



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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2002 NOV 20 P 12:36

AGENDA ITEM
For Meeting of: 11-21-02

MEMORANDUM

SUBMITTED LATE

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

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General Counsel

FROM: Working Group on Transitional Reporting

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SUBJECT: FEC Policy Statement: Interim Reporting Procedures

I. Introduction

The Commission staff has prepared a draft statement of policy regarding reporting. Given that new reporting forms will not be issued in time for the first reports due to the Commission after November 6, 2002, the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), this statement would set forth the Commission's interim policies with regard to reporting. This memorandum briefly refers to the Commission's authority to issue general statements of policy without utilizing notice-and-comment rulemaking procedures and discusses the basis for the specific policy prescribed. Attached to this memorandum is a draft policy statement for publication in the *Federal Register*.

II. Authority to Issue a Policy Statement

Under the Administrative Procedure Act, 5 U.S.C. 551, *et seq.* (APA), an agency can issue a “general statement of policy” without providing for notice and comment. 5 U.S.C. 553(b) and (d). While the APA does not affirmatively define what is a “general statement of policy,” the U.S. Department of Justice’s *Attorney General’s Manual on the Administrative Procedure Act*, which was written shortly after the enactment of the APA and which has been given “considerable weight” by both the D.C. Circuit and the Supreme Court¹, provides some definitional guidance: “General statements of policy – [are] statements issued by an agency to advise the public prospectively of the manner in which the agency proposes to exercise a discretionary power.”²

This Office has previously provided to the Commission a memorandum outlining the distinctions between “substantive” or “legislative” rules and general statements of policy. See “*Proposed Statement of Policy Regarding Party Committee Transfers of Nonfederal Funds for Payment of Allocable Expenses*,” Commission Agenda Document 01-56. That memorandum ultimately concluded that the Commission possesses the authority to issue statements of policy, and noted that non-binding statements regarding future enforcement policies are generally not subject to judicial review. See *id.* p. 10.³ In addition, the memorandum identified two significant practical differences between a policy statement and a legislative rule: (1) policy statements may be issued without the notice and comment process required for legislative rules; and (2) legislative rules carry the binding force of law, which statements of policy cannot.⁴

III. The Statement of Policy – Background and Reasons

BCRA introduced new reporting responsibilities for political party committees, and changed certain existing requirements. See generally, *Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money; Final Rule*, 67 *Fed. Reg.* 49,064 (July 29, 2002 (“Soft Money Final Rules”). For example, State, district, and local political party committees must now report receipts and disbursements for Federal election activities (“FEA”), including reporting of allocation of payments for Federal election activities between

¹ *Pacific Gas & Elec. Co. v. Federal Power Commission*, 506 F.2d 33, 38 n. 17 (D.C. Cir. 1974); *Chrysler Corp. v. Brown*, 441 U.S. 281, 302 n. 31; 99 S.Ct. 1705, 1717 n. 31 (1979).

² U.S. Department of Justice, *Attorney General’s Manual on the Administrative Procedure Act* 15, at 30 n.3 (1947).

³ A statement of policy may be subject to judicial review, however, if an agency attempts to rely on the statement as if it was binding law. See *Hudson v. FAA*, 192 F.3d 1031, 1034 (D.C.Cir.1999).

⁴ While it remains difficult to ensure that a court will agree with an agency’s own characterization of a purported policy statement, the courts have identified certain traits of policy statements. A true policy statement does not announce an agency’s intent to bind itself to a legal position, nor can it “impose or elaborate or interpret a legal norm. It merely represents an agency position with respect to how it will treat -- typically enforce -- the governing legal norm.” See *Syncor International Corp. v. Shalala*, 127 F.3d 90, 94 (D.C. Cir. 1997); see also *Pacific Gas & Elec. Co.*, at 38. Moreover, it should be evident from the language of the statement that the agency does not intend to bind itself. See *Brock v. Cathedral Bluffs Shale Oil Co.*, 796 F.2d 533, 537-538 (D.C. Cir. 1986) (Noting the distinction between “will” and “may.”)

Federal funds and so-called "Levin funds" (11 CFR 300.2(i)). *See* 11 CFR 300.36. The Commission's BCRA-related rulemakings also revised the pre-BCRA regulations addressing allocation of payments between Federal and non-Federal funds. *Compare* pre-BCRA 11 CFR 106.5 with post-BCRA 106.7; *see* Soft Money Final Rules, *supra*, 67 *Fed. Reg.* at 49,074 – 49,080.

In addition, BCRA added new provisions for Federal candidates and their committees with respect to candidate funding of his or her own campaign in the form of the so-called "millionaires provision" and provisions for the reporting by individuals and entities making electioneering communications. *See* 2 U.S.C. 434(a)(5)(B) and 434(f), and sec. 315A(b)(1). Most of the focus of the policy statement, however, is on the State, district, and local party committees.

Commission staff has been engaged in the process of devising reporting forms for activity occurring after BCRA takes effect, including party committee reporting of FEA and non-FEA activity. However, these forms will not be available in time for committee preparation and filing of the next report due, the 30 Day Post-General Election Report (due on December 5, 2002), or the report after that, the 2002 Year End Report (due on January 31, 2003). This may also be true for the February Monthly Report (covering January 2003) that some State, district, and local party committees, i.e., those obligated to file monthly, will have to file by February 20, 2003. *See* 11 CFR 300.36(c)(1) and 104.5(c)(3). It may be difficult for committees to adjust the reporting of, for example, the new allocation categories using the forms in effect prior to November 5. However, some of this difficulty may be alleviated if the Commission permits committees to use the methods and reporting of allocation in effect prior to November 5.

Thus, in accordance with the attached policy statement, committees may use the ballot composition formula, on their Post-General and Year End reports, for those activities that would be administrative costs (including for example, salaries) and generic voter drive costs, so long as activities after November 5 that are FEA are not included in those categories. In doing so, the party committees may rely on the previously filed Schedule H1 setting out the Federal percentage as calculated by the ballot composition formula used for the 2001-2002 election cycle. (Where committees made amendments to the H1, the most recent amendment should be used.) In addition, the committees may allocate and report exempt activities, direct fundraising costs, and direct candidate support in accordance with the old rules of 11 CFR 106.5, 106.1, and 104.10 so long as those activities after November 5 that are FEA are not included in those categories and so long as the fundraising costs do not include funds raised for FEA. No allowance is being made for non-adherence to the rules pertaining to FEA and the reporting of FEA. However, with the exception of Hawaii, where there are special general elections for the House seat in the Second C.D. on November 30, 2002, and January 4, 2003, engagement in FEA will most likely be rare.

The same allowances are applicable to the report due on February 20, 2003, except that, for administrative and generic voter drive costs, the party committees are instructed to use the percentages newly prescribed for administrative expenses and voter drive activities in

11 CFR 106.7(d)(2) and (3), instead of the ballot composition method (although the document setting out the percentages will still be labeled as "H1"). The policy statement also contains other instructions for all three reports with respect to such matters as paper filing and electronic filing, and how to report FEA and transfers from a Levin account to a Federal account. In addition, there are instructions with respect to filings by Federal candidates and their committees pursuant to the "millionaires provision" and reporting by other filers of electioneering communications.

The Commission's decision to allow certain committees, entities, and individuals to report in the manner described above is based on practical considerations that both encourage compliance with the Federal Election Campaign Act of 1971, as amended ("the Act"), and BCRA, balanced with the need to refrain from imposing undue hardships on committees who do not yet have forms available to them that completely reflect the new rules. The first few months after the effective date of BCRA will be a period of transition and adjustment for many of these committees. This is particularly true where a reporting period (the period for the 30 Day Post-General report) covers a period prior to the effective date of BCRA and the regulations and after that date.⁵ This allowance for transition and adjustment bears some similarity to the allowance after the adoption of allocation rules in 1990 (at 11 CFR 106.5, 106.6, and 104.10), where, for the first time, the Commission promulgated comprehensive regulations for the characterization and quantification of allocable activities. The Commission issued a number of advisory opinions allowing for retroactive adjustments in ballot composition and characterization of certain expenses. See Advisory Opinions 1993-3, 1992-27, 1992-2, and 1991-15. In Advisory Opinion 1992-2, the Commission stated that "the allocation regulations represent significant revisions to past practice and require a brief period of adjustment, i.e., the current [1991-92] election cycle, by political committees acting in good faith." The significance of the changes brought about by the introduction of the categories of FEA (such as the changes in allocation for party committees) combined with lack of availability of new forms likewise leads the Commission to conclude that a period of adjustment is needed. The new regulations are the product of a new statute specifically addressing allocation and providing for an effective date of November 6, 2002 so the period of adjustment allowed by the Commission is briefer than the above-referenced adjustment period.⁶

The allowances in the attached policy statement would not carry the binding force of law and does not alter the interpretation of the BCRA and the regulations set out in the Commission's Explanation and Justification of the allocation rules. See *Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money; Final Rule*, 67 Fed. Reg. 49064 (July 29, 2002). As stated above, it is a temporary allowance granted to specific types of filers that is made necessary in view of the circumstances described above. It does not bind the Commission, but as stated in the policy statement, the Commission intends to exercise its

⁵ In some cases, the adjustment may be affected by the fact that a committee's use of Federal and non-Federal funds were based on the pre-BCRA rules for virtually the entire year and an adjustment has to be made for the remainder of the reporting period.

⁶ In addition, the party committees are already used to the practice of allocation under specific and comprehensive rules.

discretion by not pursuing committees in the enforcement process for availing themselves of the limited allowances set out in the attached policy statement.

IV. Receipts of Federal Funds for Federal Election Activity

A State, district, or local committee of a political party that is a political committee (see 11 CFR 100.5(c)) must report "all receipts and disbursements of Federal funds for Federal election activity." 11 CFR 300.36(b)(1), (2); see *Soft Money Final Rules*, 67 *Fed. Reg.* at 49,103. This requirement raises the important issue of *how* "receipts of Federal funds for Federal election activity" must be reported. The Staff presents two alternatives on this point to the Commission for decision.

Under the first alternative, the Commission would require that a contribution or other receipt of Federal funds known to be for Federal election activity must be specifically identified as a "receipt[] of Federal funds for Federal election activity." This alternative appears to comport with the plain meaning of section 300.36(b)(1) and (2), as well as the underlying statute, 2 U.S.C. 434(e)(2). This is especially true given that section 434(e)(2) requires reporting of receipts and disbursements for Federal election activity "in addition to any other reporting requirements applicable under the Act." The alternative also appears to be congruent with BCRA's focus on Federal election activities in the section most directly affecting State, district, and local party committees. See 2 U.S.C. 441i(b). Specifically, requiring explicit identification of Federal receipts for Federal election activity would increase disclosure of all aspects of those Federal election activities--activities that are arguably the focal point of the BCRA Title I provisions affecting such party committees. Please note that identification of a given receipt of Federal funds as being for Federal election activity does not preclude the party committee from subsequently expending or disbursing those funds for non-Federal election activity purposes as long as the expenditure or disbursement is a permissible use of Federal funds. Also, this requirement would not preclude a party committee from later recharacterizing Federal funds not originally identified as having been received for Federal election activity as now being for Federal election activities as long as the funds are permissible for that purpose. (See, e.g., 11 CFR 300.34 (forbidding the use of *transferred* Federal funds for Federal election activities).) If the Commission chooses this alternative, it should direct the Staff to include the following language in the policy statement:

"Reporting federal receipts for "Federal Election Activity"

Itemize these receipts as contributions on Schedule A for the appropriate line number (e.g., itemize receipts from individuals on Schedule A, line 11(a)(i)).

- **Paper Filers:** On Schedule A, under the amount, type "FEA" to indicate that the receipt is intended for use in federal election activity.
- **E-Filers:** On Schedule A, type "FEA" in the description field to indicate that the receipt is intended for use in federal election activity."

Under the second alternative, the Commission would not require any given contribution or receipt of Federal funds, once reported, to be further identified explicitly as "for Federal election activity." This alternative interprets the reporting requirement of section 300.36(b) as being satisfied as long as the contribution or receipt of Federal funds is reported, and the explicit identification of the contribution or receipt as "for Federal election activity" is unnecessary. This alternative appears to have the advantage of reducing the reporting obligations of party committees. Arguably, the requirement of explicit identification of certain Federal funds as being for Federal election activities is unnecessary because a State, district, or local party committee may use for Federal election activities any of its Federal funds that meet the requirements of 2 U.S.C. 441i(b), and of Subpart B of Part 300 of the Commission's regulations. If the Commission chooses this alternative, no changes are necessary to the draft policy statement.

V. Recommendations

The Staff recommends that the Commission take the following actions:

1. Approve the attached Statement of Policy for publication in the *Federal Register*, after deciding between the alternatives in part IV.
2. Direct the Office of General Counsel to submit the Statement of Policy to Congress in accordance with the Congressional Review Act, 5 U.S.C. § 801 *et seq.*

Attachment

Statement of Policy

1 **FEDERAL ELECTION COMMISSION**

2 **11 CFR Parts 104, 106, and 300**

3 **[NOTICE 2002 -]**

4 **FEC POLICY STATEMENT: INTERIM REPORTING PROCEDURES**

5 **AGENCY:** Federal Election Commission.

6 **ACTION:** Statement of Policy.

7 **SUMMARY:** During the transition period following the effective date of the
8 Bipartisan Campaign Reform Act of 2002 ("BCRA"), the Commission
9 intends to exercise its discretion by not pursuing the political
10 committees and other persons and entities addressed below for
11 violations of the reporting statutes and regulations covered by the
12 instructions set out in this policy statement if they fully adhere to those
13 instructions and timely file the described reports. The limitations on
14 the scope and duration of the policy are discussed in detail below.

15 **DATE:** November >, 2002.

16 **FOR FURTHER
17 INFORMATION**

18 **CONTACT:** Mr. John C. Vergelli, Acting Assistant General Counsel, Mr. Jonathan
19 M. Levin, Senior Attorney, Mr. Gregory Scott, Assistant Staff Director
20 for Information, and Ms. Debbie Chacona, Reports Analysis Division
21 Chief of Party/Non-Party Branch, 999 E Street, NW, Washington, D.C.
22 20463, (202) 694-1650 or (800) 424-9530.

23 **SUPPLEMENTARY**

1 **INFORMATION:** Congress established a 90-day period during which the Commission
2 was required to promulgate regulations implementing Title I of BCRA regarding certain
3 national, state, and local party committee activities, including reporting of Federal election
4 activity and certain allocable expenses. This period ended on June 25, 2002. Congress also
5 required the Commission to complete the remaining BCRA rulemakings, including those
6 regarding other reporting requirements, in 270 days, which is December 22, 2002. The
7 Commission adopted final rules implementing Title I on June 25, 2002. Prohibited and
8 Excessive Contributions: Non-Federal Funds or Soft Money; Final Rule, 67 Fed. Reg. 49,064
9 (July 29, 2002) ("Soft Money Final Rules"). The Commission notes that other BCRA-related
10 reporting rules (e.g. electioneering communications, independent expenditures) are not yet
11 finalized, but are expected to be before Dec. 22, 2002. Issuance of new and revised reporting
12 forms, software and instructions is dependent upon the finalization of all the reporting rules.
13 However, BCRA's reporting requirements became effective on November 6, 2002. The
14 Commission is in the process of updating its reporting forms, software, and instructions to
15 incorporate all the new regulations, and will need a period of time after December 22, 2002,
16 to complete this process. In the interim, filers will continue to use existing disclosure forms
17 and software for their December 5th Post General Election Report, January 31st Year End
18 Report and, for monthly filers only, the February Monthly Report, which covers January
19 2003.

20 BCRA introduced new reporting responsibilities for political party committees and
21 other reporting entities and significantly changed certain existing requirements. Among the
22 significant changes introduced by BCRA are the reporting by State, district, and local party
23 committees of Federal election activities ("FEA"), including the allocation of some of those

1 activities between Federal funds and “Levin” funds, and revisions in those committees’
2 allocations of payments between Federal and non-Federal funds. See 11 CFR 300.2(i),
3 300.36, 106.7, and 104.17. In addition, BCRA introduced provisions for Federal candidates
4 and their committees with respect to candidate funding of his or her own campaign in the
5 form of the “millionaires provision” and provisions for reporting by individuals and entities
6 making electioneering communications. See 2 U.S.C. 434(a)(5)(B), 434(f), and sec.
7 315(a)(b)(1).

8 As new forms are now being developed to meet the new requirements, the
9 Commission concludes that a period of transition and adjustment with respect to reporting is
10 needed, including allowance for the continued use of the ballot composition formula in the
11 Post-General and Year End Reports. To assist filers during this transition period, the
12 Commission has developed the interim disclosure procedures set forth below.¹ These
13 procedures address BCRA-related transactions not contemplated by the existing reporting
14 forms and filing software. Questions concerning these procedures may be directed to the
15 FEC’s Information Division, Reports Analysis Division or Electronic Filing Office, as
16 appropriate.

¹ These procedures also apply to filers involved in special elections held during this period, including the November 30 and January 4 special elections in Hawaii. Those filers should pay special attention to the instructions for disclosing “Federal Election Activity” (defined in 11 CFR 100.24) and “Electioneering Communications” (defined in 11 CFR 100.29), since both are triggered by proximity to an election. See 11 CFR 300.33, 300.36, and 104.20.

1 Hence, the Commission intends to exercise its discretion by not pursuing the
2 committees and other persons and entities addressed below for violations of the reporting
3 statutes and regulations covered by the instructions set out in this policy statement if the filers
4 fully adhere to those instructions and timely file the reports.

5 **Interim Reporting Procedures**

6 **Interim Disclosure Procedures for State, District and Local Party Committees:**

7 **1. Reporting allocable administrative and generic voter drive expenses (that are not**
8 **Federal Election Activity (FEA)) for November and December 2002**

9 For the December 5th Post General Election report and the January 31st Year End report only,
10 state, district and local party committees may continue to allocate administrative and generic
11 voter drive expenses according to the ballot composition ratio for the 2001-2002 election
12 cycle. Committees should report this activity just as they always have: payments should be
13 disclosed on Schedule H4, and transfers from the nonfederal account should appear on
14 Schedule H3. Committees need not submit a new Schedule H1.

15 **2. Reporting allocable exempt activities (that are not FEA) for November and**
16 **December 2002**

17 For the December 5th Post General Election report and the January 31st Year End report only,
18 state, district and local party committees may continue to allocate payments for exempt
19 activities based on the time or space devoted to federal candidates, as compared to the time or
20 space of the entire communication. Committees should report this activity just as they always
21 have: payments should be disclosed on Schedule H4, and transfers from the nonfederal
22 account should appear on Schedule H3.

23 **3. Reporting receipts of "Levin funds"**

1 • **Paper Filers:**

- 2 - Using a separate Schedule A, itemize each receipt (regardless of amount) as a
3 memo entry. Do not include these receipts in totals or on the Detailed
4 Summary Page.
5 - **IMPORTANT:** Label the Schedule A “Levin funds.”
6 - Disclose total “Levin fund” receipts as a lump sum in a cover memo attached
7 to the report.

8 • **E-Filers:**

- 9 - On a Schedule A, itemize each receipt (regardless of amount) as a memo
10 entry. These receipts will not be included in totals or on the Detailed Summary
11 Page.
12 - **IMPORTANT:** Use the text entry description field to label the receipt as
13 “Levin funds”
14 - Disclose total “Levin fund” receipts as a lump sum using a text record.

15 **4. Reporting disbursements for non-allocable (100% federal) “Federal Election**
16 **Activities” (i.e., public communications and certain salary payments)**

17 • **Paper Filers:**

- 18 - Use a separate Schedule B labeled “FEA-100% Federal” to disclose each
19 disbursement, regardless of amount.
20 - Adjust the totals on the completed Detailed Summary Page by adding the total
21 “FEA-100% Federal” to line 31 “Total Federal Disbursements.”
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23 • **E-Filers:**

- Using Schedule B as a model, submit a Form 99 (miscellaneous text submission) labeled "FEA-100% Federal" disclosing for each disbursement, regardless of amount:
 - the name of the committee;
 - the name, mailing address, city, state and zip code for each payee;
 - the date and amount; and
 - the purpose of the disbursement.
- To account for these disbursements on your regular report (e.g., 2002 Year End Report), adjust the cash on hand figure on line 8 of the Summary Page.
- Examples of these transactions in FECFile are available on the Commission's BCRA web page at http://www.fec.gov/pages/bcra/bcra_update.htm.

5. Reporting the allocation formula for paying allocable "Federal Election Activities," if any, conducted in 2002

Use the table below to determine the appropriate formula for allocating "Federal Election Activities," if any, conducted between November 6, 2002, and December 31, 2002.

2002 Races on General Election Ballot	Federal Percentage
A Senate candidate was on the ballot in my state in the 2002 General election	21% Federal
A Senate candidate was not on the ballot in my state in the 2002 General election	15% Federal

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- **Paper Filers**

- Attach a cover letter, labeled "H1-FEA," to disclose the applicable federal percentage for allocable "federal election activity."

- **E-Filers**

- Add a text record, labeled "H1-FEA," to disclose the applicable federal percentage for allocable "federal election activity."

6. Reporting the allocation formula used for paying allocable "Federal Election Activities" and for administrative expenses and the cost of generic voter drives, as of January 1, 2003

Use the table below to determine the appropriate allocation formula to use on or after January 1, 2003.

2004 Races on General Election Ballot	Federal Percentage
Presidential and Senate candidates will <u>both</u> be on the ballot in my state in the next regular federal general election.	36% Federal
Presidential candidate, but not a Senate candidate, will be on the ballot in my state in the next regular federal general election.	28% Federal

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On the first report disclosing 2003 activity (e.g., February 20th Monthly Report):

• Paper Filers

- Attach a cover letter, labeled “H1-FEA,” to disclose the applicable federal percentage for allocable “federal election activity.”
- Do not use the current version of Schedule H-1.

• E-Filers

- Add a text record, labeled “H1-FEA,” to disclose the applicable federal percentage for allocable “federal election activity.”

7. Reporting disbursements for “Federal Election Activities” allocated between federal funds and “Levin funds”

• Paper Filers

- Using Schedule H4 as a model, submit a cover letter labeled “H6-Shared FEA,” disclosing:
 - the name of the committee;
 - the name, mailing address, city, state and zip code for each payee;
 - the activity or event identifier that relates to each transaction;
 - the date of each transaction;
 - the category of federal election activity (e.g., voter registration);
 - the year-to-date total for the activity;
 - the purpose of disbursement;
 - the federal share of each expense;

- 1 • the “Levin fund” share of each expense; and
- 2 • the combined federal/Levin total for each entry.
- 3 - As on Schedule H4, multiple entries may appear on each page, and should be
- 4 subtotaled by page and totaled on the last page.
- 5 - Adjust the totals on the completed Detailed Summary Page by:
- 6 • Adding the combined federal and Levin fund total from the last page to
- 7 the total for line 30 “Total Disbursements;” and
- 8 • Adding the total federal share from the last page to the total for line 31
- 9 “Total Federal Disbursements.”
- 10 • **E-Filers**
- 11 - Using Schedule H4 as a model, submit a Form 99 (miscellaneous text
- 12 submission) labeled “H6-Shared FEA,” disclosing:
- 13 • the name of the committee;
- 14 • the report to which the activity relates (e.g., 2002 Year End Report);
- 15 • the name, mailing address, city, state and zip code for each payee;
- 16 • the activity or event identifier that relates to each transaction;
- 17 • the date of each transaction;
- 18 • the category of federal election activity (e.g., voter registration);
- 19 • the year-to-date total for the activity;
- 20 • the purpose of disbursement;
- 21 • the federal share of each expense;
- 22 • the “Levin fund” share of each expense; and

- 1 • the combined federal/Levin total for each entry.
- 2 - As on Schedule H4, multiple entries may appear on each page of the H6, and
- 3 should be subtotaled by page and totaled on the last page.
- 4 - To account for these disbursements on your regular report (e.g., 2002 Year
- 5 End Report), adjust the cash on hand figure on line 8 of the Summary Page.
- 6 - Examples of these transactions in FECFile are available on the Commission's
- 7 BCRA web page at http://www.fec.gov/pages/bcra/bcra_update.htm.

8 **8. Reporting transfers of "Levin funds" into the federal account for shared "Federal**
9 **Election Activity"**

10 • **Paper Filers:**

- 11 - Using Schedule H3 as a model, submit a cover letter labeled "H5-Transfers of
- 12 Levin Funds for Shared FEA," disclosing:
 - 13 • the name of the committee;
 - 14 • the name of the account (i.e., "Levin")
 - 15 • the date of the transfer;
 - 16 • the activity or event identifier that relates to each transaction; and
 - 17 • the categorical breakdown of the transfer received on that date (e.g.,
 - 18 total voter registration, total GOTV, etc.).
- 19 - As on Schedule H3, transfers must be segregated by date on the H5. It is
- 20 permissible, however, to include transfers occurring on multiple dates on each
- 21 page, as long as they are segregated by date.
- 22 - Aggregate transfers by category should appear at the bottom of the last page of
- 23 H5.

- Adjust the totals on the completed Detailed Summary Page by adding the combined Levin fund transfers to the total for line 19 "Total Receipts."
- Do not adjust the total for line 20 "Total Federal Receipts."

- **E-Filers**

- Using Schedule H3 as a model, submit a Form 99 (miscellaneous text submission) labeled "H5-Transfers of Levin Funds for Shared FEA," disclosing:
 - the name of the committee;
 - the name of the account (i.e., "Levin")
 - the report to which the activity relates (e.g., 2002 Year End Report);
 - the date of the transfer;
 - the activity or event identifier that relates to each transaction; and
 - the categorical breakdown of the transfer received on that date (e.g., total voter registration, total GOTV, etc.).
- As on Schedule H3, transfers must be grouped by date on the H5. However, unlike H3, it is permissible to include transfers occurring on multiple dates on a single page, so long as the transfers remain grouped by date.
- Total Levin fund transfers by category should appear at the bottom of the last page of H5.
- To account for these receipts on your regular report (e.g., 2002 Year End Report), adjust the cash on hand figure on line 8 of the Summary Page.
- Examples of these transactions in FECFile are available on the Commission's BCRA web page at http://www.fec.gov/pages/bcra/bcra_update.htm.

1 **Interim Disclosure Procedures for Federal Candidates and Campaign Committees:**

2 **1. Additional registration information pursuant to the “millionaires provision”**

3 All candidates seeking election to federal office on/after January 1, 2003, must provide an e-
4 mail address, a fax number and a declaration of intent to expend personal funds.

5 • **Paper Filers:**

6 - Attach a cover memo to FEC Form 2, Statement of Candidacy, disclosing
7 an e-mail address, a fax number and a declaration of intent to expend
8 personal funds.

9 ▪ The declaration should read: “With respect to this election, I intend
10 to expend personal funds totaling [fill in amount].”

11 • **E-Filers:**

12 - Include with Form 2, Statement of Candidacy, a text record disclosing an
13 e-mail address, a fax number and a declaration of intent to expend
14 personal funds.

15 ▪ The declaration should read: “With respect to this election, I intend
16 to expend personal funds totaling [fill in amount].”

17 **Interim Disclosure Procedures for Other Types of Filers:**

18 **1. 24-Hour Notice of “Electioneering Communications”**

19 E-mail or fax a report to the FEC disclosing:

20 • Name, address, occupation and name of employer or principal place of business of the
21 individual or person making the communication;

22 • Name, address, occupation and name of employer or principal place of business of
23 any person sharing or exercising control over the person making the communication;

- 1 • Name, address, occupation and name of employer or principal place of business of the
2 custodian of the books and accounts from which the disbursements for the
3 communication was made;
- 4 • If the person making the communication pays for it exclusively from a segregated
5 bank account, the name and address of persons who donate \$1,000 or more to that
6 account, including the date and amount of those donations;
- 7 • If the person making the communication does not pay for it exclusively from a
8 segregated bank account, the name and address of persons who donate \$1,000 or more
9 to the person making the communication (regardless of whether those funds are used
10 to finance the communication), including the date and amount of those donations;
- 11 • Disbursements of more than \$200, including the name and address of the payee, date,
12 amount and purpose of the disbursement, the name of the federal candidate, and the
13 election identified in the communication;
- 14 • Total donations received and disbursements made in this report;
- 15 • Aggregate disbursements year-to-date;
- 16 • The disclosure date (i.e., the date when the communication was first publicly
17 distributed); and
- 18 • The following statement: "Under penalty of perjury, I certify that this report is true,
19 correct and complete." followed by the name/signature of the person making that
20 statement and the date.²

² Submission of false, erroneous or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g.

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David M. Mason
Chairman
Federal Election Commission

DATED: _____

BILLING CODE: 6715-01-U