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**2018 ETH 02**  
CAMPAIGN FINANCE – USE OF CFIS DATA

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You are a resident of the State of Wisconsin. You have asked for an advisory opinion regarding a proposed use of information within the Campaign Finance Information System (CFIS) that is maintained by the Commission and is subject to restrictions on its use.

Summary:

It is the opinion of the Commission that your proposed practice would not be permitted under [WIS. STAT. § 11.1304\(12\)](#).

Analysis:

Wisconsin law requires committees and conduits to file various reports or statements with the Commission reflecting their initial organization and ongoing activity. *E.g.*, WIS. STAT. §§ [11.0204](#), [11.0704](#). State law also requires the Commission to make those reports or statements publicly available on the Commission's website. [WIS. STAT. § 11.1304\(12\)](#). The Commission complies with this mandate by requiring that reports filed with it be submitted through the Campaign Finance Information System (CFIS). [WIS. ADMIN. CODE ETH 6.05\(2\)](#). The reports are then immediately accessible to the public. However, the statutory mandate also requires that "no information copied from such reports and statements may be sold or utilized by any person for any commercial purpose." [WIS. STAT. § 11.1304\(12\)](#). The Commission provides notice of this restriction by requiring visitors to the CFIS website to click through a warning screen when accessing CFIS data.

The Commission has not yet had the opportunity to provide any guidance on this restriction. The former Elections Board issued one opinion that examined the prior version of this restriction in [WIS. STAT. § 11.21\(5\)](#) (repealed December 31, 2015). 1978 Op. El Bd. 6 (withdrawn December 6, 2016). In that opinion, the Elections Board held that a candidate could contact individuals listed on campaign finance reports for the purpose of informing those persons that he is a candidate and that he is willing to communicate with them regarding issues in the campaign, without any requests for financial contributions. The Board further noted that any use of information obtained from Board filed reports for solicitation of contributions at any time was prohibited.

The staff of the Government Accountability Board also spoke to the use of CFIS data in an informal staff opinion issued on May 8, 2014. In that opinion, staff advised that solicitations using information obtained from CFIS were not permitted, but that a person could send questionnaires or surveys using CFIS data to determine who the person wished to endorse.

The question of whether a person can use CFIS data to develop their own metrics to be applied to a private data source has not previously been asked in Wisconsin. However, the FEC has a similar restriction on the use of data provided on reports filed with it. *See* [52 U.S.C. § 30111\(a\)\(4\)](#), [11 CFR 104.15](#). The FEC has issued several opinions that speak to permissible uses of FEC data. Most analogous to your request is [FEC Advisory Opinion 1985-16](#). In that opinion, the FEC held that a person could not cross-check a private data set with FEC data for the purpose of identifying

contributors within the private data set as that would involve obtaining and using FEC data for commercial purposes. The opinion also relied on past opinions of the FEC where it had examined the legislative history of the restriction and declared that the purpose of the restriction was to protect individuals who make contributions to campaigns from being victimized by list-brokering.

While your proposed steps do not include “copying” information from CFIS, it is clear that the information would be used for a commercial purpose. The federal restriction is similarly worded to the Wisconsin restriction and the FEC has previously held that a similar cross-check of private data to public data would be a prohibited commercial use. While the Commission is not bound by this FEC opinion, it is persuasive to the Commission, and the Commission has determined that a similar conclusion is appropriate in this case.

**From:** [ETH Ethics](#)  
**To:** [Buerger, David - ETHICS](#)  
**Cc:** [Reinke, Colette - ETHICS](#)  
**Subject:** FW: Amended: Advisory Opinion Request  
**Date:** Thursday, May 31, 2018 12:48:44 PM

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Update.

**From:** [REDACTED]  
**Sent:** Thursday, May 31, 2018 12:48 PM  
**To:** ETH Ethics <ethics@wisconsin.gov>  
**Subject:** Amended: Advisory Opinion Request

Dear WI Ethics Commission,

This email is to request an advisory opinion on the following practices.

A practice where:

A.) The purpose of the practice is commercial.

B.) The practice entails the following definitions and steps.

DEFINITIONS

[Definition 1]: **[DataSet1]** is a data set that is not derived or partially derived from any reports and/or statements filed under Chapter 11 of the Wisconsin Statutes.

[Definition 2]: **[DataSet2]** is a data set that is derived or partially derived from reports and/or statements filed under Chapter 11 of the Wisconsin Statutes.

[Definition 3]: **[AdditionalDataSets]** is a set or datasets that are not derived or partially derived from reports and/or statements filed under Chapter 11 of the Wisconsin Statutes.

STEPS

[Step 1]: By comparing the records in **[DataSet1]** and **[DataSet2]**, label each record in **[DataSet1]** and/or each record in a subset of **[DataSet1]** with a metric (Hereinafter referred to as **[TheMetric]**) that ascribes the likelihoods that the entity and/or entities represented in that record have and/or have had a preference for various political parties and/or a measure of confidence in the likelihoods that are determined in that way, where **[TheMetric]** associated with a particular record in **[DataSet1]** is either a single real number between 0 and 1 inclusive, or a pair of real numbers between 0 and 1 inclusive. **[DataSet3]** is defined as a set of records, where each record is: the combination of a record in **[DataSet1]** and **[TheMetric]** associated with that record.

[Step 2]: **[DataSet4]** is a dataset that is derived from **[DataSet3]** and **[AdditionalDataSets]**. Transmit all or part of the information contained in **[DataSet4]** and/or **[DataSet3]** to a third party.

Thank you,

[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]