June 9, 2014

BY HAND DELIVERY

Office of General Counsel
Attn: Adav Noti, Esq., Acting Associate General Counsel for Policy
Federal Election Commission
999 E Street N.W.
Washington, DC 20463

Re: Advisory Opinion Request

Dear Mr. Noti:

Pursuant to 2 U.S.C. § 437f, we request an advisory opinion on behalf of Crowdpac seeking confirmation of the permissibility of its business plan under the Federal Election Campaign Act of 1971 (the "Act").

FACTUAL DISCUSSION

Crowdpac is an internet service that seeks to make it easier for voters to find and support like-minded candidates. Crowdpac is a non-partisan, for-profit corporation incorporated in Delaware and based in California.

Crowdpac was founded on the principle that individual campaign contributors are not heard enough in the political process at the expense of special interests and extreme voices that have seized an outsized role in the financing of federal elections. Crowdpac seeks to develop a data-driven political "marketplace" to help raise the voice of individual contributors. By leveraging publicly-available data, Crowdpac seeks to make information and intelligence regarding all candidates for federal office more readily available and easier to understand, thereby making it easier for voters to find and support like-minded candidates who share their priorities and stances on the issues.

<u>Connecting Users with Candidates</u>

Crowdpac makes it easy for its users to identify candidates who prioritize similar issues and share similar stances on those issues by providing users a variety of tools. First, Crowdpac allows users to customize their priority issues from over forty issue categories so that they can view a candidate's stances on those priority issues.[1] Second, users can search and filter for candidates based on criteria such as location (close to home, swing states, etc.); status (office sought, incumbents, challengers); and demographics, in addition to candidates' stances on

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[1] *See* Attachment 1.

issues.[2] Third, using a personalized voting guide, users can create their own "political profile" indicating their overall political stance, priority issues. and positions on those issues to understand which candidates on their ballot come closest to their preferences.[3]

To offer these online tools, Crowdpac has developed a proprietary algorithm based on publicly-available political data. The algorithm will parse, for example, the Congressional Record, legislative floor speeches, candidate twitter feeds and websites, and the text of candidates' authored and co-sponsored bills to determine which issues candidates prioritize. The algorithm will analyze the content of those bills along with congressional voting records to assess candidates' positions on the issues. The algorithm also has the ability to connect users with newer candidates who do not have extensive voting records or public statements to analyze. In order to estimate positions for these candidates, the algorithm will rely on certain campaign finance information. By supporting candidates that share their policy preferences and personal interests – and by screening out those who do not – campaign contributors generate large amounts of information on where candidates stand on a specified set of issues. Crowdpac's model is able to make inferences about issue positions of both candidates and donors by analyzing the patterns of which donors support which candidates. Additional information on candidates' personal contributions made to other campaigns, and text collected from candidate webpages are incorporated to further augment the model's predictions. Crowdpac's algorithm processes the universe of publicly-available data to make it easier for voters to obtain impartial information about candidates and become more engaged in the federal electoral process.

Candidate Pages

Crowdpac's website will feature a dedicated page for each candidate for federal office who has registered an authorized committee with the Commission.[4] Voters who use Crowdpac will be able to obtain additional information on these pages regarding the specific candidates they may wish to support. Each candidate page will show useful information about the candidate's political positions, including but not limited to information derived from Crowdpac's data model. Candidate pages will also display other useful information about each candidate including office sought, biographical details, and a photo.

Crowdpac will allow every candidate the option of uploading certain content to his or her candidate page. For example, Crowdpac will allow each candidate to upload an introductory video message to Crowdpac users. Crowdpac will also allow candidates to upload videos explaining the candidate's position on priority issues. All candidates will be provided equal opportunity to upload content to their candidate page; additionally, Crowdpac will set subject matter, duration and other requirements that will apply equally to any candidate who chooses to upload content. Among these requirements, Crowdpac will not allow candidates to upload any content to Crowdpac that is for purposes other than enhancing the quality and accuracy of information about that candidate available to Crowdpac's users. For example, Crowdpac will not

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[2] *See* Attachment 2.

[3] *See* Attachment 3.

[4] *See* Attachment 4.

allow candidates to upload any content that would solicit contributions to the candidate at campaign fundraising events or anywhere else outside of Crowdpac's platform. Accordingly, the content Crowdpac allows candidates to upload will further Crowdpac's interest in disseminating information and helping users accurately identify the federal candidates they may wish to support, but will not result in a service being provided to the candidates.

Finally, either on the candidate pages or elsewhere throughout the Crowdpac website, Crowdpac may also display limited, aggregated campaign finance data such as the total number of donors to the candidate's committee, the total amount of contributions the candidate has raised, and the political distribution of donations.[5] Crowdpac will use information from reports filed with the Commission to ensure it is providing current, accurate campaign finance information on candidates. Crowdpac will display campaign finance data regarding candidate fundraising totals. Additionally, users who create a profile on Crowdpac will have the option of "sharing" information regarding their support of candidates on Crowdpac. Accordingly, the name and picture of users who have selected this option may appear on candidate pages. This information would be taken solely from Crowdpac's own data.

Contributions

Each Crowdpac candidate page will contain a link allowing users to contribute to the candidate. Crowdpac will partner with Democracy Engine to utilize Democracy Engine's contribution platform that the Commission has previously approved to process contributions. Crowdpac itself will not process contributions, deposit contributions into a merchant account in its name, or forward contributions to candidate committees. Rather, to ensure contributions by Crowdpac users conform in all respects to the Act and Commission regulations, Crowdpac will contract with Democracy Engine to provide these and other services. Neither Crowdpac nor Democracy Engine will exercise any direction or control over any user's choice of recipient candidates.

Crowdpac and Democracy Engine will assess an approximate 8% total fee from each Crowdpac user contribution. Democracy Engine will deduct the fee amount from each user's contribution prior to forwarding the remainder of the contribution to the recipient committee. Crowdpac and Democracy Engine will calculate the exact amount of the fee in a commercially reasonable manner in accordance with market conditions with respect to all recipients, regardless of whether the candidate is a political or non-political entity. The amount of the fee will be set to (1) cover all costs Democracy Engine and Crowdpac incur in performing credit card processing, including all of the fees and costs of the financial institutions involved in the credit card transaction (i.e., the bank issuing the credit card, the card association, the card processor, and the card network); (2) cover Democracy Engine's and Crowdpac's own costs; and (3) also provide a reasonable profit to both Democracy Engine and Crowdpac. Accordingly, Democracy Engine – and not the recipient candidate – pays the fees and costs to those financial institutions. Neither Crowdpac nor Democracy Engine in its work for Crowdpac will contract to provide services to candidate committees to perform contribution processing services. Rather, all services will be performed on behalf of users utilizing Crowdpac's website who wish to contribute to federal candidates.

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[5] *See* Attachment 5.

In some cases, Crowdpac expects its users will identify a candidate whose opponent the user wishes to support when an opponent candidate has not yet been specifically identified. Thus, Crowdpac will allow users to designate a contribution either to (a) the eventual nominee of a specific party for the specific office, or (b) a specific prospective candidate for that office who has not yet registered an authorized campaign committee with the Commission. When a user designates such a contribution, Democracy Engine will hold the contribution and forward it to the recipient committee within 10 days of the party nominee being identified or the specific prospective candidate registering an authorized committee with the Commission.

LEGAL ANALYSIS

Every aspect of Crowdpac's business plan is consistent with the Act and Commission regulations. Therefore, the Commission should confirm that Crowdpac's planned operations are consistent with federal campaign finance law, as explained below.

I. Crowdpac's Services Do Not Result in Impermissible Contributions by Crowdpac to Candidate Committees

Crowdpac is not a political committee, nor will it solicit campaign contributions, process contributions, deposit contributions into a merchant account in its name, or forward contributions to authorized federal candidate committees or other committees registered with the Commission. Instead, Crowdpac will incorporate the contribution software platform designed by Democracy Engine, which the Commission has previously approved.[6] Each component of the Democracy Engine contribution platform as utilized by Crowdpac is substantively the same as the business plan the Commission approved in Advisory Opinion 2011-06.

Once a Crowdpac user identifies a candidate whom he or she wishes to support and enters a desired contribution amount, the user will be required to provide payment processing information, along with other information the recipient political committee must maintain or report, including the user's name, mailing address, employer and occupation.[7] The platform will not process contributions that exceed the contribution limits established by Commission regulation.[8]

Crowdpac users will also view disclaimers and other required information. For example, the platform will include "best efforts" language such as "Candidates and committees registered with the Federal Election Commission are required to use their best efforts to collect and report the name, address, employer and occupation of all contributors. We require you to enter this information so that we can provide it to those recipients of your contributions."[9] The contribution processing platform will also require users to attest to certain facts to show compliance with the Act's amount limitations and source prohibitions as a condition of

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[6] *See* Advisory Opinion 2011-06 (May 26, 2011) (Democracy Engine).

[7] 11 C.F.R. § 104.8(a).

[8] *See id.* § 110.1.

[9] *See id.* § 104.7(b)(1)(i).

processing the contribution, similar to the following:

> I confirm that the following statements are true and accurate: I am not a federal contractor; I am at least eighteen years old; I am either a U.S. citizen or lawful permanent resident of the U.S.; I am making this contribution from my own funds, and funds are not being provided to me by another person or entity for the purpose of making this contribution; I am making this contribution with my own personal credit or debit card and not with a corporate or business card or a card issued to another person.[10]

Users' contributions will be deposited in a bank account belonging to Democracy Engine that is completely segregated from Democracy Engine's corporate operating funds.[11] No contributions to federal committees will be deposited into a Crowdpac bank account. Next, per Democracy Engine's agreement with each user[12], Democracy Engine will deduct a fee from each contribution before it is forwarded to the recipient committee. Crowdpac and Democracy Engine have not determined the rate of this fee, but they expect it will be approximately 8% of the contribution amount. Crowdpac and Democracy Engine will set the fee rate to cover all costs incurred by Democracy Engine and Crowdpac in providing the services, including credit card processing fees and other bank fees, and to provide both entities with a reasonable profit. Democracy Engine will then transmit the remaining amount of the contributions to the recipient committee as instructed by the user no later than ten days after the user authorizes the contribution to the recipient candidate. Neither Crowdpac nor Democracy Engine will exercise any direction or control over users' contributions deposited in Democracy Engine's segregated account. Democracy Engine will also provide the recipient committee with a downloadable data file containing the donation date and amount, user's name, mailing address, occupation and name of employer.[13]

Neither Crowdpac nor Democracy Engine will be contractually engaged with candidate committees in connection with providing contribution processing and forwarding services, except that Democracy Engine might contract with candidate committees on a limited basis solely to facilitate the electronic deposit of funds that have been raised for them. Rather, Crowdpac is contractually engaged with Democracy Engine to provide these services, and Democracy Engine is, in turn, engaged with users who wish to utilize Democracy Engine's services to contribute to the candidates found using Crowdpac's

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[10] *See id.* §§ 110.4(b), 110.19, 110.20(b), 115.2.

[11] *See* Advisory Opinions 2007-04 (Apr. 20, 2007) (Atlatl), 2004-19 (Aug. 20, 2004) (DollarVote).

[12] Democracy Engine has developed a Terms of Service that Crowdpac users will be required to agree to before Democracy Engine will process users' contribution. The Terms of Service will require users to agree that their contributions will be reported in accordance with applicable laws; that users agree to pay the fees for use of the Crowdpac and Democracy Engine services; and that their contributions will be aggregated with other contributions they make to the recipient candidate for purposes of calculating the user's compliance with applicable contribution limits.

[13] *See* Advisory Opinion 2006-08 (May 9, 2006) (Brooks) (likening these vendor services to "delivery services, bill paying services, or check writing services.").

website. In short, Crowdpac is offering services to its users; Crowdpac is not providing services or anything else of value to the recipient committee.[14]

In similar situations where an entity "is providing services only to the [user], and not to any political committee" the Commission has found the proposal "would not result in impermissible contributions to any political committee."[15] Additionally, all other contribution processing components of the Crowdpac business plan are substantively the same, if not identical, to the Democracy Engine platform and other business plans the Commission has approved in the past. Therefore, Crowdpac respectfully requests that the Commission confirm Crowdpac's services in matching users with ideal candidates and utilizing the Democracy Engine platform to process and forward users' contributions to those candidates do not result in impermissible contributions by Crowdpac to federal candidate committees or in any other violation of the Act or Commission regulations.

II. The Act and Commission Regulations Permit Crowdpac Users to Earmark Contributions for an Eventual Nominee or Prospective Candidate

Crowdpac expects its users may identify a candidate whose opponent the user wishes to support when no opponent candidate has yet been specifically identified or nominated. In these situations, Crowdpac will allow users to designate a contribution either to (1) the eventual nominee of a specific party for the specific office or to (2) a specific prospective candidate for that office who has not yet registered an authorized committee. Crowdpac will inform users that such prospective contributions are being "earmarked" within the meaning of 11 C.F.R. § 110.6(b); must comply with the amount limitations for contributions to candidates in accordance with 11 C.F.R. § 110.1; and will be forwarded to the candidate committee only when a specific candidate is both identified and has an authorized committee registered with the Commission. When a Crowdpac user designates such a contribution, Democracy Engine will hold the contribution and forward it to the recipient committee within 10 days of the nominee of the specific party for a specific office being identified, or the specific prospective candidate registering an authorized committee with the Commission.

Neither Crowdpac nor Democracy Engine will exercise any direction or control over a user's designation of a recipient candidate to receive the funds. In cases where no candidate is eventually nominated, or where a prospective candidate never registers an authorized committee with the Commission, Democracy Engine will clearly notify users that their contributions will be forwarded to the respective national party as a "default committee."

Consistent with Commission regulations, on its regular report to the Commission for any reporting period in which it receives earmarked contributions, Democracy Engine will report

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[14] *See* Advisory Opinion 2011-06.

[15] *Id.* (Where services are provided "at the request and for the benefit of the contributors, not of the recipient political committees," then the services do not "relieve the recipient political committees of a financial burden the would otherwise have had to pay for themselves. For this reason, the services provided to contributors were not considered to be contributions to the recipient political committees.").

these contributions and their sources, and will report the eventual candidate for whom each contribution is earmarked.[16] On its regular report for any reporting period in which Democracy Engine forwards earmarked contributions, Democracy Engine will report the disbursement to both the Commission and the recipient candidate in accordance with 11 C.F.R. § 110.6(c)(1).

The Commission has recognized the ability of individuals to make earmarked contributions to future candidates in circumstances where similar processes are in place. The Commission's regulations define "earmarked" as "a designation, instruction, or encumbrance… which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's authorized committee."[17] Nonetheless, in Advisory Opinion 2003-23, the Commission allowed a political committee to accept contributions from individuals who would earmark the contributions to the presumptive presidential nominee for the Democratic Party before that candidate was clearly identified.[18] There, the Commission concluded it was "permissible to earmark contributions to undetermined Federal candidates because the candidates were identifiable as to specific office, party affiliation, and election cycle[.]"[19] Similarly, in Advisory Opinion 2006-30, the Commission allowed a political committee to receive and hold contributions earmarked for specifically identified individuals who were prospective federal candidates, but who had not yet registered an authorized campaign committee with the Commission.[20]

Generally, contributions earmarked for a candidate must be forwarded to the authorized committee's treasurer within 10 days of receipt.[21] However, the 10-day window to forward contributions to recipient committees of an eventual or prospective contribution consistent with the requirements of 11 C.F.R. § 102.8 is triggered when the eventual candidate was identified, or when the prospective candidate registered an authorized committee with the Commission.[22] Thus, the Commission has determined committees may receive and hold contributions earmarked for candidates not yet specifically identified so long as the committee forwarded the contributions to the eventual candidates within the 10-day window once it was triggered.[23] The Commission has also allowed a political committee receiving and holding the contributions to identify a "default committee" to which the contributions would be forwarded if no eventual nominee was named or if the prospective candidate never registered an authorized committee.[24]

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[16] See 2 U.S.C. § 441a(a)(8); 11 C.F.R. § 110.6(c)(1).

[17] 11 C.F.R. § 110.6(b)(1).

[18] Advisory Opinion 2003-23 (Nov. 7, 2003) (WE LEAD).

[19] *Id.*

[20] Advisory Opinion 2006-30 (Nov. 9, 2006) (ActBlue).

[21] 11 C.F.R. § 102.8(a).

[22] Advisory Opinion 2003-23; Advisory Opinion 2006-30.

[23] Advisory Opinion 2006-30 ("In both cases, the Commission concludes that the requirements in 2 U.S.C. § 432(b) and 11 C.F.R. § 102.8a(a) that earmarked contributions be forwarded within ten days of receipt is tolled until *both* the recipient's identity and candidacy status are known.") (emphasis in original).

[24] Consistent with Advisory Opinions 2003-23 and 2006-30, Democracy Engine will forward earmarked contributions to the respective national Congressional or Senatorial party committee, depending on the race, if no

Crowdpac will allow its users to designate a contribution to an eventual or prospective candidate in a way that is consistent with Commission regulations as interpreted by previous Advisory Opinions. Therefore, Crowdpac respectfully requests that the Commission confirm that this aspect of its business plan is permitted by the Act and Commission regulations.

III. The Act and Commission Regulations Permit Candidates to Provide Video Content for Crowdpac Candidate Pages

Crowdpac will allow each candidate to provide an introductory video and other issue-specific video content for the candidate's Crowdpac page in a way that does not result in a contribution from Crowdpac to the candidate's committee. A contribution includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."[25] The Commission has consistently found that obtaining information from candidates and making the information available on a website on a nonpartisan basis does not constitute a contribution.

For example, in Advisory Opinion 2012-22, the Commission permitted a website to grant candidates the option of assuming limited managerial control over basic biographical information on the candidates' respective pages on the website.[26] Like Crowdpac, that website was operated on a non-partisan, commercial basis only and did not seek to influence the result of any federal elections. Additionally, Crowdpac will take similar steps as that website to ensure the content candidates upload is limited to increasing the accuracy and availability of the information available regarding the candidate. For example, Crowdpac will not allow candidates to use its webpage as a free platform to solicit contributions to be made at campaign fundraising events or elsewhere outside the Crowdpac platform.[27] Under such controlled circumstances, the Commission has found that allowing federal candidates to provide certain website content "would not result in a prohibited in-kind contribution" or any other impermissible action under the Act.[28] The website in Advisory Opinion 1999-24 similarly sought to obtain information from federal candidates and provide that information on its site.[29] Like Crowdpac, that company offered all candidates an equal opportunity to provide website content, and provided equal web page space and other features and opportunities to committees that chose to participate. Under the circumstances, the Commission concluded that the company's proposed activity was "exempt from the definition of 'expenditure'... and is therefore permissible under the Act."[30]

Like these websites, Crowdpac seeks to make information provided by candidates available on

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specific candidate is both identified and has filed an authorized committee with the Commission within 7 days of the first day of the respective state or federal nominating convention. Crowdpac users will be clearly notified of this policy prior to submitting their contribution.

[25] 2 U.S.C. § 441b(b)(2); 11 C.F.R. 100.52(a).

[26] *See* Advisory Opinion 2012-22 (Aug. 2, 2012) (skimmerhat).

[27] *See id.*

[28] *Id.*

[29] *See* Advisory Opinion 1999-24 (Nov. 15, 1999) (EZone).

[30] *Id.*

its website on an equal and nonpartisan basis to further its interest in disseminating political information to voters and increasing the accuracy and usefulness of its website. Therefore, Crowdpac respectfully requests that the Commission confirm that allowing candidates to provide video content for their Crowdpac candidate pages does not result in a contribution by Crowdpac to the candidate, or in any other action prohibited by the Act or Commission regulations.

IV. Crowdpac's Planned Business Operations Do Not Pose an Impermissible Sale or Use of FEC Data

Political committees must file various public statements, notices and reports with the Commission.[31] The Act provides that "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."[32] Crowdpac proposes to use information taken from reports filed with the Commission in various, limited ways, none of which violate the so-called "sale or use" restriction at 11 C.F.R. § 104.15(a).

A. *Crowdpac's Use of Aggregated Committee Contribution Information is not Prohibited by the Act or Commission Regulations*

Crowdpac will display aggregated campaign finance data on its website as a means of furthering its interest in providing useful information to citizens. For example, the website may also display limited, aggregated campaign finance data such as the total number of donors to the candidate's committee, the total amount of contributions the candidate has raised, and the political distribution of donations.

In Advisory Opinion 2012-22, a commercial website with similar candidate pages proposed to use campaign finance data regarding candidate fundraising totals. Like Crowdpac, that site did not propose to use information regarding individual contributors. The Commission concluded that because the website only used information that "concerns political committees, rather than individual contributors" the website could use information compiled from reports filed with the Commission without violating the Act or Commission regulations.[33] Crowdpac's use of such aggregate data is materially indistinguishable from this use. Therefore, Crowdpac respectfully requests that the Commission confirm this component of its business is not prohibited by the Commission regulation at 11 C.F.R. § 104.15(a) regarding the sale and use of campaign finance information.

B. *Crowdpac's Use of Campaign Finance Data in its Algorithm is Not Prohibited by the Act or Commission Regulations*

The restriction on the sale and use of campaign finance information "serves to prevent

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[31] *See generally* 11 C.F.R. Part 104.

[32] *Id.* § 104.15(a).

[33] Advisory Opinion 2012-22.

information about individual contributors from being sold or used for commercial purposes."[34] Congress originally passed the law to protect "the citizens who are generous and public spirited enough to support our political activities [from] all kinds of harassment."[35] Another primary Congressional concern was that list brokers would simply copy names and contact information from reports filed with the Commission and sell those lists to third parties for commercial gain.[36] Accordingly, the restriction reaches "only those commercial purposes that could make contributors prime prospects for all kinds of solicitations... i.e., not merely solicitations for contributions, but solicitations for cars, credit cards, magazine subscriptions, cheap vacations, and the like.'"[37] Thus, the Commission has allowed the sale or use of campaign finance data where these privacy and harassment concerns were not implicated. For example, the Commission has allowed a software company to provide individuals' names and contribution histories to political committees where the committees would not be able to execute customizable searches of reports filed with the Commission or export an entire list of potential contributors to solicit.[38]

Crowdpac's primary interest is in building an efficient political marketplace where users can find accurate assessments of ideal candidates to support. Crowdpac's algorithm uses a range of sources of information including a candidate's public statements, voting history and legislative priorities to determine whether a user may want to support that candidate. One source of information that furthers the interests and accuracy of this marketplace is contributor information contained in reports filed with the Commission. Crowdpac expects that many non-incumbent candidates featured on its site will not have extensive voting records or public statements to analyze, making it more difficult for its algorithm to produce an accurate result of the stances that candidate is likely to take on the issues. The Crowdpac can nonetheless accurately match its users with such candidates because the Crowdpac algorithm will analyze the political committees and other candidates who have contributed to the candidates to help predict the candidate's positions. Additionally, the algorithm may analyze the contribution histories of individuals who have contributed to candidates and identify the other candidates those individuals have contributed to in order to predict the candidates' likely positions.

Accordingly, Crowdpac is designed to help voters find and identify candidates to support. Crowdpac uses campaign finance information solely to further this purpose, which is the precise *inverse* of using or selling campaign finance data so political or commercial entities can find new fundraising leads to solicit. Crowdpac does not make available any individual contributor information to political campaigns or commercial entities; and does not compile specific lists of contributors for fundraising purposes or allow any user or other party to execute a custom search of reports on file with the Commission. Crowdpac itself does not gain new users as a result of its

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[34] Advisory Opinion 2012-22.

[35] Advisory Opinion 2004-24 (Aug. 12, 2004) (quoting 117 Cong. Rec. 30,057 (1971) (statement of Sen. Bellmon)).

[36] MUR 5625, Statement of Reasons of Chairman Petersen and Commissioners Hunter and McGahn (May 14, 2010) (quoting 117 Cong. Rec. 30,057 (1971) (statement of Sen. Bellmon)).

[37] *Id.* (quoting *FEC v. Political Contributions Data, Inc.*, 943 F.2d 190, 197 (2d Cir. 1991)).

[38] *Id.*

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use of individual contributor information. Rather, the only consequence of this use of campaign finance data is that users who find and log onto the website will have an enhanced and more accurate experience based on Crowdpac's use of campaign finance data.

Finally, to promote its interest in increasing the transparency of political information, Crowdpac will make available on its website certain information regarding the functionality of its algorithm. Because the algorithm incorporates certain individual contributor information from campaign finance reports, Crowdpac may display the names, cities and states of certain contributors as part of this disclosure. Like all Crowdpac use of contributor data, the purpose of this disclosure is not to communicate contributor information for the purpose of soliciting contributions or for other commercial purposes.[39] Accordingly, this use is indistinguishable from a permissible use of information "in newspapers, magazines, books or other similar communications[.]"[40]

In sum, Crowdpac's use of individual contributor data in its matching algorithm does not raise any of the concerns Congress had when passing the sale and use restriction, and the Commission has never found a violation of the restriction under similar circumstances. Therefore, Crowdpac respectfully requests the Commission to confirm that the activity is not prohibited by the Commission regulation at 11 C.F.R. § 104.15(a) regarding the sale and use of such information.

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[39] *See* 11 C.F.R. § 104.15(c).
[40] *Id.*
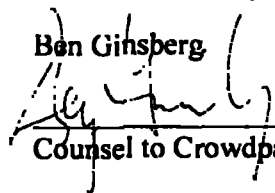
CONCLUSION

Crowdpac seeks confirmation that it can implement each component of its business plan as described in this request in compliance with the requirements of the Act and Commission regulations.

We appreciate the Commission's prompt consideration of this request.
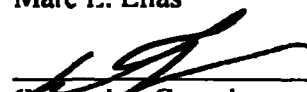
Very truly yours,

Ben Ginsberg

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Counsel to Crowdpac

Marc E. Elias

_____
Counsel to Crowdpac

Crowdpac Meter

JOHN CORNYN [R]

Candidate for TX US Senate, primary

6.4C

———————— CANDIDATE'S PRIORITY ISSUES ————————

Social Security

Budget and Taxes

Jobs and the Economy

See more issues

CROWDPAC

FILTERS

384 MATCHES FOUND

Refine Filter
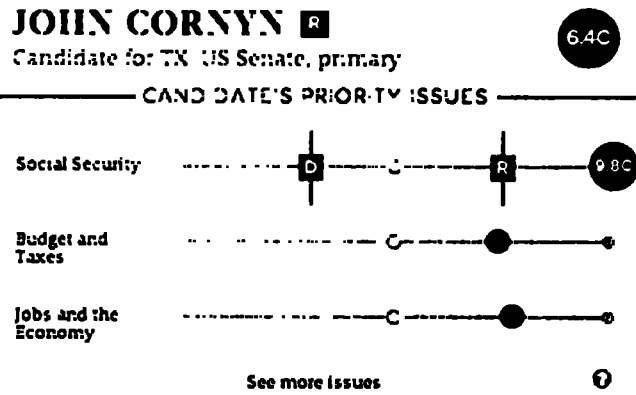
CANDIDATE NAME.

OVERALL STANCE

AND ON THE ISSUES

.

FROM THIS PARTY

Democrat

☑ Republican

Independent

Green

Libertarian

Tea Party

IN THIS LOCATION·

.   .

OR THESE LOCATIONS:

✔ Red States

Blue States

Swing States

In Close Races

RUNNING FOR:

Federal   ▾

Seat Federal Office   ▾

WHO ARE:

Incumbents

Challengers

BOB CORKER
TN. US Senate

ORRIN HATCH
UT. US Senate

JOHN BARRASSO
WY. US Senate

ROGER WICKER
MS. US Senate

ROBERT ADERHOLT
AL

SPENCER BACHUS
AL

JOE BARTON
TX

14

① YOUR POLITICAL PRIORITIES

Select the three issues that are most important to you.

Healthcare	Immigration	Social Security
Guns	Education	Unions and Labor
Jobs and the Economy	Energy and Environment	Banking and Finance
Abortion	Foreign Policy	Defense
Budget and Taxes	Economic Inequality	Civil Liberties

NEXT

② YOUR STANCE ON YOUR PRIORITIES

Move the circle to the position that comes closest to your view, from most liberal on the far left to most conservative on the far right.

Guns

Abortion

Immigration

NEXT

③ YOUR STAR RATINGS

Rate these politicians by giving them 1 to 5 stars. If you're not familiar with a politician, you can replace them with someone else using the X

BARACK OBAMA ★★★★★	HILLARY CLINTON ★★★★★	RUDY GIULIANI ★★★★★
GEORGE W. BUSH ★★★★★	RALPH NADER ★★★★★	RONALD REAGAN ★★★★★

SUBMIT

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CROWDPAC

Paul Ryan R

Wi. 1st Congressional District
[...]

DONATE

THE CROWDPAC METER

FUNDED BY THESE FRIENDS

CANDIDATE PRIORITIES	YOUR PRIORITIES	AMERICA'S PRIORITIES
Jobs and the Economy		
Budget		
Taxes		

See More Issues

INTEREST GROUPS

Sign in and create which interest group ratings you'd like to see here
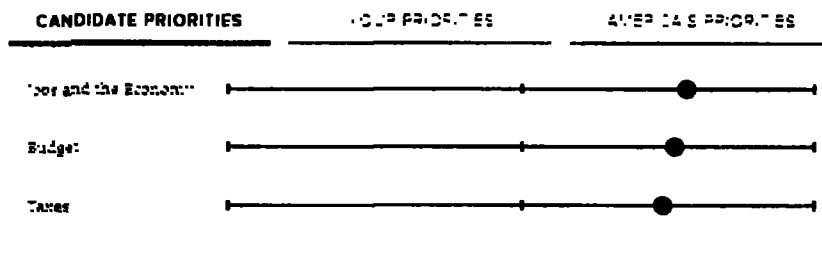
MEET THE CANDIDATE

Only by taking responsibility for oneself. to the greatest extent possible. can one ever be free. and only a free person can make responsible choices—between right and wrong. saving and spending. giving or taking.
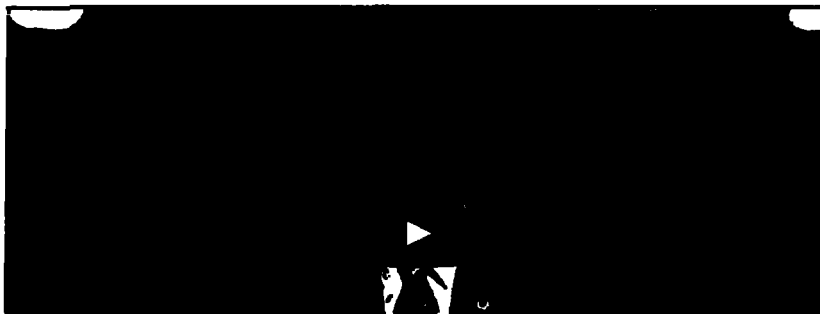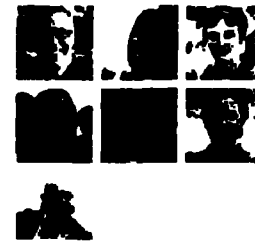
QUICK FACTS

Age
43

Ethnicity
White

Religion
Christian

CROWDPAC

Introducing CROWDPAC

End the stranglehold of big money donors and take back control of politics. Find out how it works and get started today.
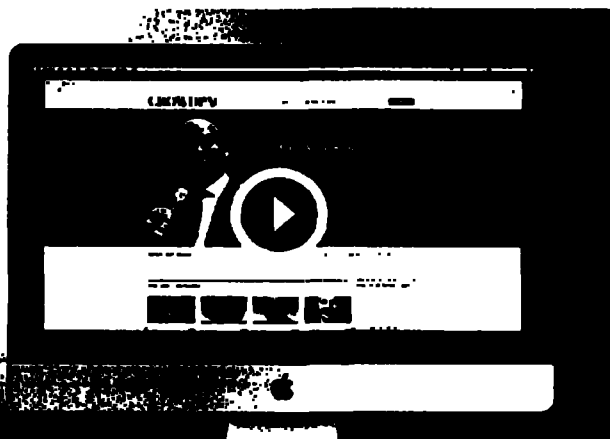
IMPORTANT ISSUES. Healthcare Jobs Jobs and the Economy Abortion Budget Immigration Environment Energy

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FEATURED CANDIDATES   See more

BROWSE CANDIDATES

CORY BOOKER	NANCY PELOSI	PAUL RYAN	NANCY LYNN WADE
Candidate for NJ. US Senate	CA. 12th Congressional District	WI. 1st Congressional District	IL. 5th Congressional District
11,345 DONORS	82,242 DONORS	69,401 DONORS	DONORS
$9 8M RAISED	$79 5M RAISED	$8.4M RAISED	$4 7M RAISED

Tough on Guns

Immigration Reformers

Tax Cutters

BROWSE ALL

LATEST CANDIDATE NEWS FROM POLITICO

Polls: Cruz, Lee numbers sink

FUNDED BY YOUR FRIENDS

RECEIVED
FEDERAL ELECTION
COMMISSION

2014 JUL -2 PM 12: 16

OFFICE OF GENERAL
COUNSEL

July 2, 2014

VIA ELECTRONIC AND U.S. MAIL

Amy Rothstein, Esq.
Theo Lutz, Esq.
Office of General Counsel
Federal Election Commission
999 E Street N.W.
Washington, DC 20463

Re: **Crowdpac Advisory Opinion Request – Supplemental Information**

Dear Ms. Rothstein and Mr. Lutz:

We write on behalf of Crowdpac to respond to the questions you raised regarding the above-referenced advisory opinion request. Please accept this letter as a supplement to our request that would allow it to be qualified for Commission consideration under 11 C.F.R. § 112.1.

First, as explained pages 3-6 of Crowdpac's Advisory Opinion Request dated June 9, 2014 (the "Advisory Opinion Request"), Crowdpac will partner with Democracy Engine, LLC, to utilize Democracy Engine, LLC's contribution platform that the Commission has previously approved to process contributions. As in Advisory Opinion 2011-06, Democracy Engine, LLC, will serve as a "Vendor" to our donors (who will fill the "Subscriber" role described in AO 2011-06).

In its role as a vendor, Democracy Engine, LLC, generally will not report contributions Crowdpac users make to a federal candidate or committee. However, when a Crowdpac user wishes to contribute to an individual who is either (1) the eventual nominee of a specific party for a specific office; or (2) to a specific prospective candidate for an office who has not yet registered an authorized committee with the Commission, those contributions will be received and held by Democracy Engine, Inc., PAC (with Democracy Engine, LLC again serving as the "Vendor" for the contribution) as contributions earmarked for the eventual nominee or prospective candidate. In these cases, Democracy Engine, Inc., PAC will forward and report the contribution as described in Part II of the Legal Analysis in the Advisory Opinion Request.[1]

Second, with regard to Crowdpac's use of contribution data, the function of Crowdpac's website explained on page 11 of the Advisory Opinion Request is separate from, and will appear in a different location on the website, than the function described on page 3 of the Advisory Opinion Request. As described on page 3, Crowdpac users will have the option of "sharing" information regarding the candidates they support and the contributions they have made. This information, which will be compiled from Crowdpac's own user data, will be displayed on candidate pages. Separately, in accordance with 11 C.F.R. § 104.15(c), Crowdpac may display contribution
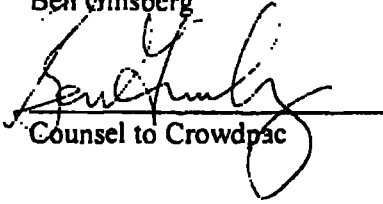
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[1] Democracy Engine, Inc., PAC's identification number is C00468314.

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information compiled from reports filed with the Commission as part of Crowdpac's disclosure of the inputs and functionality of its algorithm.

We hope these additional facts address your questions, and permit the consideration of our request.
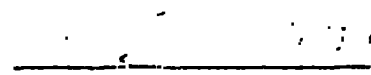
Very truly yours,

Ben Ginsberg

Counsel to Crowdpac

Marc E. Elias

Counsel to Crowdpac

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