

# Federal Election Commission Advisory Opinion Number 1994-40

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January 27, 1995

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1994-40

David S. Addington, Treasurer  
Alliance for American Leadership  
1707 L Street Northwest, Suite 333  
Washington, D.C. 20036-4200

Dear Mr. Addington:

This refers to your letter of December 21, 1994, concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the use of a microfilm procedure for records maintained by the Alliance for American Leadership (the "Committee").

You state that the Committee is a non-connected, qualified multicandidate PAC.<sup>1</sup> During 1994, the Committee received and disbursed substantial sums of money and generated a substantial volume of records. You state that these records include those described in Commission regulations, at 11 CFR 102.9 and 104.14, which the Committee is required to maintain.

You explain that the Committee currently maintains most of its records in paper form. To reduce the physical storage space required for such records, and to preserve them more effectively from the potential of fire loss or degradation of paper over time, the Committee plans to hire a professional firm that would microfilm the paper records and mount them in "5-channel, 12-images-per-channel microfilm jackets." You state that the jackets will, for ease of use, be labeled the same way as the file folders in which the paper records are filed. You indicate that upon completion of the microfilming of the paper records, and verification that the microfilm has legibly and reproducibly captured the images of the paper

records, the Committee would destroy many of the underlying paper records. The microfilm form of the records may be viewed through the use of a microfilm reader machine. Paper copies of the record could be reproduced from the microfilm form of the record by a microfilm printer.

You ask whether the provisions of the Act and Commission regulations, which require a political committee and its treasurer to keep, maintain, and preserve records, are satisfied if the required records are retained solely in microfilm form as described above.

The Act and Commission regulations require that the treasurer of a political committee maintain certain documentation and financial records. 2 U.S.C. §432(c) requires that an account shall be kept of all contributions received by or on behalf of the committee. See also 11 CFR 102.9(a). In addition, the political committee must maintain an account of all disbursements made by or on behalf of the committee with information identifying the specific disbursement, the person receiving the disbursement and identifying any Federal candidate who has received a committee disbursement. 11 CFR 102.9(b)(1) The committee is also obligated to maintain receipts and invoices from (or canceled checks issued to) the payee of any committee disbursement in excess of \$200. 11 CFR 102.9(b)(2).2/

Likewise, 11 CFR 104.14(b)(1) requires that a treasurer of a political committee:

Maintain records, including bank records, with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified and checked for accuracy and completeness.

The documentation required under 2 U.S.C. §432(c) and sections 102.9 and 104.14 must be preserved and available for audit, inspection or examination by the Commission for at least 3 years after the filing of report to which the documentation relates. See 2 U.S.C. §432(d) and 11 CFR 102.9(c) and 104.14(b)(3).

When applying the requirements of these regulations, the Commission has previously permitted the maintenance of a committee's records in non-paper form. See Advisory Opinion 1993-4. In that opinion, a committee wished to make some of

its disbursements by computer, including electronic transactions that would, in some cases, produce no paper documentation. In permitting this procedure, the Commission concluded that section 104.14(b) could be construed to permit the maintenance of banking records "in the form of computer magnetic media (such as disks, diskettes or tapes) pertaining to these payment transactions." Advisory Opinion 1993-4.

Your proposal is more modest in that the original transaction records you now propose to place on microfilm were paper transaction records that would be photographed and preserved in non-paper form. The Commission concludes that this conversion of paper records to microfilm records is also permissible. The resulting record, however, must fulfill the requirement of providing necessary information and data such that the Committee's reports and statements may be verified, explained, clarified and checked for accuracy and completeness. This means that all portions of a document such as a vendor invoice or committee check, for example, should be photographed so as to preserve in legible form any added writing on the front or back or in the margins. Any memos or notes originally attached to these documents should also be photographed. Furthermore, the Committee should maintain a usable indexing and retrieval system for locating and using the microfilm records.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. §437f.

Sincerely,

(signed)

Danny L. McDonald  
Chairman

Enclosure (AO 1993-4)

1/ The Committee, formerly known as the Cheney for Congress Committee, was the principal campaign committee for Dick Cheney. On February 18, 1994, it filed with the Commission a notice of its modified status as a non-connected multicandidate committee.

2/ Special requirements exist for the documentation of advances for travel and subsistence, and credit card transactions. See 11 CFR 102.9(b)(2)(i)(A) and (i)(B), and 102.9(b)(2)(ii).