FEDERAL ELECTION COMMISSION  
RECEIVED

23043503032

93043503033

4. 2 U.S.C. § 438(a)(4) states "that any information copied from such reports or statements [on file with the Federal Election 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."

5. 11 C.F.R. § 104.15 states that "any information copied, or otherwise obtained, from any report or statement, or any copy, reproduction, or publication thereof, filed with the Commission, Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent State officer, shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose...."

6. The compilation and sale of this contributor information by respondent AI is clearly for a commercial purpose. Moreover, based upon the advertisement of this product by AI, it appears specifically designed to use to solicit contributions from individuals. Both of these purposes and uses violate 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15.

7. Respondent AI is fully aware of the prohibitions of 2 U.S.C. § 438(a)(4) and 11 C.F.R. 104.15 as is evidenced by the notice on its advertisement in CAMPAIGN Magazine (copy attached). Accordingly, the Commission should also investigate whether compilation and sale of this product constitutes a knowing and willful violation of the Act.

WHEREFORE, complainant requests that the Commission find reason to believe that Aristotle Industries has violated the Act,

and take whatever steps are necessary to correct this violation and prevent its recurrence, including injunctive action to stop the sale of this product and whatever other action is appropriate.

Respectfully submitted,

*Joan Pollitt*

Joan Pollitt, Treasurer  
The Association of Trial Lawyers  
of America Political Action  
Committee  
1050 31st Street, NW  
Washington, DC 20007

I affirm under penalty of perjury that the foregoing is true and correct based upon my personal information and belief.

*Joan Pollitt*

Joan Pollitt

DISTRICT OF COLUMBIA:

Subscribed and sworn to before me this 20th day of  
JUNE, 1991.

*Lois A. Yasulis*

Notary Public

My commission expires 9/14/93.



(continued from previous page)

Ignored by the national Republican campaign committees, Marianne Brewster scraped together \$61,000, got outspent 9-1, but came within four points of upsetting Rep. Nick Joe Rahall (D) in West Virginia's Fourth District. (Dukakis had swept the Fourth by 16 points.) Rahall has a history of drunk driving and fleeing gambling debts.

One top finish will come as a surprise to most observers: the 21st-place showing of New York Gov. Mario Cuomo (D), who saw his vote percentage plunge 14 points from 1986. One must bear in mind that these margin percentages pertain to the two-party vote; third party or independent candidacies are ignored. Cuomo's GOP opponent, investment banker Pierre Rinfret, ran one of the most clubfooted campaigns in memory, castigating the leadership of his own party far more than his opponent, the Democratic incumbent. Disgruntled with the choice given by the two major parties, a quarter of New York voters chose the Conservative and Right to Life lines, holding down Cuomo's vote despite his substan-



▲ Wyoming Governor Mike Sullivan is as good at rounding up voters as he is steers.

tial margin over Rinfret.

As was stated in last month's analysis, the residual that makes up the earned margin (i.e.,

what is left after factoring out the "Big Three" effects) is often influenced by factors out of the control of either the candidate or his campaign. The extreme unpopularity of Democratic governors Dukakis (Massachusetts) and Jim Florio (New Jersey) was a pronounced drag on the party's ticket in their states, even though they were not on the ballot; a revival of the Mormon ethic of communal activism appears to be responsible for a dramatic Democratic surge in Idaho and Utah. For reasons that are not entirely clear to this analyst, 1990 was a big Democratic year in Indiana, while the GOP made huge strides in Georgia (though they had few wins to show for it).

Are there any common threads among the top performers, aside from having the good fortune to draw a wounded opponent? At least one: Each of the top nine finishers is pro-life. A careful analysis of 1990 returns reveals a contradiction of the conventional wisdom regarding the electoral impact of the Webster decision. Unless the abortion issue is on the front burner of a major political race, the pro-life candidate appears to hold a distinct advantage in most constituencies. ♦

To Order:  
1-800-CAMPAIGN

# FAT CATS™



Lightning-Fast Laser Disc access to the details of all 529,409 contributions to federal candidates reported to the Federal Elections Commission in 1989-1990.\* CD-ROM Laser Discs are also available for 1987-1988 and 1985-1986.

Aristotle's **FAT CATS™** CD-ROM includes the complete FEC files\* and software you need to search, select, sort and view:

- contributor name
- employer/occupation
- date and amount of contributions
- candidate or PAC recipient

**FAT CATS™** on CD also includes the software to export records to dBASE™, Lotus™, Wordstar™, WordPerfect® or ASCII® formats on your IBM-compatible computer.

## Aristotle Industries

205 Pennsylvania Ave, SE • Wash, DC 20003  
DC: 202/543-8345 ext.566

\*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, other than using the name and address of any political committee to solicit contributions from such committee.

ITB

INSIDE THE  
BELTWAY



### What reform advocates don't say

Writing recently in the *Baltimore Sun*, Sen. David Boren (D-Okla.) described his campaign reform legislation as "a bill that would establish voluntary (spending) limits for candidates, with incentives to encourage compliance."

Theo Lippman Jr., a *Sun* editorial writer and columnist, noted that Boren didn't say that the "incentives" he referred to were taxpayer-financed subsidies.

"Give him credit for that. At least he's ashamed to admit it," Lippman said in a follow-up column.

### PACman's bible

Maybe it won't be on America's coffee tables but at least this thin reference book has a long title.

It's called "The National Association of Business PACs Guide to Co-sponsorship of Anti-PAC Bills and Recorded Votes on Campaign Finance Legislation in the 101st Congress and the 102nd Congress."

The list was compiled to help implement a NABPAC resolution that urges its members to consider votes and co-sponsorship of anti-PAC legislation when making PAC contribution decisions.

"Some PACs have considered policies connecting co-sponsorship of and voting on bills affecting PACs with how much they will give or whether they will give at all," NABPAC director Steve Stockmeyer said. "For example, a PAC might refuse to give to a candidate who has voted to ban PACs, or might restrict a contribution to \$1,000 to a member who has co-sponsored legislation to reduce the PAC limit to \$1,000."

### Donors on a disk

The Federal Election Commission's entire 1989-90 contribution data base--containing more than 500,000 individual and PAC contribution entries--is now available on a single compact disc from Aristotle Industries.

With software provided with the disc, users can export specific categories of donations into a data base management program (such as Lotus, dBase or R-Base) or into a word processing program (such as WordStar or Word Perfect).

Campaign finance researchers can isolate donors who contributed on a certain day, or who gave in excess of a certain amount, or live in a particular zipcode. Or, candidates wanting to share their political views with people who contributed to their opponents' campaigns can use it to generate mailing lists.

Tab for the disc and required software is \$1,000. For information, call 1-800-CAMPAIGN.

### C-SPAN's big contribution

Jeffery Chester, director of Ralph Nader-sponsored Teledemocracy Project, says C-SPAN's gavel-to-gavel coverage of congressional hearings and House and Senate proceedings is "a permanent electronic campaign contribution to Congress."

The project's goal is to bring cable industry back under government regulation and to impose greater public affairs obligations on networks and cable stations.

Cable industry's financing of C-SPAN channels isn't enough, Chester said, noting that 70% of the cable systems "show the depth of their patriotism" by failing to carry C-SPAN II.

### House reform bills

Third-term Rep. Elizabeth Patterson (D-S.C.) last month joined with Sen. Ernest Hollings (D-S.C.) in casting the U.S. Supreme Court as a major obstacle to campaign finance reform.

She introduced a resolution (H.J. Res. 224), identical to measures Hollings has introduced in the past, to amend the Constitution and give Congress clear authority to set spending limits in federal elections, something the high court said was impermissible in its 1975 *Buckley vs. Valeo* opinion.

Also, Rep. Bill Archer (R-Tex.) introduced legislation (H.R. 1845) that would prohibit PAC contributions in House elections and further limit the amount of money that congressional candidates could accept from out-of-state donors.

### Solomon Bros. PAC pays fine

The PAC sponsored by Salomon Brothers Inc., which is among Wall Street's largest investment banking firms, has agreed to pay a \$1,250 civil penalty for accepting excessive contributions from six executives and making an excessive contribution to a federal candidate.

Altogether, the PAC accepted \$6,000 from each of six executives during a single month in 1990. Each gift exceeded the \$5,000 limit on gifts which PACs can receive in a single year.

And, the PAC made two contributions totalling \$6,500 for a senatorial candidate's primary election, exceeding the gift limit by \$1,500.

The PAC refunded the excessive contributions to its executives and the candidate, Indiana Republican Sen. Dan Coats, refunded the excess gift to the PAC.

Besides operating a federal PAC, Salomon Brothers sponsors PACs which are registered in 15 states and the District of Columbia.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1991

Joan Pollitt, Treasurer  
The Association of Trial Lawyers  
of America Political Action Committee  
1050 31st Street, N.W.  
Washington, D.C. 20007

RE: MUR 3345

Dear Ms. Pollitt

This letter acknowledges receipt on June 21, 1991, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Aristotle Industries. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3345. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble  
General Counsel

A handwritten signature in cursive script, appearing to read "Lois G. Lerner", is written over the typed name.

BY: Lois G. Lerner  
Associate General Counsel

Enclosure  
Procedures

93043503037



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1991

Aristotle Industries  
205 Pennsylvania Avenue, SE  
Washington, D.C. 20003

RE: MUR 3345

Dear Sir/Madam:

The Federal Election Commission received a complaint which alleges that Aristotle Industries may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3345. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against Aristotle Industries in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

93043503038

If you have any questions, please contact Mary Mastrobattista, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

*Lois G. Lerner*  
Lois G. Lerner  
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

93043503039

# ARISTOTLE INDUSTRIES

205 Pennsylvania Avenue, SE, Washington, DC 20003, (202)543-8345, (800)243-4401, (202)543-6407(Fax)

July 8, 1991

Federal Election Commission  
Washington, DC 20463

via fax: 202-376-5280

RE: MUR 3345

Dear Sir/Madam:

Aristotle Industries desires an additional five (5) business days, until July 15, 1991, to respond to the complaint file against it in the above referenced matter.

Please give me a call as soon as possible at 202-543-8345 ext. 328 to notify me whether this request is approved.

Sincerely,



John Aristotle Phillips  
President

91 JUL -8 PM 4:19

93043503040



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 16, 1991

John Aristotle Phillips, President  
Aristotle Industries  
205 Pennsylvania Ave., S.E.  
Washington, D.C. 20003

RE: MUR 3345  
Aristotle Industries

Dear Mr. Phillips:

This is in response to your letter dated July 8, 1991, which we received on that same day, requesting an extension of 5 business days to respond to the above-captioned matter. After considering the circumstances, I have granted the requested extension. Accordingly, your response is due by the close of business on July 15, 1991.

If you have any questions, please contact Mary P. Mastrobattista, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

A handwritten signature in dark ink, appearing to be "L. G. Lerner", is written over a horizontal line.

BY: Lois G. Lerner  
Associate General Counsel

93043503041



# ARISTOTLE INDUSTRIES

205 Pennsylvania Avenue, SE, Washington, DC 20003, (202)543-8345, (800)243-4401, (202)543-6407(Fax)

06-1985

July 23, 1991

Ms. Mary Mastrobattista  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

91 JUL 25 AM 9:54

RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

Dear Ms. Mastrobattista:

Attached is another copy of our response, now signed and dated, to the Matter Under Response #3345. If you have any questions, please do not hesitate to contact me.

Sincerely,

  
John Aristotle Phillips  
President

Attachment

91 JUL 26 AM 10:38

RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

93043503042



BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of

ARISTOTLE INDUSTRIES

MUR 3345

RESPONSE TO ATLA PAC COMPLAINT

FACTS

Aristotle Industries has purchased information tapes from the FEC, merged them, reformatted the information and pressed it onto compact discs ("CD-ROM"). The CD-ROM technology involves a different medium from the magnetic tapes on which the FEC currently sells such information to the general public, and from the on-line service for FEC information currently sold to the general public by the Digital Equipment Corporation. For a fee, Aristotle has made software available to utilize the CD-ROM, pursuant to one-year subscriptions. To date, three press organizations have subscribed, and have contractually represented that the data will be used in compliance with the law. The FEC restrictions on use of the data for solicitation or other commercial purposes are printed on the face of the CD, and subscribers are contractually prohibited from allowing anyone else to have access to the CD-ROM.

Aristotle has, without charge, assigned its subscriber contracts to CAMPAIGN magazine. CAMPAIGN is a monthly trade magazine focusing on the political campaign industry, and features articles by well-known journalists. All future provision of the software and CD-ROM's will be under the auspices of CAMPAIGN magazine, which should hereafter be considered the primary respondent for purposes of this proceeding. The stock of CAMPAIGN is owned by John Aristotle Phillips and Dean Aristotle Phillips, who also own

Aristotle Industries. CAMPAIGN and Aristotle shall hereafter be referred to as "CAMPAIGN".

### RESPONSE TO COMPLAINT

The essence of the Complaint is that it is a per se violation of the Act simply to make the FEC information available in a commercial publishing product whose primary purpose is to allow that information to be read, stored and used in a new medium. The end purpose for which the information will be used by the subscriber is irrelevant, according to the Complaint. This allegation is based on a reading of 2 U.S.C. § 438(a)(4) that is inconsistent with the plain intent of that statute, and with current FEC practice concerning the offering of the information on alternative media. Furthermore, as a member of the press, CAMPAIGN'S offering of this information for the primary purpose of research and other permitted uses qualifies CAMPAIGN under the FEC's exemption for members of the bona fide, for-profit press.

For the following reasons, there is no basis for an investigation of whether CAMPAIGN's offering of the software product and CD-ROM containing the FEC data involves a possible violation of the Act.

1. CAMPAIGN'S understanding is that the FEC already approves an alternative method of delivery of the data, for a fee, by a for-profit firm. CAMPAIGN understands that on-line access to FEC data is available from the Digital Equipment Corporation (DEC), and that any member of the public may obtain access to such data by paying DEC directly for the on-line access. If CAMPAIGN's understanding is correct, DEC's provision of the data in a different medium is, unequivocally, a pure commercial sale or use of the information by DEC. CAMPAIGN is not aware of any basis to allow one company to make the information available in an on-line format and to be paid directly by users for such access,

9 3 0 4 3 5 0 3 0 4 5

but to declare that CAMPAIGN'S offering of the same information by CD-ROM subscription is a per se violation of the Act. If there is a basis for the distinction, it cannot be that one use of the data is "commercial" and the other is not.

The FEC's arrangement with DEC supports CAMPAIGN's contention that mere sale or provision of the information by subscription, in a different medium, is not a per se violation of the Act, if the subscriber's intended end use of the data is not commercial. As the FEC's arrangement with DEC indicates, efficient dissemination of public information in a new medium, which may be preferred by end-users for legitimate purposes, is consistent with the purpose of making such information publicly available. To interpret the statute otherwise is to suggest that the format in which the FEC makes the data available is the only one in which such information may be used or stored. In an era of rapidly developing technologies, users entitled to use the data for legitimate purposes should not be limited to the FEC's chosen method of initial distribution (on paper or magnetic tape) or other FEC-approved format (on-line from DEC). To do so creates an unnecessary and unjustifiable monopoly on information provision in favor of the FEC and a private for-profit corporation. No such result is sanctioned by the language or intent of the statute. Furthermore, the fact that CAMPAIGN, like DEC, is merely providing the data in an alternative medium distinguishes this proceeding from FEC v. PCD, Inc., now on appeal before the Second Circuit.

CAMPAIGN's argument on this issue could be better developed if it were able to analyze the contract between the FEC and DEC for provision of data. Such contract has been requested by CAMPAIGN under the Freedom of Information Act. CAMPAIGN will supplement this response accordingly upon receipt and analysis of that contract.

9 3 0 4 3 5 0 3 0 4 6

2. The language of the statute cannot be read in a vacuum, to reach a result contrary to the purpose of the statute. The function performed by CAMPAIGN is one that is directly related to, and in furtherance of, lawful end-uses. In a similar context involving use of voter files, the Minnesota Attorney General's office has noted that there is a "sound argument" that resale of a voter registration list for authorized purposes is an action that is related to an authorized purpose, and thus should be permitted. See Office Memorandum, from Minnesota Special Assistant Attorney General, December 8, 1989 (attached). The memorandum suggests that this realistic view of substance over form should be adopted, despite the fact that the "main purpose of such a sale from the seller's perspective may be financial gain" (technically, a prohibited purpose under the Minnesota statute).

By focusing on the substance of CAMPAIGN's conduct, it is equally true that CAMPAIGN's purpose is related to and in furtherance of the legitimate use of publicly available information by those who are otherwise able to purchase it directly from the FEC. To bar CAMPAIGN from performing this function wrongfully impedes the legitimate use of public information in a different or more technologically advanced medium than is available from FEC or DEC.

3. Further evidence of the logical basis for examining the intended end use is found in the Commission's interpretation of the purpose of the statute. The FEC has long stated the view that the principal, if not sole, purpose of restricting the use of information copied from reports is to protect individual contributors from having their names sold or used for commercial purposes. See e.g., Advisory Opinions 1981-38 and 1981-5. Presumably, the mere act of selling an individual's name is not a cause of concern to such individual or the FEC if the information is never used, or is to be used for permissible purposes. In fact, such an individual should be indifferent to the manner or medium in which the end user receives the

name (i.e., on-line from DEC, by CD subscription from AI, by gift from a non-profit foundation, or on a magnetic tape sold by the FEC) so long as the intended end use is proper and lawful. The Commission's historical emphasis on the ultimate protection of the individual from solicitation underscores the fact that the intended end use is the proper focus of any determination under the statute. The Act's "list salting" provision further exemplifies the statute's focus on protection against wrongful end use.

93043503047  
4. Certainly, the statute does not prohibit a member of the public from acquiring the FEC tapes directly from the FEC and then asking CAMPAIGN to merge, reformat, and press the data onto a CD. There is no practical difference, however, if CAMPAIGN were to provide the same services for the same person on the same information that CAMPAIGN already has in its possession. It does not appear that any legitimate government purpose could be served -- or even articulated -- in permitting the former, while prohibiting the latter. Such a distinction would be an elevation of form over substance, a distinction that does not appear justified in light of the statute's underlying purpose. Furthermore, a rule that says no paid services may be performed on the data would mean that a non-profit user of the data could not even pay someone to photocopy the data for legitimate purposes, because the photocopier would technically be performing commercial services on the data. This would be an absurd result, and the FEC should interpret the statute to avoid such absurdity.

If the issue is whether the FEC has a record of who has obtained the data, the remedy is to require reporting of any transfer of the data. However, the issue of the FEC's having such a record does not appear to be a valid concern, for the statute clearly allows the data to be given away by any person or non-profit entity for permissible purposes; the FEC in such cases would not know all of the recipients, under the current regulatory structure.

93043503048

5. Furthermore, merely by changing the subscriber contracts to provide that a subscriber is appointing CAMPAIGN as its agent for collecting and pressing the data onto CD, virtually the same practical result would be reached as is now the case. That is, the end user (principal) would have the data on CD-ROM. An agent can generally perform any act that the principal could lawfully perform. It does not seem possible that the statute could be applied to prevent CAMPAIGN, or anyone else, from being paid to act as agent for collection of the data and for pressing it onto a CD-ROM. Moreover, once CAMPAIGN already has the data, there is no governmental purpose served by requiring CAMPAIGN to obtain the identical information again directly from the FEC, when acting as agent for another subscriber.

6. The unique and primary components of the product offered by CAMPAIGN are the underlying reformatting services and the software license, which allow this publicly available data to be utilized and stored in a different medium. If matters of form are to be determinative in this proceeding, CAMPAIGN would take the position that it is providing the FEC information at no charge, but is commercially providing a software program and license to allow the data to be lawfully read and used in a different medium. If CAMPAIGN's software and services are not the primary source of the product's value, from the subscriber's viewpoint, subscribers would simply obtain the data on tape from the FEC directly, as any member of the public is able to do, at a price below that charged by CAMPAIGN for the CD-ROM and software license. Stated differently, the only reason one would pay CAMPAIGN more for its product than one would pay the FEC for magnetic tapes is that CAMPAIGN's software and services in making the information usable in the CD-format are the primary value of the product. This is a further distinction from the PCD case in the Second Circuit.



9 3 0 4 3 5 0 3 0 4 9

7. Alternatively, as a for-profit member of the press, CAMPAIGN's own role in publishing this information in a different medium undeniably has "commercial" implications. However, CAMPAIGN's use of this information is permitted by the FEC's press exemption. The FEC has expressly authorized the for-profit publication of the data by the press if the primary purpose of such communication is not for commercial purposes. See 11 C.F.R. § 104.15. This regulation demonstrates that providing public access to the information advances the stated legislative purposes of public disclosure of the data for proper uses, even if such information is sold to the public by the for-profit press. To hold otherwise would be to say that members of the press may not provide publicly available information to the public for proper purposes, unless the press gives such information away for free. There is no basis for such a view anywhere in the regulation, the statute, the legislative history, or in the realm of common sense.

The mere fact that publicly available information is included in a publishing product sold by a member of the press cannot mean that the primary purpose of publishing that data is "commercial," if "commercial" use is prohibited. Under such a hypertechnical view, the Washington Post could not publish a supplement containing the FEC information prior to an election, if it charged separately for the supplement. Furthermore, even if the Post gave the information supplement away for free, it might be strongly argued that this was done primarily to engender goodwill for the paper, which is a for-profit enterprise. Such an action would nevertheless constitute a "commercial purpose," since such goodwill would inarguably have commercial value.

In any event, an analysis of the commercial or non-commercial subjective motives of a for-profit member of the press in deciding to publish or not to publish information for sale to the public is futile. The ultimate decision to publish the data in a newspaper or magazine,

93043503050

in any format, is always commercial, not altruistic, if the publication is one that is sold. Such decision merely to publish cannot be restricted under the First Amendment, unless there is some basis to believe that the end use will be improper. Even then, there are limitations on how much the First Amendment would allow the government to restrict publication merely because the publication is sold, not given away. The FEC's regulation is clearly directed to allow the information to be published for sale by the for-profit press, but not to create a special exemption for the press to use the information to solicit potential subscribers, or knowingly to sell to list brokers who will use information commercially. CAMPAIGN's qualification as a bona fide member of the for-profit press, simply making the information available in an alternative medium, is yet another distinction from the PCD case.

8. The Complaint incorrectly alleges that "one of the purposes for which 'FAT CATS' may be used is to produce mailing lists of individual contributors sorted by zip code, contribution amount or the recipients of contributions." This allegation is simply not true, as the list-generating capability of the essential software has been crippled.

Furthermore, even if it were true, this is not an indictment of CAMPAIGN's product, but merely a true statement about the inherent nature of the information itself, once it has been reduced to any machine-readable format. The FEC itself makes computer tapes available from which labels may easily be printed. Moreover, even if CAMPAIGN's product did allow it, mailing list generation is a legitimate use of the information if the direct mail contacts with individuals are not for prohibited solicitation or commercial purposes.

It is self-evident that the basis of the statute is recognition of the potential for such information to be used impermissibly. The statute addresses that issue by expressly proscribing certain uses and by allowing "list salting" to detect violations, rather than by making



the information available in a cumbersome format that does not allow list generation, or by restricting certain classes of persons from receiving the information. Accordingly, CAMPAIGN desires for the Commission to resolve the issue as if the Complainant's false allegation concerning list generation capabilities were true, because CAMPAIGN has reconsidered the issue and intends to restore such function to the software.

9. There is no probable cause to believe that CAMPAIGN is facilitating misuse of the information by any individual or firm. Customers for the CD-ROM product are screened. These customers are, to date, only three members of the press. All such customers have previously obtained the FEC contributor information directly from the FEC. CAMPAIGN is well aware of the FEC restrictions, such that all of the subscriber contracts contain acknowledgements of the statutory restrictions, and mandate that use of the product is non-transferable. Furthermore, the restrictions against solicitation and commercial use are printed on the face of the CD-ROM. It is ironic that the Complaint suggests that CAMPAIGN's inclusion of the FEC disclaimer in the advertisement for the product should be used against CAMPAIGN. To the contrary, CAMPAIGN's provision of such information has been responsible, and its inclusion of the FEC disclaimer in advertising is testament to that fact.

10. CAMPAIGN's customers are, in fact, under substantially greater restrictions than are imposed on those who would obtain the data directly from the FEC (or DEC). In addition to the statutory restrictions on use of the data, which are expressly incorporated into the subscriber contracts, CAMPAIGN's contractual restrictions provide that misuse of the data (including creation of lists for impermissible purposes) will result in a) termination of the subscription to use the software and CD-ROM; and b) indemnification by the subscriber for any fines, sanctions or attorney fees resulting to CAMPAIGN, due to subscriber's breach of warranty and representations to use the data lawfully. CAMPAIGN's customers also

are under a contractual obligation to take security measures to prevent unauthorized access to, or duplication or use of, the data. Furthermore, unauthorized use of the software is prohibited by copyright law. In addition to the statutory restrictions, these contractual restrictions pose significant disincentives upon any subscriber considering misuse of the data. In fact, for these reasons, one would presume that a person acquiring the FEC data list for impermissible purposes would choose to obtain it from the FEC directly rather than from CAMPAIGN, because of all of CAMPAIGN's additional restraints. This is particularly true in the current version of the CD-ROM product, where the list-generating capability has been neutralized.

9 3 0 4 3 5 0 3 0 5 2


11. CAMPAIGN has intentionally not addressed the issues that are currently before the D.C. Circuit in FEC v. International Funding Institute, et al., involving the constitutionality of restrictions on the end use of publicly available data from the FEC. The mere existence of that case has, however, put CAMPAIGN on notice that its selection of subscribers must be judicious, because of the potential exposure for misuse by one of its subscribers. For this reason, CAMPAIGN's CD-ROM subscriber list is far more selective than the customer list of the FEC, which must provide tapes even to list vendors, and, presumably, is more selective than DEC's commercial on-line service. CAMPAIGN expressly reserves the right to refuse to provide the CD-ROM and software to any subscriber if CAMPAIGN believes the data will be used for purposes of impermissible solicitation or commercial end use.

#### CONCLUSION

Because no AI customer is alleged to have violated the statute by using the data for solicitation or other prohibited commercial end uses, there is no reason to believe at this time that the Complaint sets forth a possible violation of the Act. Accordingly, as with the on-line service of DEC, mere receipt of payment for a product whose primary purpose is to allow FEC data to be read and used in a new medium is not a per se violation of 2 U.S.C. § 438(a)(4). Furthermore, an analysis of the end use to which the data is to be put should be

an essential component of a determination under the statute. If the end use is valid, then CAMPAIGN's function is related to, and in furtherance of a proper purpose. Finally, CAMPAIGN's provision of a product incorporating the data is permissible under the regulation allowing publication of the data by the for-profit press. CAMPAIGN's offering of the CD-ROM product is, therefore, lawful and proper under the terms of the Act, and under the First Amendment.

I verify that the foregoing is true, to the best of my knowledge and belief.

  
John Aristotle Phillips  
Publisher, CAMPAIGN Magazine  
President, Aristotle Industries, Inc.  
205 Pennsylvania Ave., N.W.  
Washington, D.C. 20003  
(202) 543-8345

Date: July 23, 1991

## Office Memorandum

DATE: December 8, 1989

TO: JOE MANSKY  
Elections Division  
Secretary of StateFROM: PETER M. ACKERBERG  
Special Assistant  
Attorney General

PHONE: 297-1083

SUBJECT: Use of Voter Registration Files

RECEIVED

DEC 11 1989  
SECRETARY OF STATE  
ELECTION DIVISION

You ask three questions regarding the use of voter registration files.

The first question is whether the voter registration list can be purchased from a public agency for resale to a user whose use is for "political purposes."

Minn. Stat. § 201.091, subd. 4 (1988) makes copies of the duplicate registration file open to public inspection and acquisition subject to reasonable rules governing access and provided that the file information is not used "for purposes unrelated to elections, political activities, or law enforcement."

My view is that a sound argument can be made that subdivision 4 permits resale of voter registration lists for authorized purposes. Although the main purpose of such a sale from the seller's perspective may be financial gain, which is not an authorized purpose, it is not a purpose unrelated to an authorized purpose.

Subdivision 4 does not prohibit the transfer of registration lists or restrict the number of copies that can be initially purchased. It does not appear to be intended to bar resale for authorized purposes.

Thus, assuming that the term "political purposes" as used in your question refers to authorized purposes, I think resale for an authorized purpose is likely to be construed as permissible under subdivision 4.

It should be noted that Minn. Stat. § 201.27, subd. 1 (1988) subjects public officers to a felony penalty for removing "any registration card or record from its proper place in the registration files, in any manner or for any purpose not authorized by law." An officer will ordinarily not know whether he or she has removed a registration card for an unauthorized purpose because the ultimate use of the registration files is unknown. Therefore, it would be prudent to adopt a rule requiring the first purchaser and also subsequent transferees to

93043503054

93043503055  
file a sworn statement with the officer that the files will be used only for authorized purposes. This rule would not only identify transferees and assure the officer of the transferee's intended use, but would also alert transferees to the use requirements of subdivision 4. It may also make it easier to identify unauthorized users. See Minn. Stat § 201.27, subd. 3 (1988) (imposing felony penalty for misuse of registration files and other violations of chapter 201)

Arguably, identification of subsequent transferees is mandated by the last sentence of subdivision 4, which provides:

Before inspecting voter registration files or obtaining a list of voters or other information from the files, the individual shall provide identification to the public official having custody of the registration files.

This requirement is not on its face limited to initial purchases and may well apply to any subsequent transferee who obtains information derived from the registration files. In any case, whether or not identification of subsequent transferees is statutorily required, I think a rule requiring such identification would be a reasonable rule governing access to the files in light of the purpose of subdivision 4 to restrict uses of registration file data.

Your second question is whether the use requirements of subdivision 4 apply to second party and subsequent transferees. A presumption in ascertaining legislative intent is that the legislature does not intend a result that is absurd. It would be absurd for the first purchaser to be bound by the use requirements of subdivision 4 while exempting subsequent transferees from the use requirements. This result would permit widespread uses of registration files that the legislature clearly intends to prohibit. Thus, in my view, the use requirements of subdivision 4 apply to second party and subsequent transferees.

Your third question is whether the person or entity initially acquiring the registration list is liable for misuses by subsequent transferees. A person cannot be convicted of a crime where there is no intent to do the act constituting the crime. State v. Fearon, 166 N.W.2d 720, 722 (Minn. 1969). Thus, the initial acquirer of a registration file would not be liable for misuse by a subsequent transferee in the absence of knowledge that the transferee would misuse the file or circumstances such that the transferer should reasonably know that the file will be misused.

Please contact me if you have further questions on this subject.

PMA:mti

RECEIVED  
F.E.C.  
SECRETARIAT

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

92 JAN -2 PM 4:12

FIRST GENERAL COUNSEL'S REPORT

**SENSITIVE**

MUR # 3345  
DATE COMPLAINT RECEIVED  
BY OGC June 21, 1991  
DATE OF NOTIFICATION TO  
RESPONDENT June 24, 1991  
STAFF MEMBER Mary P. Mastrobattista

COMPLAINANT: The Association of Trial Lawyers of America  
Political Action Committee

RESPONDENTS: Aristotle Industries  
Campaign Magazine

RELEVANT STATUTE: 2 U.S.C. § 438(a)(4)  
11 C.F.R. § 104.15

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter originated as an external complaint filed by the Association of Trial Lawyers of America Political Action Committee.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Analysis

On June 21, 1991, Joan Pollitt, treasurer of the Association of Trial Lawyers of America Political Action Committee, filed a complaint against Aristotle Industries. The complaint alleges that Aristotle Industries violated 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15 by using contributor information copied from reports filed with the Commission for commercial purposes. Specifically, the complaint refers to a product sold by Aristotle Industries called "FAT CATS".

93043503056



Enclosed with the complaint was a copy of an advertisement for "FAT CATS" which appeared in the June 1991 issue of Campaign magazine. According to the advertisement, "FAT CATS" provides access to all contributions made to federal candidates reported to the Commission in 1989 and 1990 on CD-ROM laser discs.<sup>1</sup> The product includes software necessary "to search, select, sort and view" the contributor information by contributor name, employer/occupation, date and amount of contributions, and recipient candidate or committee.

Also enclosed with the complaint was an article from the May 1, 1991 issue of "PACs & Lobbies". According to this article, the software which Aristotle Industries provides with the laser discs allows the user to export specific categories of donations into a data base management program or into a word processing program. The article states that campaign finance researchers can identify contributors by date, amount, or zip code. The article also suggests that candidates can use the data to generate mailing lists. The article lists a price of \$1,000 for the program and gives a telephone number to call for information.

The complaint alleges that the purpose of this product is to enable solicitation of individuals who have made contributions during previous election cycles. The complaint further alleges that the compilation and sale of the contributor

---

1. The advertisement states that Aristotle Industries also has available for purchase CD-ROM laser discs for the 1987-1988 and 1985-1986 election cycles.

93043503057

information by Aristotle Industries is for a commercial purpose. Therefore, the complaint charges that Aristotle Industries has violated 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15.

Furthermore, the complaint asks the Commission to investigate whether Aristotle Industries has knowingly and willfully violated the Act. The allegation of a knowing and willful violation of the Act is based upon the following disclaimer which appeared in the advertisement for "FAT CATS":

"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, other than using the name and address of any political committee to solicit contributions from such committee."

The complaint alleges that the disclaimer demonstrates that Aristotle Industries is fully aware of the prohibitions of section 438(a)(4) of the Act and, therefore, any violation of this section of the Act by Aristotle Industries would be a knowing and willful violation.

John Aristotle Phillips, President of Aristotle Industries, submitted a timely response to the complaint on July 15, 1991.<sup>2</sup> In his response to the complaint, Mr. Phillips states that

---

2. In his response, Mr. Phillips stated that he had submitted a Freedom of Information Act ("FOIA") request asking for a copy of the Commission's contract with Digital Equipment Corporation, and that his response to the complaint would be supplemented upon receipt of the contract. (Attachment 1, page 4). Mr. Phillips has not alleged that he is unable to respond to the complaint without the information requested, nor has he requested an extension of time to respond to the complaint pending receipt of the Commission's response to his FOIA request. Therefore, this Office intends to proceed with this matter, and will forward a separate report to the Commission in the event that Mr. Phillips submits a supplemental response to the complaint.

93043503058



93043503059

Aristotle Industries has purchased information tapes from the Commission, merged the tapes, reformatted the information and pressed it into CD-ROM compact discs. Through yearly subscriptions, Aristotle Industries sells software to enable the user to utilize the CD-ROM compact discs. According to Mr. Phillips, Aristotle Industries had sold three subscriptions to press organizations as of the date of the response to the complaint. Mr. Phillips asserts that the terms of the agreement between Aristotle Industries and the subscriber provide that the data will be used in compliance with the law, and that the subscriber is prohibited from allowing anyone else to have access to the CD-ROM compact discs. Further, Mr. Phillips asserts that the Act's restrictions on the use of the data for solicitation or other commercial purposes are printed on the face of the compact discs.

Mr. Phillips also asserts in his response to the complaint that Aristotle Industries has assigned its subscriber contracts, without charge, to Campaign magazine. Mr. Phillips states that the stock of Campaign magazine is owned by John Phillips and Dean Phillips, who also own Aristotle Industries.<sup>3</sup> Mr. Phillips claims that all future sales of the software and CD-ROM compact discs will be "under the auspices of" Campaign magazine. Therefore, Mr. Phillips argues that Campaign magazine should be

---

3. According to the Political Resource Directory, Campaign magazine was founded in 1987 and is published by John Phillips. The magazine is described a "monthly trade magazine for the political campaign industry." Political Resource Directory (1981).

considered the "primary Respondent" in this matter. It appears that Mr. Phillips has responded to the complaint on behalf of Aristotle Industries and Campaign magazine.

B. Legal Analysis

2 U.S.C. § 438(a)(4) provides that 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

11 C.F.R. § 104.15(c) provides that the use of information copied from reports filed with the Commission in newspapers, magazines, books or other similar communications is permissible as long as the principal purpose of such communications is not to communicate any contributor information listed on such reports for the purpose of soliciting contributions or for other commercial purposes.

The complaint alleges that Aristotle Industries has violated 2 U.S.C. § 438(a)(4) by copying information from reports filed with the Commission and selling that information to the public for profit. John Phillips argues in response that the mere sale of information copied from reports filed with the Commission is not a per se violation of the Act. Mr. Phillips argues that the complaint does not allege that any of the subscribers who has purchased the information from Aristotle Industries has violated the Act by using the data for solicitation or for other prohibited commercial purposes.

93043503060

Mr. Phillips asserts that as long as the purpose for which the subscriber is using the data is lawful under the Act, then the sale of such information by Aristotle Industries or Campaign magazine is also lawful under the Act. Mr. Phillips has stated that the primary purpose of this product is for "research and other permitted uses." (Attachment 1, page 3)

The legislative history of section 438(a)(4) demonstrates a concern to protect individuals who have contributed to political committees from harassment from the list industry:

Mr. President, the purpose of this amendment is to protect the privacy of the generally very public-spirited citizens who may make a contribution to a political campaign or a political party. We all know how much of a business the matter of selling lists and list brokering has become. These names would certainly be prime prospects for all kinds of solicitations, and I am of the opinion that unless this amendment is adopted, we will open up the citizens who are generous and public spirited enough to support our political activities to all kinds of harassment, and in that way tend to discourage them from helping out as we need to have them do.

117 Cong. Rec. 30,057 (1971) (remarks of Senator Bellmon).

It does not appear, from the information contained in the complaint and the response, that Aristotle Industries has used information copied from reports filed with the Commission for the purpose of soliciting contributions. Thus, the issue in this matter is whether the Respondents' actions violate the prohibition in section 438(a)(4) of the Act against the sale or use of information for commercial purposes. In a recent opinion, the Second Circuit held that the sale of information from reports filed with the Commission by Political

93043503061

Contributions Data, Inc. did not violate section 438(a)(4) of the Act. Federal Election Commission v. Political Contributions Data, Inc., 943 F.2d 190 (2d Cir. 1991)("PCD"). In reaching this conclusion, the court determined that the information sold by PCD was not "of the type that could infringe on the contributors' privacy interests." Id. at 197. The court emphasized that the information sold by PCD did not include the mailing addresses and phone numbers of individual contributors:

There is little, if any, risk that PCD's lists will result in solicitation or harassment of contributors. The absence from PCD's reports of mailing addresses and phone numbers, as well as the caveat on each page against solicitation and commercial use, make it virtually certain that these reports will be used for informative purposes (similar to newspapers, magazines, and books, which are 'commercial purveyors of news', NRCC, 795 F.2d at 192), not for commercial purposes (similar to soliciting contributions or selling cars).

Id. at 198.

In this matter, there are several outstanding questions which remain to be answered in order to determine whether the sale of information by the Respondents violates the Act. For example, John Phillips argues in response to the complaint that he has taken steps to protect individual contributors from solicitation by including restrictions on the use of the data on the face of the compact discs and in the contracts with the subscribers. However, Mr. Phillips has not stated the terms of the restrictions that are set forth on the face of the product and in the contracts between the Respondents and the purchasers. Through further investigation, this Office will examine the

93043503062

93043503063

extent to which these restrictions limit the purchaser from using the information for solicitation or other commercial purposes. Furthermore, it is unclear whether the information sold by the Respondents includes the mailing addresses of individual contributions. The complaint alleges that one of the purposes for which "FAT CATS" may be used is to generate mailing lists of individual contributors sorted by zip code. In the response to the complaint, Mr. Phillips denies this allegation, stating that "the list-generating capability of the essential software has been crippled." (Attachment 1, page 9). Mr. Phillips has asked the Commission, however, to resolve this matter "as if the complainant's false allegation concerning list generation capabilities were true, because CAMPAIGN has reconsidered the issue and intends to restore such function to the software." (Attachment 1, page 10). At this point, it is uncertain whether the product has been sold with its list generating function intact, whether the list generating function remains disabled, or whether the list generating function has been restored.

In his response to the complaint, John Phillips asserts that the major purpose of the information sold is for research and "other permitted uses." Mr. Phillips states that customers for his product are screened, and that three members of the press had purchased the product as of the date of the response. Although Mr. Phillips has stated that the purchasers are screened, he has not provided any details relating to the screening process. From the information received thus far, it

is not clear to whom the Respondents are marketing their product, and what precautions the Respondents are taking to avoid selling the product to list brokers. In addition, it is unknown whether there are individuals or organizations who have purchased the product from the Respondents, other than three members of the press

In response to the complaint, John Phillips also argues that the press exemption set forth in 11 C.F.R. § 104.15(c) applies to this matter: "Furthermore, as a member of the press, CAMPAIGN'S offering of this information for the primary purpose of research and other permitted uses qualifies CAMPAIGN under the FEC's exemption for members of the bona fide, for-profit press." (Attachment 1, page 3). Under 11 C.F.R. § 104.15(c), the use of information, which is copied from reports filed with the Commission, in newspapers, magazines, books or other similar communications is permissible as long as the principal purpose of such communications is not to communicate any contributor information for the purpose of soliciting contributions or for other commercial purposes. In analyzing whether section 104.15(c) of the regulations is applicable to the instant matter, there are two issues to be examined. The first issue is whether the Respondents have used the information copied from reports filed with the Commission in newspapers, magazines, books or other similar communications. The second issue is whether the principal purpose of the communications by the Respondents is not to communicate any contributor information for the purpose of soliciting contributions or for any other

93043503064

commercial purpose.

With respect to the first issue, John Phillips has stated that all future sales of "FAT CATS" will be sold by Campaign magazine. This is not, however, a case where a magazine is selling information copied from reports filed by the Commission by publication of the information. Rather, it appears that Mr. Phillips is using Campaign magazine to sell the CD-ROM compact discs which Aristotle Industries has sold in the past. Thus, although Campaign magazine may qualify as a press organization, it is uncertain whether the sale of information by Campaign magazine in this matter is the type of activity permitted by the regulation. Readers Digest Association, Inc. v. FEC, 509 F. Supp. 1210, 1215 (S.D.N.Y. 1981)(press exemption at 2 U.S.C. § 431(9)(B)(i) would not apply if magazine publisher was acting in a manner unrelated to its publishing function).

With respect to the second issue, it is unclear at this point whether the principal purpose of the communications by the Respondents is to communicate contributor information for a commercial purpose. Thus, further investigation is warranted into those areas previously discussed, i.e., restrictions on the face of the product and in the contracts; the status of the list generating function of the product; the process used by the Respondents to screen potential purchasers; and the identity of the purchasers who have purchased the product to date.

In conclusion, further investigation is needed regarding the sale of information copied from reports filed with the Commission by the Respondents in this matter. For this reason,

93043503065



this Office recommends that the Commission find reason to believe that Aristotle Industries and Campaign magazine violated 2 U.S.C. § 438(a)(4). This Office does not recommend that the Commission make a finding of a knowing and willful violation of the Act at this time, as the evidence presented thus far does not support such a recommendation.

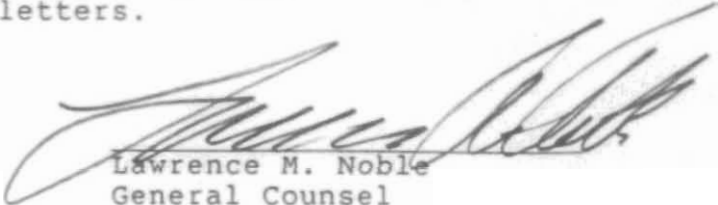
To initiate the investigation into this matter, we intend to send questions to the Respondents to inquire into those areas described above. At this point, we anticipate the Respondents' cooperation in response to these noncompulsory questions. In the event that the Respondents do not respond voluntarily, this Office will make appropriate recommendations to the Commission at that time.

### III. RECOMMENDATIONS

1. Find reason to believe that Aristotle Industries and Campaign magazine violated 2 U.S.C. § 438(a)(4)
2. Approve the attached factual and legal analysis and the appropriate letters.

Date

1/2/92

  
Lawrence M. Noble  
General Counsel

### Attachments

1. Response to the Complaint
2. Proposed Factual and Legal Analysis

93043503066





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS / DONNA ROACH *DR*  
COMMISSION SECRETARY

DATE: JANUARY 7, 1992

SUBJECT: MUR 3345 - FIRST GENERAL COUNSEL'S REPORT  
DATED JANUARY 2, 1992

The above-captioned document was circulated to the  
Commission on FRIDAY, JANUARY 3, 1992 at 12:00 P.M..

Objection(s) have been received from the  
Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Potter	XXX _____
Commissioner Thomas	_____

This matter will be placed on the meeting agenda  
for TUESDAY, JANUARY 14, 1992.

Please notify us who will represent your Division before  
the Commission on this matter.

93043503067

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of  
Aristotle Industries;  
Campaign Magazine.

)  
) MUR 3345  
)  
)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 14, 1992, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 3345:

1. Find reason to believe that Aristotle Industries and Campaign magazine violated 2 U.S.C. § 438(a)(4).
2. Approve the factual and legal analysis and the appropriate letters as recommended in the General Counsel's report dated January 2, 1992

Commissioners Aikens, Elliott, McDonald, Potter, and Thomas voted affirmatively for the decision; Commissioner McGarry recused with respect to MUR 3345 and was not present during its consideration.

Attest:

1-15-92  
Date

Marjorie W. Emmons  
Marjorie W. Emmons  
Secretary of the Commission

93043503068



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 27, 1992

John Phillips  
President, Aristotle Industries  
Publisher, Campaign Magazine  
205 Pennsylvania Ave., S.E.  
Washington, D.C. 20003

RE: MUR 3345  
Aristotle Industries  
Campaign Magazine

Dear Mr. Phillips:

On July 16, 1991, the Federal Election Commission notified you 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 you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on January 14, 1992, found that there is reason to believe Aristotle Industries and Campaign Magazine 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.

Under the Act, you have an opportunity to demonstrate that no action should be taken against Aristotle Industries and Campaign Magazine. 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 answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against Aristotle Industries and Campaign Magazine, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

93043503069

John Phillips

Page 2

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 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.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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 Mary P. Mastrobattista, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

*Joan D. Aikens*

Joan D. Aikens  
Chairman

Enclosures  
Questions  
Designation of Counsel Form  
Factual & Legal Analysis

93043503070

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)  
)  
) MUR 3345  
)

INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS

TO: John Phillips, President  
Aristotle Industries  
205 Pennsylvania Ave., S.E.  
Washington, D.C. 20003

93043503071

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1990 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

93043503072



DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

93043503073



INTERROGATORIES AND REQUEST FOR PRODUCTION  
OF DOCUMENTS

1. State the date on which Aristotle Industries first offered "FAT CATS" (hereinafter "the product") for sale.
2. State the number of units of the product which Aristotle Industries has sold to date.
3. Identify the purchasers of the product by name, address and telephone number
4. State the purpose for which each purchaser has purchased the product.
5. Produce a copy of the contract(s) which Aristotle Industries uses, or has ever used, to sell the product.
6. State the number of one-year subscriptions for the product software which Aristotle Industries has sold to date.
7. Produce a copy of the restrictions that are printed on the face of the product.
8. State whether the product includes, or has ever included, individual contributors' mailing addresses. If so, state the dates on which the product included individual contributors' mailing addresses. State the number of units of the product sold by Aristotle Industries which included individual contributors' mailing addresses.
9. State whether the product includes, or has ever included, individual contributors' telephone numbers. If so, state the dates on which the product included individual contributors' telephone numbers. State the number of units of the product sold by Aristotle Industries which included individual contributors' telephone numbers.
10. State whether the product presently has the capability to be used to generate mailing lists of individual contributors. State whether the product has ever had the capability to be used to generate mailing lists of individual contributors. If so, give the dates on which the list generating capability was functioning. State the number of units of the product sold by Aristotle Industries with the capability to generate mailing lists.
11. Describe, in detail, Aristotle Industries' screening process for potential purchasers of the product.

93043503074

MUR 3345  
Aristotle Industries  
Page 5

12. Describe, in detail, any advertising or sales promotions undertaken by Aristotle Industries to market the product.
13. Produce a copy of all advertisements and sales promotional literature by which Aristotle Industries has marketed the product.
14. State the total of all income received by Aristotle Industries during the years in which Aristotle Industries marketed the product.
15. State the total of all income received by Aristotle Industries from the sale of the product.
16. State whether Aristotle Industries is incorporated. If so, produce a copy of Aristotle Industries' articles of incorporation and bylaws.

23043503075

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)  
)  
) MUR 3345  
)

INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS

TO: John Phillips, Publisher  
Campaign Magazine  
205 Pennsylvania Ave., S.E.  
Washington, D.C. 20003

93043503076

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1990 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

93043503077

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

93043503078

INTERROGATORIES AND REQUEST FOR PRODUCTION  
OF DOCUMENTS

1. State the date on which Campaign magazine first offered "FAT CATS" (hereinafter "the product") for sale.
2. State the number of units of the product which Campaign magazine has sold to date.
3. Identify the purchasers of the product by name, address and telephone number.
4. State the purpose for which each purchaser has purchased the product.
5. Produce a copy of the contract(s) which Campaign magazine uses, or has ever used, to sell the product.
6. State the number of one-year subscriptions for the product software which Campaign magazine has sold to date.
7. State the number of units of the product sold by Campaign magazine which included individual contributors' mailing addresses.
8. State the number of units of the product sold by Campaign magazine which included individual contributors' telephone numbers.
9. State whether Campaign magazine has ever sold the product with the capability to generate mailing lists. If so, state the number of units of the product which Campaign magazine has sold with the capability to generate mailing lists.
10. Describe, in detail, Campaign magazine's screening processes for potential purchasers of the product.
11. Describe, in detail, any advertising or sales promotions undertaken by Campaign magazine to market the product.
12. Produce a copy of all advertisements and sales promotional literature by which Campaign magazine has marketed the product.
13. Produce a copy of Campaign magazine's Articles of Incorporation, Bylaws, and Statement of Organization.

93043503079



MUR 3345  
Campaign Magazine  
Page 5

14. Produce a copy of the assignment by which Aristotle Industries has assigned its subscriber contracts to Campaign magazine.
15. Produce a copy of any letters, memoranda, notes or other correspondence between Aristotle Industries and Campaign magazine regarding the product or the assignment of the subscriber contracts to Campaign magazine by Aristotle Industries.
16. Produce a copy of the first issue of Campaign magazine.
17. Produce a copy of the most recent issue of Campaign magazine.
18. Produce a copy of each issue of Campaign magazine containing any reference to the product.
19. State the total of all income received by Campaign magazine during the years in which Campaign magazine marketed the product.
20. State the total of all income received by Campaign magazine from the sale of the product.
21. State whether Campaign magazine is incorporated. If so, produce a copy of Campaign magazine's articles of incorporation and bylaws.

93043503080



FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Aristotle Industries  
Campaign Magazine

MUR: 3345

9 3 0 4 3 5 0 3 0 8 1

On June 21, 1991, Joan Pollitt, treasurer of the Association of Trial Lawyers of America Political Action Committee, filed a complaint against Aristotle Industries. The complaint alleges that Aristotle Industries violated 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15 by using contributor information copied from reports filed with the Commission for commercial purposes. Specifically, the complaint refers to a product sold by Aristotle Industries called "FAT CATS". Enclosed with the complaint was a copy of an advertisement for "FAT CATS" which appeared in the June 1991 issue of Campaign magazine. According to the advertisement, "FAT CATS" provides access to all contributions made to federal candidates reported to the Commission in 1989 and 1990 on CD-ROM laser discs.<sup>1</sup> The product includes software necessary "to search, select, sort and view" the contributor information by contributor name, employer/occupation, date and amount of contributions, and recipient candidate or committee.

Also enclosed with the complaint was an article from the May 1, 1991 issue of "PACs & Lobbies". According to this article, the software which Aristotle Industries provides with

---

1. The advertisement states that Aristotle Industries also has available for purchase CD-ROM laser discs for the 1987-1988 and 1985-1986 election cycles.

the laser discs allows the user to export specific categories of donations into a data base management program or into a word processing program. The article states that campaign finance researchers can identify contributors by date, amount, or zip code. The article also suggests that candidates can use the data to generate mailing lists. The article lists a price of \$1,000 for the program and gives a telephone number to call for information.

The complaint alleges that the purpose of this product is to enable solicitation of individuals who have made contributions during previous election cycles. The complaint further alleges that the compilation and sale of the contributor information by Aristotle Industries is for a commercial purpose. Therefore, the complaint charges that Aristotle Industries has violated 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15.

Furthermore, the complaint asks the Commission to investigate whether Aristotle Industries has knowingly and willfully violated the Act. The allegation of a knowing and willful violation of the Act is based upon the following disclaimer which appeared in the advertisement for "FAT CATS":

"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, other than using the name and address of any political committee to solicit contributions from such committee."

The complaint alleges that the disclaimer demonstrates that Aristotle Industries is fully aware of the prohibitions of section 438(a)(4) of the Act and, therefore, any violation of

93043503082

this section of the Act by Aristotle Industries would be a knowing and willful violation.

John Aristotle Phillips, President of Aristotle Industries, submitted a timely response to the complaint on July 15, 1991. In his response to the complaint, Mr. Phillips states that Aristotle Industries has purchased information tapes from the Commission, merged the tapes, reformatted the information and pressed it into CD-ROM compact discs. Through yearly subscriptions, Aristotle Industries sells software to enable the user to utilize the CD-ROM compact discs. According to Mr. Phillips, Aristotle Industries had sold three subscriptions to press organizations as of the date of the response to the complaint. Mr. Phillips asserts that the terms of the agreement between Aristotle Industries and the subscriber provide that the data will be used in compliance with the law, and that the subscriber is prohibited from allowing anyone else to have access to the CD-ROM compact discs. Further, Mr. Phillips asserts that the Act's restrictions on the use of the data for solicitation or other commercial purposes are printed on the face of the compact discs.

Mr. Phillips also asserts in his response to the complaint that Aristotle Industries has assigned its subscriber contracts, without charge, to Campaign magazine. Mr. Phillips states that the stock of Campaign magazine is owned by John Phillips and Dean Phillips, who also own Aristotle Industries. Mr. Phillips claims that all future sales of the software and CD-ROM compact discs will be "under the auspices of" Campaign magazine.

93043503083

Therefore, Mr. Phillips argues that Campaign magazine should be considered the "primary Respondent" in this matter. It appears that Mr. Phillips has responded to the complaint on behalf of Aristotle Industries and Campaign magazine

2 U.S.C. § 438(a)(4) provides that 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.

11 C.F.R. § 104.15(c) provides that the use of information copied from reports filed with the Commission in newspapers, magazines, books or other similar communications is permissible as long as the principal purpose of such communications is not to communicate any contributor information listed on such reports for the purpose of soliciting contributions or for other commercial purposes.

The complaint alleges that Aristotle Industries has violated 2 U.S.C. § 438(a)(4) by copying information from reports filed with the Commission and selling that information to the public for profit. John Phillips argues in response that the mere sale of information copied from reports filed with the Commission is not a per se violation of the Act. Mr. Phillips argues that the complaint does not allege that any of the subscribers who has purchased the information from Aristotle Industries has violated the Act by using the data for solicitation or for other prohibited commercial purposes.

93043503084

Mr. Phillips asserts that as long as the purpose for which the subscriber is using the data is lawful under the Act, then the sale of such information by Aristotle Industries or Campaign magazine is also lawful under the Act. Mr. Phillips has stated that the primary purpose of this product is for "research and other permitted uses."

The legislative history of section 438(a)(4) demonstrates a concern to protect individuals who have contributed to political committees from harassment from the list industry:

Mr. President, the purpose of this amendment is to protect the privacy of the generally very public-spirited citizens who may make a contribution to a political campaign or a political party. We all know how much of a business the matter of selling lists and list brokering has become. These names would certainly be prime prospects for all kinds of solicitations, and I am of the opinion that unless this amendment is adopted, we will open up the citizens who are generous and public spirited enough to support our political activities to all kinds of harassment, and in that way tend to discourage them from helping out as we need to have them do.

117 Cong. Rec. 30,057 (1971) (remarks of Senator Bellmon).

It does not appear, from the information contained in the complaint and the response, that Aristotle Industries has used information copied from reports filed with the Commission for the purpose of soliciting contributions. Thus, the issue in this matter is whether the Respondents' actions violate the prohibition in section 438(a)(4) of the Act against the sale or use of information for commercial purposes. In a recent opinion, the Second Circuit held that the sale of information from reports filed with the Commission by Political

93043503085

Contributions Data, Inc. did not violate section 438(a)(4) of the Act. Federal Election Commission v. Political Contributions Data, Inc., 943 F.2d 190 (2d Cir. 1991)("PCD"). In reaching this conclusion, the court determined that the information sold by PCD was not "of the type that could infringe on the contributors' privacy interests." Id. at 197. The court emphasized that the information sold by PCD did not include the mailing addresses and phone numbers of individual contributors:

There is little, if any, risk that PCD's lists will result in solicitation or harassment of contributors. The absence from PCD's reports of mailing addresses and phone numbers, as well as the caveat on each page against solicitation and commercial use, make it virtually certain that these reports will be used for informative purposes (similar to newspapers, magazines, and books, which are 'commercial purveyors of news', NRCC, 795 F.2d at 192), not for commercial purposes (similar to soliciting contributions or selling cars).

Id. at 198.

In this matter, there are several outstanding questions which remain to be answered in order to determine whether the sale of information by the Respondents violates the Act. For example, John Phillips argues in response to the complaint that he has taken steps to protect individual contributors from solicitation by including restrictions on the use of the data on the face of the compact discs and in the contracts with the subscribers. However, Mr. Phillips has not stated the terms of the restrictions that are set forth on the face of the product and in the contracts between the Respondents and the purchasers. Furthermore, it is unclear whether the information sold by the

93043503086



93043503087

Respondents includes the mailing addresses of individual contributions. The complaint alleges that one of the purposes for which "FAT CATS" may be used is to generate mailing lists of individual contributors sorted by zip code. In the response to the complaint, Mr. Phillips denies this allegation, stating that "the list-generating capability of the essential software has been crippled." Mr. Phillips has asked the Commission, however, to resolve this matter "as if the complainant's false allegation concerning list generation capabilities were true, because CAMPAIGN has reconsidered the issue and intends to restore such function to the software." At this point, it is uncertain whether the product has been sold with its list generating function intact, whether the list generating function remains disabled, or whether the list generating function has been restored.

In his response to the complaint, John Phillips asserts that the major purpose of the information sold is for research and "other permitted uses." Mr. Phillips states that customers for his product are screened, and that three members of the press had purchased the product as of the date of the response. Although Mr. Phillips has stated that the purchasers are screened, he has not provided any details relating to the screening process. From the information received thus far, it is not clear to whom the Respondents are marketing their product, and what precautions the Respondents are taking to avoid selling the product to list brokers. In addition, it is unknown whether there are individuals or organizations who have



purchased the product from the Respondents, other than three members of the press.

In response to the complaint, John Phillips also argues that the press exemption set forth in 11 C.F.R. § 104.15(c) applies to this matter: "Furthermore, as a member of the press, CAMPAIGN'S offering of this information for the primary purpose of research and other permitted uses qualifies CAMPAIGN under the FEC's exemption for members of the bona fide, for-profit press." Under 11 C.F.R. § 104.15(c), the use of information, which is copied from reports filed with the Commission, in newspapers, magazines, books or other similar communications is permissible as long as the principal purpose of such communications is not to communicate any contributor information for the purpose of soliciting contributions or for other commercial purposes. In analyzing whether section 104.15(c) of the regulations is applicable to the instant matter, there are two issues to be examined. The first issue is whether the Respondents have used the information copied from reports filed with the Commission in newspapers, magazines, books or other similar communications. The second issue is whether the principal purpose of the communications by the Respondents is not to communicate any contributor information for the purpose of soliciting contributions or for any other commercial purpose.

With respect to the first issue, John Phillips has stated that all future sales of "FAT CATS" will be sold by Campaign magazine. This is not, however, a case where a magazine is selling information copied from reports filed by the Commission

93043503088

by publication of the information. Rather, it appears that Mr. Phillips is using Campaign magazine to sell the CD-ROM compact discs which Aristotle Industries has sold in the past. Thus, although Campaign magazine may qualify as a press organization, it is uncertain whether the sale of information by Campaign magazine in this matter is the type of activity permitted by the regulation. Readers Digest Association, Inc. v. FEC, 509 F. Supp. 1210, 1215 (S.D.N.Y. 1981)(press exemption at 2 U.S.C. § 431(9)(B)(i) would not apply if magazine publisher was acting in a manner unrelated to its publishing function).

With respect to the second issue, it is unclear at this point whether the principal purpose of the communications by the Respondents is to communicate contributor information for a commercial purpose. Thus, further investigation is warranted into those areas previously discussed, i.e., restrictions on the face of the product and in the contracts; the status of the list generating function of the product; the process used by the Respondents to screen potential purchasers; and the identity of the purchasers who have purchased the product to date.

In conclusion, further investigation is needed regarding the sale of information copied from reports filed with the Commission by the Respondents in this matter. Therefore, there is reason to believe that Aristotle Industries and Campaign magazine violated 2 U.S.C. § 438(a)(4).

93043503089



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1992

Mr. Dwight Morris  
The Los Angeles Times  
1875 I Street, N.W.  
#1100  
Washington, D.C. 20006

RE: MUR 3345

Dear Mr. Morris:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses.
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

93043503090

Mr. Morris  
Page 2

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,



Mary P. Mastrobattista  
Attorney

93043503091



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1992

Mr. Brad O'Leary  
PM Consulting Corp.  
3050 K Street, N.W.  
Washington, D.C. 20007

RE: MUR 3345

Dear Mr. O'Leary:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

93043503092

Mr. O'Leary  
Page 2

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,

*Mary P. Mastrobattista*

Mary P. Mastrobattista  
Attorney

93043503093



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 24, 1992

Mr. Wendell Cochran  
Gannett News Service  
1000 Wilson Blvd.  
10th Floor  
Arlington, VA 22229

RE: MUR 3345

Dear Mr. Cochran:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses.
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

93043503094



Mr. Cochran  
Page 2

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,



Mary P. Mastrobattista  
Attorney

93043503095



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 24, 1992

Mr. Pat Malloy  
Florida Democratic Party  
517 North Calhoun  
Tallahassee, FL 32301

RE: MUR 3345

Dear Mr. Malloy:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses.
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

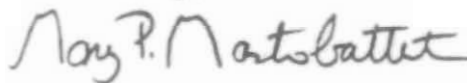
93043503096

Mr. Malloy  
Page 2

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,



Mary P. Mastrobattista  
Attorney

93043503097



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1992

Mr. Al Mitchler  
National Republican  
Senatorial Committee  
425 2nd Street, N.E.  
Washington, D.C. 20002

RE: MUR 3345

Dear Mr. Mitchler:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses.
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

93043503098

Mr. Mitchler  
Page 2

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,

*Mary P. Mastrobattista*

Mary P. Mastrobattista  
Attorney

93043503099



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 24, 1992

Mr. George Jassman  
Auto Dealers/Drivers  
Political Action Committee  
153-12 Hillside Avenue  
Jamaica, NY 11432

RE: MUR 3345

Dear Mr. Jassman:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses.
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

93043503100

Mr. Jassman  
Page 2

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,



Mary P. Mastrobattista  
Attorney

93043503101





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 24, 1992

Mr. David Grohowski  
D-Vegro Computers  
3310 Walnut Creek Parkway  
Raleigh, NC 27606

RE: MUR 3345

Dear Mr. Grohowski:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses.
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

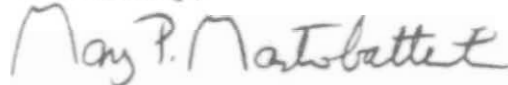
93043503102

Mr. Grohowski  
Page 2

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,



Mary P. Mastrobattista  
Attorney

93043503103



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 24, 1992

Mr. Robert Robinson  
GTE Political Action Committee  
600 Hidden Ridge  
HQEO1H 34  
Irving, TX 75015

RE: MUR 3345

Dear Mr. Robinson:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses.
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

93043503104

Mr. Robinson  
Page 2

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,

*Mary P. Mastrobattista*

Mary P. Mastrobattista  
Attorney

93043503105



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1992

Mr. Alvaro Saenz  
4322 Pecan Valley Drive  
Corpus Christi, TX 78413

RE: MUR 3345

Dear Mr. Saenz:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses.
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

93043503106

Mr. Saenz

Page 2

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,



Mary P. Mastrobattista  
Attorney

93043503107



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1992

Ms. Mary Ann Williamson  
5915 Cochran Road  
Weatherford, TX 76086

RE: MUR 3345

Dear Ms. Williamson:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses.
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

93043503108



Ms. Williamson  
Page 2

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,



Mary P. Mastrobattista  
Attorney

93043503109



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1992

Mr. Robert Rossi  
Washington Strategies  
1511 K Street, N.W.  
Suite 716  
Washington, D.C. 20005

RE: MUR 3345

Dear Mr. Rossi:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses.
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

93043503110

Mr. Rossi  
Page 2

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,

*Mary P. Mastrobattista*

Mary P. Mastrobattista  
Attorney

9304350311



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1992

Samuel Reid Patterson, Treasurer  
Santorum for Congress  
P.O. Box 16240  
Pittsburgh, PA 15242

RE: MUR 3345

Dear Mr. Patterson:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The purpose of this letter is to request you to provide certain information in connection with an investigation the Commission is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

The Commission is seeking certain information regarding a product that you may have purchased from Aristotle Industries or Campaign Industry News. This product, known as "FAT CATS", provides access to contributions to federal candidates as reported to the Commission on compact discs. You are requested to provide answers to the following questions concerning this product:

1. State whether you have purchased "FAT CATS". If so, state the name of the vendor from which you purchased the product and the date purchased.
2. State the purpose for which you purchased the product.
3. State whether the product includes, or has ever included, individual contributors' mailing addresses.
4. State whether the product includes, or has ever included, individual contributors' telephone numbers.
5. State whether the product has the capability, or has ever had the capability, to generate mailing lists of individual contributors.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted

93043503112

Samuel Reid Patterson  
Page 2

by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please submit your response to the Office of the General Counsel within 30 days of receipt of this letter. If you have any questions, please contact me at (800) 424-9530.

Sincerely,



Mary P. Mastrobattista  
Attorney

93043503113

# National Republican Senatorial Committee

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

JUL 14 11 20 AM '92

SENATOR PHIL GRAMM  
CHAIRMAN

July 13, 1992

JEB HENSARLING  
EXECUTIVE DIRECTOR

Ms. Mary P. Mastrobattista, Esq.  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 3345

Dear Ms. Mastrobattista:

This is in response to your letter of June 24, 1992, seeking information in connection with an unidentified investigation by the Federal Election Commission. I am willing to be of assistance but do so in reliance on your representation that I am not a "respondent" or target in this case.

You asked several questions in your letter about a product known as "FAT CATS." You asked whether I purchased such a product from Aristotle Industries or Campaign Industry News. In August 1991, I purchased, on behalf of the National Republican Senatorial Committee, computerized data and software from Campaign Industry News that was not identified as "FAT CATS" but did consist of contributor data. The purpose of this purchase was to provide reference data for the NRSC's political research activities. To the best of my knowledge, this product does not contain street addresses or telephone numbers.

After the NRSC purchased this product, we discovered additional software and hardware needed to be purchased in order to use it for research purposes. The costs of such investments were deemed too high. As such, the NRSC has never used this data for research, fundraising, or any other purpose. The absence of street addresses makes the data unusable for mailing purposes.

I trust this information is useful.

Sincerely,



Albert E. Mitchler  
Finance Director

AM/lvn

RONALD REAGAN REPUBLICAN CENTER  
425 SECOND STREET, N.E. • WASHINGTON, D.C. 20002 • (202) 675-6000

PAID FOR AND AUTHORIZED BY THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE.

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE  
92 JUL 14 PM 4:19

93043503114

ALVARO D. SAENZ, C.P.A.  
4322 Pecan Valley Dr.  
Corpus Christi, TX 78413

July 13, 1992

Re: FAT CATS

Ms. Mary P. Mastrobattista  
Federal Election Commission  
Washington, D. C. 20463

Dear Ms. Mastrobattista:

I have your letter of June 24, 1992 inquiring as to my knowledge or dealings with Aristotle Industries or Campaign Industry news regarding FAT CATS. I have not purchased nor have I knowledge that Congressman Solomon P. Ortiz has purchased FAT CATS from anyone. If I may be of help, please let me know.

Sincerely,

*Alvaro D. Saenz*  
Alvaro D. Saenz

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

JUL 15 1 24 PM '92

06C5187

92 JUL 15 PM 3:34

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF LEGAL COUNSEL

98043503115



Mary Ann Williamson

P.O. Box 879

Weatherford, Texas 76086

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

JUL 17 9 10 AM '92

July 13, 1992

Mary P. Mastrobattista  
Federal Election Commission  
Washington, D.C. 20463

RE: MUR 3345

Dear Ms. Mastrobattista:

In response to your letter dated June 24, 1992, please note the following:

1. I purchased "FAT CATS" software from Aristotle Industries on 2/2/92.
2. I purchased the product to learn more about who contributes to Congressional candidates.
3. The product does not include mailing addresses nor to my knowledge has ever included mailing addresses.
4. The product does not include telephone numbers nor to my knowledge has ever included telephone numbers.
5. The product does not have the capability to generate mailing lists of individual contributors nor to my knowledge has ever had the capability to generate mailing lists of individual contributors.

Sincerely,

*Mary Ann Williamson*  
Mary Ann Williamson

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE CLERK  
92 JUL 17 AM 10:55

93043503116

OGC 95246

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

Jul 20 12 26 PM '92

**AUTO DEALERS & DRIVERS FOR FREE TRADE**July 17, 1991 *11/11/91* **Political Action Committee**

Ms. Mary P. Mastrobattista  
Attorney  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Ms. Mastrobattista:

This letter is written in response to your letter dated June 24, 1992 to Mr. George Jassman of the Auto Dealers & Drivers for Free Trade PAC (C00141903).

As Executive Director of the PAC, Mr. Jassman has handed the letter over to me for response to your inquiry about the "FAT CATS" compact discs.

The Auto Dealers PAC purchased these discs from Aristotle Industries in July of 1991 for the principal purpose of tracking campaign contributions made to candidates for the House and the Senate in prior election cycles.

Individual contributors were not our focus, PAC contributions by category, ie. Labor PAC's, Corporate PAC's etc. were the principal focus of our research efforts. We have been tracking PAC contributions to candidates for over three election cycles as is evidenced by the fact that we have purchased directly from the Federal Election Commission computer tapes of prior election cycles.

The answer to your questions three and four is quite simply in the negative. There was no information that we were aware of that included either mailing addresses or contributors phone numbers.

As to the capability of producing mailing lists from this disc I could not really say either way as we did not utilize the information for that purpose.

I hope that this helps you in your investigation of this matter. Please feel free to contact me if I may be of further assistance at: (718) 291-6900.

Sincerely,

Frank Glacken  
Executive Director

 RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE  
92 JUL 20 PM 3:30

93043503117



RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

JUL 21 12 49 PM '92

OGC 5261

Gail L. Polivy  
Senior Attorney

GTE Service Corporation

1850 M Street, N.W., Suite 1200  
Washington, D.C. 20036  
(202) 463-5214

July 21, 1992

Ms. Mary P. Mastrobattista  
Attorney  
Federal Election Commission  
Office of General Counsel  
Washington, D.C. 20463

Re: MUR 3345

Dear Ms. Mastrobattista:

This responds to your letter of June 24, 1992 to Robert Robinson of GTE Telephone Operations requesting information in connection with an investigation of Aristotle Industries. Answers to your specific questions are provided below:

1. GTE Telephone Operations leased CD-ROM software called "FAT CATS" from Aristotle Industries on December 17, 1991.
2. The CD-ROM software was leased for informational purposes to obtain a list of PAC contributions to political candidates.
3. No, the product does not include individual contributors' mailing addresses.
4. No, the product does not include individual contributors' telephone numbers.
5. No, the product does not have the capability of generating mailing lists of individual contributors.

If you have further questions with regard to this matter, please contact me directly.

Sincerely,

Gail L. Polivy  
Attorney for GTE Telephone Operations

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE  
92 JUL 22 AM 10:23

93043503118

# ARISTOTLE INDUSTRIES

205 Pennsylvania Avenue, SE, Washington, DC 20003 (202)543-8345, (800)CAMPAIGN, (202)543-6407(Fax)

OGC5262

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

JUL 22 9 36 AM '92

## JOINT RESPONSE OF ARISTOTLE INDUSTRIES, INC. AND CAMPAIGN MAGAZINE TO FEDERAL ELECTION COMMISSION'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

### INITIAL JOINT STATEMENT OF ARISTOTLE INDUSTRIES, INC. AND CAMPAIGN MAGAZINE

Aristotle Industries and Campaign Magazine have previously filed a "Response to ATLA PAC Complaint" in July 1991. That response is specifically incorporated by reference into the attached responses to the FEC's Interrogatories and Requests for Production of Documents. As indicated by the responses below, our screening procedures for subscribers are stringent, and require a sweeping range of contractual undertakings, warranties and representations by each subscriber.

Moreover, the Second Circuit Court of Appeals has recently handed down a ruling that should be dispositive of any possible action against us. In a case directly on point involving the sale of written reports containing FEC contributor data, the court held that the absence from a product of mailing addresses and telephone numbers, along with a caveat on each product against solicitation and commercial use, is it "virtually certain" that this product "will be used for informative purposes (similar to newspapers, magazines, and books...) not for commercial purposes (similar to soliciting contributions or selling cars)." See *FEC v. Political Contributions Data, Inc* (August 21, 1991).

Furthermore, if the FEC has any evidence whatsoever that one of our customers has violated 2 U.S.C. 438(a)(4), (or automatic breach of its Subscription Contract), then attention should be paid to that offender. We would naturally be interested in any such evidence so that we might avail ourselves of our contractual remedies, including immediate termination of the breaching party's subscription. In the absence of any such evidence, however, the well-reasoned PCD decision virtually precludes the possibility that there is any reason to believe that mere 1 year selling a subscription to the data without mailing addresses or telephone numbers, constitutes a violation of the statute.

Finally, we believe we have been severely constrained and prejudiced in our ability to respond fully to the complaint, because the contract between the FEC and DEC was not provided to us until last week, on February 25, 1992. That contract was requested under FOIA in June of 1991. We have not, therefore, had an adequate opportunity to review those portions of the several hundred page DEC contract that was provided to us. Nor do we know what portions of the contract have been withheld from us. See attached letter from FEC, February 25, 1992.

It would, appear that the PCD decision, coupled with DEC's obviously commercial provision of the data for profit, together create an irrebuttable presumption that simply offering the product without phone numbers or mailing addresses cannot constitute a violation of the statute. Further, there is no evidence of any statutory violation by any customer, nor any evidence that we should be or are aware of any such violation, should one exist.

Accordingly, once the FEC has reviewed this submission and confirmed that CAMPAIGN markets the product under the attached contracts, this investigation has no basis to continue.

### RESPONSE OF ARISTOTLE INDUSTRIES

1. STATE THE DATE ON WHICH ARISTOTLE INDUSTRIES FIRST OFFERED "FAT CATS" (HEREINAFTER "THE PRODUCT") FOR SALE.

"FATCATS" WAS FIRST PRESSED APRIL 30, 1991.

92 JUL 22 AM 10:22

57:11W 8-0-1992

RECEIVED  
FEDERAL ELECTION COMMISSION

2. STATE THE NUMBER OF UNITS OF THE PRODUCT WHICH ARISTOTLE INDUSTRIES HAS SOLD TO DATE.

ARISTOTLE HAS SOLD 8 "FATCATS" AS OF 2/21/92

3. IDENTIFY THE PURCHASERS OF THE PRODUCT BY NAME, ADDRESS AND TELEPHONE NUMBER.

LOS ANGELES TIMES - 2  
DWIGHT MORRIS  
1875 I STREET NW  
#1100  
WASHINGTON, DC 20006  
202-293-4650

PM CONSULTING CORPORATION - 1  
BRAD O'LEARY  
3050 K STREET NW  
WASHINGTON, DC 20007  
202-944-4550

GANNETT NEWS SERVICE - 2  
WENDELL COCHRAN  
1000 WILSON BLVD  
10TH FLOOR  
ARLINGTON, VA 22229  
703-276-5804

NRSC - 3  
AL MITCHLER  
425 2ND STREET NE  
WASHINGTON DC 20002  
202-675-6084

4. STATE THE PURPOSE FOR WHICH EACH PURCHASER HAS PURCHASED THE PRODUCT.

SUBSCRIBERS TO FATCATS ENTER INTO SUBSCRIPTION AGREEMENTS THAT ALLOW THE SUBSCRIBER TO MAKE ANY LAWFUL USE OF THE PRODUCT, THE PRODUCT CONSIST OF SOFTWARE, DOCUMENTATION, AND A COMPACT DISK CONTAINING FEC CONTRIBUTOR DATA. A POTENTIAL SUBSCRIBER'S ATTENTION IS DRAWN EXPRESSLY TO THE FEDERAL RESTRICTIONS ON USE OF THE DATA FOR SOLICITING CONTRIBUTIONS OR COMMERCIAL PURPOSES. SUCH RESTRICTIONS ALSO ARE EXPRESSLY INCORPORATED INTO AND DESCRIBED IN EACH CONTRACT, AND ARE PRINTED ON THE FACE OF EACH COMPACT DISK. SUBSCRIBERS WARRANT AND REPRESENT THAT THEY WILL USE THE PRODUCTS IN ACCORDANCE WITH SUCH RESTRICTIONS. SEE RESPONSE TO INTERROGATORY NUMBER ELEVEN BELOW.

5. PRODUCE A COPY OF THE CONTRACT(S) WHICH ARISTOTLE INDUSTRIES USES, OR HAS EVER USED, TO SELL THE PRODUCT.

SEE ATTACHED

93043503120

6. STATE THE NUMBER OF ONE-YEAR SUBSCRIPTIONS FOR THE PRODUCT SOFTWARE WHICH ARISTOTLE INDUSTRIES HAS SOLD TO DATE.

ARISTOTLE HAS SOLD 8 SUBSCRIPTIONS TO "FATCATS" AS OF 2/21/92

7. PRODUCE A COPY OF THE RESTRICTIONS THAT ARE PRINTED ON THE FACE OF THE PRODUCT.

"Information contained in this database is subject to FEC guidelines for appropriate use, and may not be sold or used by any other 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. Consult the FEC for further information prior to using any information."

8. STATE WHETHER THE PRODUCT INCLUDES, OR HAS EVER INCLUDED, INDIVIDUAL CONTRIBUTORS' MAILING ADDRESSES.

NO

9. STATE WHETHER THE PRODUCT INCLUDES, OR HAS EVER INCLUDED, INDIVIDUAL CONTRIBUTORS' TELEPHONE NUMBERS.

NO

10. STATE WHETHER THE PRODUCT PRESENTLY HAS THE CAPABILITY TO BE USED TO GENERATE MAILING LISTS OF INDIVIDUAL CONTRIBUTORS. STATE WHETHER THE PRODUCT HAS EVER HAD THE CAPABILITY TO BE USED TO GENERATE MAILING LISTS OF INDIVIDUAL CONTRIBUTORS.

NO TO BOTH QUESTIONS

11. DESCRIBE, IN DETAIL, ARISTOTLE INDUSTRIES' SCREENING PROCESS FOR POTENTIAL PURCHASERS OF THE PRODUCT.

SEE RESPONSE TO INTERROGATORY NUMBER FOUR. AI ALSO INSISTS ON A SIGNED CONTRACT CONTAINING THE ABOVE-DESCRIBED WARRANTIES AND REPRESENTATIONS ON LAWFUL USE. SUCH CONTRACT FURTHER MANDATES THAT ANY MISUSE OF THE DATA WILL AUTOMATICALLY SUBJECT THE SUBSCRIBER TO TERMINATION OF THE SUBSCRIPTION, AND INDEMNIFICATION OF AI FOR LIABILITY TO AI AS A RESULT OF SUCH MISUSE. A SUBSCRIBER ALSO IS UNDER A CONTRACTUAL OBLIGATION TO TAKE SPECIFIC SECURITY MEASURES TO PREVENT UNAUTHORIZED USE OF THE DATA.

AN INTERESTED POTENTIAL SUBSCRIBER WHO IS UNWILLING TO AGREE, IN WRITING, TO ABIDE BY ALL OF THESE SIGNIFICANT RESTRICTIONS WILL NOT BE PROVIDED WITH THE PRODUCT. THIS, OF COURSE, CONSTITUTES A MUCH STRICTER SCREENING PROCESS THAN UTILIZED BY THE FEC (AND PERHAPS THE DIGITAL EQUIPMENT CORPORATION). THE FEC, IN FACT, APPARENTLY MAKES THE DATA EQUALLY AVAILABLE TO EVERYONE, INCLUDING LIST BROKERS. IN CONTRAST, AS A POLICY MATTER, ARISTOTLE DOES NOT ENTER INTO SUBSCRIPTION AGREEMENTS WITH LIST BROKERS.

93043503121



12. DESCRIBE, IN DETAIL, ANY ADVERTISING OR SALES PROMOTIONS UNDERTAKEN BY ARISTOTLE INDUSTRIES TO MARKET THE PRODUCT.

ARISTOTLE ADVERTISES THE PRODUCT IN CAMPAIGN MAGAZINE AND AT TRADE SHOWS. ARISTOTLE DIRECTLY CONTACTS PERSONS, COMPANIES AND NEWS ORGANIZATIONS IDENTIFIED BY THE FEC AS HAVING PURCHASED DATA DIRECTLY FROM THE FEC.

13. PRODUCE A COPY OF ALL ADVERTISEMENTS AND SALES PROMOTIONAL LITERATURE BY WHICH ARISTOTLE INDUSTRIES HAS MARKETING THE PRODUCT.

SEE ATTACHED

14. STATE THE TOTAL OF ALL INCOME RECEIVED BY ARISTOTLE INDUSTRIES DURING THE YEARS IN WHICH ARISTOTLE INDUSTRIES MARKETING THE PRODUCT.

THE TOTAL REVENUES OF ARISTOTLE INDUSTRIES ARE, WE RESPECTFULLY SUBMIT, NOT COLORABLY OR ARGUABLY RELEVANT TO ANY POSSIBLE ISSUE IDENTIFIED BY THE COMPLAINT OR BY THE FEC. NOR ARE SUCH FIGURES EVEN REMOTELY LIKELY TO LEAD TO THE DISCOVERY OF ANY RELEVANT INFORMATION IN ADDITION TO THE SUBSTANTIAL DETAIL AND DISCLOSURE ABOUT "FATCATS" ALREADY BEING PROVIDED TO THE FEC HEREUNDER.

15. STATE THE TOTAL OF ALL INCOME RECEIVED BY ARISTOTLE INDUSTRIES FROM THE SALE OF THE PRODUCT.

\$8,000

16. STATE WHETHER ARISTOTLE INDUSTRIES IS INCORPORATED. IF SO, PRODUCE A COPY OF ARISTOTLE INDUSTRIES' ARTICLES OF INCORPORATION AND BYLAWS.

SEE ATTACHED

93043503122



RESPONSE OF CAMPAIGN INDUSTRY NEWS

1. STATE THE DATE ON WHICH CAMPAIGN MAGAZINE FIRST OFFERED "FAT CATS" (HEREINAFTER "THE PRODUCT") FOR SALE.

"FATCATS" WAS FIRST PRESSED APRIL 30, 1991.

2. STATE THE NUMBER OF UNITS OF THE PRODUCT WHICH CAMPAIGN HAS SOLD TO DATE.

CAMPAIGN MAGAZINE HAS SOLD 10 "FATCATS" AS OF 2/21/92

3. IDENTIFY THE PURCHASERS OF THE PRODUCT BY NAME, ADDRESS AND TELEPHONE NUMBER.

AUTO DEALERS/DRIVERS PAC  
ATTN: GEORGE JASSMAN  
153-12 HILLSIDE AVE.  
JAMAICA, NY 11432  
800-221-0177

D-VEGRO COMPUTERS  
ATTN: DAVID GROHOWSKI  
3310 WALNUT CREEK PARKWAY  
RALEIGH, NC 27606  
919-233-1960

GTE PAC  
ATTN: ROBERT ROBINSON  
600 HIDDEN RIDGE  
HQEO1H 34  
IRVING, TX 75015  
214-718-4188

SANTORUM FOR CONGRESS  
127 SEMINOLE DRIVE  
MT. LEBANON, PA 15228  
202-225-2135

FLORIDA DEMOCRATIC PARTY - 3  
ATTN: PAT MALLOY  
517 NORTH CALHOUN  
TALLAHASSEE, FL 32301  
904-224-1724

CONGRESSMAN SOLOMON ORTIZ  
ATTN: ALVARO SAENZ  
4322 PECAN VALLEY DRIVE  
CORPUS CHRISTI, TX 78413  
512-853-6411

93043503123

REP. RIC WILLIAMSON  
ATTN: MARYANN WILLIAMSON  
59-15 COCHRAN ROAD  
WEATHERFORD, TX 76086  
817-599-8363

WASHINGTON STRATEGIES  
ATTN: ROBERT ROSSI  
1511 K STREET NW  
SUITE 716  
WASHINGTON DC 20005  
202-638-0008

4. STATE THE PURPOSE FOR WHICH EACH PURCHASER HAS PURCHASED THE PRODUCT.

SEE RESPONSE OF ARISTOTLE INDUSTRIES TO INTERROGATORY NUMBER FOUR TO ARISTOTLE INDUSTRIES, WHICH RESPONSE APPLIES EQUALLY TO CAMPAIGN.

5. PRODUCE A COPY OF THE CONTRACT(S) WHICH CAMPAIGN MAGAZINE USES, OR HAS EVER USED, TO SELL THE PRODUCT.

SEE ATTACHED

6. STATE THE NUMBER OF ONE-YEAR SUBSCRIPTIONS FOR THE PRODUCT SOFTWARE WHICH CAMPAIGN HAS SOLD TO DATE.

10 SUBSCRIPTIONS

7. STATE THE NUMBER OF UNITS OF THE PRODUCT SOLD BY CAMPAIGN MAGAZINE WHICH INCLUDED INDIVIDUAL CONTRIBUTORS' MAILING ADDRESSES.

NONE

8. STATE THE NUMBER OF UNITS OF THE PRODUCT SOLD BY CAMPAIGN MAGAZINE WHICH INCLUDED INDIVIDUAL CONTRIBUTORS' TELEPHONE NUMBERS.

NONE

9. STATE WHETHER CAMPAIGN MAGAZINE HAS EVER SOLD THE PRODUCT WITH THE CAPABILITY TO GENERATE MAILING LISTS.

NO

10. DESCRIBE, IN DETAIL, CAMPAIGN MAGAZINE'S SCREENING PROCESS FOR POTENTIAL PURCHASERS OF THE PRODUCT.

SEE ARISTOTLE'S RESPONSE TO INTERROGATORY NUMBER ELEVEN TO ARISTOTLE INDUSTRIES, WHICH RESPONSE APPLIES EQUALLY TO CAMPAIGN.

11. DESCRIBE, IN DETAIL, ANY ADVERTISING OR SALES PROMOTIONS UNDERTAKEN BY CAMPAIGN MAGAZINE TO MARKET THE PRODUCT.

CAMPAIGN MAGAZINE ADVERTISES THE PRODUCT IN CAMPAIGN MAGAZINE AND TRADE SHOWS. CAMPAIGN MAGAZINE DIRECTLY CONTACTS PERSONS, COMPANIES

93043503124

AND NEWS ORGANIZATIONS IDENTIFIED BY THE FEC HAVING PURCHASED DATA DIRECTLY FROM THE FEC.

12. PRODUCE A COPY OF ALL ADVERTISEMENTS AND SALES PROMOTIONAL LITERATURE BY WHICH CAMPAIGN MAGAZINE HAS MARKETING THE PRODUCT.

SEE ATTACHED

13. PRODUCE A COPY OF CAMPAIGN MAGAZINE'S ARTICLES OF INCORPORATION, BYLAWS, AND STATEMENT OF ORGANIZATION.

SEE ATTACHED

14. PRODUCE A COPY OF THE ASSIGNMENT BY WHICH ARISTOTLE INDUSTRIES HAS ASSIGNED ITS SUBSCRIBER CONTRACTS TO CAMPAIGN MAGAZINE.

CAMPAIGN HAS BEEN UNABLE TO LOCATE THE ORIGINAL EXECUTED ASSIGNMENT THAT WAS SIGNED IN 1991. CAMPAIGN WARRANTS AND REPRESENTS THAT THE ASSIGNMENT READ SUBSTANTIALLY AS FOLLOWS: "IN CONSIDERATION OF \$1.00, AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, ARISTOTLE INDUSTRIES HEREBY ASSIGNS ALL OF ITS RIGHT, TITLE, AND INTEREST IN THE 'FATCATS' BUSINESS AND CONTRACTS TO CAMPAIGN MAGAZINE." SUCH ASSIGNMENT WAS EXECUTED BY JOHN A. PHILLIPS, PRESIDENT OF ARISTOTLE AND PUBLISHER OF CAMPAIGN MAGAZINE.

15. PRODUCE A COPY OF ANY LETTERS, MEMORANDA, NOTES OR OTHER CORRESPONDENCE BETWEEN ARISTOTLE INDUSTRIES AND CAMPAIGN MAGAZINE REGARDING THE PRODUCT OR THE ASSIGNMENT OF SUBSCRIBER CONTRACTS TO CAMPAIGN MAGAZINE BY ARISTOTLE INDUSTRIES.

NONE

16. PRODUCE A COPY OF THE FIRST ISSUE OF CAMPAIGN MAGAZINE.

UNABLE TO LOCATE

17. PRODUCE A COPY OF THE MOST RECENT ISSUE OF CAMPAIGN MAGAZINE.

SEE ATTACHED

18. PRODUCE A COPY OF EACH ISSUE OF CAMPAIGN MAGAZINE CONTAINING ANY REFERENCE TO THE PRODUCT.

SEE ATTACHED

19. STATE THE TOTAL OF ALL INCOME RECEIVED BY CAMPAIGN MAGAZINE DURING THE YEARS IN WHICH CAMPAIGN MAGAZINE MARKETING THE PRODUCT.

SEE RESPONSE OF ARISTOTLE TO INTERROGATORY NUMBER FOURTEEN TO ARISTOTLE INDUSTRIES, WHICH RESPONSE APPLIES EQUALLY TO CAMPAIGN.

20. STATE THE TOTAL OF ALL INCOME RECEIVED BY CAMPAIGN MAGAZINE FROM THE SALE OF THE PRODUCT.

\$10,000

93043503125

21. STATE WHETHER CAMPAIGN MAGAZINE IS INCORPORATED. IF SO, PRODUCE A COPY OF CAMPAIGN MAGAZINE'S ARTICLES OF INCORPORATION AND BYLAWS.

YES ☐ NO ☐ ATTACHED ☐



DAVID K. BRENNAN  
Notary Public, District of Columbia  
My Commission Expires March 31, 1997

7-3-92

93043503126

OGC 5285

MUR 3345

ALVARO D. SAENZ, C.P.A.  
4322 Pecan Valley Dr.  
Corpus Christi, TX 78413

July 23, 1992

92 JUL 23 PM 4:07

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE CLERK

Ms. Mary P. Mastrobattista  
Federal Election Commission  
Washington, D. C. 20463

Dear Ms. Mastrobattista:

This letter is a follow up to my letter of July 13, 1992. At the time of that letter I was not aware that the program in question "Fat Cats" had been purchased by the campaign staff. After conferring with the Washington staff I was advised that the program had been purchased.

Answer to Question number one is yes the program was purchased from Campaign Industry News on 2-13-92.

Answer to number two is that the campaign does not have adequate software and is trying to purchase software that will help the committee.

Answer to number three, four and five is no the product does not have mailing addresses, telephone numbers or the capability to generate mailing lists.

If I may be of any further assistance, please let me know.

Sincerely,

*Alvaro D. Saenz*  
Alvaro D. Saenz

93043503127

# CONGRESSMAN RICK SANTORUM

P.O. Box 10495  
Pittsburgh, PA 15234

July 13, 1992

Ms. Mary P. Mastrobattista  
Attorney  
Federal Election Commission  
Washington, D.C. 20463

Dear Ms. Mastrobattista:

I am writing in response to your inquiry of June 24, 1992 regarding the "Fat Cats" CD-ROM developed by Aristotle Industries. I will endeavor to answer your questions as completely and accurately as possible.

1. We purchased "Fat Cats" from Aristotle Industries, 205 Pennsylvania Avenue., SE, Washington, DC 20003 on *November 20, 1991*

2. We purchased "Fat Cats" as a research tool. For example, to determine if a PAC that contributed to Santorum For Congress in the 1989-90 cycle is also on our current list of contributors for Santorum For Congress. We have basically used it to check our records to dermine their accuracy. We have used the "Fat Cats" disc very little, primarily to check our internal FEC filings from the 1989-90 cycle with the "official" FEC records as recorded on the CD-ROM.

3. The "Fat Cats" CD-ROM database does contain individual contributors' addresses. I am not sure whether other versions do or not.

4. The "Fat Cats" CD-ROM database does not contain individual phone numbers. I am not sure whether other versions do or not.

5. The product has the capability of generating mailing lists of individual contributors. This is not inherent in the software which comes with the CD-ROM, but any database can be programmed to produce mailing lists with third party software.

I hope that this is helpful. If you have any additional questions, please do not hesitate to contact me.

Sincerely,



Samuel R. Patterson  
Treasurer

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

JUL 23 11 54 AM '92

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE CLERK

92 JUL 23 PM 3:16

Nixon, Hargrave, Devans & Doyle

Attorneys and Counselors at Law

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

SUITE 800

ONE THOMAS CIRCLE

WASHINGTON, D.C. 20005

(202) 457-5300

FAX (202) 457-5355

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

JUL 27 12 43 PM '92

100 ADRIENNE PLAZA  
NEW YORK, NEW YORK 10012  
(212) 603-3000

CLINTON SQUARE  
POST OFFICE BOX 1051  
ROCHESTER, NEW YORK 14603  
(716) 263-1000

WRITER'S DIRECT DIAL NUMBER:

(202) 457-5510

ONE KEYCORP PLAZA  
ALBANY, NEW YORK 12207  
(518) 427-2650

1600 EMPIRE TOWER  
BUFFALO, NEW YORK 14202  
(716) 853-8100

990 STEWART AVENUE  
GARDEN CITY, NEW YORK 11530  
(516) 832-7500

July 24, 1992

Mary P. Mastrobattista, Esq.  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 3345

Dear Ms. Mastrobattista:

We represent Gannett News Service ("GNS") and are responding on its behalf to your June 24, 1992 letter to Wendell Cochran.

The information you requested is protected by the First Amendment. See Zerilli v. Smith, 656 F.2d 705 (D.C. Cir. 1981). Consequently GNS, with all due respect, refuses to provide the information requested in your letter.

In your letter, you assert that the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies to GNS and this matter. GNS fails to see the basis for your conclusion.

Moreover, your letter to GNS itself discloses not only the existence of the investigation but also the target of the investigation. Because the press operates as a surrogate for the public, your letter would appear to violate § 437g(a)(12)(A) and (B) of the statute you cite.

As a final matter, should your letter be construed as a directive not to make public the information contained in it it appears to violate the First Amendment. See Butterworth v.

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
92 JUL 27 PM 3:37

93043503129



Nixon, Hargrave, Devans & Doyle

Mary P. Mastrobattista, Esq.  
July 24, 1992  
Page 2

Smith, 494 U.S. 624 (1990) (restraint on release of grand jury testimony cannot withstand constitutional scrutiny). I thus request that you immediately notify me in writing that you have rescinded any effort to prohibit publication of information contained in your letter

I look forward to hearing from you.

Sincerely,



Albert Shuldiner

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE CLERK  
92 JUL 27 PM 3:38

93043503130

JUL 29 2 12 PM '92

# Los Angeles Times

WASHINGTON BUREAU

July 29, 1992

Ms. Mary P. Mastrobattista  
Attorney  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20006

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE  
92 JUL 29 PM 3:36

Dear Ms. Mastrobattista:

This is in response to your letter dated June 24, 1992, which requested information relating to Aristotle Industry's "FAT CATS" product.

1. On April 25, 1991, I purchased from Aristotle Industries software and data designed to provide rapid, historical information on 1990 campaign contributions. This product later became known as "FAT CATS," although at the time we initially purchased it, it did not bear that name. Subsequently, on July 1, 1991, I purchased the 1988 contribution data with enhanced software from Aristotle.

2. In both cases, the purchase was made in order to facilitate our analysis of historical trends. However, before I would print any stories based upon this data, I had to be satisfied that the data supplied was, in fact, correct. I ran numerous tests comparing the data contained in the Aristotle product with that obtained by plugging directly into the FEC's on-line database. The results of those tests led me to discover that Aristotle had not correctly handled negative numbers (refunds), and we asked them to provide us with new, correct data. Subsequently, I discovered that Aristotle had not correctly handled contributions from joint fund raisers, which again made the product useless. We immediately abandoned all attempts to use their product, never having successfully used it to generate news stories. We have returned to our practice of acquiring data directly from the FEC.

3. At no time during the period we were attempting to use Aristotle's product did it include any information other than that supplied by the FEC's own computer system. Address

information was limited to city, state and zip code, which would not allow for the generation of mailing labels. There were no contributor telephone numbers supplied. I have no knowledge as to whether these data elements were added subsequent to our discontinuing use of the product.

I hope this sufficiently answers your questions, but if you need to speak with me further on this subject, please feel free to contact me at our Washington bureau. I can be reached at (202)861-9284.

Sincerely,

*Dwight L. Morris*

Dwight L. Morris  
Editor for Special Investigations

93043503132



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3345<sup>E</sup>

DATE FILMED 11-9-93 CAMERA NO. 2

CAMERAMAN JML

93043503133



FEDERAL ELECTION COMMISSION  
WASHINGTON D.C. 20463

☒ Microfilm  
☐ Public Records  
☐ Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3345.

12/10/93

93043542546

THE READER IS REFERRED TO ADDITIONAL MICROFILM LOCATIONS  
FOR THE FOLLOWING DOCUMENTS PERTINENT TO THIS CASE

1. Memo, General Counsel to the Commission, dated September 22, 1992, Subject: Priority System Report.  
See Reel 354, pages 1590-94.
2. Memo, General Counsel to the Commission, dated April 14, 1993, Subject: Enforcement Priority System.  
See Reel 354, pages 1595-1620.
3. Certification of Commission vote, dated April 28, 1993.  
See Reel 354, pages 1621-22.
4. General Counsel's Report, In the Matter of Enforcement Priority, dated December 3, 1993.  
See Reel 354, pages 1623-1740.
5. Certification of Commission vote, dated December 9, 1993.  
See Reel 354, pages 1741-1746.

93043542547





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

DEC 10 1991

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Joan Pollitt, Treasurer  
The Association of Trial Lawyers of  
America Political Action Committee  
1050 31st Street, N.W.  
Washington, DC 20007

RE: MUR 3345

Dear Ms. Pollitt:

On June 21, 1991, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). On January 14, 1992, the Commission found reason to believe that Aristotle Industries and Campaign Magazine violated 2 U.S.C. § 438(a)(4).

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against Aristotle Industries and Campaign Magazine. See attached narrative. Accordingly, the Commission closed its file in this matter. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

*Karen W. White*  
Karen W. White

Attachment  
Narrative

Date the Commission voted to close the file: DEC 09 1991

93043542548



MUR 3345  
ARISTOTLE INDUSTRIES

The complainant alleged that Aristotle Industries used contributor information copied from reports filed with the Commission for commercial purposes. The other respondent is Campaign Magazine. The respondents contended that the mere sale of information copied from reports filed with the Commission is not a per se violation of the FECA. They also contended that none of the copied information that was sold included addresses or telephone numbers of contributors. The respondents stated that none of the subscribers who purchased the information from the respondents used the data for solicitation or other prohibited commercial purposes. The respondents contended that as long as the purpose for which the subscribers used the data was lawful under the FECA, then the sale of the information by the respondents was also lawful under the FECA. On January 14, 1992, the Commission found reason to believe that Aristotle Industries and Campaign Magazine violated 2 U.S.C. § 438(a)(4).

This matter has little or no impact on the process, involves no significant issue relative to the other issues pending before the Commission, and involves insubstantial amounts of money.

93043542549



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

DEC 10 1992

John Aristotle Phillips, President  
Aristotle Industries  
205 Pennsylvania Avenue, S.E.  
Washington, DC 20003

RE: MUR 3345

Dear Mr. Phillips:

On January 27, 1992, you were notified that the Federal Election Commission had found reason to believe Aristotle Industries and Campaign Magazine violated 2 U.S.C. § 438(a)(4). On March 3, 1992, you submitted a response to the Commission's reason to believe finding.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against Aristotle Industries and Campaign Magazine. See attached narrative. Accordingly, the Commission closed its file in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional

93043542550

John Aristotle Phillips  
page 2

materials, any permissible submissions will be added to the public record when they are received.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

*Karen W. White*  
Karen W. White

Attachment  
Narrative

Date the Commission voted to close the file: DEC 09 1992

93043542551



MUR 3345  
ARISTOTLE INDUSTRIES

The complainant alleged that Aristotle Industries used contributor information copied from reports filed with the Commission for commercial purposes. The other respondent is Campaign Magazine. The respondents contended that the mere sale of information copied from reports filed with the Commission is not a per se violation of the FECA. They also contended that none of the copied information that was sold included addresses or telephone numbers of contributors. The respondents stated that none of the subscribers who purchased the information from the respondents used the data for solicitation or other prohibited commercial purposes. The respondents contended that as long as the purpose for which the subscribers used the data was lawful under the FECA, then the sale of the information by the respondents was also lawful under the FECA. On January 14, 1992, the Commission found reason to believe that Aristotle Industries and Campaign Magazine violated 2 U.S.C. § 438(a)(4).

This matter has little or no impact on the process, involves no significant issue relative to the other issues pending before the Commission, and involves insubstantial amounts of money.

9 3 0 4 3 5 4 2 5 5 2