



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
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Aristotle International, Inc.) MUR 6334
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STATEMENT OF REASONS OF CHAIR ELLEN L. WEINTRAUB

American citizens should be able to contribute to political campaigns without fear that their personal information will be collected and sold to other companies or campaigns that will then target them with unwelcome advertisements or solicitations. This privacy concern compelled Congress to include a safeguard in the Federal Election Campaign Act of 1971. The Act requires the disclosure of identifying information about individuals who contribute to political campaigns.¹ This privacy safeguard—the “sale or use restriction”—predates the advent of “big data” and online marketing. Today, technology companies mine the personal information of millions of Americans and collect petabytes of data to identify potential customers, audiences, and political contributors. These data brokers gather this information to engage in a variety of commercial and political activity, including targeted political fundraising.² But the law does not allow data brokers to sell or use the personal information of individual contributors published by the Federal Election Commission “for the purpose of soliciting contributions or for commercial purposes.”³

Aristotle International, Inc., (“Aristotle”) violated the Act’s sale or use restriction. There is no dispute that Aristotle copied the contribution histories of individual contributors from the FEC’s

¹ The Federal Election Campaign Act of 1971, as amended, (the “Act”) and Commission regulations require each political committee to report the name, mailing address, occupation, and employer name of any individual who contributes more than \$200 to the committee in a calendar year. 52 U.S.C. §§ 30104(b)(6), 30111(a)(4); 11 C.F.R. §§ 100.12, 104.8(a). That information may not be sold or used by any person to solicit contributions or for any commercial purpose. 52 U.S.C. § 30111(a)(4); 11 C.F.R. § 104.15(a). In enacting these requirements, Congress was concerned about “protect[ing] the privacy of the generally very public-spirited citizens who may make a contribution to a political campaign or a political party.” 117 Cong. Rec. 30,057 (daily ed. Aug. 5, 1971) (statement of Sen. Bellmon). The statute also protects political committees against the economic harm that comes with publicly disclosing its list of contributors and preserves political discourse. *See FEC v. Int’l Funding Inst., Inc.*, 969 F.2d 1110, 1116 (D.C. Cir. 1992).

² Bruce Schneier, *Data and Goliath: The Hidden Battles to Collect Your Data and Control Your World* 54 (2015).

³ 52 U.S.C. § 30111(a)(4); 11 C.F.R. § 104.15(a).

data and made that information available to its clients for the purpose of soliciting contributions.⁴ Aristotle advertised these fundraising capabilities, writing that “[t]he only other way to raise as much money could land you in jail.”⁵ Its own website touted the invasive reach of its product:

It’s not science fiction, it’s data mining taken to the next level. Our powerful web-based system quickly uncovers relationships that can be targeted for votes, dollars, or grass-roots support. Imagine the possibilities. **Use it to access Fat Cats, elected officials, corporate board members, or ordinary voters.**⁶

The Commission has rejected other attempts to use Commission records for commercial or solicitation purposes.⁷ In 2004, I joined four other commissioners to deny a request that sought to use certain FEC records for similar solicitation purposes.⁸

Despite having prohibited others from using the FEC records of individual contributors to offer targeted fundraising services, the Commission has now twice failed to enforce the sale or use restriction against Aristotle. In the first Aristotle matter we encountered back in 2005, the Commission found reason to believe that Aristotle violated the privacy safeguard.⁹ After a lengthy attempt to reach a settlement agreement, we could not agree to find probable cause that a violation occurred even though it was clear that Aristotle used FEC data to enable its customers to solicit contributions.¹⁰ And here we are again, nearly a decade later with the same result for another complaint that was filed against Aristotle in 2010 for providing a similar service.¹¹ Except this time the Commission has evidence that Aristotle engaged in an even more egregious violation, developing software specifically intended for targeting solicitations at ordinary American voters.

By refusing to enforce the law, my Republican colleagues have endangered the privacy of ordinary Americans whom Congress sought to protect against unwanted solicitations. The Commission plays a small but important role here. If the Commission does not enforce the law

⁴ Aristotle Reply Br. at 4, MUR 6334 (Aristotle Int’l, Inc.) (June 13, 2018) (describing how Aristotle’s clients can “see the contribution history information” for individuals, which is drawn from FEC reports).

⁵ Gen. Counsel’s Br. at 8, MUR 6334 (Aristotle Int’l, Inc.) (Feb. 28, 2018).

⁶ *Id.* at 5 (emphasis added) (quoting *Aristotle 360 - Relationship Viewer Demo - Aristotle - Now You Know*, ARISTOTLE.COM, <https://web.archive.org/web/20080513151232/http://www.aristotle.com/content/view/232/161/>).

⁷ Advisory Op. 1985-16 at 2 (Weiss) (May 24, 1985) (prohibiting the owner of a list of potential contributors from using FEC records to determine who contributed to political campaigns); Advisory Op. 2004-24 at 3 (NGP) (Aug. 12, 2004) (prohibiting a software company from giving its clients access to donor contribution histories through its product); *see also* Gen. Counsel’s Br. at 14-15, MUR 6334.

⁸ Advisory Op. 2004-24 at 2-3 (NGP).

⁹ Certification, MUR 5625 (Aristotle Int’l, Inc.) (Dec. 8, 2005).

¹⁰ Statement of Reasons of Vice Chair Bauerly and Comm’rs Walther and Weintraub at 4-8, MUR 5625 (May 19, 2010), <https://www.fec.gov/files/legal/murs/5625/10044264322.pdf>; Certification, MUR 5625 (Mar. 18, 2010) (recording the Commission’s split vote for the probable-cause-to-believe finding).

¹¹ Compl. at 1-2, MUR 6334 (July 20, 2010).

against companies that misuse FEC data, then their clients may target people listed on somebody else's roster of contributors. Such improper targeting not only harms the privacy interests of individual contributors, it also imposes an economic harm on the political committees that spend time and money developing their contribution lists. We can, and should, do more to protect public-spirited citizens exercising their First Amendment rights.

May 10, 2019

Date



Ellen L. Weintraub
Ellen L. Weintraub
Chair