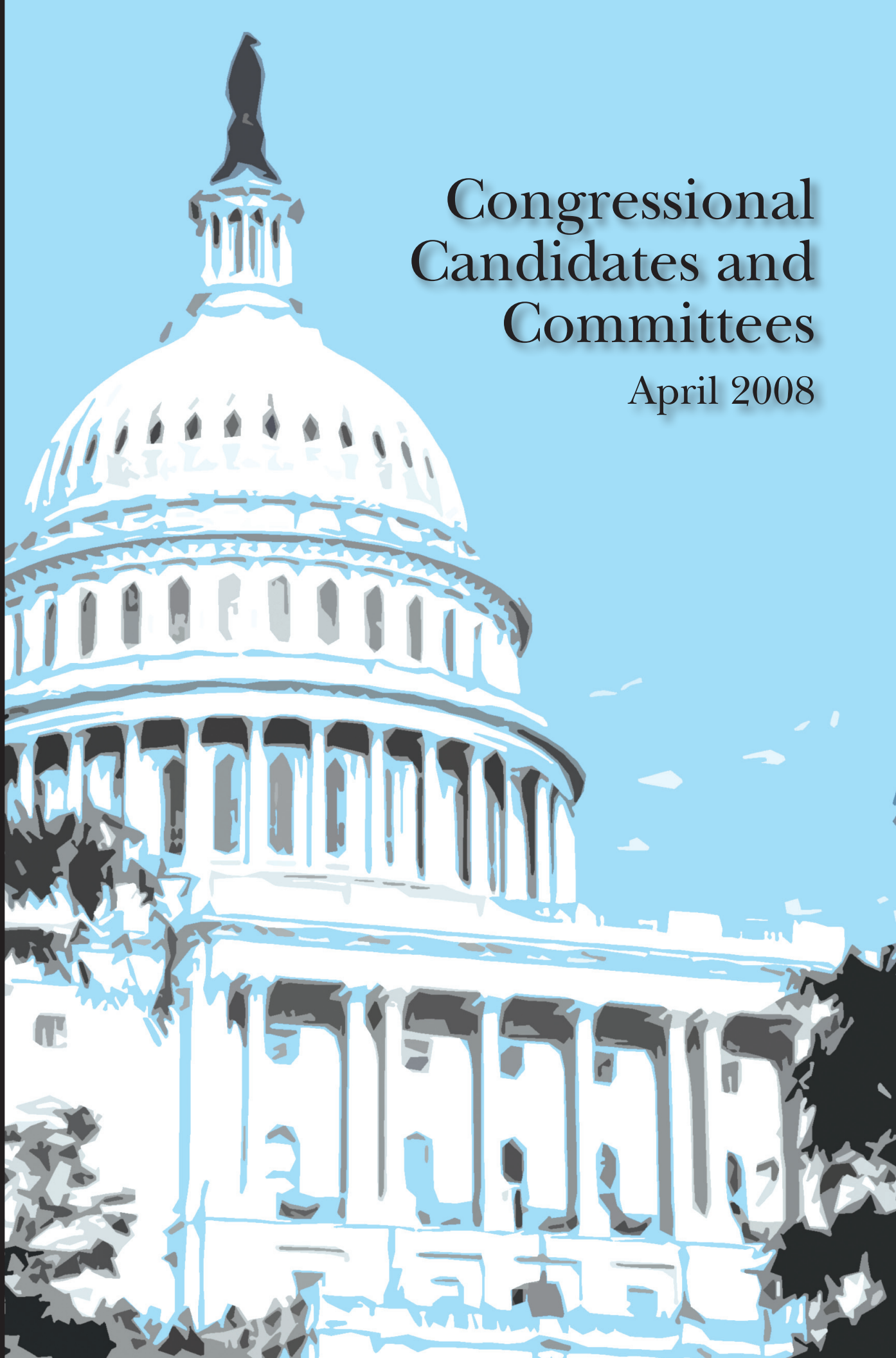




Federal Election Commission Campaign Guide



# Congressional Candidates and Committees

April 2008



## About this Guide

This *Campaign Guide for Congressional Candidates and Committees* replaces the June 2004 edition. It summarizes the federal campaign finance laws applicable to candidate committees as of April 2008. For updated information, please consult the monthly *Record* supplements to this guide at [www.fec.gov/info/publications.shtml#guides](http://www.fec.gov/info/publications.shtml#guides).

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## Introduction

This *Guide* was written to help U.S. House and Senate candidates comply with the *Federal Election Campaign Act* and FEC regulations. It may be used by committees supporting Presidential candidates who are not seeking public funding. However, special reporting rules apply to Presidential candidates, as explained in footnotes to the reporting chapters.

This publication provides guidance on certain aspects of federal campaign finance law. It is not intended to replace the law or to change its meaning, nor does this publication create or confer any rights for or on any person or bind the Federal Election Commission (Commission) or the public. The reader is encouraged also to consult the *Federal Election Campaign Act of 1971*, as amended (2 U.S.C. §431 et seq.), Commission regulations (Title 11 of the Code of Federal Regulations), Commission advisory opinions, and applicable court decisions. For further information, please contact:

Federal Election Commission

999 E Street NW

Washington, DC 20463

- 800/424-9530 (toll free)
- 202/694-1100 (local)
- 202/219-3336 (for the hearing impaired)
- [info@fec.gov](mailto:info@fec.gov)
- [www.fec.gov](http://www.fec.gov)

## Using This Guide

### Citations

Authorities primarily cited in this *Guide* include the *Federal Election Campaign Act*, FEC regulations and FEC Advisory Opinions (AOs). All regulatory citations are to Title 11 of the Code of Federal Regulations (CFR), Parts 100–116, 300, 400 and 9001–9039 (2008). Statutory citations are to Titles 2 and 26 of the United States Code (U.S.C.). Copies of AOs may be obtained from the FEC's Public Records Office (800/424-9530

or 202/694-1120), the FEC web site (<http://saos.nictusa.com/saos/searchao>) or by calling the FEC's automated Faxline, (202/501-3413); in addition, each AO is summarized in the Commission's monthly newsletter, the *Record*. AOs are also reported in the *Federal Election Campaign Financing Guide*, published by Commerce Clearing House, Inc.

## Getting More Help

### Advisory Opinions

Any person or group requiring a clarification of the election law with regard to an activity that they plan to undertake may request an advisory opinion from the FEC. Individuals and organizations involved in the activity specifically addressed in an AO (or in an activity that is materially indistinguishable) may rely on the opinion for legal guidance. Advisory opinion requests may be addressed to the Office of General Counsel at:

Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

### Toll-Free Line

Many questions about federal campaign finance law do not require formal advisory opinions. Such questions may be addressed to trained FEC staff members by calling the FEC's 800 number, below. Persons in the Washington, DC, area may call locally. The numbers are:

- 800/424-9530
- 202/694-1100
- 202/219-3336 (for the hearing impaired)

Hearing-impaired persons may reverse the charges when calling long distance.

### Free Publications

In addition to this Guide, the FEC publishes a series of brochures and other publications on several aspects of campaign financing and election law. Subscriptions to the Commission's newsletter, the *Record*, are available free of charge. Write or call the FEC for a list of publications currently available, or visit the FEC web site.

Please note that Congressional Campaign committees have to comply with other laws outside the FEC's jurisdiction; see Appendix G.

### Faxline

The FEC maintains a free automated fax-on-demand service, Faxline. Documents available on Faxline include selected parts of Title 2 of the U.S. Code, FEC regulations, Advisory Opinions (1990-present), forms and schedules, brochures and other documents regarding campaign finance. To receive documents from the Faxline, call 202/501-3413 and follow the voice prompts.

### World Wide Web

Visit the FEC's home page on the World Wide Web at <http://www.fec.gov>. Information on the site includes campaign finance statistical data; committee reports for candidates, parties and PACs; FEC news releases; reporting dates; forms; the *Record* newsletter; brochures and Campaign Guides.

The FEC web site also offers the capability to search the Commission's campaign finance database online. The web site also offers full text searches of Commission Advisory Opinions (AOs) issued since 1977. Searches can be made using the name of a requestor or other information about AOs. In addition, the FEC's Enforcement Query System allows users to search closed enforcement cases by such search criteria as respondent name or case number.

### Compliance with Small Business Regulatory Enforcement Fairness Act of 1996

This *Guide* serves as the small entity compliance guide for Congressional candidates and committees, as required by section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, Title II, Stat. 857 (1996).

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## CHAPTER I

# Testing the Waters

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Before deciding to campaign for federal office, an individual may first want to “test the waters”—that is, explore the feasibility of becoming a candidate. For example, the individual may want to travel around the state or district to see if there is sufficient support for his candidacy. An individual who merely conducts selected testing the waters activities that fall within the exemptions in FEC regulations that are discussed in section I below (but does not campaign for office) does not have to register or report as a candidate even if the individual raises or spends more than \$5,000 on those activities (i.e., the dollar threshold that would normally trigger candidate registration (which is discussed in Chapter 2)). Nevertheless, the individual must comply with the contribution limits and prohibitions. 100.72(a) and 100.131(a); see also Advisory Opinion (AO) 1985-40.

Once an individual begins to campaign or decides to become a candidate, funds that were raised or spent to test the waters apply to the \$5,000 threshold for qualifying as a candidate. 100.72(a) and 100.131(a). Once that threshold is exceeded, the individual must register with the FEC (candidates for the House of Representatives)<sup>1</sup> or the Secretary of the Senate (candidates for the Senate), and begin to file reports (including in the first report all activity that occurred prior to reaching the \$5,000 threshold), as discussed in Chapter 2.

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<sup>1</sup> The same guidance for “testing the waters” applies to individuals testing the waters for a Presidential candidacy. Once the threshold is exceeded, such individuals must register their candidacy with the FEC.

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## I. Testing the Waters vs. Campaigning

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### Testing the Waters

An individual may conduct a variety of activities to test the waters. Examples of permissible testing-the-waters activities include polling, travel and telephone calls undertaken to determine whether the individual should become a candidate. 100.72(a) and 100.131(a).

### Campaigning

Certain activities, however, indicate that the individual has decided to become a candidate and is no longer testing the waters. In that case, once the individual has raised or spent more than \$5,000, he or she must register as a candidate. Note that, when an individual decides to run for office, funds that were raised and spent to test the waters apply to the \$5,000 threshold.

Campaigning (as opposed to testing the waters) is apparent, for example, when individuals:

- Make or authorize statements that refer to themselves as candidates (“Smith in 2010” or “Smith for Senate”);
- Use general public political advertising to publicize their intention to campaign;
- Raise more money than what is reasonably needed to test the waters or amass funds (seed money) to be used after candidacy is established;
- Conduct activities over a protracted period of time or shortly before the election; or
- Take action to qualify for the ballot.

100.72(b) and 100.131(b).

Also, once an individual files FEC Form 2, Statement of Candidacy, he or she is no longer

considered to be “testing the waters” and must file FEC Form 1 (and subsequently file financial reports) under the rules described in Chapter 2, Starting the Campaign. AO 1979-51.

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## 2. Contribution Limits and Prohibitions

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Funds raised to test the waters are subject to the Act’s contribution limits. Moreover, the individual who is testing the waters may not accept funds from prohibited sources. 100.72(a) and 100.131(a).

### Limits

Keep in mind that contribution limits apply to all the support given to an individual who is testing the waters, even donations from a family member or friend. (See the chart on contribution limits in Chapter 4.) The limits apply, for example, to:

Gifts of money, goods and services;

- Loans (except bank loans);
- Certain staff advances until repaid (See Chapter 3 for more information on staff advances.);
- Endorsements and guarantees of bank loans; and
- Funds given or personally loaned to the individual to pay for his or her living expenses during the testing-the-waters period (AO 1978–40). 100.52(a).

See Chapter 4 for more information on contribution limits.

### Prohibitions

In observing the law’s prohibitions, the individual may not accept money from:

- Labor organizations (although funds from a labor separate segregated fund—also called a PAC—are permissible);
- Corporations, including nonprofit corporations (although funds from a corporate separate segregated fund—also called a PAC—are permissible);

- Foreign nationals; or
- Federal government contractors.

See Chapter 5 for more information on contribution prohibitions.

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## 3. Recordkeeping and Accounting

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### Recordkeeping

An individual who tests the waters must keep financial records. If he or she later becomes a candidate, the money raised and spent to test the waters must be reported by the campaign as contributions and expenditures. 101.3. See Chapter 11 for more information on recordkeeping.

### Separate Bank Account

Another consideration, though not a requirement, is the segregation of testing-the-waters funds from personal funds. It is advisable for the individual to set up a separate bank account for the deposit of receipts and the payment of expenses. If the individual later becomes a candidate, a campaign account must be established to keep the campaign funds separate from the individual’s personal funds. 102.10, 102.15, 103.2 and 103.3(a).

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## 4. Example

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Mr. Jones is interested in running for a seat in the U.S. House of Representatives but is unsure whether he has enough support within his district to make a successful bid. He therefore accepts up to \$2,300 from each of several relatives and friends and uses the money to pay for an opinion poll. He sees that good records are kept on the money raised and spent in his testing-the-waters effort. The poll results indicate good name recognition in the community, and Jones decides to run.

By making this decision, Jones has crossed the line from testing the waters to campaigning. The funds he raised earlier now automatically become contributions and the funds he spent, including

the polling costs, are now expenditures. These contributions and expenditures count toward the threshold that triggers candidate status. Once his contributions or expenditures exceed \$5,000, he becomes a candidate and must register under the Act. The money raised and spent for testing the waters must be disclosed on the first report his principal campaign committee files.

Had Jones decided not to run for federal office, there would have been no obligation to report the monies received and spent for testing-the-waters activity, and the donations made to help pay for the poll would not have counted as contributions.

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## 5. Organizing a Testing-the-Waters Committee

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An individual may organize a “committee” for testing the waters. An “exploratory committee” or “testing-the-waters committee” is not considered a political committee and does not have to register or file reports as long as its activities are limited to testing the waters and it does not engage in campaigning. The name of the committee, and statements by committee staff, must not refer to the individual as a candidate. For example, an exploratory committee could not be called “Sam Jones for Congress,” which would indicate that Jones had already decided to run for federal office. Instead, the committee could be called “Sam Jones Congressional Exploratory Committee.” See AO 1981-32.

If the potential candidate decides to run for federal office and becomes a candidate under the Act, then he or she may designate the exploratory committee as the principal campaign committee and change the name of the committee as appropriate.



## CHAPTER 2

# Starting the Campaign

## I. Candidate Registration Threshold

An individual triggers registration and reporting responsibilities under the Act when campaign activity exceeds \$5,000 in either contributions or expenditures. (Money raised and spent to test the waters does not count toward this dollar threshold until the individual decides to run for federal office or conducts activities that indicate he or she is actively campaigning rather than testing the waters. See Chapter I, Testing the Waters.) The \$5,000 threshold is reached when:

- The individual and/or persons he or she has authorized to conduct campaign activity receive over \$5,000 in contributions or make over \$5,000 in expenditures; or
- The individual fails to disavow unauthorized campaign activity by writing a letter to the FEC within 30 days after being notified by the agency that another person or group has received contributions or made expenditures of more than \$5,000 on the individual's behalf. 100.3(a) and 102.13(a)(2).

## 2. Candidate and Committee Registration

The registration forms mentioned in this section (FEC Forms 1 and 2) are available from the FEC, on the Commission web site and as part of the

agency's FECFile software. Samples of completed forms appear throughout this chapter. Federal candidates and their committees should also contact the government offices and agencies listed in Appendix G for additional reporting requirements that are not within the FEC's jurisdiction.

## Candidate

Within 15 days after an individual becomes a candidate as described in section I above, he or she must designate a principal campaign committee. This

### CANDIDATE REGISTRATION

#### FEC FORM 2 STATEMENT OF CANDIDACY

1. (a) Name of Candidate (in full) Jane Doe		<input type="checkbox"/> Check if address changed	2. Identification Number	
(b) Address (number and street) 626 Pritham Ave.				
(c) City, State, and ZIP Code Springfield, VA 00000		3. Is This Statement <input checked="" type="checkbox"/> New (N) OR <input type="checkbox"/> Amended (A)		
4. Party Affiliation IND	5. Office Sought US House	6. State & District of Candidate VA 12		

#### DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

7. I hereby designate the following named political committee as my Principal Campaign Committee for the 2008 election(s).  
(year of election)

**NOTE:** This designation should be filed with the appropriate office listed in the instructions.

(a) Name of Committee (in full) Doe for Congress	
(b) Address (number and street) 319 Main Street	
(c) City, State, and ZIP Code Springfield, VA 00000	

#### DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

8. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

**NOTE:** This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full) Friends of Jane Doe	
(b) Address (number and street) 147 Felicity Circle	
(c) City, State, and ZIP Code Springfield, VA 00000	

#### DECLARATION OF INTENT TO EXPEND PERSONAL FUNDS (House or Senate Only)

9. I intend to expend personal funds exceeding the threshold amount (see 11 C.F.R. 400.9) by

9A  for the primary election, and

9B  for the general election.

If you do not intend to expend personal funds exceeding the threshold amount for either election, you must enter "0.00" for each.

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Signature of Candidate <i>Jane Doe</i>	Date 10/04/07
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designation is made by filing either a Statement of Candidacy (FEC Form 2) or a letter with the same information. (A candidate required to file electronically cannot designate a principal campaign committee with a written letter but must instead file Form 2. See below.) 101.1(a) and 102.12(a).

Under the “Millionaires’ Amendment” (Appendix F), House and Senate candidates must declare on their Form 2 the amount by which they expect to exceed the applicable threshold amount of expenditures from personal funds, which might trigger increased contribution and coordinated party expenditure limits for their opponent. 400.20.

Senate candidates file their original Form 2 with the Secretary of the Senate, and fax or e-mail copies to the FEC and each opposing candidate via fax or e-mail. House candidates file their Form 2 with the FEC and fax or e-mail copies to each opposing candidate.<sup>1</sup> 400.20(b).

## Principal Campaign Committee

Within 10 days after it has been designated by the candidate, the principal campaign committee must register by filing (with the Commission or Secretary of the Senate, as appropriate) a Statement of Organization (FEC Form 1). 102.1(a).<sup>2</sup>

### Electronic Filing

Under FEC regulations, the Statement of Organization (FEC Form 1) and Statement of Candidacy (Form 2) must be filed electronically if the campaign raises or spends more than \$50,000 in any calendar year, or has reason to expect to do so. 104.18(a). For more information on electronic filing, see Chapter 12, Section 4.

Committees required to file electronically under section 104.18 as described above must also include their e-mail address on their Statement of Organization. 102.2(a)(1)(vii).

## Candidates Must Register for Each Election Cycle

### Candidate

A candidate (including an incumbent) must file a new FEC Form 2 for each election cycle in which he is a candidate. For example, Mr. Jones, who was a candidate for the U.S. House of Representatives in 2006, wishes to run again in 2008. He must file a new FEC Form 2 within 15 days after crossing the \$5,000 registration threshold (see Section 1) for the 2008 election cycle.

### Principal Campaign Committee

Using Form 2, the candidate may either redesignate his previous campaign committee (if it has not terminated) or designate a new principal campaign committee.

If the candidate redesignates an existing committee, the committee need only amend its Statement of Organization (FEC Form 1) within 10 days to reflect any new information (e.g., a change in the committee’s name or address). 102.2(a)(2). The redesignated committee will retain its original FEC identification number. Redesignated committees are reminded that, if outstanding debts remain from the previous election, the committee must continue to report the debts as well as the contributions that have been designated by contributors to retire them. 104.11, 110.1(b)(3) and (4) and 110.2(b)(3) and (4).

If the candidate designates a new principal campaign committee, the committee must file a new Statement of Organization (FEC Form 1) within 10 days after being designated. 102.1(a). The newly designated committee will receive a new FEC identification number.

## Other Authorized Committees

In addition to the principal campaign committee, the candidate may designate other authorized committees to receive contributions or make expenditures on his or her behalf. The following steps must be taken:

- 1 Candidates running in Guam or Puerto Rico must also file a copy of their Form 2 in their territory. 108.1.
- 2 A copy must also be filed with the appropriate office in Guam or Puerto Rico for candidates running for office in those territories. 108.1.

### Action by Candidate

The candidate designates the authorized committee by filing a statement (either FEC Form 2 or a letter) with the principal campaign committee. 101.1(b) and 102.13(a)(1).

### Action by Authorized Committee

Within 10 days after being designated by the candidate, the authorized committee must file a registration statement (FEC Form 1) with the candidate's principal campaign committee. 102.1(b) and 102.13(a)(1).

### Action by Principal Campaign Committee

The principal campaign committee, in turn, files the documents with the appropriate federal and state offices, as explained above.

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## 3. Treasurer

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### Treasurer Required

The committee must have a treasurer before it accepts contributions or makes expenditures. 102.7(b). Also, only a treasurer or designated assistant treasurer may sign FEC reports and statements (see "Vacancy in Office," below). 102.2(a) and 104.14(a).

### Treasurer's Duties

The treasurer (or registered assistant treasurer) is responsible for:

- Filing complete and accurate reports and statements on time. 104.14(d).
- Signing all reports and statements. 102.2(a) and 104.14(a).
- Depositing receipts in the committee's designated bank within 10 days of receipt. 103.3(a).
- Authorizing expenditures or appointing an agent (either orally or in writing) to authorize expenditures. 102.7(c).
- Monitoring contributions to ensure compliance with the law's limits and prohibitions. 103.3(b); 110.1(k)(3).

- Keeping the required records of receipts and disbursements for three years from the date of the report to which they relate. 102.9(c) and 104.14(b).

### Treasurer's Liability

A committee's treasurer is personally responsible for carrying out the duties listed above and should understand these responsibilities (as well as his or her personal liability for fulfilling them) before taking them on.

When the Commission brings an enforcement action against a political committee, the treasurer is usually named as a respondent along with the committee itself. The treasurer can be named and found liable in his or her official capacity as a representative of the committee. Also, the treasurer can be named and found liable in his or her personal capacity if he or she knowingly and willfully violates the Act or intentionally deprives himself or herself of the operative facts giving rise to the violation.

Even when an enforcement action alleges violations that occurred during the term of a previous treasurer, the Commission usually names the current treasurer as a respondent in the action. See the *Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings*, 70 Fed. Reg. 3 (January 3, 2005).

### Vacancy in Office

A committee cannot raise or spend funds when there is a vacancy in the office of treasurer. For that reason, the Commission urges every committee to name, on its Statement of Organization, an assistant treasurer who may assume the treasurer's duties when the treasurer's office becomes temporarily vacant or when the treasurer is unavailable. 102.7(a) and (b). The assistant treasurer should be apprised of any filing requirements and, if the committee files electronically, should obtain an electronic filing password as well. The committee must report any change in the treasurer's status within 10 days by filing an amendment to the Statement of Organization (FEC Form 1). 102.2(a)(2). See the next section for information on that form.

## 4. Statement of Organization

When registering, a committee must include basic information, listed below, on the Statement of Organization (FEC Form 1). The registration statement also serves as the official designation of the treasurer and custodian of records, the only two committee officers required under the law. 102.2(a)(1).

### Identification Number

The Federal Election Commission assigns each committee an identification number after the committee has filed a registration statement. (This number is used by the FEC for computer indexing and is not the taxpayer identification number required by the Internal Revenue Service. See Appendix G for information on contacting the IRS.)

An authorized committee that is redesignated by a candidate for another election must include its FEC ID number on any amendment to its Statement of Organization. Thereafter, the committee must enter the number on all statements and reports. 102.2(c).

### Type of Committee

The committee must identify itself as either a principal campaign committee or other authorized committee.

### Committee Name, Address and Contact Information

The name of a principal campaign committee and any other authorized committee must include the name of the candidate. 102.14(a). By contrast, an unauthorized committee (such as a PAC or party committee) may not use the name of a candidate in its official name. An unauthorized committee may, however, use the candidate's name in the title of a special fundraising project or other communication, but only if the title clearly and unambiguously shows opposition to the named candidate. 102.14(b)(3).

The address provided on this line is considered the committee's address of record. All Commission correspondence will be sent to this address.

The committee must disclose the URL for its web site, if one exists. If the committee is the principal campaign committee of a candidate for the House or the Senate, it must also disclose its fax number, if one is available and its e-mail address. 102.2(a)(1)(viii). All committees required to file electronically must disclose their e-mail addresses. 102.2(a)(1)(vii). The Commission recommends that all filers disclose an e-mail address, since the Commission sends courtesy reporting reminders and

FEC FORM 1		STATEMENT OF ORGANIZATION		Office Use Only	
1. NAME OF COMMITTEE (in full)		<input type="checkbox"/> (Check if name is changed)	Example: If typing, type over the lines.		12FE4M5
Doe for Congress					
ADDRESS (number and street)		319 Main Street			
<input type="checkbox"/> (Check if address is changed)		Springfield	VA	00000	
CITY		STATE		ZIP CODE	
COMMITTEE'S E-MAIL ADDRESS doeforcongress@doeforcongress.com					
COMMITTEE'S WEB PAGE ADDRESS (URL) www.gojane.com					
COMMITTEE'S FAX NUMBER 555 - 222 - 2222					
2. DATE		10	04	2007	
3. FEC IDENTIFICATION NUMBER		C			
4. IS THIS STATEMENT		<input checked="" type="checkbox"/> NEW (N)	OR	<input type="checkbox"/> AMENDED (A)	
I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.					
Type or Print Name of Treasurer		Gottlob Frege			
Signature of Treasurer				Date	
		10	14	2007	
NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.					



## Starting the Campaign

other helpful information to the e-mail address listed on Form I.

### Candidate Authorization Information

The committee must also disclose the following information about the candidate who authorized it: name, party affiliation, office sought, and State and Congressional district (if applicable) in which the candidate seeks election. 102.2(a)(1)(v).

### Affiliated Committees

A principal campaign committee lists the names and addresses of all other committees authorized by the candidate as affiliated committees. Other authorized committees list only the principal campaign committee as an affiliated committee. 102.2(b)(1)(i).

### Custodian of Records

The name, address and committee position of the individual who has actual possession of the committee's books and records must be listed on the registration statement. 102.2(a)(1)(iii). The treasurer or assistant treasurer (see below) may serve as the custodian of records.

### Treasurer and Assistant Treasurer

Provide the name and mailing address of the treasurer. The Commission also urges all political committees to name an assistant treasurer (or "designated agent"). Only a registered assistant treasurer may sign FEC reports and statements in the treasurer's absence. 102.7(a).

The treasurer's responsibilities are discussed in detail in the previous section.

## COMMITTEE REGISTRATION (PAGE 2)

FEC Form 1 (Revised 12/2007) Page 2

5. TYPE OF COMMITTEE  
**Candidate Committee:**

(a)  This committee is a principal campaign committee. (Complete the candidate information below.)

(b)  This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of Candidate

Candidate Party Affiliation  Office Sought:  House  Senate  President State  District

## COMMITTEE REGISTRATION (PAGE 3)

7. **Custodian of Records:** Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name

Mailing Address

CITY STATE ZIP CODE

Title or Position  Telephone number  -  -

8. **Treasurer:** List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name of Treasurer

Mailing Address

CITY STATE ZIP CODE

Title or Position  Telephone number  -  -

FESAN042.PDF

### Campaign Depository

A committee must list the name and address (but not the account number) of the campaign depository it maintains for depositing receipts and making disbursements. 102.2(a)(1)(vi). (One depository is required, although others may be designated as well.) All committee disbursements must be made by check or similar drafts drawn on a designated campaign depository. 103.3(a). (Cash disbursements of \$100 or less per transaction may be made from a petty cash fund. 102.11.) The following institutions may be designated: state banks, national banks and depositories insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. 103.1, 103.2 and 103.3(a).

## Changes in Committee Officers and/or Contact Information

A committee must report any change or correction of information contained in its registration statement within 10 days after the change. 102.2(a)(2). A committee may have to file an amendment, for example, to report a new treasurer, a new assistant treasurer, a new e-mail address, a change of address or a new campaign depository. The committee must indicate on FEC Form 1 (or in a letter, if the committee does not file electronically) that the statement is an amendment to its registration. For paper filers, the form (or letter) should include only the committee's name, address, identification number and the change or correction (such as a change of treasurer, address or depository). The amendment must be signed by the treasurer or assistant treasurer. 102.2(a)(1). When filing electronically, the entire form must be filed again.

### COMMITTEE REGISTRATION (PAGE 4)

FEC Form 1 (Revised 12/2007) Page 4

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Full Name of Designated Agent

Mailing Address

CITY STATE ZIP CODE

Title or Position  Telephone number  -  -

---

9. **Banks or Other Depositories:** List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.

Mailing Address

CITY STATE ZIP CODE

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## CHAPTER 3

# Understanding Contributions

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## I. What Is a Contribution

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A contribution is anything of value given, loaned or advanced to influence a federal election. It is important to understand which receipts are considered contributions because:

- Contributions count toward the threshold that determines whether an individual has qualified as a candidate under the *Federal Election Campaign Act* (the Act). 100.3(a) and 100.57.
- Contributions are subject to the Act's prohibitions against contributions from certain sources.
- Contributions are subject to the Act's limits on the amount of contributions.
- Like all receipts, contributions are also subject to the Act's recordkeeping and reporting requirements.

The section below describes different types of contributions. (Contribution limits and prohibitions are discussed in the chapters that follow.)

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## 2. Types of Contributions

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### Gifts of Money

A contribution of money may be made by check, cash (currency), credit card or other written instrument. 100.52(c). See also advisory opinions (AOs) 1999-22, 1995-9 (contributions made over the internet), 1991-1, 1990-4 and 1978-68.

### Earmarked Contributions and Bundling

An earmarked contribution is one which the contributor directs (either orally or in writing) to a candidate through an intermediary or conduit. 110.6(b). Special rules govern this type of transaction; see Appendix A.

When an intermediary or conduit collects and transmits contributions to the campaign (sometimes referred to as “bundling”), the special rules in Appendix A apply.<sup>1</sup>

### In-Kind Contributions

#### Definition

Goods or services offered free or at less than the usual charge result in an in-kind contribution. Similarly, when a person pays for services on the committee's behalf, the payment is an in-kind contribution. 100.52(d)(1) and 100.111(e)(1). An expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate's campaign is also considered an in-kind contribution to the candidate. 109.20(a). See Appendix D, Communications.

#### Limits

The value of an in-kind contribution—the usual and normal charge—counts against the same contribution limit as a gift of money. Additionally, like any other contribution, in-kind contributions count against the contributor's limit for the next election, unless they are otherwise designated. See Chapter 4, section 4 for more

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<sup>1</sup> At press time, the Commission was undertaking a rulemaking to implement the provisions of the *Honest Leadership and Open Government Act of 2007 (HLOGA)*, Pub. Law No 110-81, 121 Stat. 735. Under section 204 of HLOGA, authorized committees that receive contributions bundled by lobbyists/registrants or their PACs have additional disclosure requirements. See Appendix A, Bundling and Earmarking, and the Commission's web site at [http://www.fec.gov/law/law\\_rulemakings.shtml#bundling](http://www.fec.gov/law/law_rulemakings.shtml#bundling) for more information.

information on designating contributions. 100.52(d)(1), 100.54 and 100.111(e)(1).

### **Value**

Goods (such as facilities, equipment, supplies or mailing lists) are valued at the price the item or facility would cost if purchased or rented at the time the contribution is made. For example, if someone donates a personal computer to the campaign, the contribution equals the ordinary market price of the computer at the time of the contribution.

Services (such as advertising, printing or consultant services) are valued at the prevailing commercial rate at the time the services are rendered. 100.52(d)(2) and 100.111(e)(2).

### **Notifying Recipient**

The contributor needs to notify the recipient candidate committee of the value of an in-kind contribution. The recipient needs this information in order to monitor the contributor's aggregate contributions and to report the correct amount.

### **In-Kind Contributions Designated for More Than One Election in an Election Cycle**

In AO 1996-29, the Commission determined that the value of an in-kind contribution of used computer equipment, received before the primary and designated in writing by the contributors for all elections in the cycle, could, in fact, be allocated among all elections in the same election cycle. The contribution was distinguishable from the type of in-kind contribution that is used for one particular election (such as printing or mailing costs related to a general election fundraiser). If the candidate had lost the primary election, the committee would have had to refund the amount designated for the general election (in this case, the candidate was active in each election within the election cycle). The total value of the contribution could not exceed the contributor's combined limit for all the elections in the cycle. The Commission did not address the issue of allocating an in-kind contribution over more than one election cycle.

### **Exceptions**

Under limited exemptions in the law, persons may provide certain goods and services to a committee without making contributions. For example, when services are volunteered—not paid for by anyone—the activity is not considered a contribution. 100.74. See Chapter 7 for more information.

### **Proceeds from Sales**

The entire amount paid to attend a political fundraiser or other political event or to purchase a fundraising item sold by a political committee is a contribution. 100.53. For example, if a contributor pays \$100 to buy a ticket to a fundraising dinner, the entire \$100 is considered a contribution to the committee, even though the meal may have cost the committee \$30. Similarly, if a contributor spends \$20 to buy a campaign T-shirt that cost the campaign \$5, the contributor has made a \$20 contribution. See also Chapter 14, Section 3, "Sale of Campaign Assets."

### **Loans**

A loan, including a loan to the campaign from a member of the candidate's family, is considered a contribution to the extent of the outstanding balance of the loan. (Bank loans, however, are not considered contributions if made in the ordinary course of business and on a basis that assures repayment. 100.82(a) through (e). See Chapter 6, Section 1.) An unpaid loan, when added to other contributions from the same contributor, must not exceed the contribution limit. Repayments made on the loan reduce the amount of the contribution. Once repaid in full, a loan no longer counts against the contributor's contribution limit. However, a loan exceeding the limit is unlawful even if it is repaid in full. Besides being reported as a contribution, a loan must be continuously reported until it is fully repaid. (See Chapter 13, Section 17, for more information on reporting loans.) 100.52(b), 100.111(a) and 104.3(d).

### **Endorsements and Guarantees of Loans**

An endorsement or guarantee of a loan, including a loan derived from a candidate's brokerage account or other line of credit, counts as a

contribution to the extent of the outstanding balance of the loan. Repayments made on the loan reduce the amount of the contribution. Once the loan is repaid in full, the endorsement or guarantee no longer counts against the endorser's or guarantor's contribution limit. If a written loan agreement does not stipulate the portion for which each endorser or guarantor is liable, then individual contributions are calculated by dividing the amount of the loan by the number of persons who have endorsed or guaranteed it. 100.52(b)(3).

### Candidate's Use of Jointly Held Collateral

A limited exception to this rule is provided when a candidate uses property jointly held with the candidate's spouse to guarantee a bank loan to the campaign and the bank requires the spouse's signature. Note that this exception applies only if the value of the candidate's share of the property exceeds or equals the amount of the loan. This exception also applies when the candidate's spouse is the endorser, guarantor or co-signer of a loan derived from a candidate's brokerage account, credit card account or other line of credit. For unsecured loans, the spouse would not be considered a contributor if the candidate uses, in connection with the campaign, only one-half of the available credit. 100.83. For more information, see Chapter 4, Section 12, "Assets Jointly Held With Spouse."

### Extensions of Credit

An extension of credit outside of a creditor's ordinary course of business is considered a contribution. 100.55. If the creditor is incorporated, an extension of credit beyond the ordinary course of business would result in a prohibited contribution. For more information on when an extension of credit is considered a contribution, see Chapter 14, Section 5, "Settling Debts."

### Personal Funds of Individuals

#### Funds from the Candidate

Unlike the other types of contributions listed here, contributions (including loans or advances) made from the candidate's personal funds to his or her campaign are not subject to any limits, though they must still be reported. 110.10(a); AOs 1991-9,

1990-9 and 1985-33. For further information, see Chapter 4, Section 12, "Candidate's Personal Funds."

#### Unearned Income and Fringe Benefits

A candidate's salary or wages earned from *bona fide* employment are considered his or her personal funds. 100.33. However, compensation paid to a candidate in excess of actual hours worked is generally considered a contribution from the employer. 100.54; See also AO 2000-1. Moreover, under FEC regulations barring personal use of campaign funds, a third party's payment of a candidate's expenses is considered a contribution, unless the payment would have been made irrespective of the candidacy. To be paid "irrespective of the candidacy," and thus not considered a contribution, compensation must:

- Result from *bona fide* employment that is genuinely independent of the candidacy;
- Be exclusively made in consideration for services provided by the employee; and
- Not exceed the amount paid to any other similarly qualified person for the same work over the same period of time.

113.1(g)(6). See AOs 2006-13, 2004-17, 2004-8, 1980-115 and 1979-74.

Note that when a candidate is on leave without pay, the continued payment of fringe benefits (such as health insurance and retirement) may also result in contributions from the employer to the campaign. 114.12(c). (The Commission has made an exception to this rule for employers who had pre-existing policies providing for a limited extension of benefits for individuals who take unpaid leave. See AO 1992-3.)

### Advances by Individuals

#### General Rule

When an individual uses personal funds (or personal credit) to pay for a campaign expense, that payment is generally an in-kind contribution from that individual. 100.52(a). For example, an in-kind contribution results if a campaign staff member pays for postage, office supplies or campaign materials with personal funds. This rule also applies to payments made by volunteers and by the candidate. Travel expenses later

reimbursed by the committee are treated differently. 116.5. See Chapter 7, Section 4, “Travel Cost Exemptions” for more information.

Although such advances are considered in-kind contributions until reimbursed, special reporting rules apply when individuals pay for campaign expenses and later receive reimbursement from the committee. See Chapter 13, Section 11, “Reporting Reimbursed Advances of Personal Funds.”

### **Travel Exception**

When a campaign staff member, volunteer or the candidate uses personal funds to pay for that individual’s own travel expenses (transportation, meals and lodging), the payments are not considered contributions if they fall under one of two exceptions:

- **Exempt Unreimbursed Travel:** Any individual may spend up to \$1,000 per candidate, per election, on transportation expenses without making a contribution, and volunteers may spend unlimited amounts on meals and lodging in connection with volunteer activity. 100.79.
- **Reimbursed Travel:** Any other payments by individuals for travel expenses are not considered contributions if the committee reimburses them within specified time limits. 116.5(b); AO 2003-31. See Chapter 7, Section 4, “Travel Cost Exemptions” for more information.

### **Congressional Staff**

The official staff of members of Congress cannot contribute to their employing member’s campaign. See 18 U.S.C. §603. As such, it is important for those individuals to avoid advancing any funds to the campaign (e.g., buying stamps for a campaign mailing). See also 18 U.S.C. §602 for information on solicitation of federal employees.

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## CHAPTER 4

# Contribution Limits

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Under the *Federal Election Campaign Act* (the Act) contributions are subject to limits. The chart on the next page summarizes the Act's contribution limits.

This chapter examines the rules concerning the limits placed on contributions to a candidate's campaign. The limits apply to all types of contributions (except contributions made from a candidate's personal funds, as explained in Chapter 3).

It is important to note that a campaign is prohibited from retaining contributions that exceed the limits. 110.9. In the event that a campaign receives excessive contributions, it must follow special procedures for handling such funds (within 60 days); see "Remedying an Excessive Contribution" in Section 7 of this chapter.

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### I. Overview of Limits

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This section outlines the limits the Act places on contributions to a candidate's campaign. The term campaign is used in this Guide to mean a candidate for a specified federal office, his or her authorized agents, the principal campaign committee and any other authorized committees. 2 U.S.C. §441a(a)(7).

#### \$2,300 Per Election

Under the Act, individuals and groups (that are not prohibited from making contributions, such as partnerships, sole proprietorships, certain LLC's and Indian tribes) may contribute a maximum of \$2,300 per election to a candidate's campaign. (This limit is indexed for inflation in odd-numbered years, since 2005.) Note that this limit applies to contributions from the members of a candidate's family (e.g., spouse, parent). The limit also applies to contributions from political committees other

than multicandidate committees and authorized committees of nonfederal candidates (see "Contributions from Other Candidates" below; authorized committees of federal candidates have a \$2,000 per election limit). 110.1(a) and (b)(1).

#### \$5,000 Per Election —Multicandidate Committees

Political committees that have qualified as multicandidate committees have a higher contribution limit: \$5,000 per election. 110.2(a) and (b)(1). To qualify as a multicandidate committee, a political committee must have:

- Been registered for at least six months;
- Received contributions from more than 50 contributors; and
- Made contributions to at least five candidates for federal office. 100.5(e)(3). Note, however, that state party organizations are not required to meet this third requirement.

When making a contribution to a candidate's campaign, a multicandidate PAC or party committee must notify the campaign in writing that it has qualified for multicandidate committee status. 110.2(a)(2). (The notice may be pre-printed on the committee's checks, letterhead or other appropriate materials.) When the contributing committee fails to provide such a notification, the candidate committee's treasurer should verify whether that committee has qualified in order to avoid accepting an excessive contribution. 103.3(b). Multicandidate status can be verified by consulting the FEC's Public Records Office of the FEC web site (<http://www.fec.gov/disclosure.shtml>). Committees that have satisfied the criteria for multicandidate status and have filed FEC Form IM (Notification of Multicandidate Status) will be identified as "qualified."

## CONTRIBUTION LIMITS for 2007 – 08

Donors	Recipients				Special Limits
	Candidate Committee	PAC <sup>1</sup>	State, District and Local Party Committee <sup>2</sup>	National Party Committee <sup>3</sup>	
Individual	<b>\$2,300*</b> per election <sup>4</sup>	<b>\$5,000</b> per year	<b>\$10,000</b> per year combined limit	<b>\$28,500*</b> per year	Biennial limit of <b>\$108,200*</b> ( <b>\$42,700</b> to all candidates and <b>\$65,500<sup>5</sup></b> to all PACs and parties)
State, District and Local Party Committee	<b>\$5,000</b> per election combined limit	<b>\$5,000</b> per year combined limit	Unlimited transfers to other party committees		<none>
National Party Committee	<b>\$5,000</b> per election	<b>\$5,000</b> per year			<b>\$39,900*</b> to Senate candidate per campaign <sup>6</sup>
PAC Multicandidate <sup>7</sup>	<b>\$5,000</b> per election	<b>\$5,000</b> per year	<b>\$5,000</b> per year combined limit	<b>\$15,000</b> per year	<none>
PAC Not Multicandidate	<b>\$2,300*</b> per election <sup>8</sup>	<b>\$5,000</b> per year	<b>\$10,000</b> per year combined limit	<b>\$28,500*</b> per year	<none>

\*These limits are indexed for inflation in odd-numbered years.

<sup>1</sup> These limits apply both to separate segregated funds (SSFs) and to other political action committees (PACs). Affiliated committees share the same set of limits on contributions made and received.

<sup>2</sup> A state party committee shares its limits with local and district party committees in that state unless a local or district committee's independence can be demonstrated. These limits apply to multicandidate committees only.

<sup>3</sup> A party's national committee, Senate campaign committee and House campaign committee are each considered national party committees, and each have separate limits, except with respect to Senate candidates—see Special Limits column.

<sup>4</sup> Each of the following is considered a separate election with a separate limit: primary election, caucus or convention with the authority to nominate, general election, runoff election and special election.

<sup>5</sup> No more than \$42,700 of this amount may be contributed to state and local parties and PACs.

<sup>6</sup> This limit is shared by the national committee and the Senate campaign committee.

<sup>7</sup> A multicandidate committee is a political committee that has been registered for at least six months, has received contributions from more than 50 contributors and—with the exception of a state party committee—has made contributions to at least five federal candidates.

<sup>8</sup> A federal candidate's authorized committee(s) may contribute no more than \$2,000 per election to another federal candidate's authorized committee(s). 2 U.S.C. §432(e)(3)(B) and 11 CFR 102.12(c)(2) and 102.13(c)(2).



## **\$39,900 National Party Committee Limit for Senate Candidates**

With respect to their contributions to Senate candidates, the national committees of the Republican and Democratic parties each share a \$39,900 limit with their party's national Senatorial campaign committee. Unlike other candidate contribution limits, this one applies to the total contributions made to a Senate candidate by those party committees for the entire campaign period (the primary and general elections). 110.2(e). This limit is indexed for inflation in odd-numbered years.

## **\$100 Limit on Cash Contributions**

A campaign may not accept more than \$100 in cash from a particular source with respect to any campaign for nomination for election, or election to federal office. 110.4(c).

## **\$50 Limit on Anonymous Contributions**

An anonymous contribution of currency is limited to \$50. If the campaign receives a larger anonymous contribution, the excess amount may be used for any lawful purpose unrelated to any federal election, campaign or candidate. 110.4(c)(3).

## **Contributions from Other Candidates**

A candidate's authorized committees may accept a contribution of up to \$2,000 per election from the authorized committee of another federal candidate. 102.12(c)(2) and 102.13(c)(2).

In addition, authorized committees of active candidates cannot qualify as multicandidate committees. 102.12(c) and 102.13(c). An authorized committee of a former candidate may, however, become a multicandidate committee. Advisory opinions (AOs) 1993-22, 1988-41 and 1985-30.

The applicable contribution limit for contributions from a nonfederal campaign is \$2,300 per election. 110.1. However, a contribution of more than \$1,000 may trigger registration by the nonfederal campaign as a federal political committee. 100.5(a). For more information and other applicable restrictions (such as the requirement that the funds given be federally permissible), see Chapter 10,

Section I, "Fundraising," under the subheading, "Contributions from Unregistered Organizations."

## **Affiliated Committees—Shared Limit**

Contributions from affiliated committees are subject to one overall contribution limit, per candidate, per election. Consequently, it is important to understand the concept of affiliation.

Political committees established, financed, maintained or controlled by the same person, organization or group are affiliated. 110.3(a)(1)(ii). This definition applies to all types of political committees, including nonconnected committees, party committees, corporate/labor PACs and authorized committees.

### **Party Committees**

Although a state party committee operates under its own contribution limit, local party committees within a state are presumed to be affiliated with the state party committee.<sup>1</sup> This means that contributions from those local party committees that are required to register as federal political committees count against the state committee's limit. 110.3(b)(1)(ii) and (3). See AOs 2005-2 and 1999-4.

Note, however, that the national party committee, the House campaign committee and the Senate campaign committee are each considered a separate committee, with separate contribution limits (except for the special \$39,900 limit for Senate candidates, as explained above). 110.2(e) and 110.3(b)(2).

### **Unregistered Local Party Organizations**

Local party organizations that are not registered with the FEC may contribute an aggregate of \$1,000 to Congressional candidates (assuming no other federal expenditures are made) without triggering a reporting requirement with the FEC. The organization must be able to show that the contribution was made with funds permissible under the *Federal Election Campaign Act*. Prior to crossing the registration threshold, the local organi-

<sup>1</sup> A local party committee may be considered independent of the state party committee if it can meet certain standards as determined by the FEC through its Advisory Opinion process. See 110.3(b)(3)(i) and (ii). See also AOs 1999-4 and 1978-9.

zation does not share a contribution limit with the state party committee. AOs 2005-2 and 1999-4.

### **Corporate/Labor/Membership Organization PACs**

All separate segregated funds (also called political action committees or PACs) established, financed, maintained or controlled by the same corporation or labor organization are affiliated. For example:

- PACs established by a parent corporation and its subsidiaries are affiliated.
- PACs established by a national or international union and its local unions are affiliated.
- PACs established by a federation of national or international unions and the federation's state and local central bodies are affiliated.
- PACs established by an incorporated membership organization and its related state and local entities are affiliated.

100.5(g)(2) and (3); 110.3(a)(1)(ii) and (2).

When committees are not automatically affiliated under the conditions described above, the Commission may nevertheless conclude that two or more committees are affiliated based on factors listed in the regulations. 100.5(g)(4)(ii)(A)-(J) and 110.3(a)(3)(ii)(A)-(J). The Commission makes these decisions, through advisory opinions, on a case-by-case basis. For examples, see AOs 2006-12, 2005-3, 2004-32, 2002-11 and 2001-7 (plus opinions cited within those AOs).

### **Authorized Committees**

An authorized committee, however, can be affiliated only with another authorized committee of the same candidate. 100.5(g)(5). Note that, by definition, an unauthorized committee sponsored by an officeholder (i.e., a "leadership PAC") is not considered to be affiliated with any authorized committees sponsored by the same individual. 100.5(g)(5).

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## **2. How Limits Work**

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The limits on contributions to candidates apply separately to each federal election in which the candidate participates. A primary election, general election, runoff election and special election

are each considered a separate election with a separate limit.<sup>2</sup> 100.2. (A special election may itself involve separate primary, general and/or runoff elections, each with a separate contribution limit.) In some cases, a party caucus or convention is considered a primary election, as explained below.

### **Party Caucus or Convention**

A party caucus or convention constitutes an election only if it has the authority under relevant state law to select a nominee for federal office. (Notable examples of these types of conventions are those held in Connecticut, Utah and Virginia.) Otherwise, there is no separate limit for a caucus or convention; it is considered part of the primary process. When the caucus or convention does constitute a primary election, reports must be filed for the convention as they would for the primary. See Chapter 12. 100.2(c)(1) and (e). See also, for example, AOs 1992-25, 1986-21 and 1986-17.

### **Candidates Who Lose in the Primary**

A candidate is entitled to an election limit only if he or she seeks office in that election. Thus, a candidate who loses the primary (or otherwise does not participate in the general election) does not have a separate limit for the general. If a candidate accepts contributions for the general election before the primary is held and loses the primary (or does not otherwise participate in the general election), the candidate's principal campaign committee must return the general election contributions within 60 days of the primary. 102.9(e) and 110.1(b)(3)(i). See also in this Chapter, Section 4, "Designated and Undesignated Contributions," and Section 8, "Contributions to Retire Debts."

### **Independent and Non-Major Party Candidates**

Even when independent and non-major party candidates are not involved in an actual primary, they are entitled to a primary limit. They may choose one of the following dates to be their "primary" date,

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<sup>2</sup> Presidential campaigns should note that all Presidential primary elections held during the election year are considered one election for the purposes of the contribution limits. 110.1(j)(1).

and, until that date, they may collect contributions that count towards the contributor's primary limits.

- The last day on which, under state law, a candidate may qualify for a position on the general election ballot; or
- The date of the last major primary election, caucus or convention in that state.

Non-major party candidates may also choose the date of the nomination by their party as their primary date. 100.2(c)(4).

### Primary vs. General Election

Campaigns must adopt an accounting system to distinguish between contributions made for the primary election and those made for the general election, as discussed in Chapter 10, Section 1, "Fundraising." 102.9(e).<sup>3</sup> Nevertheless, the campaign of a candidate running in the general election may spend unused primary contributions for general election expenses. The contributions would continue to apply toward the contributors' limits for the primary. 110.3(c)(3). The campaign of a candidate running in the general election may use general election contributions for primary debts; the contributions would still count against the contributor's general election limits. 110.1(b)(3)(iv). As noted above, should the candidate lose the primary, contributions accepted for the general must be refunded within 60 days. Therefore, candidates must ensure they have enough cash on hand to make those refunds if needed. AO 1986-17.

### Unopposed Candidates; Elections Not Held

A candidate is entitled to a separate contribution limit even if:

The candidate is unopposed in an election;

<sup>3</sup> In AO 2007-3, the Commission ruled that a Presidential candidate could solicit and receive private contributions for the 2008 presidential general election without losing eligibility to receive public funding if the candidate received his party's nomination for President, provided that the campaign (1) deposited and maintained all private contributions designated for the general election in a separate account, (2) refrained from using these contributions for any purpose, and (3) refunded the private contributions in full if the candidate ultimately decided to receive public funds.

- A primary or general election is not held because the candidate is unopposed;<sup>4</sup> or
- The general election is not held because the candidate received a majority of votes in the previous election.
- The date on which the election would have been held is considered the date of the election. 110.1(j)(2) and (3). The campaign must file pre-election reports and, in the case of a general election, a post-election report. AO 1986-21. See also Chapter 12, Section 3, "When to Report."

### Recounts

A federal campaign may establish a recount fund either as a separate bank account of the candidate's authorized committee or as a separate entity. Although they are not considered contributions under the Act, any funds solicited, received, directed, transferred or spent in connection with a recount are subject to the amount limitations, source prohibitions and reporting requirements of the Act under provisions of the *Bipartisan Campaign Reform Act* (BCRA) that restrict officeholders and candidates when soliciting, receiving, directing, transferring or spending funds in connection with a federal election. See 2 U.S.C. §441i(e). This means that the normal contribution limits, reporting requirements and source restrictions apply. For more information and reporting instructions, see AO 2006-24.

## 3. Contributions to Unauthorized Committees

If a contributor makes a contribution to a committee not authorized by any candidate and knows that a substantial portion of the contribution will be contributed to or spent on behalf of a particular candidate, the contribution counts against the contributor's per-election limit with respect to that candidate. 110.1(h).

<sup>4</sup> A primary election that is not held because the candidate was nominated by a caucus or convention with authority to nominate is not a separate election with a separate contribution limit. 110.1(j)(4).

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## 4. Designated and Undesignated Contributions

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*The Commission strongly recommends that campaigns encourage contributors to designate their contributions for specific elections.* Designated contributions ensure that the contributor's intent is conveyed to the candidate's campaign. In the case of contributions from political committees, written designations also promote consistency in reporting and thereby avoid the possible appearance of excessive contributions on reports.

### Effect of Designating vs. Not Designating

Designated contributions count against the donor's contribution limits for the election that is named. Undesignated contributions count against the donor's contribution limits for the candidate's next election.

For example:

- An undesignated contribution made<sup>5</sup> after the candidate has won the primary but before the general election applies toward the contribution limit for the general election.
- In the case of the candidate who has lost the primary, an undesignated contribution made after the primary automatically applies toward the limit for the next election in which the candidate runs for federal office.
- If the candidate does not plan to run for federal office in the future, the committee may:
  - Presumptively redesignate the contribution to retire any primary debts he or she may have. 110.1(b)(5)(ii)(C); or

- Request written redesignation from the contributor to retire debts from a previous election cycle.<sup>6</sup>

Otherwise the committee must return or refund the contribution.

For additional information on presumptive redesignation, see Section 7 of this Chapter, "Remedying an Excessive Contribution" 110.1(b)(2)(ii) and (b)(3).

### How Contributions Are Designated

Contributors designate contributions by indicating in writing the specific election to which they intend a contribution to apply. 110.1(b)(2)(i). Contributors may make this written designation on the check (or other signed written instrument) or in a signed statement accompanying the contribution. 110.1(b)(4). A designation also occurs when the contributor signs a form supplied by the candidate. 110.1(b)(4); see also AO 1990-30.

### Campaign Must Retain Designations

The campaign must retain copies of contribution designations for three years. If the designation appears on the check (or other written instrument), the campaign must retain a full-size photocopy. 102.9(c) and (f); 110.1(l)(1).

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## 5. Date Contribution Is Made vs. Date of Receipt

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The date a contribution is made by the contributor and the date the contribution is received by the campaign are significant for purposes of the contribution limits. It is important to understand the distinction.

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5 See Section 5 for an explanation of when a contribution is "made."

6 Note that if a contribution designated to retire the debt of a previous campaign exceeds the amount of the debt, the contribution must be returned, refunded or redesignated. Contributions can be designated for debt retirement only if debt exists and if the contributor has not already met the contribution limit for that election. 110.1(b)(3)(i).

## Date Contribution is Received

The date of receipt is the date the campaign (or a person acting on the campaign's behalf) actually receives the contribution. 102.8(a).

This is the date used by the campaign for reporting purposes, but it also affects the application of the net debts outstanding rule (discussed in Section 8 of this Chapter).

## Date Contribution is Made

The date a contribution is made is the date the contributor relinquishes control over it. 110.1(b)(6). For example:

- A hand-delivered contribution is considered made on the date it is delivered by the contributor to the campaign. 110.1(b)(6).
- A mailed contribution is made on the date of the postmark. 110.1(b)(6). Note that if a campaign wishes to rely on a postmark as evidence of the date a contribution was made, it must retain the envelope or a copy of it. 110.1(l)(4).
- An in-kind contribution is made on the date that the goods or services are provided by the contributor. See AOs 2004-36 and 1996-29.
- A contribution made via the Internet is considered made on the date the contributor electronically confirms making the transaction. AO 1995-9.
- An earmarked contribution is considered made on the date the contributor forwards it to the conduit or intermediary. AO 2006-30 (footnote 5). (Note that the conduit must forward this information to the campaign.) See Appendix A for more information.

## Effect of Dates on Undesignated Contributions

The date an undesignated contribution is made determines which election limit it counts against. The date of receipt, however, does not affect the application of the contribution limits. An undesignated contribution made on or before Election Day counts against the donor's limit for that election, even if the date of receipt is after Election Day and even if the campaign

has no net debts outstanding. On the other hand, an undesignated contribution made after an election counts against the donor's limit for the candidate's next election. 110.1(b)(2)(ii).

## Effect of Dates on Designated Contributions

Both the date of receipt and the date a contribution is made affect the application of the net debts outstanding rule to a designated contribution. The date the contribution is made determines whether the rule will apply, while the date of receipt governs whether the contribution is acceptable under the rule. For example, a contribution designated for the primary and made before that election will not be subject to the net debts outstanding rule, even if the campaign receives the contribution after the primary. By contrast, a contribution designated for—but made after—the primary is acceptable only to the extent the campaign has net debts outstanding for the primary on the date of receipt. 110.1(b)(3)(i) and (iii). See Section 8 of this Chapter.

## Date of Deposit

While all contributions must be deposited within 10 days, the date of deposit is not used for reporting or contribution limit purposes.

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## 6. Joint Contributions

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A joint contribution is a contribution that is made by more than one person using a single check or other written instrument. Although each individual has a separate contribution limit, joint contributors may combine their contribution limits by contributing a joint contribution (for example, a check for \$4,600 for a candidate's primary election) as long as both sign the check (or an attached statement), as explained below. 110.1(k).

### Each Contributor Must Sign the Check

When making a joint contribution, each contributor must sign the check (or other written instrument) or a statement that accompanies the contribution. 110.1(k)(1). Note that if the

check or an accompanying statement of attribution is not signed by each contributor, the entire contribution will be attributed only to the party who signed the check. 104.8(c). However, under certain circumstances the committee may presumptively reattribute the excessive portion of a contribution. See “Reattribution” below.

### **Exception: Partnerships and LLCs**

Contributions from partnerships and certain LLCs are not considered joint contributions, but do trigger special attribution requirements; see Appendix B.

### **Attribution**

If the check or statement does not indicate how much should be attributed to each donor, the recipient committee must attribute the contribution in equal portions. 110.1(k)(1) and (2). For example, if a committee receives a \$1,000 joint contribution signed by two individuals but with no written attribution, the committee must attribute a \$500 contribution to each donor.

A campaign may request that a contribution be reattributed, as explained below.

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## **7. Remediating an Excessive Contribution**

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When a committee receives an excessive contribution—one which exceeds the contributor’s limit or the campaign’s net debts outstanding for an election—the committee may remedy the violation by refunding the excessive amount or by seeking a redesignation or reattribution of it within 60 days.

Step-by-step procedures for obtaining a reattribution or redesignation are explained below.

### **Redesignation**

#### **By Contributor**

With a redesignation, the contributor instructs the committee to use the excessive portion of a contribution for an election other than the one for which the funds were originally given. For example, the contributor may redesignate the excessive portion of a contribution made for

the primary election so that it counts against his or her limit with respect to the general election (provided the contributor has not already contributed the maximum for the general election).

When requesting a redesignation, the committee must inform the contributor that he or she may, alternatively, request a refund of the excessive amount. 110.1(b)(5).

#### **Presumptive Redesignation by Committee**

Under certain circumstances, the committee may make a presumptive redesignation of an excessive contribution. When an individual or a non-multicandidate committee makes an excessive contribution to a candidate’s authorized committee, the campaign may presumptively redesignate the excessive portion to the general election if the contribution:

- Is made before that candidate’s primary election;
- Is not designated in writing for a particular election;
- Would be excessive if treated as a primary election contribution; and
- As redesignated, does not cause the contributor to exceed any other contribution limit. 110.1(b)(5)(ii)(B)(1)-(4).

Also, the excessive portion of an undesignated contribution made after the primary, but before the general election, may be automatically applied to the primary if the campaign’s net debts outstanding from the primary equal or exceed the amount redesignated. 110.1(b)(5)(ii)(C). See Section 8 in this Chapter.

The committee is required to notify the contributor of the redesignation within 60 days of the treasurer’s receipt of the contribution, and must offer the contributor the option to receive a refund instead.

It is important to note that presumptive redesignations may be made only within the same election cycle. Also, presumptive redesignation is not an option when the contributor is a multicandidate committee.

## Reattribution

### By Contributor

With a reattribution, the contributor instructs the committee in writing to attribute the excessive portion of a joint contribution to another individual. For example, if the committee receives an excessive contribution drawn on a joint checking account, but signed by only one account holder, the committee may seek a signed reattribution of the excessive amount to the other account holder. 110.1(k)(3)(i). (A joint contribution may also be reattributed so that a different amount is attributed to each contributor.<sup>7</sup>) Note that a joint contribution must represent the personal funds of each contributor because contributions made in the name of another are prohibited. 110.4(b).

When requesting reattributions, the committee must also inform contributors that they may, alternatively, ask for a refund of the excessive portions of their contributions. 110.1(b)(5).

### Presumptive Reattribution By Committee

When a committee receives an excessive contribution made via a written instrument with more than one individual's name imprinted on it, but only one signature, the committee may attribute the permissible portion to the signer. The committee may make a presumptive reattribution of the excessive portion to the other individual whose name is imprinted on the written instrument, without obtaining a second signature, so long as the reattribution does not cause the contributor to exceed any other contribution limit. 110.1(k)(3)(ii)(B)(1).

The committee is required to notify the contributor of the reattribution within 60 days of the treasurer's receipt of the contribution, and must offer the contributor the option to receive a refund instead.

## When to Request Redesignations and Reattributions

In many circumstances, the committee will be able to presumptively redesignate or reattribute contributions. For all other circumstances, contributions can be redesignated or reattributed only by the individual contributor.

A committee may ask a contributor to redesignate and/or reattribute a contribution (within 60 days of the treasurer's receipt), for example, when the committee receives:

- A designated or undesignated contribution that exceeds the donor's limit. 110.1(b)(5)(i)(A) and (C).
- A designated or undesignated contribution for an election in which the candidate is not running. For example, a contribution that was designated for the general but was received before the primary may be redesignated for a future primary if the candidate loses the primary or otherwise does not run in the general election. 102.9(e); see also AOs 1996-29, 1992-15 and 1986-17.
- A contribution that is designated for, but made after, an election and that exceeds the campaign's net debts outstanding for that election. 110.1(b)(3)(i) and (5)(i)(B).
- An undesignated contribution (which normally applies to the candidate's upcoming election) that the committee wants to use to retire debts of a previous election. Note that, if it is redesignated, the contribution then counts against the donor's contribution limits for that previous election. 110.1(b)(5)(i)(D).

## Procedures for Obtaining Redesignations and Reattributions from Contributors

The committee treasurer is the person ultimately responsible for complying with the procedures outlined on the following page. 103.3(a) and (b).

<sup>7</sup> See the *Explanation and Justification* published with the final rule, 52 Fed. Reg. 760, 765-766 (January 9, 1987), available online at [http://www.fec.gov/law/cfr/ej\\_compilation/1987/1987-1.pdf](http://www.fec.gov/law/cfr/ej_compilation/1987/1987-1.pdf).

### Step 1: Deposit Contribution

A committee must deposit contributions within 10 days of the treasurer's receipt. (If a contribution is not deposited, it must be returned to the contributor within 10 days of receipt. A contribution is returned when it is sent back to the contributor without being deposited.) 103.3(a).

### Step 2: Determine Whether Excessive

The committee must determine whether a contribution exceeds the donor's limit or the campaign's net debts outstanding. The Commission encourages committees to make this determination within 30 days of receiving the contribution. This allows a committee sufficient time to request and receive a redesignation and/or reattribution within the 60-day limit, as explained below.

### Step 3: Be Prepared to Make Refund

When a committee deposits contributions that may exceed the limits or net debts outstanding for an election, the committee must not spend the funds because they may have to be refunded. To ensure that the committee will be able to refund the contribution in full, the committee may either maintain sufficient funds in its regular campaign depository or establish a separate account used solely for the deposit of possibly illegal contributions. 103.3(b)(4). Furthermore, the committee must keep a written record noting the reason a contribution may be excessive and must include this information when reporting the receipt of the contribution. 103.3(b)(5).

### Step 4: Request Redesignation and/or Reattribution

When requesting a redesignation, the committee asks the contributor to provide a written, signed redesignation of the contribution for another election. The request must also state that the donor may receive a refund of the excessive portion of the contribution if he or she does not wish to redesignate it.<sup>8</sup> 10.1(b)(5)(ii)(A).

When requesting a reattribution, the committee asks the contributor whether the contribution was intended to be a joint contribution from more than one person. Alternatively, if the original

contribution was a joint contribution, the committee requests that contributors adjust the amount attributable to each.<sup>9</sup> In either case, the committee should inform contributors that they must sign the reattribution. The request must notify each contributor that, instead of reattributing the contribution, he or she may seek a refund of the portion of the contribution that exceeds the limits or the campaign's net debts outstanding. 10.1(k)(3)(ii)(A).

### Step 5: Redesignation/Reattribution Made or Make Refund Within 60 Days

Within 60 days after the date of the committee's receipt of the contribution either:

- The contributor must provide the committee with a redesignation or reattribution; or
- The committee must refund the excessive portion of the contribution.

103.3(b)(3).

A contribution is properly redesignated if, within the 60-day period, the contributor provides the committee with a written, signed statement redesignating the contribution for a different election. 10.1(b)(5)(ii)(B).

A contribution is properly reattributed if, within the 60-day period, the contributors provide the committee with a written statement reattributing the contribution. The statement must be signed by all contributors and must indicate the amount attributable to each donor. (If the contributors do not specify how to divide the contribution, the committee must attribute the contribution equally among the contributors.) 10.1(k)(2) and (3)(ii)(B).

### Step 6: Keep Records and Report

The committee must keep documentation for each reattribution and redesignation to verify that it was received within the 60-day time limit. Documentation for a reattribution or a redesignation must include one of the following:

- A copy of the postmarked envelope bearing the contributor's name, return address or other identifying code;

8 This is not required when requesting a redesignation of a contribution that was initially within the limits.

9 See the *Explanation and Justification* published with the final rule, 52 Fed. Reg. 760, 766 (January 9, 1987), available online at [http://www.fec.gov/law/cfr/ej\\_compilation/1987/1987-1.pdf](http://www.fec.gov/law/cfr/ej_compilation/1987/1987-1.pdf).



- A copy of the signed statement reattributing or redesignating the contribution with a date stamp showing the date of the committee's receipt; or
- A copy of the written redesignation or reattribution dated by the contributor.

110.1(l)(6).

The documentation relating to a reattribution or redesignation must be retained for three years. 102.9(c).

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## 8. Contributions to Retire Debts

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If a committee has net debts outstanding after an election is over, a campaign may accept contributions after the election to retire the debts provided that:

- The contribution is designated for that election (since an undesignated contribution made after an election counts toward the limit for the candidate's upcoming election);
- The contribution does not exceed the contributor's limit for the designated election; and
- The campaign has net debts outstanding for the designated election on the day it receives the contribution.

110.1(b)(3)(i) and (iii).

### How to Calculate Net Debts Outstanding

A campaign's net debts outstanding consist of unpaid debts incurred with respect to the particular election minus cash on hand.<sup>10</sup>

#### Unpaid Debts

Unpaid debts include the following:

- All outstanding debts and obligations;

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<sup>10</sup> For an illustration of how the net debts outstanding calculation is performed, see the *Explanation and Justification* published with the final rule, 52 Fed. Reg. 762 (January 9, 1987), available online at [http://www.fec.gov/law/cfr/ej\\_compilation/1987/1987-1.pdf#page=3](http://www.fec.gov/law/cfr/ej_compilation/1987/1987-1.pdf#page=3).

- The estimated cost of raising funds to liquidate the debts; and
- If the campaign is terminating, estimated winding down costs (for example, office rental, staff salaries and office supplies).

110.1(b)(3)(ii).

#### Cash on Hand

Cash on hand consists of the resources available to pay the campaign's total debts, including currency, deposited funds, traveler's checks, certificates of deposit, treasury bills and any other investments valued at fair market value. Additionally, the cash-on-hand total includes amounts owed to the campaign in the form of credits, refunds of deposits, returns and receivables or a commercially reasonable estimate of the collectible amount.

For the purpose of calculating net debts outstanding for the primary, cash on hand need not include contributions designated for the general. 110.1(b)(3)(ii)(A) and (B).

### Adjustment to Net Debts Total

A campaign first calculates its net debts outstanding as of the day of the election. Thereafter, the campaign continually recalculates its total net debts outstanding as additional funds are received for, or spent on, the election for which the debt remains. 110.1(b)(3)(ii) and (iii).

### Contributions Exceeding Net Debts

If, on the same day, a campaign receives several contributions that, together, exceed the amount needed to retire its debts, the campaign may:

- Accept a proportionate amount of each contribution and either refund the remaining amount or ask contributors to redesignate the excessive portions for another election; or
- Accept some contributions in full and either return or refund the others or seek redesignations for them. (Redesignations are explained later in this chapter.)

110.1(b)(3).

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## 9. Contributions from Partnerships

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Partnerships are permitted to make contributions according to special rules. 110.1(e) and (k)(1). For further details, see Appendix B.

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## 10. Contributions from Limited Liability Companies

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### Corporation v. Partnership

For purposes of contribution limitations and prohibitions, a limited liability company (LLC) is treated as either a corporation or a partnership.

An LLC is treated as a corporation if:

- It has chosen to file, under Internal Revenue Service (IRS) rules, as a corporation; or
- It has publicly traded shares. 110.1(g)(3).

An LLC is treated as a partnership if:

- It has chosen to file, under IRS rules, as a partnership; or
- It has made no choice, under IRS rules, as to whether it is a corporation or a partnership. 110.1(g)(2).

If an LLC is treated as a corporation, it is prohibited from making contributions to candidate committees, but it can establish an SSF (see Chapter 5 for general information on the corporate prohibition). If it is considered a partnership, it is subject to the contribution limits for partnerships outlined in Appendix B. 110.1(g).

### Single Member LLC

If a single member LLC does not require corporate tax treatment, it may make contributions; the contributions will be attributed to the single member, not the LLC.

### Notifying Recipient Committee

An LLC must, at the time it makes a contribution, notify the recipient committee:

- That it is eligible to make the contribution; and
- How the contribution is to be attributed among members.

This requirement will prevent the recipient committee from inadvertently accepting an illegal contribution. 110.1(g)(5).

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## 11. Contributions from Minors

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An individual who is under 18 years old may make contributions to candidates and party committees, subject to the limit of \$2,300 per election, if:

- The decision to contribute is made knowingly and voluntarily by the minor;
- The funds, goods or services contributed are owned or controlled by the minor, proceeds from a trust for which he or she is a beneficiary or funds withdrawn by the minor from a financial account owned and maintained in his or her name; and
- The contribution is not made using funds given to the minor as a gift for the purpose of making the contribution, and is not in any way controlled by another individual. 110.19.

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## 12. Candidate's Personal Funds

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When candidates use their personal funds for campaign purposes, they are making contributions to their campaigns. Unlike other contributions, these candidate contributions are not subject to any limits. 110.10; AOs 1991-9, 1990-9, 1985-33 and 1984-60. They must, however, be reported (as discussed below). Also, if a candidate makes expenditures from personal funds in excess of certain threshold amounts, his or her opponent may be eligible for increased contributions to his or her campaign under the Millionaires' Amendment. See Appendix F.

Contributions from members of the candidate's family are subject to the same limits that apply to any other individual. For example, a candidate's parent or spouse may not contribute more than \$2,300, per election, to the candidate.

## Definition of a Candidate's "Personal Funds"

The personal funds of a candidate include:

- Assets which the candidate has a legal right of access to or control over, and which he or she has legal title to or an equitable interest in, at the time of candidacy;
- Income from employment;
- Dividends and interest from, and proceeds from sale or liquidation of, stocks and other investments;
- Income from trusts, if established before candidacy;
- Income from trusts established by bequests (even after candidacy);
- Bequests to the candidate;
- Personal gifts that had been customarily received by the candidate prior to the beginning of the election cycle; and
- Proceeds from lotteries and similar games of chance.

100.33(a) and (b).

### Assets Jointly Held with Spouse

A candidate may also use, as personal funds, his or her portion of assets owned jointly with a spouse (for example, a checking account or jointly owned stock). If the candidate's financial interest in an asset is not specified, then the candidate's share is deemed to be half the value. 100.33(c).

Some banks may require a spouse to co-sign a loan obtained by the candidate using jointly held assets as collateral. While an endorsement or guarantee of a loan normally constitutes a contribution, in this instance the spouse is not considered a contributor as long as the candidate's share in the collateral equals or exceeds the amount of the loan. 100.52(b)(4); AO 1991-10.

**EXAMPLE:** A candidate obtains a \$5,000 bank loan for his campaign using, as collateral, property valued at \$20,000 held jointly with his wife. Both co-sign the loan. Because the candidate's interest in the property is \$10,000, which exceeds the amount of the loan, his wife has not made a contribution by co-signing it.

## What Are Not Considered Personal Funds

### Personal Gifts and Loans

If any person, including a relative or friend of the candidate, gives or loans the candidate money in connection with his or her campaign, the funds are not considered personal funds of the candidate. Instead, the gift or loan is considered a contribution from the donor to the campaign, subject to the per-election limit and reportable by the campaign. This is true even if the candidate uses the funds for personal living expenses while campaigning. See AOs 1985-33 and 1982-64; see also AO 1987-1.

### Bank Loans Used in Connection with Campaign

Bank loans are not considered contributions from the bank if they comply with FEC regulations on bank loans. (See "Bank Loans" in Chapter 6.)

When a candidate obtains a bank loan for use in connection with his or her campaign, the loan is considered to be from the bank and not from the candidate's personal funds. The candidate is acting as the agent of the campaign. 102.7(d) and AO 1985-33. However, if the candidate endorses, co-signs, guarantees or is in any way liable for the loan, it would be considered an expenditure from personal funds under the Millionaires' Amendment. See Appendix F.

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## 13. Repayment of Personal Loans from Candidate

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For personal loans (including advances of personal funds or endorsements of bank loans to the committee) from the candidate to his or her authorized committee made on or after November 6, 2002, that aggregate more than \$250,000, the following rules apply separately to the primary and general elections:

- The committee may use contributions to repay the candidate for the entire amount of the loan or loans only if those contributions were made on or before the day of the election; and

- The committee may use contributions to repay the candidate only up to \$250,000 from contributions made after the date of the election. 116.11(b).
- Furthermore, if the committee uses the amount of cash-on-hand as of the date of the election to repay the candidate for loans in excess of \$250,000, it must do so within 20 days of the election. 116.11(c). During that time, the committee must treat the portion of candidate loans that exceed \$250,000, minus the amount of cash-on-hand as of the day after the election, as a contribution by the candidate. 116.11(c). AO 2003-30.

Note that a runoff election has a separate limit for purposes of FEC regulations at 116.11. For example, if a candidate loaned the committee \$345,000 for the primary election, the committee could repay the candidate up to \$250,000 from contributions made after the date of the primary election. Similarly, if the candidate loaned \$300,000 for a primary runoff election, the committee could repay the candidate up to \$250,000 from contributions made after the date of the runoff election.

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## CHAPTER 5

# Prohibited Contributions

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Campaigns are prohibited from accepting contributions from certain types of organizations and individuals. 110.9, 110.20, 114.2(c) and 115.2. These prohibited sources are listed below.<sup>1</sup>

If a committee is uncertain whether a contribution comes from a prohibited source, it must follow the procedures described under “Questionable Contributions,” below.

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### I. Prohibited Sources

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#### Corporations, Labor Organizations, National Banks

Campaigns may not accept contributions made from the general treasury funds of corporations, labor organizations or national banks.<sup>2</sup> 114.2(a), (b) and (d). This prohibition applies to any incorporated organization, including a nonstock corporation, a trade association, an incorporated membership organization and an incorporated cooperative.<sup>3</sup>

**EXAMPLE:** The owner of an incorporated “mom and pop” grocery store is not permitted to use a business account to make contributions. Instead, the owner would have to use a personal account.

A campaign may, however, accept contributions from separate segregated funds (PACs) established by corporations, labor organizations, incorporated membership organizations, trade associations and national banks. Moreover, the *Federal Election Campaign Act* permits corporations, labor organiza-

tions, incorporated membership organizations, trade associations and national banks to use their treasury funds for certain election-related activities that benefit candidates. See Chapter 7, Sections 7, 8 and 9 for more information.

#### Federal Government Contractors

Campaigns may not accept contributions from federal *government contractors*. Since corporate contributions are already prohibited, the government contractor ban applies primarily to contributions from a partnership (or a limited liability company) with a government contract. It also applies to the personal and business funds of (1) individuals under contract to the federal government and (2) sole proprietors of businesses with federal contracts.

The spouses and employees of federal government contractors, however, may make contributions from personal funds. Part 115.

#### Foreign Nationals

Campaigns may not solicit or accept contributions from foreign nationals.<sup>4</sup> Federal law prohibits contributions, donations, expenditures and disbursements solicited, directed, received or made directly or indirectly by or from foreign nationals in connection with any election—federal, state or local. Furthermore, it is a violation of federal law to *knowingly* provide assistance to foreign nationals in the making of contributions, donations, expenditures, independent expenditures and disbursements in connection with federal and nonfederal elections. 110.20. This prohibition includes, but is not limited to, acting as a conduit or intermediary for foreign national contributions and donations. 110.20(g) and (h).

A campaign has “knowingly” solicited, directed or received a contribution from a foreign national when it has:

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- 1 These organizations and persons are, in turn, prohibited from making contributions in connection with, or for the purpose of influencing, federal elections. 114.2(a) and (b).
  - 2 National banks and federally chartered corporations may not make contributions in connection with any election—federal, state or local. 114.2(a).
  - 3 However, a political committee that has incorporated for liability purposes only is not considered a prohibited source. 114.12(a).

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- 4 Foreign nationals may not make contributions in connection with any election—federal, state or local—either directly or through any other person. 110.20(f).

- Actual knowledge that the funds have come from a foreign national;
- Awareness of certain facts that would lead a reasonable person to believe that there is a substantial probability that the money is from a foreign national; or
- Awareness of facts that should have prompted a reasonable inquiry into whether the source of funds is a foreign national.

The facts that should lead the campaign to question the origin of a contribution include:

- Use of a foreign passport or passport number;
- Use of a foreign address;
- A check or other written instrument drawn on an account or wire transfer from a foreign bank; or
- Contributor or donor living abroad.

110.20(a)(5)(i)-(v).

## Definition of Foreign National

A foreign national is:

- An individual who is (1) not a citizen of the United States and (2) not lawfully admitted for permanent residence (as defined in 8 U.S.C. §1101(a)(20)); or
- A foreign principal, as defined in 22 U.S.C. §611(b). Section 611 defines a foreign principal as a group organized under the laws of a foreign country or having its principal place of business in a foreign country. The statute specifically mentions foreign governments, political parties, partnerships, associations and corporations. 110.20(a)(3).

### “Green Card” Exception

An immigrant is eligible to make a contribution if the immigrant has a “green card” indicating that he or she is lawfully admitted for permanent residence in the United States. 110.20(a)(3)(ii).

### Domestic Subsidiaries of Foreign Corporations

In advisory opinions, the Commission has said that a United States corporation that is a subsidiary of a foreign corporation may sponsor a separate segregated fund to make con-

tributions to federal candidates as long as the subsidiary complies with the following rules:

- The foreign parent may not finance these activities either directly or through the subsidiary.
- No foreign national (including the foreign parent) may participate in the operations of the separate segregated fund or in its administration (such as by appointing officers) or in any decision to make contributions or expenditures in connection with any federal or nonfederal election See 110.20(i).

See also AOs 2006-15, 2000-17, 1995-15, 1992-16, 1990-8 and 1985-3.

### Determining Nationality of Contributor

The Commission stated, in AO 1998-14, that the use of any surname on a contribution check (or similar instrument) would not, by itself, give any reason to inquire as to the person’s nationality. Nonetheless, the Commission advised the committee to take the following minimally intrusive steps to ensure that the contributions it received did not come from foreign nationals:

- Ensure that public political ads and solicitations directed to audiences outside the U.S. contain a summary of the foreign national prohibition of 2 U.S.C. §441e.
- Make further inquiry into the nationality of the contributor if the committee receives a contribution postmarked from any non-U.S. territory.
- Make further inquiry into the nationality of the contributor if the committee receives a contribution indicating that either the bank or the account owner has a foreign address.
- In all of the above instances, if the contribution is submitted along with credible evidence (e.g., a copy of a valid U.S. passport) that the contributor is a U.S. citizen, a U.S. national or a permanent resident alien, no further inquiry need be made. However, if the committee has actual knowledge that the contributor is in fact a foreign national, it may not rely on these documents as a defense. 110.20(a)(7).

## Contributions in the Name of Another

A contribution made by one person in the name of another is prohibited. 110.4(b). For example, an individual who has already contributed up to the limit to the campaign may not give money to another person to make a contribution to the same candidate. Similarly, a corporation is prohibited from using bonuses or other methods of reimbursing employees for their contributions. 114.5(b)(1).

## Candidate Employed by Prohibited Source

As noted in the previous chapters, a candidate's salary or wages earned from *bona fide* employment are considered his or her personal funds. 100.33. However, compensation paid to a candidate in excess of actual hours worked, or in consideration of work not performed, is generally considered a contribution from the employer. 100.54. If the employer is a corporation, federal government contractor or another prohibited source, the excess payment would result in a prohibited contribution under the regulations applicable to that employer. See 110.20 (foreign nationals), 114.2(c) (corporations and labor organizations) and 115.2 (federal contractors).

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## 2. Questionable Contributions

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If a committee receives a contribution of questionable legality, it must follow the five procedures described below. 103.3(a) and (b). (Procedures for handling contributions that exceed the contribution limits or the campaign's net debts outstanding are described in Chapter 4, Sections 7 and 8)

### Return or Deposit Contribution

First, when receiving a contribution of questionable legality, a committee must, within 10 days of the treasurer's receipt, either:

- Return the contribution to the donor without depositing it; or
- Deposit the contribution. 103.3(b)(1).

### Be Prepared to Make Refund

Second, if it decides to deposit the questionable contribution, the committee must make sure that the funds are not spent because they may have to be refunded. To ensure this, the committee may either maintain sufficient funds in its regular campaign depository or establish a separate account used solely for the deposit of possibly illegal contributions. 103.3(b)(4).

### Document the Possibility of Illegal Contribution

Third, the committee must keep a written record noting the reason why a contribution may be prohibited and must include this information when reporting the receipt of the contribution. 103.3(b)(5). See also Chapter 12, Section 1, "Recording Receipts," under the subheading "Possibly Illegal Contributions."

### Seek Evidence of Legality

Fourth, within 30 days of the treasurer's receipt of a possibly prohibited contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal, or an oral explanation that is recorded by the committee in a memorandum. 103.3(b)(1) and AO 1995-19.

### Confirm Legality or Refund Contribution

Fifth, within these 30 days, the committee must either:

- Confirm the legality of the contribution; or
- Refund the contribution. 103.3(b)(1).

### Disgorge Prohibited Contribution Discovered Late

If a committee deposits a contribution that appears to be legal and later discovers that it is prohibited (based on new information not available when the contribution was deposited),

the committee must disgorge the contribution within 30 days of making the discovery. 103.3(b)(2). This situation might arise, for example, if the committee learned that a past contributor was a foreign national or had a contract with the federal government. As another example, the committee might find out that a corporation reimbursed employees for their contributions to the committee (and had thus made corporate contributions and contributions in the name of another).

### **Contributor Known**

If the identity of the original contributor is known, the committee must refund the funds to the source of the original contribution. 103.3(b)(2). Alternatively, the Committee may pay the funds to the U.S. Treasury. AO 1996-5; but see *Fireman v. United States*, 44 Fed. Cl. 528 (1999).<sup>5</sup> To do so, send the funds to:

U. S. Department of the Treasury  
Financial Management Services  
Credit Accounting Branch  
3700 East-West Highway  
Hyattsville, MD 20782

The committee must include a cover letter that explains that the funds being sent represent potential violations of the *Federal Election Campaign Act* and that requests that the funds be placed in the “general fund account.”

### **Contributor Unknown**

If, however, the identity of the original contributor cannot be determined or is in question, the committee must disburse the funds to a governmental entity (federal, state or local), or to a qualified charitable organization described in 2 U.S.C. §170(c). AOs 1995-19 and 1991-39.

### **Prohibited In-kind Contribution**

If the prohibited contribution was an in-kind contribution, the committee must disgorge an amount equal to the value of the contribution to the appropriate party as determined above.

### **Insufficient Funds**

If the committee does not have sufficient funds to disgorge the contribution when the illegality is discovered, the committee must use the next funds it receives. 103.3(b)(2).

<sup>5</sup> In *Fireman*, the Court of Federal Claims suggested that a contributor of illegal contributions might have a right to have the contributions refunded to him rather than disgorged to the U.S. Treasury.



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## CHAPTER 6

# Other Reportable Receipts

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This chapter describes campaign receipts that are not considered contributions and, therefore, are not subject to contribution limits; all receipts must nevertheless be reported by the campaign.

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## I. Bank Loans

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### Conditions

A candidate or his or her committee may obtain a loan, including a line of credit, from a bank, provided that the loan:

- Bears the bank's usual and customary interest rate for the category of loan involved;
- Is evidenced by a written instrument;
- Is subject to a due date or amortization schedule; and
- Is made on a basis which assures repayment (see below).

100.82(a).

If a loan fails to meet any of these conditions, then a prohibited contribution from the lending institution results.

### Methods of Assuring Repayment

A loan is made on a basis which assures repayment if it is obtained using one or more of the following authorized methods of securing the loan:

#### Traditional Methods

A committee may use one of the following traditional methods of securing the loan, or a combination of the two:

**Collateral.** A loan may be secured using assets of the candidate or the committee, such as real estate, personal property, cash on deposit, certificates of deposit and stocks. The fair market value of the assets must, on the date of the loan, equal or

exceed the amount of the loan and any senior liens. The committee must ensure that the bank has established a "perfected security interest" in the collateral (that is, has taken steps to legally protect its interest in the collateral in the event that the committee defaults on the loan). 100.82(e)(1)(i).

Note that if a candidate obtains a loan using assets jointly owned with his or her spouse, the amount of the loan may not be greater than the candidate's share of the property (usually one half); otherwise, a contribution from the spouse results. 100.52(b)(4). (See Chapter 4, Section 12, under the subheading, "Assets Jointly Held with Spouse" for a narrow exception to this rule.)

**Guarantees or Endorsements.** An endorsement or guarantee of a bank loan is considered a contribution by the endorser or guarantor and is thus subject to the law's prohibitions and limits on contributions. 100.82(e)(1)(ii).

#### Pledge of Future Receipts

If the committee pledges its future receipts as security for the loan, then the amount loaned by the bank may not exceed a reasonable estimate of anticipated receipts, based on documentation provided by the candidate or committee (such as cash flow charts or fundraising plans). 100.82(e)(2)(i) and (ii). Future receipts might include, for example, anticipated contributions or interest income.

The committee must also set up a separate account for the receipt of funds pledged for the repayment of the loan. The account may be established with either the lending institution or a different depository. If the account is established at a depository other than the lending institution, then the committee must execute an assignment of the account's funds to the lending institution and notify the depository of the assignment. The loan agreement must require the committee to deposit the pledged funds into the account established for this purpose. 100.82(e)(2)(iii) and (iv).

### Other Methods of Assuring Repayment

The Commission may, on a case-by-case basis, approve methods of assuring repayment other than those described above. 100.82(e)(3). See, for example, Advisory Opinion (AO) 1994-26. A committee should request an advisory opinion from the Commission before entering into a loan agreement that relies on alternative sources of repayment.

### Schedule C-1/C-P-1

When a committee obtains a loan from a bank or other permissible lending institution (or the candidate obtains one on behalf of his or her committee), the committee must file Schedule C-1 (or Schedule C-P-1 (for Presidential candidates)) with the report covering the period in which the loan was obtained. 104.3(d)(1).

If the loan is obtained by the committee (rather than by the candidate), the treasurer must sign the schedule and attach a copy of the loan or line of credit agreement. See Chapter 13. Both Schedule C-1 and Schedule C-P-1 (for Presidential candidates) include a statement to be signed by an officer of the lending institution certifying that the information provided by the committee is accurate and that the terms and conditions of the loan comply with FEC rules.

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## 2. Brokerage Loans and Other Lines of Credit Obtained by Candidate

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Candidates may use funds derived from an advance on their brokerage account, credit card account or other line of credit to finance their campaigns, if the extension of credit is:

- In accordance with applicable law;
- Under commercially reasonable terms; and
- Made by persons who make such loans in the normal course of their business.

100.83(a).

The candidate's authorized committee has the option of repaying loans derived from a candidate's brokerage account or other line of

credit directly to the lending institution or to the candidate. 100.83(d). All such loans to the committee derived by these methods must be reported by the committee. 100.83(e). The committee must report the loan from the candidate as a receipt and repayment of the loan to the candidate as a disbursement. 104.3(a)(3)(vii) and (b)(2)(iii)(A). See Chapter 13, Section 18.

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## 3. Overdrafts

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If a bank honors a check written by a political committee with insufficient funds in its checking or savings account, no contribution from the bank results as long as the overdraft:

- Is made on an account subject to automatic overdraft protection;
- Is subject to a definite interest rate which is the usual and customary rate; and
- Is subject to a definite repayment schedule.

100.82(d).

An overdraft that does not meet the above conditions is a prohibited contribution. 114.2. Note that if the overdraft protection is based on a line of credit extended by the bank, draws on that line of credit must be disclosed on Schedule C-1, as discussed above.

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## 4. Investment Income

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Interest earned on investments, such as interest earned on invested funds and dividends earned on securities, are not considered contributions. Such funds, however, must be transferred back into the main campaign depository before being disbursed by the campaign. Additionally, tax laws apply. See 103.3(a); AOs 1999-8, 1997-6, 1986-18 and 1980-39, as well as Appendix G, Compliance with Other Laws.

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## 5. Offsets to Operating Expenditures

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Offsets to operating expenditures, such as returns by vendors of deposits, reimbursements for expenses shared by committees, refunds and rebates, are not considered contributions. Note, however, that rebates to campaigns must be offered in the ordinary course of business and on the same terms and conditions as those offered to nonpolitical entities. Otherwise, the rebate may be considered a contribution—a prohibited contribution if a corporation pays the rebate. See, for example, AOs 2004-37 (see response to Question 4), 1996-2, 1994-10, 1987-24 and 1986-22.

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## 6. Legal and Accounting Services

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The value of legal and accounting services provided without charge in accordance with the guidelines described in the next chapter is not a contribution. 100.86 and 114.1(a)(2)(vii).



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## CHAPTER 7

# Sources of Support

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Support may be given to campaigns in a variety of ways, as described below.

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### 1. Contributions

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Contributions are the most common source of campaign support. Earlier chapters explain the *Federal Election Campaign Act's* (the Act) limits and prohibitions on contributions. Remember that all contributions are reportable. See Chapter 3, Section 2, "Types of Contributions."

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### 2. Free Legal and Accounting Services

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#### The Exemption

Any entity (e.g., a committee, a corporation, a union, a partnership) may provide a campaign with free legal and accounting services as long as:

- The services are provided only for the purpose of helping the campaign comply with the Act;
- The entity paying for the service is the regular employer of the individual performing the service;
- The employer does not hire additional employees to free regular employees to perform the service; and
- The campaign reports the value of the service (the amount paid by the employer), as well as the name of each person who performed the service and the date the service was provided.

100.86, 100.146 and 114.1(a)(2)(vii). See Advisory Opinion (AO) 2006-22.

For more information on reporting free legal and accounting services, see Chapter 13, Section 9.

### Use of Equipment

This exemption covers only the services provided to ensure compliance. The employer cannot donate equipment, such as computers, to the campaign without making a contribution (a prohibited contribution if the employer is an incorporated entity). However, the use of the employer's resources, such as computer equipment, necessary to enable the employee to provide the service is not considered a contribution by the employer. AOs 1989-13 and 1980-137.

### Volunteer Services

If an individual personally volunteers legal or accounting services without compensation, the work is considered personal volunteer activity (see "Personal Services," below) and the above restrictions do not apply.

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### 3. Volunteer Activity

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#### Personal Services

##### Basic Rule: No Compensation

An individual may volunteer personal services to a campaign without making a contribution as long as the individual is not compensated by anyone for the services. 100.74. Volunteer activity is not reportable.

**EXAMPLE:** An attorney, working as a volunteer (i.e., he receives no compensation from anyone), writes policy papers for the campaign.

Note, however, that if volunteers are, in fact, paid for their services, the activity is no longer considered volunteer activity, and the payments, if made by someone other than the campaign itself, result in in-kind contributions, which must be reported by the campaign. 100.54. (Excep-

tion: “Free Legal and Accounting Services,” above.) See AOs 2007-8, 1982-4 and 1980-42.

### **Foreign National as Campaign Volunteer**

Although he or she may not make contributions or expenditures (including advances of personal funds), an individual who is a foreign national may participate in campaign activities as an uncompensated volunteer. In doing so, the volunteer must be careful not to participate in the decision-making process of the campaign as the Commission has specifically prohibited that activity. For example, a foreign national volunteer may attend committee events and campaign strategy meetings, but may not be involved in the management of the committee. AOs 2007-22, 2004-26 and 1987-25.

### **Incidental Volunteer Activity at Corporate/Labor Facilities**

Generally, if an individual provides services to a campaign during paid working hours, the employer makes a contribution to the campaign. 100.54. However, an employee, stockholder or member of a corporation or labor organization may make incidental use of corporate/labor organization facilities for his or her own individual volunteer activities on behalf of a campaign. Note that the Commission has said that the use of facilities during one (1) hour per week or four (4) hours per month is considered “incidental use.” For example, an employee may use an office phone to make calls that pertain to political volunteer work. If the volunteer activity is limited to “incidental use” of the facilities the volunteer does not have to reimburse the organization for use of the facilities (only for any increased overhead or operating costs). 114.9(a)(1) and (b)(1). When use of the facilities exceeds “incidental use,” the volunteer must reimburse the organization the usual and normal rental fee within a commercially reasonable time. Such reimbursement is considered an in-kind contribution from the volunteer and must be reported by the benefiting campaign committee. 114.9(a)(2) and (b)(2). Or, if anyone (including an employee, stockholder or member) uses the equipment of a corporation or union to reproduce campaign materials, reimbursement is required regardless of how much time is spent on the activity. 114.9(c). (For information on a campaign’s use

of corporate or labor facilities, see Section 9, “Use of Corporate/Labor Transportation and Facilities,” later in this chapter. For information on the use by a volunteer of an employer’s computer and Internet access, see Internet Volunteer Activity below.)

### **Use of Real or Personal Property: Activities in Home, Church, Community Room**

Individuals, in the course of volunteering personal services, may use their homes—or the recreation room of the residential complex where they live—for campaign-related activities without making a contribution. (Any small fee paid for the use of a recreation room is not considered an in-kind contribution to the campaign and is not, therefore, reportable.) Volunteers may use a church or community room for campaign activities as long as the facility is regularly used for noncommercial purposes by members of the community, without regard to political affiliation. (Again, a small fee paid for the use of the room is not a contribution.) 100.75 and 100.76. For rules concerning the use of a home computer, see Internet Volunteer Activity below.

### **Food, Drink, Invitations for Home, Church or Community Room Event**

When holding a campaign-related activity in their home, church or community room, individuals may spend up to \$1,000 per candidate, per election, for food, beverage and invitations for the event without making a contribution. (For example, two individuals who jointly own the same home may together spend up to \$2,000 per candidate, per election.) Any amount spent in excess of \$1,000, however, must be reported by the campaign as an in-kind contribution. 100.77. Note that in AO 1980-63, the Commission said that if an individual co-hosts an event held in someone else’s home, any expenses paid by the nonresident co-host are considered contributions to the campaign benefiting from the event.

## Internet Volunteer Activity

### General Exception

An uncompensated individual or group of uncompensated individuals may engage in Internet activities for the purpose of influencing a federal election without restriction. The activity would not result in a “contribution” or an “expenditure” under the Act and would not trigger any registration or reporting requirements with the FEC. This exemption applies to individuals acting with or without the knowledge or consent of a campaign or a political party committee. 100.94 and 100.155. Exempted Internet activities include, but are not limited to, sending or forwarding electronic mail, providing a hyperlink to a web site, creating, maintaining or hosting a web site and paying a nominal fee for the use of a web site.

### Use of Employer’s Computer and Internet Access

A corporation or a labor organization may permit its employees, shareholders, officials and members to use its computer and Internet access for individual volunteer Internet activity, without making a prohibited contribution. The individual volunteer must comply with the employer’s internal policies for computer and Internet use, and must complete the normal amount of work for which the employee is paid, or is expected to perform. Also, the activity must not increase the overhead or operating costs of the organization, and the activity must not be coerced. The organization may not condition the availability of the Internet or the computer on their being used for political activity or for support for or opposition to any particular candidate or political party. 114.9(a)(2)(ii) and (b)(2)(ii). (For rules on communications by a corporation or labor organization using a computer or the Internet, see Section 8, Corporate/Labor Exceptions, later in this chapter.)

### Not Exempt: Paid Web Communications

If an individual or group of individuals pays a fee to place a communication on another person or entity’s web site, the communication is considered general public political advertising, and thus qualifies as a public communication. 100.26. As such, it may require a disclaimer

and may count as a contribution and/or expenditure. See Appendix D, Communications.

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## 4. Travel Cost Exemptions

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### Unreimbursed Travel Expenses

The exemptions described below apply only to an individual’s payments for his or her own travel expenses; if an individual uses personal funds to pay the travel expenses of another, an in-kind contribution results. 100.93(b). For the general rules concerning campaign travel, including the rules for using non-commercial transportation, see Chapter 10, Section 4, “Campaign Travel.”

#### \$1,000 Transportation Exemption

An individual (including the candidate, a paid staff member or a volunteer) may voluntarily spend up to \$1,000 for unreimbursed transportation expenses on behalf of the campaign without making a contribution. However, payments for transportation expenses on behalf of a campaign that exceed \$1,000 per candidate, per election, are considered contributions—unless they are reimbursed by the candidate’s committee in a timely manner (see below). 100.79(a)(1).

#### Volunteer’s Exemption for Meals and Lodging

A campaign volunteer may spend unlimited amounts for his or her own meals and lodging without making a contribution, as long as the expenses are incidental to volunteer activity. 100.79(b).

### Reimbursed Travel Expenses

When the candidate or an individual working on behalf of the candidate pays any other travel expense, no contribution will result if the committee reimburses the individual within the following time limits:

- If the expense was paid with cash or a personal check, within 30 days from the date the expense was incurred.
- If the expense was paid with a credit card, within 60 days of the closing

date on the credit card billing statement where the charge first appears.

- Outside of these time limits, the payments are in-kind contributions. 116.5(b); AO 2003-31. See Chapter 13, Section 11, “Reporting Reimbursed Advances of Personal Funds” for reporting rules.

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## 5. Vendor Discounts on Food and Beverages

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A vendor of food or beverages (even if incorporated) may sell food and beverages to a campaign at a discount. The amount charged must at least equal the vendor’s cost for the items. If the value of the discount—the difference between the normal charge and the amount paid by the campaign—does not exceed \$1,000 per candidate, per election, the discount is not considered a contribution. Discounts exceeding \$1,000, however, are in-kind contributions and must be reported as such. A corporate vendor may not exceed the \$1,000 discount limit since corporate contributions are prohibited. 100.78 and 114.1(a)(2)(v).

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## 6. Support from Other Campaigns

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This section describes ways in which campaigns may assist one another without making a contribution. For the rules on campaign-to-campaign contributions, see Chapter 4, Section 1 under the subheading, “Contributions from Other Candidates.”

### Shared Expenses

Campaigns may share common expenses (e.g., rent for a shared headquarters or printing for a brochure that promotes each campaign) without a contribution resulting, as long as each committee pays its attributed portion of the costs. If one committee pays a bill, the other committees involved in the expense must reimburse that committee for their portion of the expense within a reasonable period of time to avoid a contribution. See AOs 2007-24, 2004-37, 2004-36

and 2004-1. Note that payments by nonfederal campaigns for shared expenses involving public communications must be made from funds that are subject to the limitations, prohibitions and reporting requirements of the Act. 300.71.

### “Coattail” Support in Campaign Materials

Under the “coattail” provision of the *Federal Election Campaign Act*, a federal candidate may be mentioned in campaign materials produced by another federal candidate’s campaign or by the campaign of a nonfederal candidate. The committee making the expenditure must report it, but the candidate named in the ad has no reporting responsibility. The payment for the materials is not a contribution to the referenced federal candidate provided that the guidelines below are followed.

**Example:** A U.S. House campaign may produce a yard sign that includes the name of a U.S. Senate candidate without allocating a portion of the cost as an in-kind contribution to that candidate as long as the conditions listed below are met.

#### Guidelines to Qualify for Exemption

- The materials must be limited to items such as pins, bumper stickers, handbills, brochures, posters and yard signs;
- The materials must be distributed by volunteers (for example, by hand) or by mail using lists developed by the candidate’s campaign (but not by direct mail—see below); and
- The materials may not be distributed through public political advertising such as broadcast media, newspapers, magazines, billboards or direct mail (a mailing by a commercial vendor or made from a commercial list).

Note that the portion of the cost allocable to a federal candidate must be paid from funds subject to the limits and prohibitions of the Act, even if a nonfederal campaign pays for the materials. 100.88(a) and (b) and 100.148.



## Endorsements and Solicitations by Federal Candidates

A public communication in which a federal candidate endorses, or solicits funds for, another candidate for federal or nonfederal office does not result in a contribution to the endorsing (or soliciting) candidate unless the communication promotes or supports the endorsing (or soliciting) candidate or attacks or opposes his opponent in the election. 109.21(g). For more information, see Appendix D, Communications.

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## 7. Party Support

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In addition to making contributions (up to \$5,000 per election as a multicandidate committee), party committees may support a candidate through other activities described below. These other activities are reportable by the political party committee but not by the campaign of the candidate receiving the support. Note that some of these activities may trigger additional reporting responsibilities or funding provisions for the party committee. For detailed information, see the *Campaign Guide for Political Party Committees*.

### Coordinated Party Expenditures

The Act creates a special exception to the contribution limits for certain party activities supporting candidates. 2 U.S.C. §441a(d).<sup>1</sup> The national party committee and the state party committee each have an additional special contribution limit for coordinated party expenditures made in connection with the general election campaigns of U.S. House and Senate candidates. 109.32. (Coordinated party expenditures are also called “441a(d) expenditures” because they are provided for in 2 U.S.C. §441a(d) of the *Federal Election Campaign Act*.)

Although these expenditures may be coordinated with a campaign, the party committee must actually make the expenditure on behalf of the

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<sup>1</sup> This special provision creates, in part, an exception to the above contribution limits. That is, without special treatment, political parties ordinarily would be subject to the general limitation on contributions by a multicandidate political committee.

campaign; money given directly to the candidate’s campaign is not a coordinated party expenditure.

### Party Expenditure Limits

The party’s national committee has a spending limit for each U.S. Senate and House nominee in the general election. See 109.35(c). The national committee may designate (in writing) the party’s national Senatorial Committee or national Congressional Committee to spend its allowance with respect to a particular nominee, but those committees do not have separate spending limits. 109.32(b) and 109.33; see also AO 1976–108. The national committee may also designate a state or local party committee to make its expenditures. 109.33(a).

A state party committee has a separate spending limit for each Senate and House general election nominee seeking election in that state. The state committee may designate (in writing) a national party committee to spend its allowance with respect to a particular nominee.

Although local party committees have no separate spending allowance, they may be designated in writing by either the national committee or the state committee to make coordinated party expenditures. 109.33(a) and (b)(1). When making coordinated party expenditures, party organizations that are not federally registered political committees must nevertheless use funds that are permissible under the *Federal Election Campaign Act*. 102.5(b)

Coordinated party expenditure limits for Senate and House candidates are calculated as follows:<sup>2</sup>

- **Senate Candidate:** State voting age population x 2 cents, multiplied by the Cost of Living Adjustment (COLA); or \$20,000 multiplied by the COLA, whichever is greater.
- **House Candidate:**<sup>3</sup> \$10,000 multiplied by the COLA, or, in states with only one representative, the same as the Senate limit.
- The Commission publishes in the *Federal Register*, the *FEC Record* and on the Commis-

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<sup>2</sup> The Cost of Living Adjustment (COLA) has a considerable effect on party spending limits. For example, the spending limit for a House candidate for a special election in 2007 was \$40,900.

<sup>3</sup> The limit applies to candidates for Delegate (American Samoa, District of Columbia, Guam, Virgin Islands) and Resident Commissioner (Puerto Rico). 109.32(b)(2)(ii).

sion's web site, the dollar amounts of the coordinated party expenditure limits. 110.17(e).

### Party Expenditures vs. In-Kind Contributions

When making either coordinated party expenditures or in-kind contributions, a party committee purchases goods or services for the benefit of a campaign. The committee may decide whether to regard an expenditure made on behalf of the candidate as a coordinated party expenditure or as an in-kind contribution. (As previously noted, monetary contributions given directly to the campaign do not qualify as coordinated party expenditures.) 109.37(b).

Despite their similarity, coordinated party expenditures differ from in-kind contributions in several ways:

- Coordinated party expenditures may be made in connection with the general election only (although they may be made during the primary period—see 109.34), whereas in-kind contributions may be made for any election.<sup>4</sup>
- Coordinated party expenditures count against the special spending limits explained above, whereas in-kind contributions count against the committee's per-candidate, per-election limits on contributions (e.g., \$5,000).
- Coordinated party expenditures are reported by the party committee only, whereas in-kind contributions and coordinated communications are reported by both the party committee and the recipient campaign.

### Party Independent Expenditures

Party committees may make independent expenditures on behalf of, or in opposition to, candidates. Such expenditures are not subject to contribution or coordinated party expenditure limits.<sup>5</sup>

4 A post general runoff does not constitute a general election triggering an additional §441a(d) expenditure allowance.

5 See *FEC v. Colorado Republican Federal Campaign Committee*, (518 U.S. 604 (1996)).

### Permissible Sources

Since independent expenditures contain express advocacy on behalf of federal candidates, they must be financed with funds from the party's federal account. For more information regarding independent expenditures, see this chapter, Section 11 and Appendix D, "Communications."

### Exempt Party Activities

Two types<sup>6</sup> of grassroots activities—preparation, display and distribution of slate cards and campaign materials—undertaken by state and local party committees in support of specific federal candidates are unlimited because they are exempt from the definition of contribution. Note that although they are exempt from contribution limitations, such activities often qualify as federal election activity and thus may be subject to certain funding restrictions. Moreover, payments made by an unregistered party organization for such materials count towards the organization's FEC registration threshold. For more information on federal election activity, exempt activities and party committee registration thresholds, see the *Campaign Guide for Political Party Committees*.

### Sources of Funds

Many local party organizations are not registered political committees under the *Federal Election Campaign Act* and may, under state law, accept donations that would be prohibited or excessive under the Act. These funds may not be used to pay for exempt party activities. Instead, the party must use funds that are permissible under federal law. 100.80 and 100.87; 100.140 and 100.147; 102.5(b).

### Campaign Materials

A state or local party committee or organization may prepare and distribute campaign materials such as pins, bumper stickers, handbills, brochures, posters or yard signs without having its pay-

6 There is a third type of exempt activity for registration and GOTV activity conducted by a state or local party committee on behalf of the Presidential and Vice-Presidential nominees of that party. 100.89. For the conditions and details regarding this type of exempt activity, see the *Campaign Guide for Political Party Committees*.

ments for such items considered contributions or expenditures if the following conditions are met:

- The activity is conducted on behalf of the party's nominees for the general election.
- The materials are distributed by volunteers, not through public advertising such as broadcast media, newspapers, magazines or billboards or by direct mail (that is, a mailing by a commercial vendor or from commercial lists).
- The party committee does not use materials purchased by the national party committee or money transferred from the national party committee specifically to purchase materials.
- The party committee does not use funds designated for a particular candidate.
- A payment from a state or local candidate to help pay for the materials does not exceed his or her share of the expenses.

### Slate Cards and Sample Ballots

A state or local party committee or organization may prepare and distribute a slate card, sample ballot, palm card or other printed list naming candidates for any public office. The payments are not considered contributions or expenditures on behalf of any federal candidate listed as long as the following conditions are met:

- The list names at least three candidates running for election to any public office within the state.
- The list is not distributed through public advertising such as broadcast media, newspapers, magazines or billboards. Note, however, that it may be distributed by direct mail (that is, a mailing by a commercial vendor or from a commercial list). 100.80 and 100.140.
- The content is limited to the identification of each candidate (pictures may be used), the office or position currently held, the office sought and party affiliation. The list must exclude any additional biographical data on candidates and their positions on issues as well as statements on party philosophy. Certain voting information, however, may be given, such as time, place and instructions on voting a straight party ticket. AO 1978-89.

### Reporting

The campaign of a candidate supported through exempt party activities is not required to report them. If these activities are conducted by a federally registered party committee, the party committee must report them. (Note that these exempt activities may trigger federal registration and reporting obligations for a local party organization. 100.5(c).)

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## 8. Corporate/Labor Exceptions

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Although corporations (including incorporated trade associations and membership organizations) and labor organizations are prohibited from using their treasury funds to make contributions and expenditures in connection with federal elections,<sup>7</sup> they are permitted to:

- Establish separate segregated funds (popularly referred to as PACs), which can support federal candidates (114.1(a)(2)(iii));
- Provide certain free legal and accounting services to a campaign (See section 2 of this Chapter);
- Allow employees, stockholders and members to make incidental use of their facilities for volunteer campaign work (see Section 3 of this Chapter, "Volunteer Activity");<sup>8</sup>
- Sponsor communications to the restricted class (e.g., a corporation's executives and stockholders and their families; a labor organization's members and their families) that contain express advocacy and may be coordinated with a candidate; and
- Sponsor certain election-related communications to other employees and/or the general public as long as they do not contain express advocacy and are not coordinated with a candidate, except to the extent permitted under 11 CFR 114.4.

This section focuses on the last two items.

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7 There is a limited exception to these general rules for certain Qualified Nonprofit Corporations. See Section 3 in Appendix D.

8 For information on a campaign's use of corporate/labor facilities, see Section 9, this chapter.

## Restricted Class

A corporation's restricted class consists of its executive and administrative personnel, its stockholders and the families of those two groups. A labor organization's restricted class consists of its members, executive and administrative personnel and the families of those two groups. A membership organization's restricted class generally includes the executive and administrative staff of the organization, the organization's members and the families of those two groups. (Note: If a member is incorporated, a membership organization or trade association would communicate with the personnel of the member corporation with whom they normally conduct business. See the *Campaign Guide for Corporations and Labor Organizations* for more information.)

## Express Advocacy

When a corporation or labor organization communicates with its restricted class, it may issue communications that contain express advocacy. 114.3(a). However, election-related communications by those organizations that reach beyond their restricted class may not contain express advocacy. See 114.4.

## Coordination with the Candidate

An expenditure that is coordinated with a candidate or the candidate's campaign is considered an in-kind contribution to the candidate, which the candidate must report as a contribution received and an expenditure made. 104.13(a), 109.20(b) and 109.21(b). Because the Act prohibits corporations and labor organizations from making contributions, it is important to avoid coordination with corporations and labor organizations regarding communications outside the restricted class except to the extent permitted under FEC regulations at 11 CFR 114.4.

## Coordination Defined

An expenditure is coordinated if it is made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a politi-

cal party committee or its agents.<sup>9</sup> 109.20(a). FEC regulations provide for a three-part test to determine whether a communication is coordinated, and thus, represents an in-kind contribution unless it is otherwise exempt under FEC regulations. See 109.21 and Appendix D, Communications.

## Communications to Restricted Class

### Coordination and Express Advocacy Allowed

As noted above, a corporation or labor organization may communicate with its restricted class in a manner that expressly advocates the election or defeat of a clearly identified candidate, and the organization may coordinate these communications with the candidate without making a prohibited contribution. While such coordination does not transform the restricted class communication into an in-kind contribution, it may provide evidence that could jeopardize the independence of future communications to those outside the restricted class by the organization or its SSF. 114.2(c) and 114.3(a)(1).

### Permitted Restricted Class Communications

Corporations and labor organizations may engage in certain types of communications to the restricted class provided they follow the guidelines contained in the FEC regulations. The pertinent regulations and some examples are listed below.

- *Publications.* A corporation or labor organization may produce and distribute publications that endorse or solicit funds for a candidate or party (as long as the publications are not reproductions of the candidate's campaign materials and the organization does not actually collect the funds). 114.2(f)(4)(ii) and 114.3(a) and (c)(1).
- *Web pages and e-mails.* A corporation or labor organization may endorse or solicit funds for a candidate or party through an e-mail directed solely to members of its restricted class. Likewise, a corporation or labor organization may set up a web page, accessible only by its restricted class, which may contain express advocacy or solicitations. Note that in either case the organization may not actually collect the funds, but may

<sup>9</sup> For the purposes of 11 CFR part 109 only, "agent" is defined at 11 CFR 109.3.

provide the address of the campaign to which contributions may be sent. 114.2(f)(4)(ii) and 114.3(a). See also AOs 1997-16 and 1996-1.

- *Candidate and Party Appearances.* A candidate or party representative may make an appearance before the restricted class. He or she may solicit and accept contributions before, during or after the appearance. 114.3(c)(2).
- *Get-Out-The-Vote and Voter Registration Drives and Phone Banks.* The corporation or labor organization may run voter drives and phone banks urging the restricted class to vote for a particular candidate or to register with a particular party. 114.3(c)(3) and (4).
- *Endorsements.* Endorsements may be announced during a candidate appearance or in a publication to the restricted class. 114.3(c) and 114.4(c)(6).

### Reporting

The campaign of the candidate benefiting from the communication to the restricted class has no reporting obligation. The organization, however, must file an FEC report of the communication costs once such costs exceed \$2,000 for any election. 100.134(a) and 104.6.

## Communications to Those Outside the Restricted Class

### Coordination and Express Advocacy

A corporation or labor organization may also sponsor certain election-related communications to those outside the restricted class (other employees and the general public). Unlike such communications to the restricted class, these communications cannot contain express advocacy by the sponsor.

Disbursements by corporations and labor organizations for the election-related activities described in 11 CFR 114.4 [i.e., communications that reach beyond the restricted class] will not cause those activities to be contributions or expenditures, even when coordinated with any candidate or party committee to the extent permitted in those sections.<sup>10</sup> 114.2(c).

<sup>10</sup> See 114.4(b)(1)(vii), 114.4(c)(2), 114.4(c)(3)(v), 114.4(c)(4), 114.4(c)(5)(i) and (ii), 114.4(c)(6)(ii) and 114.4(d)(1).

Note that any election-related communications made to those outside the restricted class may also be made to the restricted class.

### Types of Communications

Corporations and labor organizations may engage in the following types of election-related communications that go beyond the restricted class provided they follow the guidelines contained in FEC regulations. The pertinent regulation is listed below.

- *Campaign-Related Candidate Appearances Before All Employees and Their Families.* The candidate, but not the sponsoring organization, may ask for support and may solicit contributions. Note, however, that the candidate may not accept contributions, but he or she may leave envelopes and campaign materials for the audience. 114.4(b)(1). Coordination between the candidate and the corporation or labor organization may include discussions regarding the structure, format and timing of the appearance, and the candidate's position on issues, but may not include any discussion of the candidate's plans, projects or needs relating to his or her campaign. 114.4(b)(1)(vii).
- *Noncampaign-Related Candidate Appearances Before the General Public.* Incumbent federal officeholders may make appearances in their official officeholder capacity. The discussion must be limited to issues of concern to the sponsoring organization and avoid any reference to campaign activity or solicitation of contributions. Note that an organization cannot pay for the candidate or the candidate's staff to travel to such an officeholder event if the candidate holds a campaign event in the same area while there. 106.3(b)(3). AO 1996-11.
- *Candidate Appearances at Schools, Colleges or Universities.* Candidates may make appearances at educational institutions without the appearance being a prohibited contribution, provided that the school makes a reasonable effort to ensure that the appearance is in an academic setting (such as a speech or a question/answer setting) rather than a campaign setting (such as a rally or event) and the school does not expressly advocate the election or defeat of, nor favor, any specific candidate. Alternatively,

the facilities of the school may be provided to the campaign provided that the usual and normal rental charge is paid in the ordinary course of business. For more information on such appearances, see 114.4(c)(7)(i) and (ii).

- **Candidate Debates.** Candidate debates may be sponsored by a broadcaster, *bona fide* newspaper, magazine or other periodical or a nonprofit organization (i.e., those organizations under 501(c)(3) or (c)(4) of the Internal Revenue Code), in accordance with section 110.13 of the FEC regulations. In particular, a debate must include at least two candidates and should not be structured to promote or advance one candidate over the other.
- **Endorsements.** The corporation or labor organization may, without coordinating with the candidate or his or her campaign, publicly announce endorsements through a press release and press conference conducted through its normal media contacts. The endorsement may also be posted on a web page that is accessible to the general public if the corporation or labor organization normally posts its press releases online and the release is posted along with all other corporate or organization press releases. 114.4(c)(6)(i) and (ii); see AO 1997-16.

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## 9. Use of Corporate/Labor Facilities and Resources

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When using the facilities and resources of a corporation (including an incorporated trade association or membership organization) or labor organization, a campaign must pay the organization according to the rules described below. Otherwise, the use may result in a prohibited contribution from the corporation or labor organization.

### Facilities

If a campaign uses the facilities of a corporation or labor organization, the campaign must reimburse the organization within a commercially reasonable time and at the usual and normal rental charge. Use of facilities may include, for example, the use of telephones, typewriters or office furniture. 114.9(d).

If another political committee or an individual reimburses a corporation or labor organization for the campaign-related use of its facilities, the payment is considered an in-kind contribution from that committee or individual to the campaign. (In the case of a political committee sponsored by the organization providing the facilities, that payment must be made to the organization in advance in order to avoid a prohibited contribution from the organization. (AO 1984-24.) Note, however, that employees, stockholders and members of a corporation or labor organization may make incidental use of an organization's facilities, subject to the employer's own rules, for volunteer work without having to reimburse the organization (except for any increased overhead), as explained in Section 3 of this Chapter. 114.9(a) and (b).

### Meeting Rooms

#### Usual and Normal Rental Rate

Candidates and political parties may, at the discretion of the organization, rent a corporation or labor organization's meeting rooms at the usual and normal rate, provided reimbursement is made within a commercially reasonable time. 114.9(d).

#### Provided by Organization's Political Committee

As with other facilities, if the organization's political committee pays for the room as an in-kind contribution, that payment must be made in advance to avoid a prohibited contribution from the organization. AO 1984-24.

#### For Free or at a Discount

A candidate may be able to use the rooms for free or at a discount under the following conditions:

- The corporation or labor organization customarily makes its meeting rooms available to civic and community groups;
- The corporation or labor organization makes the rooms available to other candidates upon request; and
- The corporation or labor organization makes the rooms available to the candidates on the same terms given to other groups (i.e., for free or at a discount if those are the terms offered to other groups). 114.13.

## Use of Corporate/Labor Name or Trademark

A corporation or a labor organization may not use the corporation's names, trademarks or service marks to facilitate the making of contributions to a federal political committee, and a federal political committee may not knowingly accept or receive such facilitated contributions. For example, a campaign may not recognize the corporate (or labor) employers of individual contributors in connection with a fundraising event. These restrictions do not apply to the use of a name as part of the name of a political committee. 114.2(d) and (f). See AO 2007-10.

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## 10. Fundraisers for Candidates

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### General Prohibition

A corporation (including an incorporated trade association or membership organization) or labor organization is prohibited from collecting funds in connection with federal elections (other than for the organization's own separate segregated fund (SSF)). It may, however, conduct certain activities that are permitted in FEC regulations.

### Restricted Class Events

Under the exemptions at 114.3(c)(2) permitting candidate appearances before the restricted class (summarized in Section 8 of this Chapter), the corporation or labor organization may allow a candidate to solicit its restricted class at an event without the related costs for the event counting as a contribution. The candidate may also collect funds at the appearance. However, corporate or labor organization staff are prohibited from collecting funds for the campaign, with a limited exception discussed in the next paragraph. 114.2(f) and 114.3(c)(2)(ii) and (iii).

### Collection of Funds

An exception to the general prohibition on corporate or labor organization staff's collection of funds at a candidate's fundraising event exists in cases where the fundraiser is a restricted-class

only event and the funds collected are treated not only as contributions to the candidate, but also as contributions both to and from the SSF of the corporation/labor organization. 114.2(f)(2)(iii) and (4)(iii). In this case, the event may not raise funds in excess of the SSF's candidate contribution limit (\$5,000 for a multicandidate PAC). Alternatively, the campaign may collect the funds.

## Events Beyond the Restricted Class

### General Prohibition

A corporation or labor organization may not sponsor a fundraising event for a candidate if individuals who are beyond the restricted class will be present, nor may corporate or labor organization staff collect funds for a candidate. 114.2(f).

### Exception: Event Sponsored by Corporate/Labor SSF

Because the organization's SSF may make communications to the general public using the funds it has raised, it may sponsor fundraising events for candidates and invite outside individuals and political committees. 114.5(i). All related costs paid for by the SSF, including staff time, mailing, room rental and catering charges, count as an-kind contribution to the candidate. 100.52(d). Note that, as with other uses of corporate/labor facilities, the SSF must pay in advance for any use of corporate/labor staff, rooms, equipment, food service or mailing lists. See AO 1984-24.

### Use of Corporate/Labor Staff, Food Services and Mailing Lists for Events Beyond the Restricted Class

A corporation or labor organization may only allow its food services and mailing lists to be used for candidate fundraisers if it receives payment in advance at the fair market value for the goods or services. 114.2(f)(1) and (2). Likewise, a corporation or labor organization may direct its personnel to work on these fundraisers, so long as employees are not coerced into providing on-the-job fundraising services if they do not wish to perform them. In all cases, advance payment by a source who may legally make a contribution or expenditure (such as the campaign or the organization's SSF) is required in order to avoid a prohibited contribution by the organization. FEC regulations specifically require advance payments for:

- The services of corporate or labor personnel directed to carry out candidate fundraising activities as part of their job;
- The use of catering or other food services arranged for or provided by the corporation or labor organization;
- The use of the organization's list of clients, customers, vendors or other persons outside the restricted class for purposes of soliciting contributions or distributing invitations; and
- Any use of the organization's facilities or resources by the organization's own SSF. AO 1984-24.

114.2(f)(2)(i)(A), (C) and (E).

Note, however, that if a corporation is providing the services (such as catering or personnel) in its ordinary course of business as a commercial vendor, payment does not have to be made in advance as long as: (1) the payment is at the usual and normal charge; and (2) the payment schedule conforms to normal business practice. Otherwise, a prohibited contribution results. 100.52(d)(1) and (2); 114.2(f)(1); 116.3; see also, for example, AOs 1994-33 and 1991-18.

### Collection of Funds

As with restricted-class only events, corporate or labor organization staff may not collect contributions at the event, unless the funds collected are treated not only as contributions to the candidate, but also as contributions both to and from the SSF of the corporation/labor organization. 114.2(f)(2)(iii) and (4)(iii). Alternatively, the campaign may collect the funds.

### Reporting

If the campaign makes the advance payment for the costs of the event, it must report the cost as a campaign expenditure. If the advance payment is made by any other source, such as the corporation or labor organization's SSF or an individual, the campaign must report it as an in-kind contribution received. 104.3(a) and (b).

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## 11. Independent Expenditures

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An independent expenditure is an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate and which is not made in coordination with any candidate or his or her campaign or political party. 100.16, 109.21 and 109.37.

Political committees as well as individuals and groups may make independent expenditures, which are not subject to any limits but must be funded by federally permissible sources and are subject to reporting requirements. (The campaign of a candidate benefiting from an independent expenditure has no reporting obligation.)

Appendix D provides detailed information on independent expenditures. The appendix may be reproduced and distributed by a campaign to anyone who requests FEC guidelines on independent spending. Campaign staff should pay special attention to the section "Coordinated Communications" which explains when the independence of an expenditure is compromised through contact with a campaign and thus results in an in-kind contribution, subject to contribution limits, to the campaign.

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## 12. Electioneering Communications

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Any broadcast, cable or satellite communication that is publicly distributed within 30 days of a primary or 60 days of a general election, refers to a clearly identified federal candidate and is targeted to the relevant electorate is an electioneering communication. 100.29(a).

If a registered political committee makes a communication that meets the three requirements discussed above, it is not considered an electioneering communication because it is an expenditure or independent expenditure that is required to be reported accordingly under the Act. 100.29(c)(3). Communications by unregistered organizations may qualify as electioneering communications, and may thus be subject to the reporting requirements of the Act. Unregistered political organizations must



report electioneering communications aggregating over \$10,000 in a calendar year on FEC Form 9.

Generally, electioneering communications must be paid for with funds that are not from corporations, labor organizations or other prohibited sources.

If, however, the electioneering communication meets the exemption in FEC regulations known as the “WRTL exemption,” it may be funded with corporate or labor funds.<sup>11</sup> Detailed information on electioneering communications and the WRTL exemption appears in Appendix D, Section 6.

### **Coordination of Electioneering Communications**

If a communication is considered coordinated under the Commission’s three-part test, it results in an in-kind contribution subject to contribution limitations, source prohibitions and reporting. To avoid receiving an illegal excessive or prohibited contribution, campaigns should avoid certain interactions with those making electioneering communications. See 109.21(d) and Appendix D, Communications, Section 2, “Coordinated Communications,” for more information.

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11 On June 25, 2007, the Supreme Court held that the electioneering communication financing restrictions were unconstitutional “as applied” to ads that Wisconsin Right to Life, Inc., a 501(c)(4) nonprofit corporation, intended to run before the 2004 elections. 127 S. Ct. 2652 (June 25, 2007). The Supreme Court concluded that these financing restrictions were unconstitutional as applied to these ads because the ads are not express advocacy or its “functional equivalent.” The Commission recently promulgated changes to its electioneering communication rules to implement this decision. See 72 Fed. Reg. 72899 (December 26, 2007).



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## CHAPTER 8

# Expenditures and Other Disbursements

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While campaigns have wide discretion in deciding how to spend their funds, the *Federal Election Campaign Act* (the Act) places certain restrictions on the use of campaign funds, as explained in this section. Note that the use of campaign funds is also addressed in House and Senate rules, over which the Commission has no jurisdiction (see Appendix G).

For reporting purposes, it is important to understand the term expenditure, because expenditures count toward the threshold that determines whether an individual is a candidate under the Act. 100.3(a). An expenditure is a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made to influence a federal election. 100.111(a).

“Disbursement” is a broader term that covers both expenditures and other kinds of payments (those not made to influence a federal election). All disbursements are reportable by the campaign.

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## I. Permissible Uses of Campaign Funds

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### Campaign-Related Expenses

By definition, the Act allows campaign funds to be used for purposes in connection with the campaign to influence the federal election of the candidate. 113.2.

#### Operating Expenditures

Payments for day-to-day expenses, such as staff salaries, rent, travel, advertising, telephones, office supplies and equipment, fundraising, etc., are permissible operating expenditures. Interest paid on a loan is also considered an operating expenditure.

Certain other expenses are considered to be permissible operating expenditures on a case-by-case basis, including meal, travel, vehicle and legal

expenses. For example, if a campaign pays for the candidate’s travel and subsistence in connection with his or her campaign activities, those payments are also considered operating expenditures. Generally, as long as such expenses would not exist irrespective of the candidate’s campaign or duties as a federal officeholder, they are considered permissible. See Section 3, Case-by-Case Determination of Personal Use, for more information.

Note, however, that if a candidate pays for his or her living expenses with personal funds, the payments are not considered expenditures and are not reportable by the campaign. 100.153 and 113.1(g)(1)(ii)(C).

#### Loan Repayments

The repayment of both the principal and the interest of a loan owed by the committee are permissible expenses. Repayments of the principal are not considered to be a “payment” for the purposes of the definition of expenditure, and thus are itemized separately on the FEC report. 100.111(c). Repayments of the interest on a loan are considered operating expenditures for reporting purposes. See Chapter 13, Section 17, “Reporting Loans,” for information on reporting loan repayments.

#### Transfers to Other Authorized Committees

Funds may be transferred between authorized committees of the same candidate (for example, from a previous campaign committee to a current campaign committee) without limit as long as the committee making the transfer has no net debts outstanding. 110.3(c) and 116.2(c)(2). See, for example, AO 1987-4. See Chapter 9, “Transfers,” for more information.

Alternatively, a candidate may redesignate a former campaign committee as the principal campaign committee of his or her current campaign and use the excess funds of the previous campaign in the current campaign. AO 1980–30.

See Chapter 13, Section 19, for information on reporting transfers.

### Refunds of Contributions

Campaigns may refund any contribution, but must refund (or otherwise disgorge) a contribution that is from a prohibited source or in excess of the contribution limits. See Chapter 5, Section 2, “Questionable Contributions,” for more information. For information on reporting refunds, see Chapter 13, Section 18, “Completing FEC Reports.”

### In-Kind Contributions

Any in-kind contribution received by a committee must be reported as an operating expenditure (even though money has not been expended by the committee) in addition to being reported as a contribution received. 104.13(a). This reporting adjustment allows the committee to balance its cash on hand. For more information, and an example of reporting in-kind contributions, see Chapter 13, “Completing FEC Reports”

### Written Agreements to Make Expenditures

A written agreement to make an expenditure, such as a media contract, constitutes an expenditure. 100.112. For information on reporting expenditures and debts incurred, see Chapter 13, Section 16, “Completing FEC Reports.”

### Ballot Initiative Communications and Donations

Payments for ads in which a candidate endorses a ballot initiative on an issue with which he or she is closely associated are expenditures in connection with the campaign. Advisory Opinions (AOs) 2006-4 and 2004-29.

A campaign may also support or oppose ballot initiatives and make donations to committees established to do so under state election laws. Such donations are considered expenditures under the Act. See AO 2004-29.

Special rules apply to a federal candidate or officeholder’s fundraising for such organizations; see Appendix E, Section 1.

## Non-Campaign Related Expenses

Additionally, campaign funds may be used for the following purposes that are not related to the candidate’s campaign for federal office:

- To defray the ordinary and necessary expenses of a federal officeholder (House and Senate rules may apply; see Appendix G.) such as:
  - Travel expenses for a federal officeholder and his or her accompanying spouse and children, provided that the travel is undertaken to participate in a function that is connected to the officeholder’s official responsibilities. 113.2(a)(1). See, for example, AOs 2005-9 and 1997-2; and
  - Winding down costs of a federal officeholder’s office for a period of six months after leaving office. 113.2(a)(2). See, for example, AOs 1996-44 and 1996-14 (House and Senate rules may apply; see AOs 2000-37 and 1996-45; and see Appendix G).
- Donations to charities (organizations defined in 26 U.S.C. §170(c) of the Internal Revenue Code).<sup>1</sup> 113.2(b). See, for example, AO 2005-6;
- Unlimited transfers to any national, state or local party committee. 113.2(d). See, for example, AO 2004-22;
- Donations to state and local candidates, subject to the provisions of state law.<sup>2</sup> See 2 U.S.C. §439a(a)(5); and
- Any other lawful purpose, unless expressly prohibited by the Act. See 2 U.S.C. §439a(a)(6). (Prohibited purposes are summarized below.)

<sup>1</sup> Campaign funds may not be converted to personal use. Commission regulations state that donations of campaign funds to a charitable organization do not constitute the personal use of campaign funds unless the candidate (former or current) receives compensation from the donee organization before the organization has expended, for purposes unrelated to the candidate’s personal benefit, the entire amount donated by the campaign. 113.1(g)(2).

<sup>2</sup> See also FEC regulations at 113.2(e)(5).

## Contributions to Other Federal Candidates and Nonfederal Candidates

A federal candidate committee may contribute up to \$2,000 per election to the committee of another federal candidate. 102.12(c)(2) and 102.13(c)(2). Contributions from federal candidate committees to state or local candidate committees are subject to state law. 300.62. For more information on reporting donations to other candidates, see Chapter 13, Section 14, “Contributions to Other Candidates.”

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## 2. Prohibited Uses of Campaign Funds

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### Certain Air Travel

Title VI, section 601 of the *Honest Leadership and Open Government Act of 2007 (HLOGA)* (Pub. L. No. 81, 121 Stat.735), signed into law on September 14, 2007, significantly restricts the use of campaign funds for air travel by federal candidates and officeholders.<sup>3</sup> Under *HLOGA*, Presidential and Senate candidates and campaigns may not use campaign funds for air travel unless the flight is on a commercial air carrier or the *pro rata* share of the fair market value of the flight is reimbursed. House candidates and campaigns may not use campaign funds for air travel unless the flight is on an aircraft operated by a commercial carrier, the federal government or a state government. 2 U.S.C. §439a(c) (available online at <http://www.fec.gov/law/fecactsllegislation.pdf#page=40>). At press time, the Commission is undertaking a rulemaking to implement the air travel provisions of *HLOGA*. Visit [http://www.fec.gov/law/law\\_rulemakings.shtml#travel07](http://www.fec.gov/law/law_rulemakings.shtml#travel07) and review Chapter 10, Section 4, for more information.

### Personal Use

In general, funds contributed or donated to a federal candidate may not be converted by any person to personal use. 2 U.S.C. §439a(b) (1); 113.2(e). See the next section for detailed

discussion of what constitutes personal use of campaign funds. If an expense does not constitute personal use and is otherwise legal, it is considered a permissible use of campaign funds.

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## 3. Personal Use of Campaign Funds

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As noted in the previous section, using campaign funds for personal use is prohibited. The regulations provide a test to differentiate legitimate campaign and officeholder expenses from personal expenses, and the regulations include a list of specific expenses that are considered personal use. (Candidates and officeholders should also consult the House or Senate Ethics Rules.)

### Campaign/Officeholder Expenses vs. Personal Expenses

In determining whether expenses are for personal use or are legitimate campaign/officeholder expenses, the Commission uses the “irrespective test” discussed below.

#### The Irrespective Test

Personal use is any use of funds in a campaign account of a candidate (or former candidate) to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate’s campaign or responsibilities as a federal officeholder. 113.1(g). More simply put, if the expense would exist even in the absence of the candidacy or even if the officeholder were not in office, then the personal use ban applies.

Conversely, any expense that results from campaign or officeholder activity falls outside the personal use ban.

**EXAMPLE:** A candidate may not pay for his or her personal household expenses with campaign funds because those costs would be incurred even if he or she were not running for federal office.

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<sup>3</sup> The provisions of *HLOGA* also apply to nonconnected committees (known as “leadership PACs”) sponsored by candidates for the House of Representatives.

## What is Not Personal Use

In addition to the “irrespective test,” Commission regulations include other uses of funds that do not constitute personal use and thus are permissible uses of campaign funds. 113.1(g) and 113.2.

### Charitable Donations

Gifts to charity are not considered personal use expenses as long as the candidate does not receive compensation from the charitable organization before it has expended the entire amount donated. Note that the amount donated must have been used for purposes that do not personally benefit the candidate. 113.1(g)(2). See also AOs 2005-6, 1997-1, 1996-40 and 1994-20.

### Transfer of Campaign Assets

The sale or transfer of a campaign asset (see Chapter 14, “Winding Down the Campaign”)—to either the candidate or a third party—does not constitute personal use as long as the transaction is made at the fair market value. 113.1(g)(3).

### Gifts

On special occasions, campaign funds may be used to purchase gifts or make donations of nominal value to persons other than the members of the candidate’s family. 113.1(g)(4).

### Candidate Salary

The candidate may receive a salary from his or her campaign committee only under the following conditions:

- The salary must be paid by the principal campaign committee;
- The salary must not exceed the lesser of the minimum annual salary for the federal office sought or what the candidate received as earned income in the previous year;
- Individuals who elect to receive a salary from their campaign committees must provide income tax records and additional proof of earnings from relevant years upon request from the Commission;
- Payments of salary from the committee must be made on a *pro-rata* basis (i.e., a candidate may not receive a whole year’s

salary if he or she is not a candidate for an entire twelve-month period);

- Incumbent federal officeholders may not receive a salary payment from campaign funds; and
- The first payment of salary shall be made no sooner than the filing deadline for access to the primary election ballot in the state in which the candidate is running for office.
- Salary payments may continue until the date when the candidate is no longer considered a candidate for office or until the date of the general election or general election runoff. For special elections, payments may continue from the date that the special election is set until the date of the special election.

113.1(g)(1)(i)(I).

## Automatic Personal Use

The regulations list some expenses that are automatically considered to be personal use. Based on these rules, the following paragraphs discuss what kinds of expenses the campaign can and cannot pay for.

### Household Food Items and Supplies

The candidate cannot use campaign funds to pay for food purchased for daily consumption inside the home or supplies needed to maintain the household. The campaign may, however, pay for food and supplies for fundraising activities and campaign meetings (even when they take place in the candidate’s home). 113.1(g)(1)(i)(A).

### Funeral, Cremation and Burial Expenses

Campaign funds cannot be used to cover expenses related to deaths within the candidate’s family. They may, however, be used to cover funeral, cremation and burial expenses for a candidate or campaign worker whose death arises out of, or in the course of, campaign activity. 113.1(g)(1)(i)(B).

### Clothing

The campaign cannot pay for attire for political functions (for example, a new tuxedo or dress), but it can pay for clothing of *de minimis* value that are used in the campaign, such as T-shirts or caps imprinted with a campaign slogan. 113.1(g)(1)(i)(C).

### Tuition Payments

The campaign may pay for tuition costs that are for training campaign staff to perform campaign tasks. Also, in AO 1997-11, the Commission allowed a federal officeholder to use campaign funds to cover her costs for a Spanish immersion class that she took to better communicate with her constituents. 113.1(g)(1)(i)(D).

### Mortgage, Rent and Utility Payments

The campaign may not pay for mortgage, rent or utilities for the personal residence of the candidate or the candidate's family even if part of the residence is being used by the campaign. 113.1(g)(1)(i)(E).

The campaign may pay for long distance calls made for campaign purposes from the candidate's residence or the residence of his or her family.

**EXAMPLE:** A campaign committee may not rent space in the candidate's home, but it may rent part of an office building owned or leased by the candidate for use in his or her campaign, as long as it pays no more than the fair market value for the space. AO 1995-8. See also AO 2000-2.

### Investment Expenses

The campaign may not pay for investment expenses such as acquiring securities on margin unless all of the investment and its proceeds are used for the purpose of influencing the candidate's election for federal office or for one of the permissible non-campaign uses of funds discussed above in Section I.

### Entertainment

The campaign may not pay for admission to sporting events, concerts, theater and other forms of entertainment. Campaign funds may be used, however, if the entertainment is part of a specific officeholder or campaign activity. They may not be used for a leisure outing at which the discussion occasionally focuses on the campaign or official functions.<sup>4</sup> 113.1(g)(1)(i)(F).

4 From the *Explanation and Justification* for the final rules, 60 Fed. Reg. 7866, February 9, 1995 (online at [http://www.fec.gov/law/cfr/ej\\_compilation/1995/1995-05\\_Personal\\_Use.pdf#page=6](http://www.fec.gov/law/cfr/ej_compilation/1995/1995-05_Personal_Use.pdf#page=6)).

### Dues, Fees and Gratuities

Campaign funds may not be used to pay for dues to country clubs, health clubs, recreational facilities or other nonpolitical organizations unless the payments are made in connection with a specific fundraising event that takes place on the organization's premises. See, for example, AO 1995-26.

Campaign funds may be used for membership dues in an organization that may have political interests. 113.1(g)(1)(i)(G).

**EXAMPLE:** A candidate or officeholder may use campaign funds to pay for a membership in a civic or community group in his or her district in order to maintain political contacts with constituents or the business community.<sup>5</sup>

### Salary Payments to Candidate's Family

Campaign funds may be used to make salary payments to members of the candidate's family only if:

- The family member is providing a *bona fide* service to the campaign; and
- The payments reflect the fair market value of those services. 113.1(g)(1)(i)(H). See also AOs 2001-10 and 1992-4.

Any salary payments to family members in excess of the fair market value constitute personal use.

### Case-by-Case Determination of Personal Use

For other expenses not mentioned above, the Commission will determine, on a case-by-case basis, whether the expense is one that would exist irrespective of the candidate's campaign or duties as a federal officeholder and would be considered a personal use expense. For example, the Commission addresses payments for meals, travel, vehicles, mixed-use and legal expenses on a case-by-case basis. 113.1(g)(1)(ii).

5 From the *Explanation and Justification* for the final rules, 60 Fed. Reg. 7867, February 9, 1995 (online at [http://www.fec.gov/law/cfr/ej\\_compilation/1995/1995-05\\_Personal\\_Use.pdf#page=7](http://www.fec.gov/law/cfr/ej_compilation/1995/1995-05_Personal_Use.pdf#page=7)).

### Meal Expenses

Campaign funds may be used to pay for meals during face-to-face fundraising events. By contrast, a candidate may not use campaign funds to take his or her family out to dinner. 113.1(g)(1)(ii)(B).

### Travel Expenses

Campaign funds may be used to pay the costs of travel to activity that is related to the campaign or to a candidate's duties as a federal officeholder. (Note, however, that 2007 changes to the statute mandate specific conveyances and payments. See Section 2 of this chapter for more information.) Thus, the costs of travel for a candidate (and the candidate's spouse and minor children) may be used to pay for travel to functions directly related to the campaign or those directly connected to the individual's official responsibilities as a federal officeholder. 113.2(a)(1); see AO 2005-9. The regulations, however, prohibit the use of campaign funds for personal expenses collateral to travel—either campaign or officeholder—unless personal funds are used to reimburse the committee. 113.1(g)(1)(ii)(C). See, for example, AOs 2002-5, 2000-37 and 1996-19. See also “Mixed Use” below for trips that involve both official/campaign and personal travel.

### Vehicle Expenses

Campaign funds may be used to pay for a vehicle that is used for campaign-related purposes, assuming that the costs related to the personal use of the vehicle are *de minimis*. AO 2001-3. Campaign funds cannot be used to pay for expenses relating to the personal use of a campaign vehicle unless those expenses are *de minimis*, that is, unless they are insignificant in relation to the overall vehicle use. 113.1(g)(1)(ii)(D). See also “Mixed Use” below for vehicle use that involves both official/campaign and personal travel.

### Mixed Use

In the event of travel or vehicle expenses that commingle personal and campaign or officeholder activity, the beneficiary of the personal use expenses must reimburse the committee within thirty days for the entire amount associated with the personal activities (the amount over and above what the cost would have been had the trip/vehicle use been solely for campaign/officeholder-related

purposes). The reimbursement does not constitute a contribution. See, for example, AOs 1992-12 and 1984-59. The committee must maintain logs of the expenses to help the commission determine on a case-by-case basis what portion was for personal use rather than for campaign-related activity or officeholder duties. 113.1(g)(8). AO 2001-3.

### Legal Expenses

Using the irrespective test summarized above, the Commission decides on a case-by-case basis whether legal expenses are considered “personal use” and thus are expenses that a candidate may not pay for using campaign funds. 113.1(g)(1)(ii)(A).

### Relating to Campaign or Officeholder Activity

In several advisory opinions the Commission has said that campaign funds may be used to pay for up to 100 percent of legal expenses related to campaign or officeholder activity, where such expenses would not have occurred had the individual not been a candidate or officeholder.

#### EXAMPLES:

- Suits where the candidate/officeholder was the plaintiff, provided he derived no financial benefit from court awards (AO 1997-27);
- Suits where the candidate/officeholder was the defendant and the litigation arose directly from campaign activity or the candidate's status as a candidate (AO 2003-17 and 1995-23);
- Investigations pertaining to the candidate/officeholder's role as a candidate or officeholder (AOs 2005-11, 1998-1 and 1997-12);
- Investigations by the House or Senate pertaining to any activity conducted by the candidate/officeholder (AO 1998-1); and
- Responding to press inquiries pertaining to any of the above (AOs 2006-35, 2005-11, 2001-9, 1998-1 and 1997-12).

### Relating to Other Activity

In specific situations the Commission has concluded that campaign funds may be used to pay for up to 50 percent of legal expenses that do not relate directly to allegations arising from campaign or officeholder activity (e.g. activity prior to becoming a candidate or officeholder



or activity of a business owned by the candidate/officeholder) if the candidate or officeholder is required to provide substantive responses to the press regarding the allegations of wrongdoing. See, for example, AOs 2005-11, 1998-1 and 1997-12.

## Salary, Compensation and Other Payments Paid On Behalf of Candidates

### General Rule

Generally, when a third party (not the candidate or the candidate's committee) pays for personal use expenses, the third party makes a contribution, subject to the restrictions and limitations of the Act. 113.1(g)(6).

### Exceptions

No contribution will result, however, if the payment would have been made irrespective of the candidacy. For example, a third party may make the following payments on behalf of a candidate without making a contribution:

- Payments to a legal expense trust fund established under House and Senate rules (see 113.1(g)(6)(i));
- Payments for personal living expenses made from funds that are the candidate's personal funds, including an account the candidate holds jointly with a family member (see 100.153, and 113.1(g)(6)(ii)); and
- Payments that began prior to candidacy. For example, if the candidate's parents had been making college tuition payments for the candidate's children, the parents could continue to do so during the campaign without making a contribution (see 100.153 and 113.1(g)(6)(iii)).

### Salary or Compensation Paid to Candidate

Compensation paid to a candidate by a third party as a continuation of payments made prior to candidacy (for example, payments of salary) are not considered contributions as long as such payments:

- Result from *bona fide* employment independent of the candidacy;
- Are exclusively in consideration of the services provided as part of this employment; and

- Represent pay not in excess of that normally received for such services. 113.1(g)(6)(iii). See also AOs 2006-13 and 2004-17.

### Promotion of Candidate's Books

Generally, the expense of marketing a book would exist irrespective of a candidate's campaign, and thus a campaign cannot ordinarily use its funds to pay such an expense. In limited situations, however, the Commission has permitted the use of campaign funds to promote a candidate's book, as follows:

- A campaign could incur *de minimis* costs to post on its web site material promoting the book's release and linking to an online bookseller. AO 2006-7.
- A campaign could incur costs for planning book-related events and handling press and public inquiries where the candidate donates royalties to charitable organizations and thus does not personally gain from the use of campaign assets to promote the book. AO 2006-18.



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## CHAPTER 9

# Transfers

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This chapter describes the different types of transfers that authorized committees may receive and make. Transfers of funds and assets between federal committees authorized or established by the same candidate are generally unlimited because the committees are considered affiliated committees. Note, however, that an authorized committee of a federal candidate may not accept any transfers of funds or assets from a committee established by the same candidate for a nonfederal election. See Section 3, below.

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### I. Transfers Between Candidate's Committees for Same Office

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#### In the Same Election

Funds and assets may be transferred without limit between a candidate's principal campaign committee and the candidate's other authorized committees for the same office during the same election. Note, however, that an authorized committee may not transfer funds to another authorized committee of the same candidate if the transferring committee has net debts outstanding. 110.3(a)(1)(i) and 116.2(c)(2).

#### Between Primary and General Election Campaign in Same Election Cycle

Funds that went unused in the primary election may be transferred without limit to a candidate's general election campaign. 110.3(c)(3). Note that any personal funds donated by the candidate before the primary that are retained for use in the general election will count towards the general election personal funds expenditure threshold used in applying the Millionaires' Amendment. See Appendix F and AOs 2006-25, 2006-21 and AO 2006-6 for more information.

#### In Different Elections

Funds and assets may be transferred without limit between committees authorized by a candidate for the same office in different elections as long as the transferring committee does not have net debts outstanding. 110.3(c)(4) and 116.2(c)(2). Note that, for the purposes of the contribution limits, contributions transferred from the previous campaign to the current campaign must be aggregated with contributions by the same contributors to the current campaign only if the transferred contributions were originally made:

- After the previous election was held; or
- After the candidate withdrew or otherwise ceased to be a candidate in the previous election.

110.3(c)(4)(iii) and (iv).

See Chapter 4, Section 5, for information on how to determine the date when a contribution is made. Other rules also apply to contributions that a committee receives after an election; see Chapter 4, Section 4, "Designated and Undesignated Contributions."

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### 2. Transfers Between Committees of Candidate Seeking More Than One Office

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#### In the Same Election Cycle

When an individual seeks election to more than one federal office during the same election cycle or overlapping election cycles, he or she must establish separate principal campaign committees and must maintain completely separate campaign organizations. 110.8(d)(1). Contributors also have separate limits with respect to the separate campaigns of the same candidate. Special transfer rules apply to transfers between these commit-

tees. The situations to which these rules apply can be illustrated with the following examples:

- Candidate A runs for both the House and the Presidency in the 2008 primary election (as permitted by state law).
- Candidate B begins the 2008 election cycle as a House candidate but later begins a campaign for a Senate seat in 2008.

### **Prohibited While “Actively Seeking” More Than One Office**

No transfers of funds or assets may be made between a candidate’s separate campaign committees while the candidate is “actively seeking” more than one office at the same time. I 10.3(c)(5) and I 10.8(d)(2). In the above examples, Candidate A would be prohibited from transferring funds because he was “actively seeking” two offices at the same time.

Additional rules prohibit any transfers to or from a campaign account of a Presidential candidate who has accepted public financing, regardless of the timing or amount of the transfer. I 10.3(c)(5)(iii). This restriction would apply to Candidate A if he received public funds for his Presidential campaign. See AO I 995-3.

### **Definition of No Longer “Actively Seeking”**

Under FEC rules, a candidate is no longer “actively seeking” nomination or election to a particular office once he or she:

- Becomes ineligible for nomination or election to that office by operation of law;
- Publicly announces that he or she is withdrawing from one race and ceases to campaign for that election;
- Has filed a termination report (see Chapter 14, Section I, “Terminating the Committee”); or
- Has notified the Commission that his or her campaign will conduct no further activities with respect to that election, other than fundraising to retire outstanding debts. I 10.3(c)(5)(i).

### **Guidelines for Transfers When No Longer “Actively Seeking” Multiple Offices**

Once a candidate is no longer “actively seeking” election to more than one federal office, transfers between the two campaigns are permissible, within the following guidelines:

- The transferor committee’s available funds should be viewed as those contributions most recently received that add up to the amount of the transfer from cash on hand.
- Contributions transferred must be aggregated with any contributions made by the same contributor to the committee receiving the transfer. Amounts that would cause a contributor to exceed his or her per-election contribution limit must be excluded from the transfer.

I 10.3(c)(5)(ii).

By taking these steps, Candidate B in the above example could transfer funds between her two campaigns once she was no longer “actively seeking” two offices at the same time. Note that the recipient committee will need to identify the contributors whose contributions are included in the transfer by using memo entries.

### **In Different Election Cycles**

When an individual seeks different offices in different election cycles, surplus funds from the earlier campaign that remain after the general election may be transferred to the later campaign without aggregating the contributions of the original contributor to the two committees. I 10.3(c)(4).

**EXAMPLE:** Candidate X runs for the House in 2008, and for the Senate in 2014. Any surplus funds for the 2008 House campaign that remain after the 2008 general election may be transferred to the 2014 Senate campaign. The 2014 Senate Committee would not have to disclose those contributors whose contributions to the 2008 House Committee were included in the transfer.

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### 3. Transfers from Candidate's Nonfederal Committee Are Prohibited

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A candidate's authorized (federal) committee may not accept funds or assets transferred from a committee established by the same candidate for a nonfederal election campaign. At its option, however, a nonfederal committee of the same candidate may refund its leftover funds to its contributors and may coordinate arrangements with the federal campaign for a solicitation of those same persons. The full cost of this solicitation must be paid by the federal committee. I 10.3(d). See also AO 1996-33.

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### 4. Transfers of Joint Fundraising Receipts

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Transfers of receipts raised in compliance with joint fundraising procedures are unlimited. I 02.6(a)(1)(iii) and I 10.3(c)(2). A committee receiving such a transfer must not only report the total amount transferred but must also itemize, as necessary, its share of gross proceeds as contributions from the original contributors. I 02.17(c)(8)(i)(B). For more information, see Appendix C.

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### 5. What is NOT a Transfer

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Note that, while each of the above sections discusses transfers between committees, not all receipts or disbursements to other committees are transfers. The following are not transfers:

- Contributions to or from other candidates (federal or nonfederal);
- Contributions to or from PACs; and
- Contributions from party committees, although an authorized committee may make unlimited transfers to party committees. I 13.2(c).

Note that these transactions must not be reported as transfers. For information on reporting, see Chapter 13.



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## CHAPTER 10

# Conducting the Campaign

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This chapter outlines the rules that apply to three areas of campaign activity: fundraising, advertising and travel. It also details the rules that apply to disclaimer notices for communications by an authorized committee.

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## I. Fundraising

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### Fundraising Notices

Certain statements by the campaign must be present on solicitations, as follows:

#### Authorization Notice

When a campaign solicits contributions through public communications, or on a campaign web site, it must include a clear and conspicuous notice on the solicitation stating that it was paid for by the campaign: Paid for by the Sam Jones for Congress Committee. 110.11(a) (1) and (b)(2). See “Disclaimer Notices,” later in this chapter for more information.

#### “Best Efforts” Rules

When making solicitations, committees and their treasurers must make “best efforts” to obtain, maintain and report the name, address, occupation and employer of each contributor who gives more than \$200 in an election cycle. In order to show that the committee has made “best efforts,” solicitations must specifically request that information and inform contributors that the committee is required by law to use its best efforts to collect and report it. This request must be clear and conspicuous. 104.7(a). For details, see Chapter 11, Section 3, “Treasurer’s Best Efforts.”

#### IRS Notice Requirements

Section 6113 of the Internal Revenue Code requires political committees whose gross annual receipts normally exceed \$100,000 to

include a special notice on their solicitations to inform solicitees that contributions are not tax deductible. There are substantial penalties for failure to comply with this provision. Contact the IRS for more information (see Appendix G, “Compliance With Other Laws,” Section 4, “Tax Laws,” for the address and phone numbers).

### Fundraising on the Internet

Campaign committees may solicit contributions over the Internet as long as the solicitation:

- Includes the proper disclaimers (see “Disclaimer Notices,” later in this chapter);
- Requests confirmation that the contribution is not from a prohibited source; and
- Requests contributor information.

See Chapter 11, Section 3, “Treasurer’s Best Efforts,” 104.7(b)(1), 110.11 and Advisory Opinions (AOs) 1999-36, 1999-22 and 1999-9.

### Joint Fundraising

Campaigns may engage in joint fundraising with other committees. 102.17. For the rules that govern this special activity, see Appendix C.

### Transmitting Contributions

#### Forwarding Contributions

Every person who receives contributions for a campaign must forward them to the treasurer of the candidate’s authorized committee within 10 days of receipt. The date of receipt is the date the person obtains possession of a contribution. 102.8(a). See also Appendix A, “Earmarked Contributions.”

#### Forwarding Records

A person receiving contributions for a campaign must also forward the following recordkeeping information along with the contributions:

- For contributions exceeding \$50, the amount, date of receipt and the contributor's name and address.
- For contributions exceeding \$200, the complete identification of the contributor (full name and mailing address, occupation and employer) as well as the amount and date of receipt of the contribution.

102.8(a).

### No Commingling

Campaign receipts must not be commingled with personal funds, such as by depositing contributions in a personal account. 102.15.

## Accepting Contributions

### General Rule

A campaign is prohibited from knowingly accepting any contributions from prohibited sources. The treasurer of a political committee is responsible for examining all contributions to make sure they are not illegal (i.e., prohibited or excessive). See "Questionable Contributions," Chapter 5. 103.3(b).

### Contributions from Unregistered Organizations

When campaigns accept contributions from groups that are not political committees registered with the Federal Election Commission (such as state PACs, unregistered local party committees or nonfederal campaigns), they must make sure that the funds are permissible under the Act. This is an important consideration because campaign laws in some states permit nonfederal political groups to accept funds that would violate the limits and prohibitions of the Act. To avoid a possible violation of the Act, a campaign must be certain that an unregistered group making a contribution:

- Can demonstrate through a reasonable accounting method that it has sufficient federally acceptable funds to cover the amount of the contribution or expenditure at the time it is made; or
- Has established a separate account containing only funds permissible under the Act. 102.5(b).

See also AO 1982-38.

When itemizing such a contribution in its report, a campaign should note that the contribution contains only federally permissible funds. Contributions from such unregistered organizations are subject to the \$2,300 per election limit<sup>1</sup>. 110.1(b). These organizations should be aware, however, that making contributions to federal campaigns and political committees may trigger their own registration as a federal political committee. State political action committees sponsored by corporations, labor organizations or trade associations, in particular, must register as federal separate segregated funds within 10 days of the decision to make a contribution to a federal candidate. Additional requirements regarding their solicitations also apply. See 100.5(b) and 102.2(c); see also AOs 2003-29, 1985-18 and 1982-40.<sup>2</sup> Contributions by other types of unregistered organizations (for example, local party organizations or committees not sponsored by an incorporated entity or labor organization) count against a \$1,000 per year aggregate registration threshold. See 100.5(a) and (c).

## Depositing Funds

Within 10 days of receiving a contribution (or any receipt of money), the treasurer must deposit it in the campaign depository. 103.3(a). See Chapter 5, "Questionable Contributions," for information on depositing or returning questionable contributions.

## Accounting for Primary and General Election Contributions

If, before the primary election, a campaign receives contributions designated for the general election, it must use an acceptable accounting method to distinguish between primary contributions and general election contributions. Commission regulations suggest two accounting methods that are acceptable:

- 1 As noted in Chapter 4, Section 1, this limit is indexed for inflation and adjusted in odd-numbered years.
- 2 Authorized committees may want to refer State political action committees of corporations, labor organizations and trade associations to these citations. Such committees are best advised to register a federal separate segregated fund with the FEC before soliciting or making any contributions on the federal level.



- Maintaining separate accounts for each election; or
- Maintaining separate books and records for each election.

102.9(e).

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## 2. Disclaimers

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Any public communication made by a political committee, even those that do not contain a solicitation or express advocacy, must include a disclaimer. 110.11(a).

### Public Communications

Public communications include electioneering communications and any other form of general public political advertisement, including communications made using the following media:

- Broadcast, cable or satellite;
- Newspaper or magazine;
- Outdoor advertising facility;
- Mass mailing (more than 500 substantially similar mailings within 30 days);
- Phone bank (more than 500 substantially similar calls within 30 days)
- Communications placed for a fee on another person's web site.

100.26, 100.27 and 100.28.

The following communications are not considered to be public communications, but still require a disclaimer:

- Electronic mail: More than 500 substantially similar communications sent by a political committee; and
- Web sites of political committees.

110.11(a).

### Wording of Disclaimer Notice

#### Authorized and Financed by Campaign

If the campaign authorizes and finances a covered communication (including any solicitation), the notice must state that the communica-

tion was paid for by the authorized committee. Additional requirements (see below) apply for print, television and radio ads.

**EXAMPLE:** "Paid for by the Sam Jones for Congress Committee." 110.11(b)(1).

#### Authorized but Not Financed by Campaign

If a covered communication, including any solicitation, is authorized by the campaign but paid for by another person, the communication must identify the person who paid for it and state that it was authorized by the campaign. Additional requirements apply for print, television and radio ads (see below).

**EXAMPLE:** "Paid for by the XYZ Committee and authorized by the Sam Jones for Congress Committee." 110.11(b)(2).

#### Not Authorized or Financed by Campaign

Although this type of notice is not used by a candidate's campaign, campaign staff should be aware that if a committee (including a party committee that makes an independent expenditure) pays for a communication (including any solicitation) that refers to their candidate but is not authorized by the campaign, the notice must state that it was not authorized by any candidate or candidate's committee, identify the entity that paid for the communication and provide at least one of the following: the payor's permanent street address, telephone number, or web site address.<sup>3</sup> Additional requirements apply for print, television and radio ads (see Appendix D, section 7).

**EXAMPLE:** "Paid for by the XYZ PAC (www.xyzpac.org) and not authorized by any candidate or candidate's committee." This type of notice must be used on independent expenditures and electioneering communications that are not authorized by a candidate or a candidate's campaign. 110.11(b)(3) and (d)(3).

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<sup>3</sup> When persons outside the campaign use public communications to solicit contributions, the solicitation must carry a notice stating who paid for the solicitation and whether or not it was authorized by the candidate or the committee. 110.11(a)(3) and (b).

### **Party Committee Coordinated Communications on Behalf of Candidate**

A party committee that pays for a communication that is a coordinated party expenditure must identify the party committee as the payor in the disclaimer. Prior to the date the party's candidate is nominated, it is sufficient for the party committee to state who has paid for the communication. Subsequent to the nomination, the disclaimer must state that it was paid for by the party committee and authorized by the candidate. 110.11(d)(1) and (2).

### **Preemption of State Law**

An authorization notice does not have to comply with state or local law if the communication is made only with respect to federal elections. 108.7(b). See also, for example, AO 1986-11. However, state or local laws governing the placement or location of signs on roads are not superseded by federal law. See AO 1981-27.

### **Clear and Conspicuous Placement of Disclaimer Notice**

A disclaimer notice must be clearly and conspicuously displayed. A notice is not clearly and conspicuously displayed if the print is difficult to read or if the placement is easily overlooked. 110.11(c)(1).

### **Special Rules for Printed Communications**

In printed communications, the disclaimer must be contained within a printed box set apart from the contents of the communication. The print of the disclaimer must be of sufficient size to be "clearly readable" by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement. 110.11(c)(2)(ii) and (iii). Black text in 12-point font on a white background is one way to satisfy this requirement for printed material measuring no more than 24 inches by 36 inches.

### **Multiple-Paged Document**

A disclaimer need not appear on the front page or cover of a multiple-paged document. 110.11(c)(2)(iv).

### **Package of Materials**

Each communication that would require a disclaimer if distributed separately must still display the disclaimer when included in a package of materials. 110.11(c)(2)(v). For example, if a campaign poster is mailed with a solicitation for contributions, a separate disclaimer must appear on the solicitation and the poster.

### **Special Rules for Television and Radio Ads**

#### **Authorized by Candidate's Committee – the "Stand by Your Ad" Provision**

In addition to the requirements noted under "Wording of Disclaimer Notice" above, radio and television communications that are authorized or paid for by a campaign require additional language. For such radio and television ads, the candidate must deliver an audio statement identifying himself or herself and stating that he or she has approved of the communication.<sup>4</sup> For example: "I am [candidate's name], a candidate for [federal office sought], and I approved this advertisement."

In a television ad, the disclaimer must be conveyed by:

- A full-screen view of the candidate making the statement; or
- A voiceover with an image of the candidate occupying no less than 80% of the vertical screen height.

110.11(c)(3).

Additionally, television communications must contain a clearly readable written statement of approval, similar to what is spoken, that appears at the end of the communication for a period of at least four seconds with a reason-

<sup>4</sup> Under the *Communications Act*, administered by the Federal Communications Commission, candidates must also identify the office they are seeking in order to be entitled to the lowest unit charge. See 47 USC §315(b) and AO 2004-43.

able degree of color contrast between the background and the disclaimer statement (e.g., black text on white background). The written statement must occupy at least four percent of the vertical picture height. 110.11(c)(3)(iii).

#### **Not Authorized by Candidate's Committee**

A radio or television communication that is not authorized by the candidate's committee must also include (in addition to the statements identifying who paid for the communication and that it is not authorized by any candidate or candidate's committee) an audio statement that "(the name of the person or committee responsible for the communication) is responsible for the content of this advertising" and, if applicable, the name of the committee's connected organization. For details on the specific requirements for such notices, see Appendix D, section 7. 110.11(c)(4).

#### **When Disclaimer Not Required**

A disclaimer is not required when:

- It cannot be conveniently printed (e.g., pens, bumper stickers, campaign pins, campaign buttons and similar small items);
- Its display is not practicable (e.g., wearing apparel, water towers and skywriting); or
- The item is of minimal value, does not contain a political message and is used for administrative purposes (e.g., checks and receipts). 110.11(f); See also AOs 2004-10 and 2002-9.

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### **3. Rates for Political Advertisements**

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Rates charged by newspapers and magazines for campaign advertising must be comparable to those charged for noncampaign advertisements. 110.11(g). Rates charged for radio and television advertisements are regulated by the Federal Communications Commission. See Appendix G.

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## **4. Campaign Travel**

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This section explores rules for travel payments. Generally, campaigns may pay for campaign-related travel as operating expenditures. As explained in Chapter 7, Sources of Support, an in-kind contribution generally results from the source of payment for the travel unless an exemption for individual travel applies or the campaign pays for its own campaign travel. 100.93. See Chapter 4, Section 4, "Travel Cost Exemptions," for details on when payments for campaign travel by individuals are considered exempt.

### **Commercial Transportation**

If a campaign uses an aircraft that is operated for commercial air service, such as a commercial airline or charter service, or another means of commercial transportation, the campaign must pay the usual and normal charge for that service. 100.52(a) and (d).

### **Non-Commercial Transportation**

#### **Non-Commercial Air Travel**

If a campaign uses an aircraft that is not operated for commercial service, such as a corporate aircraft that is operated exclusively for the private travel of the corporation's executives and their guests, it must comply with Title VI, section 601 of the *Honest Leadership and Open Government Act of 2007 (HLOGA)* (Pub. L. No. 110-81, 121 Stat. 735), signed into law on September 14, 2007. This new law, which took effect immediately after it was signed into law, significantly restricts air travel by federal candidates and officeholders.<sup>5</sup> Under *HLOGA*, Presidential and Senate candidates and campaigns may not use campaign funds for air travel unless the flight is on a commercial air carrier and subject to air carrier safety rules, or the pro rata share of the fair market value of the flight is reimbursed. House candidates and campaigns may not use campaign funds for air travel unless the flight is on an aircraft operated by a commercial carrier and subject to air carrier safety rules. There are exceptions

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<sup>5</sup> The provisions of *HLOGA* also apply to nonconnected committees sponsored by candidates for the House of Representatives (leadership PACs).

for aircraft operated by the federal government or a state government, and aircraft owned by a candidate or a member of his or her immediate family. 2 U.S.C. § 439a(c) (available online at <http://www.fec.gov/law/feca/sl%20legislation.pdf#page=40>). At press time, the Commission is undertaking a rulemaking to implement the air travel provisions of HLOGA. Visit [http://www.fec.gov/law/law\\_rulemakings.shtml#travel07](http://www.fec.gov/law/law_rulemakings.shtml#travel07) for more information.

Pending the issuance of new regulations, the Commission's pre-HLOGA rules remain in effect only to the extent that they do not conflict with HLOGA. Until regulations are issued, the Commission will not pursue a political committee if it operates under a reasonable interpretation of the statute, even if the Commission's subsequent regulations reach a different interpretation.

### Other Non-Commercial Transportation

HLOGA affects travel on aircraft only. Pending the issuance of new Commission regulations, if a campaign uses other non-commercial means of transportation, the campaign must continue to pay the service provider the usual and normal fare or rental charge for a comparable commercial conveyance capable of accommodating the same number of campaign travelers, including any members of the news media, and security personnel. Payment for the travel must be made 30 days from the receipt of the invoice, but no more than 60 days following the date the travel commenced. 100.93(d). The campaign must keep in its records an itinerary showing the departure and arrival cities and the dates of departure and arrival, a list of all passengers on such trip, along with a list of which passengers are and are not campaign travelers or security personnel, and the commercial fare or rental charge available for a comparable conveyance of sufficient size. 100.93(i)(3).

### Reporting Travel Costs

Payments for campaign-related travel are generally reported as operating expenditures when they are paid with campaign funds or by an individual from personal funds. 106.3(a) and (b)(1). Special rules apply, however, when the candidate or another individual uses his or her personal funds to pay for travel expenses and is later

reimbursed. See Chapter 13, Section 12, under the subheading "Travel Expenses Reimbursed Within 30 or 60 Days" for more information.

### Mixed Travel

When a candidate makes a trip involving both campaign and noncampaign stops, only the travel costs related to the campaign are expenditures. If, however, a candidate conducts any campaign activity at a given stop, that stop is considered campaign related, unless the campaign activity is merely incidental. In no case, however, may campaign funds be used for non-travel expenses that are not related to official or campaign-related activity. See AO 2002-5.

**EXAMPLE:** If a candidate makes a noncampaign speech at a civic association luncheon and, on the way out, chats with a few attendees about his campaign in response to their questions, the conversation does not convert the appearance into a campaign-related event. On the other hand, if a candidate flew into a city for a trip that involved both personal vacation days and days spent campaigning, an incremental approach to paying for the trip would be required, to avoid the campaign paying the lodging, subsistence and sightseeing expenses on the vacation days—an expense that would be considered an impermissible personal use of campaign funds. Because of the non-incidental nature of the campaign days, the airfare would be considered a campaign-related expense.

Expenditures for campaign-related stops are calculated on an actual cost-per-mile basis, starting at the point of origin of the trip, including each campaign-related stop, and ending at the point of origin. 106.3(b)(2) and (3).

As explained in Chapter 8, campaign funds may be used for mixed use travel; however, the committee must be reimbursed within thirty days for the entire amount associated with the personal activities (the amount over and above what the cost would have been had the trip/vehicle use been solely for campaign/officeholder-related purposes). 113.1(g)(1)(ii)(C). Individuals other than candidates must allocate their mixed campaign and noncampaign travel expenses on a reasonable basis. 106.3(c)(1).

**EXAMPLE:** A candidate travels by plane from Philadelphia to Las Vegas for a campaign speech.

While in Nevada, the candidate travels by plane from Las Vegas to Reno for a personal trip. The candidate then flies back to Philadelphia from Reno. To determine the candidate's campaign-related travel expenses, the committee must create a fictional itinerary from Philadelphia to Las Vegas and back. Thus the campaign would derive the cost-per-mile of campaign travel from the commercial rate for a round-trip flight from Philadelphia to Las Vegas, and the candidate must reimburse the committee for the difference in costs between the fictional trip and the actual trip. See the explanation and justification for 11 CFR 113.1 at 60 FR 7869 (February 9, 1995).

On February 6, 2002, the Commission adopted an interpretive rule to clarify that the travel allocation and reporting requirements of 11 CFR 106.3(b) do not apply to the extent that a candidate<sup>6</sup> pays for certain travel expenses using funds authorized and appropriated by the federal government. (67 FR 5445, February 6, 2002). Candidates should consult with the House Committee on Standards of Official Conduct or the Senate Select Committee on Ethics regarding the use of appropriated funds for travel expenses.

### **Travel to and from Washington, DC**

Costs for travel between Washington, DC, and the state or Congressional District in which an individual is a candidate are not reportable unless paid for by the campaign (or another political committee) in connection with campaign-related travel. 106.3(d). House and Senate rules should also be consulted; see Appendix E.

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<sup>6</sup> This interpretive rule does not apply to Presidential or Vice-Presidential campaigns that are covered by the *Presidential Campaign Fund Act*, 26 U.S.C. §9001 et seq.



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## CHAPTER 11

# Keeping Records

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In order to fully comply with the reporting requirements of the Act, a committee must keep detailed records. The recordkeeping requirements for a committee's receipts and disbursements are explained below.

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### 1. Record Retention

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Treasurers of authorized committees (and other political committees) are responsible for keeping copies of each statement and report, together with original back-up records, for three years after the report or statement is filed. 102.9(c); 104.14(b)(2) and (3).

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### 2. Recording Receipts

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With respect to receipts, the Act requires reporting of all receipts, but requires recordkeeping only for contributions. Nevertheless, a political committee must keep records for all types of receipts in order to comply with the reporting requirements of the Act and FEC regulations. See 104.14(b).

#### Total Contributions

Records must show figures for total contributions received. 102.9(a).

#### Identifying Contributors

##### Contributions of \$50 or Less

In Advisory Opinions (AOs), the Commission has recommended two possible accounting methods that satisfy recordkeeping requirements for contributions of \$50 or less:

- Keep the same information required for identifying contributions that exceed \$50 (amount, date of receipt and contributor's name and address); or

- In the case of small contributions collected at a fundraiser (such as gate receipts, cash contributions), keep records of the name of the event, the date and the total amount of contributions received on each day of the event. AOs 1981-48 and 1980-99.

##### Contributions Exceeding \$50

Records must identify each contribution of more than \$50 by:

- Amount;
- Date of receipt; and
- Contributor's name and address.

102.9(a)(1).

Furthermore, political committees must maintain either a full-size photocopy or digital image of each check or written instrument by which a contribution of more than \$50 is made. 102.9(a)(4).

##### Contributions Aggregating Over \$200

For each contribution that exceeds \$200, either by itself or when added to the contributor's previous contributions made during the same calendar year, records must identify each contribution by:

- Amount;
- Date of receipt; and
- Contributor's full name and address, occupation and employer.

If a person has already contributed an aggregate amount of over \$200 during a calendar year, each subsequent contribution, regardless of amount, must be identified in the same way. 102.9(a)(2).

Please note that contributions to authorized committees are aggregated on a calendar-year basis for recordkeeping purposes, but are aggregated on a per-election basis for purposes of monitoring contribution limits, and on an election-cycle basis for reporting purposes. See 102.9(a)(2), 104.3(a)(4), 110.1(b) and 110.2(b) and Chapter 4 of this Guide.

### **Possibly Illegal Contributions**

As noted in earlier chapters, when a committee has reason to question the legality of a contribution, it has specific time frames in which to clarify whether the contribution is permissible. While investigating a contribution, the committee must keep a written record noting the basis of concern for each deposited contribution which:

- Requires a written redesignation and/or reattribution from the contributor (see Chapter 4). (For presumptive redesignations and reattributions, see “Designated, Redesignated and Reattributed Contributions” below); or
- Requires confirmation that it is not from a prohibited source (see Chapter 5).

103.3(b)(1) and (5).

See Chapter 5, Section 2, “Questionable Contributions,” for more information on the committee’s responsibility to determine the legality of possibly illegal contributions.

### **Designated, Redesignated and Reattributed Contributions**

A committee must retain the written copies of contributors’ designations, redesignations and reattributions. 102.9(f). Also, for any contributions redesignated or reattributed by presumption, the committee must retain any writings from contributors that accompany the contribution and any notices sent from the committee to the contributor. 110.1(l)(4)(ii).

### **Contributions from Political Committees**

Records must identify each contribution from a political committee, regardless of amount, by:

- Amount;
- Date of receipt; and
- Name and address of the political committee. 102.9(a)(3).

### **Acceptable Accounting Method**

If a committee receives contributions designated for use in the general election, prior to the primary election, then the committee must use an acceptable accounting method to distinguish between contributions received for the

primary election and contributions received for the general election. Acceptable accounting methods include designating separate accounts for each election, or establishing separate books and records for each election. 102.9(e)(1).

The committee’s records must demonstrate that, prior to the primary election, recorded cash on hand was at all times greater than or equal to the sum of general election contributions received minus the sum of general election disbursements made. 102.9(e)(2).

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## **3. Treasurer’s Best Efforts**

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Committees and their treasurers must make best efforts to obtain and maintain (and ultimately report) the information required by law with respect to itemized receipts (and disbursements). When reporting information is incomplete, the committee and the treasurer will be in compliance with the law if they can demonstrate that they used “best efforts” in trying to obtain, maintain and report the needed information. 102.9(d) and 104.7(a). The criteria for making “best efforts” vary, depending on the type of transaction.

### **Contributor Information**

If an individual who has contributed more than \$200 during the election cycle fails to provide the required recordkeeping information (i.e., name, mailing address, occupation and employer), the committee must be able to show that it made “best efforts” to obtain, maintain and report that information. To demonstrate “best efforts,” the committee must be able to show that it requested the information—first, in the solicitation materials that prompted the contribution and, second, if the information is not obtained, in a follow-up request. 104.7(b)(1) and (2). Furthermore, if requested information is not received until after the contribution has been reported, the committee must report the information using one of the procedures described under “File Amendments If Necessary,” below. 104.7(b)(4).



### Solicitation Materials<sup>1</sup>

To satisfy the “best efforts” standard, the solicitation must include a statement explaining that the campaign is required to use its best efforts to obtain and report certain information from the contributor. This statement is referred to as the “best efforts” notification; two examples are listed below:

- Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in an election cycle; or
- To comply with federal law, we must use our best efforts to obtain, maintain and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 per election cycle.

The request for the information and the best efforts notification must be clear and conspicuous. If the committee’s solicitations include response materials, the best efforts notice and the request for the contributor information must be placed on these materials. The notice will not be considered to be “clear and conspicuous” if:

- The notification is printed in smaller type than the solicitation and response materials;
- The printing is difficult to read; or
- The notification is placed where it can be easily overlooked. 104.7(b)(1).

### Follow-Up Request Within 30 Days

If the contributor does not provide sufficient reporting information when making a contribution, the committee must make at least one request for the information after the contribution is received. This follow-up request must be made for any solicited or unsolicited contribution that exceeds the \$200 threshold and lacks the necessary information (see “Contributions Aggregating over \$200” in Section 2 of this chapter).

The request must be made within 30 days of receipt of the contribution; it may not include an additional solicitation or material on any other subject, but it may thank the contributor. The follow-up request may be made orally or in writing, but a written request must be accompanied by a pre-addressed postcard or envelope for the response. Oral requests must be documented in a memorandum. 104.7(b)(2). A political committee may also use e-mail to request missing contributor information. AOs 1999-17 and 1995-9. Committees must retain records of follow-up requests. 102.9(d).

### Use of Information from Prior Records

If the contributor does not respond to the follow-up request, but the committee possesses the information in its contributor records, fundraising records or prior reports filed during the same two-year election cycle, then the committee must use that information when disclosing the contribution. 104.7(b)(3).

### File Amendments If Necessary

If requested information about a contribution is received after the contribution has been disclosed on a report, the committee must either:

- File a Schedule A with its next regularly scheduled report, containing memo entries listing all contributions for which new contributor information has been received; or
- File amendments to the original reports.

In either case, the entries must cross-reference to the prior reports to which they relate. However, the committee is only required to submit the information for contributions received during the current two-year election cycle. 104.7(b)(4). See Chapter 13, Section 25, “Filing Amendments,” for instructions on filing amendments.

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<sup>1</sup> Any contribution which is reported by a committee with all required contributor information will meet the reporting requirements, whether or not the committee asked for the information or used the language specified under “Solicitation Materials.” See the *Explanation and Justification* published with the final rule, 58 Fed. Reg. 57725, 57727 (October 27, 1993).

## 4. Recording Disbursements

### Disbursements Made From Campaign Depository

All disbursements (except those from a petty cash fund) must be drawn by check or similar draft, including wire transfers, or by electronic transfer, on the campaign depository. 102.10 and 103.3(a); see AOs 1993-4 and 1982-25.

### Petty Cash Disbursements

The committee may maintain a petty cash fund for small disbursements. A written record of petty cash disbursements must be kept if a petty cash fund is maintained. Payments from petty cash to one person for any one purchase or transaction may not exceed \$100. 102.11.

### Recording Disbursements

#### All Disbursements

The committee must keep a record of each disbursement, including:

- Amount;
- Date;
- Name and address of payee;<sup>2</sup> and
- Purpose (a brief but specific description of why the disbursement was made).<sup>3</sup>

102.9(b)(1).

#### Disbursements Exceeding \$200

In addition, for each single disbursement that exceeds \$200, the committee must keep a receipt, invoice or canceled check. 102.9(b)(2).

2 Except in the case of travel advances, the payee is the person providing the goods or services to the committee. In the case of travel advances, the payee is the person receiving the advance. 102.9(b)(2)(i)(A) and AO 1984-8.

3 A list of acceptable/unacceptable descriptions of “purpose” was published in a Policy Statement at 75 FR 887 (January 9, 2007). This notice and an updated list of unacceptable “purpose” statements are available online at <http://www.fec.gov/law/policy.shtml#purpose>.

### Best Efforts to Document Disbursements

If a treasurer fails to receive a receipt, invoice or canceled check (required for disbursements exceeding \$200), he or she can demonstrate his or her best efforts to obtain the information by making at least one written effort per transaction to obtain a duplicate copy of the needed documentation. 102.9(d).

### Advances for Travel and Subsistence

When a committee advances \$500 or less to the candidate, staff members or volunteers for travel expenses—including transportation, food and lodging—the committee must retain:

- The expense voucher or other expense account documentation; and
- The canceled check made out to the individual receiving the payment.

102.9(b)(2)(i)(B).

When a committee advances more than \$500 for travel and subsistence expenses, the committee must obtain and retain:

- A receipt (or invoice) from the person providing goods or services in excess of \$200 per transaction to the person requesting the advance;
- A cancelled check from the person requesting the advance showing payment to the person providing goods or service; or
- A monthly credit card billing statement or customer receipt from the person requesting the advance, and that person’s cancelled check showing payment of such bill.

AO 1984-8.

### Credit Card Transactions

For credit card transactions, the committee must retain:

- A monthly billing statement; or
- The customer receipt for each transaction; and

- The canceled check used to pay the credit card account.

102.9(b)(2)(ii).

## **Credit Union Checks or Share Drafts**

Carbon copies of share drafts or checks drawn on credit union accounts may be used as records, provided the monthly account statement (showing that the draft or check was paid by the credit union) is also retained. 102.9(b)(2)(iii).

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## **5. Recording Debts and Loans**

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Although the Act does not contain specific recordkeeping requirements for debts and loans owed by (or to) the campaign, committees are required to keep detailed records of transactions required to be disclosed on the committee's FEC reports. See 104.14(b).



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## CHAPTER 12

# Filing Reports

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### I. Who Reports

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#### Principal Campaign Committee

The principal campaign committee must file periodic reports on financial activity until the committee has retired its debts, filed a Termination Report and received notification from the FEC that the committee has been terminated (see Chapter 14, Section 1). 102.3(b) and 104.1(a).

#### Treasurer's Duties

A committee treasurer is responsible for signing and filing timely, complete and accurate reports and statements. 104.14(d). See Chapter 2, Section 3 for a complete summary of the treasurer's duties. Treasurers are considered in compliance with the *Federal Election Campaign Act* (the Act) when they have made their "best efforts" to obtain, maintain and report required information. (See section 3, "When to Report," later in this chapter and section 3, "Treasurer's Best Efforts," in Chapter 11.) If a treasurer is unable to obtain information after making his or her best efforts, that fact should be noted on the report where the information is incomplete.

When filing electronically, a committee treasurer must verify that all electronically filed documents have been examined by the treasurer and (to the best of that person's knowledge) are accurate and complete. In order to verify electronically filed documents, the treasurer must either:

- Obtain a personal password (which serves as your electronic signature) from the FEC (available through the electronic filing office at 202 694-1307); or
- File on a CD or 3.5" diskette and include, as a separate file, a digitized copy of a signed certification, or a signed certification on paper along with the CD or diskette (For specific instructions on how to file electronically using a CD or diskette, see the Electronic Filing

section of the FEC web site at [http://www.fec.gov/support/faq\\_filing.shtml#EFQ18](http://www.fec.gov/support/faq_filing.shtml#EFQ18)).

For more information on electronic filing, see section 5 in this chapter.

#### Other Authorized Committees

Only principal campaign committees file reports and statements with the appropriate federal offices. Other authorized committees of the candidate file with the principal campaign committee, as explained in Section 2, below.

#### Candidate Does Not Report Campaign Activity

Apart from filing a Statement of Candidacy (FEC Form 2), a candidate has no personal reporting obligation under the Act. If a candidate receives contributions, obtains loans for campaign activity or makes disbursements, he or she is acting as a campaign agent. The transactions are reported by the principal campaign committee. 101.2 and 102.7(d).

#### Candidate Must File Personal Financial Reports

Under the *Ethics in Government Act*, candidates for federal office must file personal financial reports. House candidates file such reports with the Clerk of the House and Senate candidates file those reports with the Secretary of the Senate. Candidates for President and Vice President (except the incumbent President and Vice President) file their personal financial disclosure forms with the FEC, and the Commission is the agency responsible for public disclosure of those forms. However, detailed review and approval of those forms is the responsibility of the Office of Government Ethics. See Appendix G.

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## 2. Where to File Reports

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### Filing with the Federal Government

- Principal campaign committees of House and Presidential candidates file reports with the Federal Election Commission, 999 E Street, NW, Washington, DC 20463. 105.1. (Note that committees in Guam and Puerto Rico also have state filing requirements.<sup>1</sup>)
- Principal campaign committees of Senate candidates file reports and statements with the Secretary of the Senate. 105.2.

When filing a document with the Secretary of the Senate, it is not necessary to send a copy to the FEC. The Secretary automatically makes copies of all filings and forwards them to the FEC for review.

### Filing with the Principal Campaign Committee

Authorized committees of a campaign other than the principal campaign committee submit their reports and statements to the principal campaign committee. The principal campaign committee, in turn, files these reports and statements, along with its own, with the appropriate federal and state offices. When filing reports of receipts and disbursements (FEC Form 3), the principal campaign committee must also file a consolidated report (FEC Form 3Z), which summarizes information included in its own report and those filed by other authorized committees. 102.1(b) and 104.3(f). Note that only authorized committees of the current campaign need to be included in the consolidated report.

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<sup>1</sup> Copies of reports for House and Senate candidates running for federal office in Guam or Puerto Rico must be filed with the appropriate office in those territories. Presidential committees must file a copy of each report in Guam or Puerto Rico if the campaign makes an expenditure in those territories during the reporting period. 105.3 and 108.2.

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## 3. When to Report

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Committee treasurers must file reports on time (the Commission cannot grant extensions). General rules on when to file reports are outlined below. The FEC sends more detailed information to treasurers by e-mail shortly before reports are due. (For this reason, it is especially important to list a current e-mail address on the committee's FEC Form 1 (Statement of Organization).) Additionally, the *Record*, the FEC's monthly newsletter, publishes reporting announcements, as does the FEC's web site, <http://www.fec.gov/info/filing.shtml>. This section summarizes filing requirements applicable to all authorized committees of House and Senate campaigns. Presidential committees file reports according to a different schedule than the one presented in this section. See 104.5(b). Campaigns should also review Appendix F, Millionaires' Amendment, for additional filing requirements that apply if those provisions of the law are triggered.

### Quarterly Reports

Once an individual has become a candidate, his or her principal campaign committee (and other authorized committees) must file quarterly reports. 104.5(a). Quarterly reports cover activity through the end of the calendar quarter and are due on April 15, July 15 and October 15. The fourth quarter report—called the year-end report—is due on January 31 of the following year (additional reports are required during the candidate's election year; see below). All authorized committees must file quarterly reports, even if the candidate decides to retire, withdraws from the race prior to the primary election, loses the primary or drops out of the race prior to the general election. Committees must continue to file quarterly reports until the Commission notifies them in writing that their termination report has been accepted.

The Commission may waive a quarterly report if a pre-election report (see below) is due during the period beginning on the 5th day and ending on the 15th day after the close of the calendar quarter. 104.5(a)(1)(iii).

## Reporting Deadlines

Report Type	Covering	Due
<b>Quarterly</b>	January 1 — March 31 April 1 — June 30 July 1 — September 30 October 1 — December 31	April 15 July 15 October 15 January 31
<b>Pre-Election</b> (Both Pre-Primary and Pre-General as well as Pre-Runoff, if appropriate)	First day of the current reporting period through the 20th day before the election	12 days before the election
<b>Post-General</b>	First day of the current reporting period through the 20th day after the general election	30 days after the general election
<b>48 Hour Notices</b> (Reporting contributions of \$1,000 or more)	Contributions received less than 20 days but more than 48 hours before the election	Within 48 hours of receipt of contribution

### FEC Form 3Z-1/Consolidated Report of Gross Receipts

Note that all principal campaign committees of candidates for the U.S. House and U.S. Senate must include FEC Form 3Z-1 (Consolidated Report of Gross Receipts) with the report due July 15 of the year before the general election, and also with the year-end report due January 31 of the year of their election. 104.19. For more information, see Appendix F, Section 5, “Reporting and Notification.”

## Election Year Reporting

Election years are years in which regularly scheduled federal elections are held (even-numbered years).

### Pre-Election Reports

In addition to quarterly reports, a committee must file pre-election reports:

- A pre-primary report must be filed before the election in which the candidate seeks nomination.<sup>2</sup>
- A pre-general election report must be filed if the candidate runs in the general election.
- A pre-runoff report must be filed when a candidate is involved in a runoff election (Note: this may be either a primary or a general election).

A pre-election report is due 12 days before the election and covers activity through the 20th day before the election.<sup>3</sup> If sent by registered or certified mail, priority mail with a delivery confirmation, express mail with a delivery confirmation, or overnight delivery service with an online tracking

2 Note that in those states in which the party caucus or convention has authority to select a nominee (Virginia) or has authority to select a nominee and is held in addition to a primary (Connecticut and Utah), pre-election reports must be filed for the caucus or convention. See Party Caucus or Convention in Chapter 4.

3 In AO 2000-29, the Commission determined that the last day to qualify for a position on the general election ballot in Louisiana must be considered the primary election date for Louisiana candidates. See 11 CFR 100.2(c)(4)(i).

system, the report must be postmarked no later than the 15th day before the election. 104.5(a)(2)(i).

Authorized committees must file appropriate pre- and post-election reports even if the candidate is unopposed or if the election is not held. Advisory Opinion (AO) 1986-21.

### Post-General Election Reports

There is no requirement for post-primary reports, but a committee must file a post-general election report if the candidate runs in the general election. A post-general election report covers activity through the 20th day after the election and is due 30 days after the election. 104.5(a)(2)(ii). Committees filing the post-general report must include the Post-Election Detailed Summary Page. See Chapter 13, Section 24, for more information. (Committees of campaigns not running in the general election include this form with the year-end report following the election).

### Last-Minute Contributions (48-Hour Notice)

Campaign committees must file special notices regarding contributions of \$1,000 or more received less than 20 days but more than 48 hours before 12:01 a.m. of the day of any election in which the candidate is running. (These are often called “48-Hour Notices.”) This rule applies to all types of contributions to any authorized committee of the candidate, including:

- Contributions from the candidate;
- Loans from the candidate and other non-bank sources; and
- Endorsements or guarantees of loans from banks. (See Chapter 3, Section 2.)

**Committees filing electronically must file their 48-hour notices electronically. See Section 5, “Electronic Filing” below.**

Paper-filing committees may file their 48-hour notices using FEC Form 6. Alternatively, a paper-filing committee may file online using the FEC’s web-based forms (<http://www.fec.gov/electfil/online.shtml>), or may use its own paper or stationery for the notice, provided that it contains the following information:

- The candidate’s name and the office sought;
- The identification of the contributor; and

- The amount and date of receipt of the contribution.

Committees filing paper forms may fax the notice to the appropriate office using the following numbers: FEC, 202/219-0174; Secretary of the Senate, 202/224-1851. The committee should keep fax receipts of all transmissions.

In most cases, the FEC or the Secretary of the Senate must receive the notice within 48 hours of the committee’s receipt of the contribution. However, in those limited cases where a candidate has personally made a large, last-minute contribution or loan, the candidate may be required to file FEC Form 10 within 24 hours in order to disclose his or her personal spending under the Millionaires’ Amendment at the same time that the committee triggers the 48-hour notice requirement for receiving last-minute contributions. In this case, the candidate must use FEC Form 10 to meet both filing requirements. The appropriate recipients must receive the Form 10 within 24 hours of the candidate making the expenditure triggering the filing. See Appendix F, Section 5 for more information on filing Form 10.

The committee must itemize all last-minute contributions in the committee’s next scheduled report. 104.5(f).

### Special Elections

Filing dates for special elections are published on the FEC’s web site, in the *FEC Record* and in the *Federal Register*. The Commission also notifies the principal campaign committees of candidates who are on the ballot in a special election.

If a regularly scheduled report is due within 10 days of the date a special election report is due, the Commission may waive the regular report. 104.5(h).



## Meeting the Filing Deadline

### By Registered Mail, Certified Mail, Priority Mail with Delivery Confirmation, Express Mail with Delivery Confirmation or Overnight Delivery

If a statement or report is sent by registered mail, certified mail or overnight mail with an online tracking system,<sup>4</sup> it is considered filed on the date of the U.S. postmark. (Note the special rule for pre-election reports, above.) 100.19. The committee should retain evidence that it delivered the report to the U.S. Postal Service or the overnight delivery service, in the event of a delivery failure. See 111.35(b)(1).

### By First Class Mail

If a statement or report is sent by first class mail, it is considered filed on the date it is received by the Secretary of the Senate or the Federal Election Commission. 104.5(e). The risk of timely delivery is on the filer.

### By Electronic Filing

An electronic report is considered “filed” when it is received and validated by the Commission’s computer system on or before 11:59 p.m. (in Washington, DC) on the filing date. Incomplete or inaccurate reports that do not pass the FEC’s validation program will not be considered filed. The Commission will notify the filer that the report has not been accepted. 104.18(e)(2).

### By Diskette or CD

While most electronic filers find it more convenient to file through the Internet, the Commission also accepts properly-formatted electronic reports on compact discs (CDs) or 3.5” 1.44 MB diskettes (either hand delivered or sent by other delivery means, such as the U.S. Postal Service). It is important to note that all mail sent to the FEC through the U.S. Postal Service undergoes special processing which might damage the information on a CD or diskette. For specific instructions on how to file electronically using a CD or diskette, see

<sup>4</sup> Overnight mail is often used to refer to priority mail having a delivery confirmation, express mail having a delivery confirmation, or an overnight delivery service with an on-line tracking system.

the Electronic Filing section of the FEC web site at [http://www.fec.gov/support/faq\\_filing.shtml#EFQ18](http://www.fec.gov/support/faq_filing.shtml#EFQ18).

### Mandatory Electronic Filing

Some committees must file electronically (See Section 5, “Electronic Filing”). If a committee required to file electronically files a paper report instead of an electronic report, the report will be considered not filed. The committee may be subject to the Commission’s enforcement process for nonfilers and may have its name published as a nonfiler.

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## 4. Administrative Fines for Late Filers and Nonfilers

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The Commission has implemented an Administrative Fines Program, based on amendments to the *Federal Election Campaign Act*,<sup>5</sup> for assessing civil money penalties for violations involving:

- Failure to file reports on time;
- Failure to file reports at all; and
- Failure to file 48-hour notices.

If the Commission finds “reason to believe” (RTB) that a committee violated the law, the Commission will notify the committee in writing of its finding and the amount of the civil money penalty. 111.32. The committee will have 40 days to either pay the civil money penalty or submit a written challenge to the Commission action. If the committee challenges the finding, it will be reviewed by an independent reviewing officer who was not involved in the RTB finding. After the Commission considers the reviewing officer’s recommendation and the committee’s response, if any, the Commission will determine whether the committee violated 2 U.S.C. §434(a) and, if so, will assess a civil money penalty based on the schedules of penal-

<sup>5</sup> Public Law 106-58, 106th Cong., Section 640, 113 Stat. 430, 476-77 (1999); Commission authority extended in Public Law No. 106-67, 107th Cong., Section 642, 115 Stat 514, 555 (2001), again in Public Law No. 108-199, 108th Cong., Section 639, 118 Stat 3 (2004) and again in Public Law No. 109-115, Section 721, 119 Stat 2396, 2493-2494 (2006).

ties. The committee will then have 30 days to pay the penalty or seek court review of the case.<sup>6</sup>

Respondents must demonstrate one of the following situations in their challenge:

- The RTB filing is based on factual errors;
- The RTB civil money penalty is improperly calculated; or
- They could not file due to reasonably unforeseen circumstances beyond their control, and they filed the late report within 24 hours after those circumstances ended (also called the “best efforts” defense).

Excuses involving negligence, illness, inexperience, unavailability of committee staff or treasurer, failure to know filing dates, failure to use Commission software properly, delays caused by vendors or failure of the committee’s computers, software or Internet service provider do not qualify for the “best efforts” defense. 111.35(c) and (d).<sup>7</sup>

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## 5. Electronic Filing

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Campaign committees of House and Presidential candidates must file all reports and statements electronically if their total contributions or total expenditures exceed, or are expected to exceed, \$50,000 in a calendar year. The requirement to file electronically does not apply to Senate candidate committees (or other committees that support only Senate candidates), who are required to file their reports on paper with the Secretary of the Senate.<sup>8</sup>

Any committees that are required to file electronically, but that file on paper or fail to file, may be subject to enforcement action as nonfilers.

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6 For more information on the Administrative Fine Program, see 11 CFR 111.30 to 111.45, Subpart B, and the Commission’s web site at <http://www.fec.gov/af/af.shtml>.

7 These rules are effective as of April 30, 2007. See 72 Fed. Reg. 14662 (March 29, 2007).

8 Senate candidates are encouraged to voluntarily file electronically an unofficial copy of their reports with the FEC (in addition to their official paper copy with the Secretary of the Senate) to ensure faster disclosure.

104.18(a)(2). See the previous section, “Administrative Fines for Late Filers and Nonfilers.”

Because electronic filing is more efficient and cost effective than paper filing, even House and Presidential committees that do not meet the \$50,000 threshold requirement are encouraged to voluntarily file their reports electronically. Please note, however, that voluntary electronic filers must continue to file electronically for the remainder of the calendar year unless the Commission determines that extraordinary and unforeseeable circumstances make continued electronic filing impractical. 104.18(b).

## Methods of Electronic Filing

Most committees filing electronically find it convenient to do so via an Internet connection with a password (see Chapter 2, “Treasurer’s Responsibilities.”). Committees may, however, submit their electronic reports on compact discs (CDs) or 3.5” 1.44 MB diskettes (either hand delivered or sent by other means such as U.S. Postal Service). Electronic filers must file all their reports, notices, designations and statements electronically, and the reports must adhere to the FEC’s Electronic Filing Specifications Requirements.<sup>9</sup> 104.18(d).

## Calculating the Threshold

Committees should use the following formulas to determine whether their total expenditures or total contributions are over \$50,000 per calendar year:

$$\begin{aligned} & \text{Total Contributions Received}^{10} \\ & - \quad \text{Refunds of Contributions} \\ & = \quad \text{Total Contributions} \\ & \text{or} \\ & \text{Total Operating Expenditures} \\ & + \quad \text{Contributions Made} \\ & = \quad \text{Total Expenditures} \end{aligned}$$

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9 Available online at <http://www.fec.gov/electfil/vendors.shtml> or on paper from the FEC.

10 Including the outstanding balance of any loans made, guaranteed or endorsed by the candidate or other person.

### Have Reason to Expect to Exceed the Threshold

Once committees actually exceed the \$50,000 yearly threshold, they have “reason to expect to exceed” the threshold in the following two calendar years. 104.18(a)(3)(i). Consequently, committees must continue to file electronically for the next two calendar years (January through December).

### Exception

A campaign committee that met or exceeded the \$50,000 threshold and began filing electronically is not required to file electronically for the following two calendar years if it meets all three of the following requirements:

- Has \$50,000 or less in net debts outstanding on January 1 of the year following an election;
- Anticipates terminating prior to the next election year; and
- Supports a candidate who has not qualified for the next election and does not intend to become a candidate in the next election.

104.18(a)(3)(i).

Note that such committees must finish filing electronically for the calendar year in which they exceeded the threshold.

### Committees With No History

New committees with no history of campaign finance activity on which to base their expectations have reason to expect to exceed the \$50,000 yearly threshold if:

- The committee receives contributions or makes expenditures that exceed one-quarter of the threshold amount in the first calendar quarter of the calendar year (i.e., exceeds \$12,500 by the end of March); or
- The committee receives contributions or makes expenditures that exceed one-half of the threshold amount in the first half of the calendar year (i.e., exceeds \$ 25,000 by the end of June).

104.18(a)(3)(ii).

## Verification Requirements

The political committee’s treasurer must verify the electronically filed reports by submitting either:

- A signed, written certification along with the diskette or CD; or
- A digitized copy of the signed certification as a separate file in an electronic (i.e., not transmitted by diskette or CD) submission.

The signed verification must certify that the treasurer or assistant treasurer has examined the submitted report, and that, to the best of his or her knowledge, the report is true, correct and complete. 104.18(g).

## Obtaining a Password

### Requesting a Password

A committee’s treasurer or assistant treasurer can obtain a password by faxing a request letter to the password office at 202/219-0674. Requests may also be mailed to the Federal Election Commission, 999 E Street N.W., Washington, DC 20463. A password request must:

- Include the committee’s name and nine-digit FEC identification number;
- Be signed by the treasurer and also by the assistant treasurer if the assistant treasurer is the individual requesting the password;
- Include the treasurer’s phone number and, if applicable, the phone number of the assistant treasurer; and
- Be printed on the committee’s letterhead (if the committee has official letterhead).

A sample request can be viewed on the FEC’s web site at <http://www.fec.gov/electfil/passwords.shtml>.

Requests sent by fax can usually be processed within a few hours. However, committees are encouraged to request a password as early as possible. Requests received near a filing deadline may not be processed in time for a committee to use the password to file a timely report.

Note: For the initial Form 1 the treasurer can get a password by faxing or mailing a signed statement which contains the sentence “I represent that I am

the duly appointed treasurer and have authority as such to sign FEC reports for the above committee.”

### Assigning the Password

Once the password office receives the letter requesting a password, it will verify that the requester is listed as the treasurer (and assistant treasurer, if applicable) of that committee on that committee’s Statement of Organization (FEC Form 1). Only the committee’s treasurer and assistant treasurer can receive a password.

If the requester is listed on the Statement of Organization, then a representative from the password office will call the requester and ask him or her to choose a password. This password will be assigned immediately. Passwords are case sensitive and must be entered exactly as initially assigned.

### Lost or Forgotten Password

The Commission cannot provide a treasurer’s password to a treasurer or committee if a treasurer forgets or loses the password because the passwords are encrypted. Instead, the treasurer must ask for a new password, repeating the process described above.

### New Treasurers and New E-filers

In some cases, a committee may have a new treasurer who has been neither assigned a password nor has a signature on file and, due to the requirement that all filing information be submitted electronically, cannot amend the statement of organization to indicate the change of position. Under these circumstances, the new treasurer must submit a password request letter which contains the sentence “I represent that I am the duly appointed treasurer and have authority as such to sign FEC reports for the above committee.” Once a password is received, an amended Form 1 must be filed to indicate the change of position. Treasurers of committees e-filing for the first time must also submit a password request letter.

## Special Requirements

The following documents have special signature and submission requirements:

- Schedule C1 (Loans and Line of Credit), including copies of loan agreements; and

- Form 8 (Debt Settlement Plan).

These two forms, in addition to being included in the electronic report, must be submitted on paper or in a digitized format (submitted as a separate file in the electronic report). 104.18(h).

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## 6. Public Inspection of Reports

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All reports filed by political committees are available for public inspection and copying (for a minimal fee) in the FEC’s Public Records Office. They are also available on the Commission’s web site (<http://www.fec.gov/disclosure.shtml>).

Copies of reports may also be purchased by mail. For more information, call 800/424-9530 (press 2 when prompted) or 202/694-1120.

### Sale or Use Restriction

The Act prohibits anyone from selling or using the names and addresses of individual contributors, copied from FEC reports, for commercial purposes or for the purpose of soliciting funds. This sale or use restriction, however, does not apply to the names and addresses of political committees that are listed in FEC reports. 104.15;AO 2003-24.

### Salting Reports to Detect Misuse

When preparing a report to be filed, a committee may salt the report with up to 10 fictitious names in order to detect impermissible uses of individual contributor information by other organizations. 104.3(e).

Salting can be done by taking a portion of the subtotal for unitemized contributions and allocating it, as itemized contributions, among several fictitious contributors. The committee itemizes each fictitious contribution on a Schedule A, providing a real address (such as the address of a campaign staff member) for each fictitious contributor. The committee must adjust its subtotals for itemized and unitemized contributions accordingly on the Detailed Summary Page. If a solicitation or commercial mailing is sent to one of the fictitious names, the committee will know that someone has illegally used the names of

contributors disclosed on its reports. The committee may then file a complaint with the FEC.

When a committee files a report containing fictitious names, a list of the fictitious names should be sent under separate cover directly to the FEC's Reports Analysis Division not the Secretary of the Senate (where Senate candidates's reports are filed). The list will be kept confidential.

### **Sale or Use of Committee's Contributor List**

The sale or use restriction does not prevent a committee from compiling its own list of contributors and distributing it to others. Under certain conditions, a committee may donate, sell, trade or rent its own contributor list to other committees and organizations. AOs 2002-14, 1982-41 and 1981-53.



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## CHAPTER 13

# Completing FEC Reports

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## I. Reporting Forms and Formats

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FEC reports are filed either electronically or on paper, as explained in the previous chapter. This section explains each format's requirements.

### Form 3

FEC Form 3 (or an electronic version) must be used by principal campaign committees and other authorized committees of candidates for the U.S. House of Representatives and U.S. Senate to disclose receipts and disbursements.<sup>1</sup>

#### Form 3 Booklet

The Form 3 booklet contains Form 3 (Summary Page and Detailed Summary Page), the schedules listed below and Forms 3Z and 3Z-1.

#### Schedules

Committees may be required to file the following schedules as attachments to Form 3:

- Schedule A—Itemized Receipts
- Schedule B—Itemized Disbursements
- Schedule C—Loans
- Schedule C-1—Loans and Lines of Credit from Lending Institutions
- Schedule D—Debts and Obligations

### Form 3Z

If a candidate has more than one authorized committee for the same campaign, the principal campaign committee must also file Form 3Z. The one-page form, which consolidates information on the entire campaign, contains information

taken from the current reports of the principal campaign committee and other authorized committees. The principal campaign committee files Form 3Z along with its own report and those of the other authorized committees. 104.3(f).

### Form 3Z-1 Report of Gross Receipts

Each principal campaign committee must file a report disclosing the aggregate gross receipts for the primary and general elections, and the candidate's aggregate contributions from personal funds for the primary and general elections on Form 3Z-1. Form 3Z-1 is required to be filed only with the July 15th and year-end reports for the year preceding the general election in which the candidate intends to participate. 104.19. See Appendix F.

### Requirements for Electronic Filers

Committees that receive contributions or make expenditures of more than \$50,000 in any calendar year, or have reason to expect to do so, must file all reports and statements electronically. Committees that are required to file electronically, but that file on paper or fail to file, may be subject to enforcement action as nonfilers. 104.18(a)(2). See Chapter 12, Section 5, "Administrative Fines for Late Filers and Nonfilers." FECFile software, available free from the FEC, generates Form 1, Form 3 and Form 6. Filers can download the software from the FEC's web site at [www.fec.gov/electfil/electron.shtml](http://www.fec.gov/electfil/electron.shtml). Filers can also use other software as long as it meets FEC format specifications. For more information about the electronic filing requirement, see Section 5 of the preceding chapter.

### Requirements for Paper Filers

FEC forms filed on paper should be typed (either on a typewriter or on a computer—see below for more information on computerized forms); printing in ink is also acceptable (but not recommended) as long as the forms are legible. Because filings will

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<sup>1</sup> Presidential campaign committees use FEC Form 3P and its supporting schedules (or an electronic version). Form 3P and instructions are available online at <http://www.fec.gov/info/forms.shtml#candidates>.

be imaged and photocopied several times before being placed on the public record, it is required that committees submit the original report—not a copy—with an original signature. Committees submitting illegible documents will be required to re-file.

## Reporting Instructions

Instructions for filling out each form and schedule are available online at <http://www.fec.gov/info/forms.shtml>. Although written specifically for paper filers, the instructions contain information that is useful for electronic filers as well.

## Online Web Forms

Online filing via the FEC's web forms is available for the following FEC Forms:

- FEC Form 6 (48-hour notices of last minute contributions);
  - FEC Form 8 (Debt settlement plan); and
  - FEC Form 10 (24-hour notice of personal funds expended by candidate).
- For more information, and to access the online forms, visit <http://www.fec.gov/electfil/online.shtml>.

## Computerized Forms

A committee that files on paper may develop its own computer-produced forms, reduced to the size of FEC forms, but it must submit them for approval by the FEC prior to using them. The submission must include sample formats of each applicable schedule (with sample data). The proposed format (and accompanying cover letter) should be mailed or hand delivered to the attention of the Reports Analysis Division. 104.2(d); FEC Directive 37. Please note that this is not an option for committees required to file electronically.

## How to Obtain Paper Forms

### Fax on Demand

The reporting forms (and instructions) are available on the FEC Faxline 202/501-3413. Below are the document numbers of the reporting forms for candidates and their committees:

- Form 1—Statement of Organization—#801
- Form 2—Statement of Candidacy—#802
- Form 3—Financial Reporting for Authorized (i.e., Candidate) Committees—#803
- Form 6—48-Hour Notice of Contributions/Loans Received—#806
- Form 8 – Debt Settlement Plan -- #808
- Form 10 – 24-Hour Notice of Expenditure from Candidate's Personal Funds -- #810
- Form 11 – 24-Hour Notice of Opposition Personal Funds Amount -- #811
- Form 12 – 24-Hour Notice of Suspension of Increased Limits -- #812
- Schedule A\*—Itemized Receipts—#825
- Schedule B\*—Itemized Disbursements—#826
- Schedule C\* and C-1—Loans—#827
- Schedule D\*—Debts and Obligations—#828

\*The faxline numbers for Schedules A, B, C and D produce both Form 3 and Form 3X versions of the schedules; House and Senate candidate committees should be sure to use the Form 3 version.

### FEC Web Site

All FEC reporting forms and instructions, including Form 1, Form 2 and Form 3, are available on the Commission's web site at <http://www.fec.gov/info/forms.shtml>.

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## 2. Special Rules for First Report

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In the first report filed after registering as a political committee, the principal campaign committee (and other authorized committees of the campaign) must disclose all financial activity that occurred before registration and before the individual became a candidate (including any



testing-the-waters activity), beginning with the first date of activity through the end of the current reporting period. 101.2(b), 101.3, 104.3(a) and (b).

### 3. Categorizing Receipts

Committees must report receipts under the different categories listed on the Detailed Summary Page of Form 3. These categories are:

- Lines 11(a)(i) and (ii), Contributions from Individuals/Persons Other Than Political Committees
- Line 11(b), Contributions from Political Party Committees;
- Line 11(c), Contributions from Other Political Committees (e.g., PACs);
- Line 11(d), Contributions from the Candidate;
- Line 12, Transfers from Other Authorized Committees;
- Lines 13(a) and (b), Loans;
- Line 14, Offsets to Operating Expenditures; and
- Line 15, Other Receipts.

For each category, a committee must disclose the total for the current reporting period and the cumulative election-cycle total. In addition to reporting these totals, a committee often has to itemize receipts by providing supplemental information on supporting Schedules A. 104.3(a)

(3) and (4). A committee must use a separate Schedule A for each category of receipts that must be itemized, i.e., the committee may not mix different categories of receipts on the same schedule. Electronic filers must input all data for each contributor or payer separately so that the software can properly generate the required information, including the aggregated election-cycle-to-date total. It is recommended that committees complete the supporting Schedules

first before transferring totals to the Detailed Summary Page.

### 4. How to Itemize Receipts

For each receipt, the committee must report the:

- Name of source of receipt (i.e., the name of the person who gave something of value or paid money to the candidate or the committee);
- Mailing address of source;
- Employer of source (if source is an individual contributor);
- Occupation of source (if source is an individual contributor);
- Election to which a contribution or loan was designated (indicated by checking “primary,” “general” or “other” in the election designation box) (For more information on designating contributions for a specific election, see Chapter 4, Section 4, “Designated and Undesignated Contributions”);
- Date of receipt;
- Amount of receipt; and
- Aggregate election-cycle-to-date total of all receipts (within the same category) from the same source.

104.3(a)(4) and 104.8(a).

## CONTRIBUTIONS FROM OTHER POLITICAL COMMITTEES AND ORGANIZATIONS

SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF
			<input type="checkbox"/> 11a <input type="checkbox"/> 12 <input type="checkbox"/> 11b <input type="checkbox"/> 13a <input checked="" type="checkbox"/> 11c <input type="checkbox"/> 11d <input type="checkbox"/> 13b <input type="checkbox"/> 14 <input type="checkbox"/> 15		
Any information copied from such Reports and 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.					
NAME OF COMMITTEE (In Full) Doe for Congress Committee Full Name (Last, First, Middle Initial)					
A. Ellie James for U.S. Senate Mailing Address 543 Stormybrook Street City State Zip Code Great Falls VA 00000			Date of Receipt MM / DD / YYYY 02 / 21 / 2008		
FEC ID number of contributing federal political committee. C 00000001			Amount of Each Receipt this Period 2000.00		
Name of Employer Occupation Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)			Election Cycle-to-Date 2000.00		
<input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(4)(A)-1)					

Note that the date of receipt for both record-keeping and reporting purposes is the date that the campaign, or a person who receives a contribution on behalf of the campaign, first receives a contribution, rather than the date on the check or the date of deposit. 102.8(a). (See Chapter 4, Section 5, “Date Contribution is Made v. Date of Receipt” for more information.)

If a contributor is self-employed, that should be stated in the “Employer” space on Schedule A. If he or she is not employed, the space may be left blank, but the “Occupation” space should still be completed (e.g., “unemployed,” “retired,” “homemaker.”) See Chapter 11, Section 3, “Treasurer’s Best Efforts” regarding steps that must be taken to obtain information about contributors.

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## 5. When to Itemize Receipts

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Some receipts must be itemized regardless of their amount, while others need not be itemized until their aggregate election-cycle-to-date total exceeds a threshold dollar value. These concepts are further explained below.

### Regardless of Amount

Within the following four categories of receipts listed on the Detailed Summary Page, every receipt must be itemized regardless of amount:

- Contributions from party committees and organizations (including those that do not qualify as political committees under the Act) (Line 11(b));
- Contributions from other political committees and organizations (including committees that are not registered with the FEC) (Line 11(c). See example on previous page);
- Transfers from affiliated committees (Line 12); and
- Loans (Lines 13(a) and 13(b)).

See 104.3(a)(4)(ii), (iii)(A) and (iv).

### Itemization Threshold Exceeded

Within the other categories, receipts from each source must be itemized if they:

- Exceed \$200; or
- Aggregate over \$200 when added to other receipts (within the same category) received from the same source during an election cycle.

The categories of receipts that are subject to this \$200 threshold for itemization are:

- Contributions from individuals/persons other than political committees;
- Contributions from the candidate;
- Offsets to operating expenditures; and
- Other receipts. See 104.3(a)(4)(i), (v) and (vi).

### Aggregation: Election Cycle vs. Per Election

Note that authorized committees must aggregate contributions on a per-election basis when monitoring contribution limits. See Chapter 4. For purposes of reporting, however, committees aggregate contributions and other receipts on an election-cycle basis, as explained in the next paragraphs.

#### Election Cycle

An election cycle begins the day after the general election for a seat or office and ends on the day of the next general election for that seat or office. 100.3(b). The length of the election cycle, thus, depends on the office sought. The election cycle is two years for House candidates, four years for Presidential candidates and six years for Senate candidates. For example, the election cycle for a 2010 Senate candidate began on November 3, 2004 (the day after the previous general election), and will end on November 2, 2010 (the day of the general election). On the other hand, the election cycle for 2010 House candidates will begin on November 5, 2008 (the day after the 2008 general election), and will end on November 2, 2010 (the day of the 2010 general election).<sup>2</sup>

#### Example of Aggregation

Suppose an individual makes two contributions to a principal campaign committee during an election cycle.

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<sup>2</sup> The election cycle for 2008 candidates will end on November 4, 2008. For 2008 House candidates, it began on November 8, 2006, and for 2008 Senate candidates, it began on November 6, 2002.

## AGGREGATION OF CONTRIBUTIONS

<b>SCHEDULE A (FEC Form 3)</b>		Use separate schedule(s) for each category of the Detailed Summary Page		FOR LINE NUMBER: (check only one)		PAGE OF	
<b>ITEMIZED RECEIPTS</b>				<input checked="" type="checkbox"/> 11a		<input type="checkbox"/> 11b	
				<input type="checkbox"/> 11c		<input type="checkbox"/> 11d	
				<input type="checkbox"/> 12		<input type="checkbox"/> 13a	
				<input type="checkbox"/> 13b		<input type="checkbox"/> 14	
				<input type="checkbox"/> 15			
Any information copied from such Reports and 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.							
NAME OF COMMITTEE (In Full) Doe for Congress Committee							
Full Name (Last, First, Middle Initial) A. Kane, Sally				Date of Receipt MM / DD / YYYY 03 / 01 / 2008			
Mailing Address 211 Spruce Street				City Clifton			
State VA				Zip Code 00000			
FEC ID number of contributing federal political committee. C				Amount of Each Receipt this Period 185.00			
Name of Employer First National Bank		Occupation Banker		Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(j)(4)41a-1) <input type="checkbox"/>			
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)		Election Cycle-to-Date 260.00					

tee checks “General” in the election designation box and reports the donor’s aggregate election-cycle total as \$260, even though \$75 applies to the primary and \$185 to the general. (See example at left.)

## 6. Reporting Contributions, Loans and Advances from Candidate

## CONTRIBUTIONS FROM CANDIDATE’S PERSONAL FUNDS

<b>SCHEDULE A (FEC Form 3)</b>		Use separate schedule(s) for each category of the Detailed Summary Page		FOR LINE NUMBER: (check only one)		PAGE OF	
<b>ITEMIZED RECEIPTS</b>				<input type="checkbox"/> 11a		<input type="checkbox"/> 11b	
				<input type="checkbox"/> 11c		<input checked="" type="checkbox"/> 11d	
				<input type="checkbox"/> 12		<input type="checkbox"/> 13a	
				<input type="checkbox"/> 13b		<input type="checkbox"/> 14	
				<input type="checkbox"/> 15			
Any information copied from such Reports and 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.							
NAME OF COMMITTEE (In Full) Doe for Congress Committee							
Full Name (Last, First, Middle Initial) A. Doe, Jane				Date of Receipt MM / DD / YYYY 02 / 10 / 2008			
Mailing Address 626 Pritham Ave.				City Springfield			
State VA				Zip Code 00000			
FEC ID number of contributing federal political committee. C				Amount of Each Receipt this Period 1000.00			
Name of Employer U.S. House		Occupation U.S. Representative		Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(j)(4)41a-1) <input type="checkbox"/>			
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Election Cycle-to-Date 2200.00					

Contributions (including loans and advances) from the candidate must be reported by the campaign as follows:

### Contributions from Candidate

Personal funds contributed to the campaign are reported on Line 11(d) as contributions from the candidate. (See example at left.)

### Expenditures by Candidate

Campaign expenditures made by the candidate from personal funds that are not to

### Primary Election Contribution

The donor contributes \$75 just before the candidate’s primary election. Because it is undesignated, the contribution automatically applies to the primary limit. The contribution does not exceed \$200 and is his first contribution to the candidate, so the committee includes the amount in its total of unitemized contributions (Line 11(a)(ii) on the Detailed Summary Page).

### General Election Contribution

During the following reporting period, but after the primary election, the same donor makes a \$185 contribution. This contribution must be itemized since the aggregate total of the donor’s contributions for the election cycle (\$260) now exceeds the \$200 threshold for itemization. When itemizing the \$185 contribution on Schedule A, the commit-

tee checks “General” in the election designation box and reports the donor’s aggregate election-cycle total as \$260, even though \$75 applies to the primary and \$185 to the general. (See example at left.)

Contributions (including loans and advances) from the candidate must be reported by the campaign as follows:

**Contributions from Candidate**

Personal funds contributed to the campaign are reported on Line 11(d) as contributions from the candidate. (See example at left.)

**Expenditures by Candidate**

Campaign expenditures made by the candidate from personal funds that are not to be reimbursed are reported as in-kind contributions from the candidate and reported like other in-kind contributions. See “In-Kind Contributions” later in this chapter for more information on reporting these expenditures by candidates. If, on the other hand, a personal expenditure by the candidate is intended to be reimbursed, it is treated as an advance from the candidate for reporting purposes. See Section 11 on reporting advances.

### Loans from Candidate’s Personal Funds

The candidate may loan personal funds to the committee and may charge interest at a commercially reasonable rate, provided the committee reports the loan and the interest rate from the outset on Schedule C. The committee continues to report the loan until it is repaid. Advisory Opinions (AOs)

1997-21, 1991-9, 1986-45 and 1977-58. See Section 16 of this chapter, “Loans.”

### Bank Loans Obtained by Candidate for Campaign Related Purposes

If a candidate obtains a bank loan for campaign-related purposes, the committee must report the loan from the candidate as a receipt and repayment of the loan to the candidate as a disbursement 104.3(a)(3)(vii)(B) and (b)(2)(iii)(A) and 100.82(c). See also Sections 17 and 18.

### Contributions Intended to be Loans

Receipts that are intended as contributions (rather than loans) from the candidate may not later be converted into loans. For that reason, the campaign should initially report such transactions as loans to be repaid. AOs 2006-37 and 1997-21.

### Last-Minute Contributions or Loans from Candidate

Note that contributions or loans from the candidate of \$1,000 or more, received less than 20 days but more than 48 hours before any election in which the candidate is running, must be reported on a “48-Hour Notice.” (See Chapter 12, “When to Report,” “Last-Minute Contributions.”)

### Contributions or Loans Exceeding \$10,000 from a Candidate Who Has Triggered Millionaires’ Amendment Provisions

If a candidate has made expenditures or loans that have triggered the Millionaires’ Amendment threshold, any contribution or loan from the candidate in excess of \$10,000 must be reported within 24 hours using FEC Form 10 (or e-mail with equivalent information). 400.22. See Chapter 12, “When to Report,” “Last-Minute Contributions,” and Appendix F, “Millionaires’ Amendment” “Reporting and Notification” for more information.

## JOINT CONTRIBUTIONS

SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS		FOR LINE NUMBER: (check only one)	PAGE OF
Use separate schedule(s) for each category of the Detailed Summary Page		<input checked="" type="checkbox"/> 11a	<input type="checkbox"/> 11b
		<input type="checkbox"/> 12	<input type="checkbox"/> 13a
		<input type="checkbox"/> 11c	<input type="checkbox"/> 11d
		<input type="checkbox"/> 13b	<input type="checkbox"/> 14
		<input type="checkbox"/> 15	
Any information copied from such Reports and 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.			
NAME OF COMMITTEE (In Full) Doe for Congress Committee			
Full Name (Last, First, Middle Initial) A. Bigshot, William		Date of Receipt MM / DD / YYYY 03 / 20 / 2008	
Mailing Address 555 8th Street		Amount of Each Receipt this Period 500.00	
City State Zip Code Herndon, VA 00000		<input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(f)(4)1a-1)	
FEC ID number of contributing federal political committee. C			
Name of Employer Bigshot and Co.		Occupation Executive	
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		Election Cycle-to-Date 500.00	
Full Name (Last, First, Middle Initial) B. Bigshot, Lucy		Date of Receipt MM / DD / YYYY 03 / 20 / 2008	
Mailing Address 555 8th Street		Amount of Each Receipt this Period 500.00	
City State Zip Code Herndon, VA 00000		<input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(f)(4)1a-1)	
FEC ID number of contributing federal political committee. C			
Name of Employer Wigs and More		Occupation Store Owner	
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		Election Cycle-to-Date 500.00	

## 7. Reporting Joint Contributions<sup>3</sup>

For purposes of reporting, a committee treats a joint contribution as though the individuals participating in the contribution had made their contributions separately, and itemizes them separately on Schedule A as required. (See example above.) 110.1(k)(1). For example, if a committee receives a \$300 check with two signatures but with no written attribution, the committee attributes the contribution equally between the donors—\$150 to each contributor. (Note that the committee must record each contribution according to the rules set out in Chapter 11.) 110.1(k)(2). If neither contributor has previously contributed to the committee during the year, the committee does not have to itemize either contribution; nor does it have to itemize the \$300 total joint contribution. If, on the other hand, the \$300 check is accompanied by a signed statement attributing \$250 to one individual and \$50 to the other, the \$250 contribution must

3 See also Chapter 4 for more information on joint contributions.

be itemized. The \$50 contribution is included in the total of unitemized contributions reported on Line 11(a)(ii) of the Detailed Summary Page.<sup>4</sup>

## 8. Reporting Redesignations and Reattributions<sup>5</sup>

### Receipt of Original Contribution

When itemizing a contribution that must first be redesignated or reattributed before it is legally acceptable, a committee must include a statement on Schedule A noting that the legality of the contribution is in question.<sup>6</sup> 103.3(b)(5).

### Receipt of Redesignation or Reattribution

A committee must also comply with special procedures when reporting the receipt of reattributions and redesignations of contributions that were originally itemized on previous reports. (There is no need to report a reattribution or redesignation if the original contribution was not itemized.<sup>7</sup>) On the report covering the period during which the committee received the redesignation or reattribution,

<sup>4</sup> As explained in the *Explanation and Justification* to revised rules on contribution limits, prescribed April 8, 1987 (52 Fed. Reg. 760, January 9, 1987).

<sup>5</sup> Redesignations and reattributions are explained in Chapter 4.

<sup>6</sup> This procedure applies to any contribution that appears to be illegal or that is questionable.

<sup>7</sup> As explained in the *Explanation and Justification* to revised rules on contribution limits, prescribed April 8, 1987 (52 Fed. Reg. 760, January 9, 1987).

## REDESIGNATIONS

SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF
<input checked="" type="checkbox"/>	11a	<input type="checkbox"/>	11b	<input type="checkbox"/>	11c
<input type="checkbox"/>	12	<input type="checkbox"/>	13a	<input type="checkbox"/>	11d
<input type="checkbox"/>		<input type="checkbox"/>	13b	<input type="checkbox"/>	14
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	15

Any information copied from such Reports and 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.

NAME OF COMMITTEE (In Full)  
Doe for Congress Committee

Full Name (Last, First, Middle Initial)  
A. Bancroft, Carrie

Mailing Address  
426 9th Street

City Annandale State VA Zip Code 00000

FEC ID number of contributing federal political committee. C

Name of Employer James & Smith Occupation Attorney

Receipt For:  Primary  General  Other (specify)

Election Cycle-to-Date 4600.00

Date of Receipt 12 / 02 / 2007

MEMO  
Amount of Each Receipt this Period 4600.00

See year-end report

Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(441a-1))

Redesignation below

---

Full Name (Last, First, Middle Initial)  
B. Bancroft, Carrie

Mailing Address  
426 9th Street

City Annandale State VA Zip Code 00000

FEC ID number of contributing federal political committee. C

Name of Employer James & Smith Occupation Attorney

Receipt For:  Primary  General  Other (specify)

Election Cycle-to-Date 4600.00

Date of Receipt 01 / 15 / 2008

MEMO  
Amount of Each Receipt this Period -2300.00

Redesignated below

Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(441a-1))

---

Full Name (Last, First, Middle Initial)  
C. Bancroft, Carrie

Mailing Address  
426 9th Street

City Annandale State VA Zip Code 00000

FEC ID number of contributing federal political committee. C

Name of Employer James & Smith Occupation Attorney

Receipt For:  Primary  General  Other (specify)

Election Cycle-to-Date 4600.00

Date of Receipt 01 / 15 / 2008

MEMO  
Amount of Each Receipt this Period 2300.00

Redesignated

Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(441a-1))

the committee must disclose, as a memo entry, information on both the original contribution and the redesignation or reattribution. The memo entry appears on a Schedule A for the category of contribution involved. (For example, a reattribution would appear with other itemized contributions on a Schedule A used for "Contributions from Individuals/Persons Other Than Political Committees.")

The first part of the memo entry discloses all the information on the contribution as it was originally reported on Schedule A. The second part of the memo entry discloses as a negative entry the amount of the redesignation. The third part discloses information on the contribution as it was redesignated or reattributed, including the date the redesignation or reattribution was received and, in the case of a redesignation, the election

for which the contribution was redesignated. 104.8(d) (2) and (3). (See examples at right and on previous page.)

## Refund of Excessive Portion

If a committee requests a redesignation or reattribution but does not receive it within 60 days of the contribution's receipt, the committee must refund the excessive portion of the contribution within 60 days of the treasurer's receipt of the contribution and disclose the refund on its next report (see section 19 of this chapter). 103.3(b)(3) and 104.8(d)(4).

## 9. Reporting Free Legal and Accounting Services

An authorized committee may receive free legal and accounting services provided solely to help the committee comply with the *Federal Election Campaign Act*, as explained in Chapter 7. If the value of services paid for by one person (the employer) exceeds \$200 or aggregates over \$200 during an election cycle, the committee must itemize the following information as a memo entry on a separate Schedule A:

- The name of each employee performing the services;
- The name and address of the employer of the person providing the services;

## REATTRIBUTIONS

SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF		
			<input checked="" type="checkbox"/> 11a 12	<input type="checkbox"/> 11b 13a	<input type="checkbox"/> 11c 13b	<input type="checkbox"/> 11d 14	<input type="checkbox"/> 15
Any information copied from such Reports and 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.							
NAME OF COMMITTEE (In Full) Doe for Congress Committee							
Full Name (Last, First, Middle Initial)							
A. Richmond, Howard			Date of Receipt				
Mailing Address 40 Shepherd Circle			M M / D D / Y Y Y Y Y Y 12 / 09 / 2007				
City State Zip Code Centreville VA 00000			MEMO				
FEC ID number of contributing federal political committee. C			Amount of Each Receipt this Period 4600.00				
Name of Employer Space Tech			Occupation Engineer				
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼			Election Cycle-to-Date 4600.00				
See Year End 2007 <input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(4)1a-1) Reattribution below							
Full Name (Last, First, Middle Initial)							
B. Richmond, Howard			Date of Receipt				
Mailing Address 40 Shepherd Circle			M M / D D / Y Y Y Y Y Y 02 / 01 / 2008				
City State Zip Code Centreville VA 00000			MEMO				
FEC ID number of contributing federal political committee. C			Amount of Each Receipt this Period -2300.00				
Name of Employer Space Tech			Occupation Engineer				
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼			Election Cycle-to-Date 2300.00				
Reattributed below <input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(4)1a-1)							
Full Name (Last, First, Middle Initial)							
C. Richmond, Jessie			Date of Receipt				
Mailing Address 40 Shepherd Circle			M M / D D / Y Y Y Y Y Y 02 / 01 / 2008				
City State Zip Code Centreville VA 00000			MEMO				
FEC ID number of contributing federal political committee. C			Amount of Each Receipt this Period 2300.00				
Name of Employer None			Occupation Homemaker				
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼			Election Cycle-to-Date 2300.00				
Reattributed <input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(4)1a-1)							

## FREE LEGAL AND ACCOUNTING SERVICES

SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF		
			<input type="checkbox"/> 11a 12	<input type="checkbox"/> 11b 13a	<input type="checkbox"/> 11c 13b	<input type="checkbox"/> 11d 14	<input type="checkbox"/> 15
Any information copied from such Reports and 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.							
NAME OF COMMITTEE (In Full) Doe for Congress Committee							
Full Name (Last, First, Middle Initial)							
A. Thomason, Steve			Date of Receipt				
Mailing Address 145 Netherton Road			M M / D D / Y Y Y Y Y Y 02 / 19 / 2008				
City State Zip Code Tysons Corner VA 00000			MEMO				
FEC ID number of contributing federal political committee. C			Amount of Each Receipt this Period 3000.00				
Name of Employer Peirce, James & Dewey			Occupation Accountant				
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼			Election Cycle-to-Date 3000.00				
Exempt accounting services <input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(4)1a-1)							

- The amounts paid for the services by the employer; and
- The dates the services were performed. 100.86 and 104.3(h). The Schedule A should be clearly labeled as exempt legal or accounting services. (See example on previous page.)

## 10. Reporting In-Kind Contributions

### Schedules A and B

When determining whether to itemize an in-kind contribution, a committee should treat it the same as a monetary contribution. The only difference is that the amount of an in-kind contribution must also be included in the committee's total operating expenditures in order to avoid inflating cash on hand. An in-kind contribution must be itemized as an operating expenditure on Schedule B only if it has to be itemized as a contribution on Schedule A. (For information on how to value an in-kind contribution, see Chapter 3, Section 2.) (See examples above.)

### Advances of Personal Funds

Although an advance of personal funds by an individual to purchase goods and services (with the exception of some travel costs) is considered an in-kind contribution, special reporting rules apply if it is to be reimbursed. For more information, see the next sections on reporting advances and travel expenses.

### IN-KIND CONTRIBUTIONS (SCHEDULE A)

SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS		FOR LINE NUMBER: (check only one)	PAGE	OF	
Use separate schedule(s) for each category of the Detailed Summary Page		<input type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input checked="" type="checkbox"/> 11c	<input type="checkbox"/> 11d
Any information copied from such Reports and 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.		<input type="checkbox"/> 12	<input type="checkbox"/> 13a	<input type="checkbox"/> 13b	<input type="checkbox"/> 14
NAME OF COMMITTEE (In Full) Doe for Congress Committee					
Full Name (Last, First, Middle Initial)					
A. Gold Nugget Corporation PAC		Date of Receipt			
Mailing Address 100 Commerce Ave.		M M / D D / Y Y Y Y Y Y 02 / 20 / 2008			
City State Zip Code Springfield VA 00000		Amount of Each Receipt this Period			
FEC ID number of contributing federal political committee. C 00000000		260.00			
Name of Employer Occupation		In-kind			
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		<input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(j)/441a-1)			
Election Cycle-to-Date 1260.00					

### IN-KIND CONTRIBUTIONS (SCHEDULE B)

SCHEDULE B (FEC Form 3) ITEMIZED DISBURSEMENTS		FOR LINE NUMBER: (check only one)	PAGE	OF
Use separate schedule(s) for each category of the Detailed Summary Page		<input checked="" type="checkbox"/> 17	<input type="checkbox"/> 18	<input type="checkbox"/> 19a
Any information copied from such Reports and 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.		<input type="checkbox"/> 20a	<input type="checkbox"/> 20b	<input type="checkbox"/> 20c
NAME OF COMMITTEE (In Full) Doe for Congress Committee				
Full Name (Last, First, Middle Initial)				
A. Gold Nugget Corporation PAC		Date of Disbursement		
Mailing Address 100 Commerce Ave.		M M / D D / Y Y Y Y Y Y 02 / 20 / 2008		
City State Zip Code Springfield VA 00000		Amount of Each Disbursement this Period		
Purpose of Disbursement In-kind: Postage		260.00		
Candidate Name Category/Type		<input type="checkbox"/> Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53		
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		
State: District:				

### Reporting Appreciated Goods as Contributions

When a committee receives an in-kind contribution whose value may appreciate over time, such as stock or artwork, special reporting rules apply:

- Itemize the initial gift, if necessary, as a memo entry on Schedule A (see “When to Itemize Receipts,” above). Under “Amount,” report the fair market value of the contribution on the date the item was received. Do not include that amount in the total for Line 11(a)(i) on the Detailed Summary Page. No itemization on Schedule B is necessary.
- Once the item is sold, report the sale price as a contribution on Line 11(a)(i) if the purchaser is known or as an “other receipt” on Line 15 if

the purchaser is unknown. Itemize the transaction on Schedule A if necessary. (See examples at right.) Also, if the purchaser is known, then the amount of the purchase, when aggregated with other contributions by the purchaser, must fall within the contribution limits.

104.13(b). See also AO 1989-6.

## II. Reporting Reimbursed Advances of Personal Funds (Non-Travel)

As explained in Chapter 7 and in the previous section, when any individual, including a volunteer, a committee staff member or the candidate, uses his or her personal funds or personal credit to pay a vendor for a campaign expense and is later reimbursed by the committee, special reporting rules apply.

### Non-Travel Advances Made and Reimbursed Within Same Reporting Period

Non-travel advances that are made and reimbursed within the same reporting period are considered contributions and must be reported as follows:

- Do not report the original advance unless, at the end of the reporting period, the amount of previous contributions in the election cycle from the person making the advance plus the amount of the advance minus the amount of the reimbursement is greater than \$200 (i.e., previous contributions + the advance - the reimbursement > \$200).

### APPRECIATED GOODS AS CONTRIBUTIONS

<b>SCHEDULE A (FEC Form 3)</b>		Use separate schedule(s) for each category of the Detailed Summary Page		FOR LINE NUMBER: (check only one)		PAGE OF				
<b>ITEMIZED RECEIPTS</b>		<input checked="" type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input type="checkbox"/> 11c	<input type="checkbox"/> 11d	<input type="checkbox"/> 12	<input type="checkbox"/> 13a	<input type="checkbox"/> 13b	<input type="checkbox"/> 14	<input type="checkbox"/> 15
Any information copied from such Reports and 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.										
NAME OF COMMITTEE (In Full) Doe for Congress Committee										
Full Name (Last, First, Middle Initial)										
A. Kane, Sally						Date of Receipt				
Mailing Address						M M / D D / Y Y Y Y Y Y				
211 Spruce Street						03 / 01 / 2008				
City State Zip Code						Amount of Each Receipt this Period				
Clifton VA 00000						185.00				
FEC ID number of contributing federal political committee.						Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(4)(1a)-1)				
C						<input type="checkbox"/>				
Name of Employer				Occupation			Election Cycle-to-Date			
First National Bank				Banker			260.00			
Receipt For:						<input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)				

### SALE OF APPRECIATED GOODS AS CONTRIBUTIONS

<b>SCHEDULE A (FEC Form 3)</b>		Use separate schedule(s) for each category of the Detailed Summary Page		FOR LINE NUMBER: (check only one)		PAGE OF				
<b>ITEMIZED RECEIPTS</b>		<input type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input type="checkbox"/> 11c	<input type="checkbox"/> 11d	<input type="checkbox"/> 12	<input type="checkbox"/> 13a	<input type="checkbox"/> 13b	<input type="checkbox"/> 14	<input checked="" type="checkbox"/> 15
Any information copied from such Reports and 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.										
NAME OF COMMITTEE (In Full) Doe for Congress Committee										
Full Name (Last, First, Middle Initial)										
A. Bull Market Brokerage						Date of Receipt				
Mailing Address						M M / D D / Y Y Y Y Y Y				
1212 King Street						03 / 31 / 2008				
City State Zip Code						Amount of Each Receipt this Period				
Alexandria VA 00000						750.00				
FEC ID number of contributing federal political committee.						XYZ Corp stock sold through broker. Purchaser unknown.				
C						<input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(4)(1a)-1)				
Name of Employer				Occupation			Election Cycle-to-Date			
							750.00			
Receipt For:						<input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)				

In that case, report the advance as a memo entry contribution on Schedule A; and

- Report the reimbursement as an operating expenditure and, if reimbursements to that person exceed \$200 in the election cycle, itemize it on Schedule B (with a cross-reference to the memo entry on Schedule A for the advance—if the advance was itemized). AO 1992-1.

### Non-Travel Advances Made and Reimbursed in Different Reporting Periods

Non-travel advances that are to be reimbursed in a later reporting period must be reported as follows:



## Completing FEC Reports

- Do not report the original advance unless, at the end of the reporting period in which the advance was made, the amount of previous contributions in the election cycle from the person making the advance plus the amount of the advance minus the amount of the reimbursement is greater than \$200 (i.e. previous contributions + the advance - the reimbursement > \$200). In that case, report the advance as a memo entry contribution on Schedule A;
- Report the amount of the advance outstanding at the end of the reporting period as a debt on Schedule D if it exceeds \$500 or has been outstanding for more than 60 days (see example at left); and
- Report the reimbursement, once made, as an operating expenditure and, if reimbursements to that person exceed \$200 in the election cycle, itemize it on Schedule B (with a cross-reference to the memo entry on Schedule A for the advance—if the advance was itemized).

(See examples at right.)  
See AO 1992-1.

### NONTRAVEL REIMBURSEMENTS

SCHEDULE B (FEC Form 3) ITEMIZED DISBURSEMENTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE OF
			<input checked="" type="checkbox"/> 17 <input type="checkbox"/> 18 <input type="checkbox"/> 19a <input type="checkbox"/> 19b <input type="checkbox"/> 20a <input type="checkbox"/> 20b <input type="checkbox"/> 20c <input type="checkbox"/> 21	17    OF    21
Any information copied from such Reports and 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.				
NAME OF COMMITTEE (In Full) <b>Doe for Congress Committee</b>				
A. Full Name (Last, First, Middle Initial) <b>Lotze, Herman</b>			Date of Disbursement M / D / Y <b>01 / 20 / 2008</b>	
Mailing Address <b>912 Geist Street</b>			Amount of Each Disbursement this Period <b>750.00</b>	
City    State    Zip Code <b>Springfield    VA    00000</b>				
Purpose of Disbursement <b>Reimbursement for office supplies</b>			<input type="checkbox"/> Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53	
Candidate Name Category/Type				
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		
State:    District:				

### NONTRAVEL STAFF ADVANCES MADE AND REIMBURSED IN DIFFERENT REPORTING PERIODS

SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE OF
			<input checked="" type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 11d <input type="checkbox"/> 12 <input type="checkbox"/> 13a <input type="checkbox"/> 13b <input type="checkbox"/> 14 <input type="checkbox"/> 15	12    OF    15
Any information copied from such Reports and 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.				
NAME OF COMMITTEE (In Full) <b>Doe for Congress Committee</b>				
A. Full Name (Last, First, Middle Initial) <b>Allen, Lisa</b>			Date of Receipt M / D / Y <b>01 / 02 / 2008</b>	
Mailing Address <b>828 Pine Street</b>			MEMO Amount of Each Receipt this Period <b>750.00</b> In-kind, printing, to be reimbursed. <input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(441a-1) See Schedule D	
City    State    Zip Code <b>McLean    VA    00000</b>				
FEC ID number of contributing federal political committee. <b>C</b>				
Name of Employer			Occupation	
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼			Election Cycle-to-Date <b>1000.00</b>	

SCHEDULE D (FEC Form 3) DEBTS AND OBLIGATIONS Excluding Loans		(Use separate schedule(s) for each numbered line)	PAGE OF
			FOR LINE NUMBER: (check only one) <input type="checkbox"/> 9 <input checked="" type="checkbox"/> 10
NAME OF COMMITTEE (In Full) <b>Doe for Congress Committee</b>			
A. Full Name (Last, First, Middle Initial) of Debtor or Creditor <b>Allen, Lisa</b>		Nature of Debt (Purpose): <b>Print Job - to be reimbursed.</b>	
Mailing Address <b>828 Pine Street</b>			
City    State    Zip Code <b>McLean    VA    00000</b>			
Outstanding Balance Beginning This Period <b>0.00</b>			
Amount Incurred This Period <b>750.00</b>	Payment This Period <b>0.00</b>	Outstanding Balance at Close of This Period <b>750.00</b>	

## 12. Reporting Travel Expenses

As explained in Chapter 10, when a committee pays for its own travel expenses, it reports the payment as an operating expenditure. In certain situations, the payment may be made by a campaign traveler. In that case, no contribution results if the individual is reimbursed by the committee within certain time periods.

### Travel Expenses Reimbursed Within 30 or 60 Days

As explained in Chapter 7, no contribution results when the committee reimburses an individual for travel expenses within the following time periods:

- If the individual paid with cash or a personal check, within 30 days from the date the expense was incurred.
- If the individual paid with a credit card, within 60 days of the closing date on the credit card billing statement. 116.5(b). (See “Reimbursed Travel Expenses” for more information.)

### Reimbursed Within Time Limit and in Same Reporting Period

When the committee makes a reimbursement within these time limits, the committee reports the advance and reimbursement as follows:

- The original advance is not reported; and
- The reimbursement is reported as an operating expenditure on Line 17. AO 1992–1.

### Reimbursed Within Time Limit but in Later Reporting Period

Note that, if the reimbursement is made within the appropriate time limit but not within the reporting period in which the advance was made, the committee must report the advance on Schedule D as a debt if it exceeds \$500. Once the reimbursement is actually made, the committee reports it as an operating expenditure and itemizes it on Schedule B if reimbursements to any one person exceed \$200 for the election cycle.

## Travel Advances Not Reimbursed Within 30 or 60 Days

### Not Reimbursed Within Time Limit but Within Same Reporting Period

Travel advances that are not reimbursed within the appropriate 30 or 60 day time limit (116.5(b)) but that are reimbursed within the reporting period in which the advance is made are considered in-kind contributions 100.93(i). Such advances must be reported as follows:

- Report the original advance as a memo entry contribution on Schedule A if the total of the advance plus any other contributions made by the same person within the election cycle, minus any reimbursements made in the reporting period, exceeds \$200; and
- Report the reimbursement as an operating expenditure and, if reimbursements to that person exceed \$200 in the election cycle, itemize it on Schedule B (with a cross-reference to the memo entry on Schedule A for the advance—if the advance was itemized).

### Not Reimbursed Within Time Limit and Not Within Same Reporting Period

Travel advances that are not reimbursed within the appropriate 30 or 60 day time limit (116.5(b)) and that are not reimbursed within the reporting period in which the advance was made must be reported as follows:

- Report the original advance as a memo entry contribution on Schedule A if the total of the advance plus any other contributions made by the same person within the election cycle, minus any reimbursements made in the reporting period, exceeds \$200;
- Report the amount of the advance outstanding at the end of the reporting period as a debt on Schedule D if it exceeds \$500 or has been outstanding for more than 60 days; and
- Report the reimbursement as an operating expenditure and, if reimbursements to that person exceed \$200 in the election cycle, itemize it on Schedule B (with a cross-reference to the memo entry on Schedule A for the advance—if the advance was itemized).

## Special Rule for Reporting Reimbursements (for Travel and Subsistence Advances)

If the total amount reimbursed for a travel or subsistence expense is \$500 or less, the committee should report the individual receiving the reimbursement as the payee. If the total amount exceeds \$500 and payments to any one vendor used for the expenses total over \$200 for the election cycle, additional information is required to achieve full disclosure. In this instance the committee must:

- Report the individual receiving reimbursement as payee; and
- Report the payments aggregating over \$200 to any one vendor as memo entries on Schedule B. See AO 1996-20, footnote 3.

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## 13. Categorizing Disbursements

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Like receipts, disbursements are divided into several categories on the Detailed Summary Page of Form 3.

These categories are:

- Line 17, Operating Expenditures
- Line 18, Transfers to Other Authorized Committees
- Line 19(a), Repayments of Loans Made or Guaranteed by the Candidate
- Line 19(b), Repayments of All Other Loans
- Line 19(c), Total Loan Repayments
- Line 20(a), Refunds of Contributions (made by) Individuals/Persons Other than Political Committees
- Line 20(b), Refunds of Contributions (made by) Political Party Committees
- Line 20(c), Refunds of Contributions (made by) Other Political Committees (such as PACs)
- Line 20(d), Total Contribution Refunds
- Line 21, Other Disbursements.

For each category, a committee must disclose the total for the current reporting period and the election-cycle-to-date total. In addition to reporting these totals, a committee often has to itemize disbursements by providing supplemental information on supporting Schedules B. 104.3(b)(2) and (4). A committee must use a separate Schedule B for each category of disbursements that must be itemized; the committee may not mix different categories of disbursements on the same schedule. Electronic filers must separately enter each disbursement when entering data in order to correctly generate the report. Paper-filing committees should complete the supporting Schedules first so that they may transfer totals from these Schedules to the Detailed Summary Page.

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## 14. How to Itemize Disbursements

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For each disbursement that must be itemized, the committee must include the following information:

- Name of payee;
- Address of payee;
- Purpose of disbursement (a brief description of why the disbursement was made);
- Date of disbursement; and
- Amount of disbursement.

104.3(b)(4) and 104.9.

### Purpose

For reporting purposes, the “purpose” of disbursement refers to a brief statement or description about the reason for the disbursement. The description must be sufficiently specific, when considered within the context of the payee’s identity, to make the reason for the disbursement clear. 104.3(b)(4)(i)(A) and (B). The Commission has published a non-exhaustive list of acceptable and unacceptable purpose descriptions at <http://www.fec.gov/law/policy.shtml#purpose>.

## Election Designation

When itemizing a disbursement, the committee does not need to check the box designating it for a particular election (“primary,” “general” or “other”), unless the entry relates to a contribution to another candidate. In that case, the committee must indicate the election to which it relates. See below.

## Contributions to Other Candidates

Contributions to other candidates are included in the total for Line 21 (“Other Disbursements”) and are itemized on Schedule B for that Line if they are made to a federal candidate for any amount or are made to a nonfederal candidate and exceed \$200 for the election cycle to date. When itemizing a contribution to another candidate (either federal or nonfederal, e.g., state or local), the committee must report the information listed above.

### Additional Information Required for Contributions to Other Federal Candidates

If the contribution is to a federal candidate, the committee must also itemize:

- The recipient candidate’s name;
- The office sought by checking the appropriate box;
- The state and, if applicable, Congressional district; and
- The election for which the contribution was made (by checking the appropriate box—“primary,” “general” or “other”). It is recommended that the committee designate any contributions it makes. 104.3(b)(3)(v). (See example above.)

OPERATING EXPENDITURES

SCHEDULE B (FEC Form 3) ITEMIZED DISBURSEMENTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE OF
Any information copied from such Reports and 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.			<input checked="" type="checkbox"/> 17 20a	<input type="checkbox"/> 18 20b
NAME OF COMMITTEE (In Full) <b>Doe for Congress Committee</b>		Full Name (Last, First, Middle Initial)		
A. <b>Quick Printing Inc.</b>		Date of Disbursement		
Mailing Address <b>567 4th Street</b>		<input type="text" value="01"/> / <input type="text" value="28"/> / <input type="text" value="2008"/>		
City State Zip Code <b>Fair Lakes VA 00000</b>		Amount of Each Disbursement this Period		
Purpose of Disbursement <b>Printing Brochures</b>		<input type="text" value="300.00"/>		
Candidate Name <b>Richard Cunningham</b>		<input type="text" value="006"/>		
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		
State: District:		<input type="checkbox"/> Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53		

CONTRIBUTIONS TO OTHER FEDERAL CANDIDATES

SCHEDULE B (FEC Form 3) ITEMIZED DISBURSEMENTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE OF
Any information copied from such Reports and 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.			<input type="checkbox"/> 17 20a	<input type="checkbox"/> 18 20b
NAME OF COMMITTEE (In Full) <b>Doe for Congress Committee</b>		Full Name (Last, First, Middle Initial)		
A. <b>Cunningham for Senate</b>		Date of Disbursement		
Mailing Address <b>77 Center Street</b>		<input type="text" value="03"/> / <input type="text" value="29"/> / <input type="text" value="2008"/>		
City State Zip Code <b>Houston TX 00000</b>		Amount of Each Disbursement this Period		
Purpose of Disbursement <b>Contribution</b>		<input type="text" value="2000.00"/>		
Candidate Name <b>Richard Cunningham</b>		<input type="text" value="011"/>		
Office Sought: <input type="checkbox"/> House <input checked="" type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		
State: TX District:		<input type="checkbox"/> Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53		

## 15. When to Itemize Disbursements

### Regardless of Amount

Three categories of disbursements must be itemized regardless of amount:

- Transfers (Line 18);
- Loan Repayments (Lines 19(a) and 19(b)); and
- Contributions to other federal candidates (Line 21). 104.3(b)(4)(ii), (iii) and (v).

Refunds of contributions must be itemized only if the incoming contribution had to be itemized on Schedule A.

## Itemization Threshold Exceeded

Two categories of disbursements are subject to the \$200 election cycle threshold for itemization:

- Operating Expenditures (Line 17); and
- Other Disbursements (encompassing all disbursements that do not fit into the other categories) (Line 21). 104.3(b)(4)(i) and (vi).

A disbursement under these categories must be itemized if it:

- Exceeds \$200; or
- Aggregates over \$200 when added to other disbursements (within the same category) made to the same payee during an election cycle. (See previous page.)

### Credit Card Transactions

In the case of operating expenditures charged on a credit card, a committee must itemize a payment to a credit card company if the payment exceeds the \$200 aggregate threshold for itemization explained above. The committee must also itemize, as a memo entry, any specific transaction charged on a credit card if the payment to the actual vendor exceeds the \$200 threshold. The memo entry must also include the name and address of the vendor, the purpose of the disbursement and the amount of the disbursement. Finally, any credit card debt must be reported following the procedures outlined in the next section. 102.9(b)(2) and 104.9. (See examples at right.)

## CREDIT CARD TRANSACTIONS (SCHEDULE B)

SCHEDULE B (FEC Form 3) ITEMIZED DISBURSEMENTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE OF
			<input checked="" type="checkbox"/> 17 <input type="checkbox"/> 18 <input type="checkbox"/> 19a <input type="checkbox"/> 19b <input type="checkbox"/> 20a <input type="checkbox"/> 20b <input type="checkbox"/> 20c <input type="checkbox"/> 21	
Any information copied from such Reports and 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.				
NAME OF COMMITTEE (In Full) <u>Doe for Congress Committee</u>				
Full Name (Last, First, Middle Initial)				
A. <u>Credit Card Company</u>		Date of Disbursement		
Mailing Address <u>12 Muche Ct.</u>		M / M / Y Y Y Y <u>02 / 28 / 2008</u>		
City <u>Philadelphia</u> State <u>PA</u> Zip Code <u>00000</u>		Amount of Each Disbursement this Period		
Purpose of Disbursement <u>Credit card payment—see below</u>		<u>1300.00</u>		
Candidate Name		Category/Type <u>001</u>		
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		
State:      District:		<input type="checkbox"/> Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53		
Full Name (Last, First, Middle Initial)				
B. <u>Southeast Airlines</u>		Date of Disbursement		
Mailing Address <u>777 Jetstream Way</u>		M / M / Y Y Y Y <u>01 / 12 / 2008</u>		
City <u>Dulles</u> State <u>VA</u> Zip Code <u>00000</u>		Amount of Each Disbursement this Period		
Purpose of Disbursement <u>Airline tickets</u>		<u>750.00</u>		
Candidate Name		Category/Type <u>002</u>		
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		
State:      District:		<input type="checkbox"/> Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53		
Full Name (Last, First, Middle Initial)				
C.		Date of Disbursement		
Mailing Address		M / M / Y Y Y Y		
City      State      Zip Code		Amount of Each Disbursement this Period		
Purpose of Disbursement				
Candidate Name		Category/Type		
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		
State:      District:		<input type="checkbox"/> Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53		
Full Name (Last, First, Middle Initial)				
SUBTOTAL of Disbursements This Page (optional).....		<u>1,300.00</u>		
TOTAL This Period (last page this line number only).....		<u>1,300.00</u>		

## CREDIT CARD TRANSACTIONS (SCHEDULE D)

SCHEDULE D (FEC Form 3) DEBTS AND OBLIGATIONS Excluding Loans		(Use separate schedule(s) for each numbered line)	PAGE OF
			FOR LINE NUMBER: (check only one) <input type="checkbox"/> 9 <input checked="" type="checkbox"/> 10
NAME OF COMMITTEE (In Full) <u>Doe for Congress Committee</u>			
A. Full Name (Last, First, Middle Initial) of Debtor or Creditor		Nature of Debt (Purpose):	
<u>Credit Card Company</u>		<u>Credit card debt</u>	
Mailing Address <u>12 Muche Ct.</u>			
City <u>Philadelphia</u> State <u>PA</u> Zip Code <u>00000</u>			
Outstanding Balance Beginning This Period			
<u>1200.00</u>			
Amount Incurred This Period	Payment This Period	Outstanding Balance at Close of This Period	
<u>1300.00</u>	<u>1300.00</u>	<u>1200.00</u>	

## 16. Reporting Debts Other Than Loans

### Schedule D: Continuous Reporting

Debts and obligations must be reported continuously until repaid. 104.3(d) and 104.11. Unpaid bills and written contracts or agreements to make expenditures are considered debts. 100.112. Debts and obligations (other than loans—see Section 17, below) are reported on Lines 9 and 10 of the Summary Page and itemized on Schedule D according to the following rules:

- A debt of \$500 or less is reportable once it has been outstanding 60 days from the date incurred (the date of the transaction, not the date the bill is received). The debt is disclosed on the next regularly scheduled report.
- A debt exceeding \$500 must be reported in the report covering the date on which the debt was incurred. 104.3(d), 104.11 and 116.6(c).

The committee must use separate Schedule D forms for debts owed by the committee (Line 10) versus debts owed to the committee (Line 9). Paper filers must label each schedule accordingly by checking the appropriate box at the top of the form; electronic filing programs will label the Schedules for you.

#### Exception

Regularly recurring administrative expenses such as rent, utilities and salaries are not considered to be debts until they are past due. 104.11(b).

## Debts Owed by the Committee

The committee reports the total of outstanding debts (from Schedule D) plus the balance of loans owed by the committee (from Schedule C) on Line 10 of the Summary Page.

### Itemizing Debts Owed

Schedule D is used to report:

- The outstanding amount owed on a debt or obligation;
- Payments made to reduce the debt;
- Complete name and address of creditor; and,
- The nature and purpose of the debt.

The instructions for Schedule D (available online at <http://www.fec.gov/pdf/forms/fecfrm3i.pdf#page=18>) explain what additional infor-

SCHEDULE B (FEC Form 3)		FOR LINE NUMBER: (check only one)		PAGE OF	
<b>ITEMIZED DISBURSEMENTS</b>		<input checked="" type="checkbox"/> 17	<input type="checkbox"/> 18	<input type="checkbox"/> 19a	<input type="checkbox"/> 19b
Use separate schedule(s) for each category of the Detailed Summary Page		<input type="checkbox"/> 20a	<input type="checkbox"/> 20b	<input type="checkbox"/> 20c	<input type="checkbox"/> 21
Any information copied from such Reports and 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.					
NAME OF COMMITTEE (In Full) Doe for Congress Committee					
Full Name (Last, First, Middle Initial)					
A. WCFS-FM			Date of Disbursement		
Mailing Address 1290 Tower Street			MM / DD / YYYY 01 / 31 / 2008		
City Winchester VA State Zip Code 00000			Amount of Each Disbursement This Period		
Purpose of Disbursement Radio Advertisement			2500.00		
Candidate Name Jane Doe			See Schedule D		
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President			<input type="checkbox"/> Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53		
Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) _____					
State: District:					

SCHEDULE D (FEC Form 3)		(Use separate schedule(s) for each numbered line)		PAGE OF	
<b>DEBTS AND OBLIGATIONS</b>				<input type="checkbox"/> 9	
<b>Excluding Loans</b>				<input checked="" type="checkbox"/> 10	
NAME OF COMMITTEE (In Full) Doe for Congress Committee					
A. Full Name (Last, First, Middle Initial) of Debtor or Creditor			Nature of Debt (Purpose):		
WCFS-FM			Radio Advertisement; See Schedule B, Line 17		
Mailing Address 1290 Tower Street					
City Winchester VA State Zip Code 00000					
Outstanding Balance Beginning This Period			0.00		
Amount Incurred This Period		Payment This Period		Outstanding Balance at Close of This Period	
5500.00		2500.00		3000.00	

mation is required. Note that payments to reduce debts must also be reported under the appropriate category of disbursement on the Detailed Summary Page (for example, Line 17 for a payment on a bill for an operating expenditure). (See examples on previous page.)

## Settlement of Debts

Special rules apply to debts that are forgiven or settled for less than their full amount. See Chapter 14 for more information.

## Special Debt Reporting Problems

### Debts of Unknown Amount

If the exact amount of a debt is not known, the committee reports an estimated amount. The committee must either amend the report (and all subsequent reports) to indicate the correct amount, once a correct figure is known, or include the correct figure, along with an explanation of the change, in the report for the reporting period during which the amount is determined. 104.11(b).

### Unpayable Debts

If a debt cannot be paid because the creditor has gone out of business or cannot be located, the treasurer may write to the FEC to request permission to discontinue reporting the debt. The letter must demonstrate that the debt is at least two years old and that efforts to ascertain the current address of the creditor and to reach the creditor have been made by registered or certified letter and either in person or by phone. The committee must continue to report the debt until the Commission determines that the debt is unpayable. 116.9.

### Disputed Debts

A disputed debt is a *bona fide* disagreement between the creditor and the committee as to the existence of a debt or the amount owed by the committee. 116.10. If the creditor provided something of value, notwithstanding the disputed amount, then the committee must disclose:

- The amount the committee admits it owes;
- The amount the creditor claims is owed; and

- Any amounts the committee has paid the creditor.

The committee may also note on the report that disclosure of a disputed debt is not an admission of liability or a waiver of any claims against the creditor. Once a disputed debt is resolved, the committee should report the correct amount on the next report, along with a statement explaining that the dispute was resolved.

## Debts Owed to the Committee

The committee must continuously report a debt owed to the committee on Schedule D if the debt exceeds \$500 or has been outstanding 60 days. 104.3(d) and 104.11. Payments received on the debt are also reported on Schedule D until the debt is retired. The debt repayments received must also be reported on the appropriate Line number of the Detailed Summary Page and itemized on Schedule A if necessary. On Line 9 of the Form 3 Summary Page, the committee enters the total of outstanding debts owed to it (from Schedule D), plus the balance of outstanding loans owed to it (from Schedule C). Paper filers must be sure to label the Schedule D as “debt owed to the committee” by checking the box for Line 9 at the top of Schedule D.

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## 17. Reporting Loans

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All loans received by a committee must be itemized and continuously reported until extinguished. 104.3(a)(4)(iv) and (d); 104.11. All repayments made on a loan must also be itemized. 104.3(b)(4)(iii). Procedures for reporting loans and loan repayments are explained below. See also “Reporting Contributions from Candidate” in Section 6 of this chapter.

### Schedule A: Initial Receipt of Loan

A committee must itemize the receipt of a loan, regardless of amount, on a separate Schedule A for the appropriate loan category (“made/guaranteed by the candidate” or “all other loans”). (See examples of Schedule A on following pages.) 104.3(a)(4)(iv).

## Schedule B: Interest and Principal Payments

A committee must report interest paid on a loan as an operating expenditure, itemizing the payment on a Schedule B for operating expenditures once interest payments to one payee aggregate over \$200 in an election cycle.

Payments to reduce principal must be itemized, regardless of amount, on a Schedule B for the appropriate category of loan repayment (“made/guaranteed by the candidate” or “all other loans”). 104.3(b)(4)(iii). (See Schedule B examples.)

## Schedule C: Continuous Reporting

In addition, both the original loan and payments to reduce principal must be reported on Schedule C each reporting period (see examples) until the loan is repaid.

### Committee Has No Other Debts or Obligations

If the committee has no other debts, the Schedule C balance of the total amount owed on loans is entered on Line 10 of the Form 3 Summary Page (“Debts and Obligations Owed by the Committee”).

### Committee Has Other Debts or Obligations (Reported on Schedule D)

If the committee has other debts or obligations that are reported on Schedule D, the total amount owed on loans is also entered on Schedule D along with the other debts and obligations. The total from Schedule D is then entered on Line 10 of the Form 3 Summary Page reflecting all outstanding debts or obligations.

## BANK LOANS ENDORSED BY CANDIDATE

SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE OF												
Any information copied from such Reports and 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.		<table border="1"> <tr> <td><input type="checkbox"/> 11a</td> <td><input type="checkbox"/> 11b</td> <td><input type="checkbox"/> 11c</td> <td><input type="checkbox"/> 11d</td> </tr> <tr> <td><input type="checkbox"/> 12</td> <td><input checked="" type="checkbox"/> 13a</td> <td><input type="checkbox"/> 13b</td> <td><input type="checkbox"/> 14</td> </tr> <tr> <td colspan="4" style="text-align: right;"><input type="checkbox"/> 15</td> </tr> </table>			<input type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input type="checkbox"/> 11c	<input type="checkbox"/> 11d	<input type="checkbox"/> 12	<input checked="" type="checkbox"/> 13a	<input type="checkbox"/> 13b	<input type="checkbox"/> 14	<input type="checkbox"/> 15			
<input type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input type="checkbox"/> 11c	<input type="checkbox"/> 11d													
<input type="checkbox"/> 12	<input checked="" type="checkbox"/> 13a	<input type="checkbox"/> 13b	<input type="checkbox"/> 14													
<input type="checkbox"/> 15																
NAME OF COMMITTEE (In Full) Doe for Congress Committee																
Full Name (Last, First, Middle Initial)																
A. National Trust Bank			Date of Receipt													
Mailing Address 800 Lincoln Ave.			M M / D D / Y Y Y Y Y Y 03 / 01 / 2008													
City State Zip Code Reston VA 00000			Amount of Each Receipt This Period													
FEC ID number of contributing federal political committee. C			20000.00													
Name of Employer			(guaranteed)													
Occupation			<input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(f)(4)(1)-1)													
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)			Election Cycle-to-Date 20000.00													

## LOAN PAYMENTS

SCHEDULE B (FEC Form 3) ITEMIZED DISBURSEMENTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE OF								
Any information copied from such Reports and 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.		<table border="1"> <tr> <td><input type="checkbox"/> 17</td> <td><input type="checkbox"/> 18</td> <td><input checked="" type="checkbox"/> 19a</td> <td><input type="checkbox"/> 19b</td> </tr> <tr> <td><input type="checkbox"/> 20a</td> <td><input type="checkbox"/> 20b</td> <td><input type="checkbox"/> 20c</td> <td><input type="checkbox"/> 21</td> </tr> </table>			<input type="checkbox"/> 17	<input type="checkbox"/> 18	<input checked="" type="checkbox"/> 19a	<input type="checkbox"/> 19b	<input type="checkbox"/> 20a	<input type="checkbox"/> 20b	<input type="checkbox"/> 20c	<input type="checkbox"/> 21
<input type="checkbox"/> 17	<input type="checkbox"/> 18	<input checked="" type="checkbox"/> 19a	<input type="checkbox"/> 19b									
<input type="checkbox"/> 20a	<input type="checkbox"/> 20b	<input type="checkbox"/> 20c	<input type="checkbox"/> 21									
NAME OF COMMITTEE (In Full) Doe for Congress Committee												
Full Name (Last, First, Middle Initial)												
A. National Trust Bank			Date of Disbursement									
Mailing Address 800 Lincoln Avenue			M M / D D / Y Y Y Y Y Y 03 / 30 / 2008									
City State Zip Code Reston VA 00000			Amount of Each Disbursement This Period									
Purpose of Disbursement Loan principal payment			271.18									
Candidate Name			Category/Type 009									
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President			Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼									
State: District:			Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53									

### Schedule C-1: Additional Information for Loans from Lending Institutions

A committee that obtains a loan from a bank or other permissible lending institution must also file Schedule C-1 with the first report due after a new loan or line of credit has been established. 104.3(d)(1). A new Schedule C-1 must also be filed with the next report if the terms of the loan or line of credit are restructured. Additionally, in the case of a committee that has obtained a line of credit, a new Schedule C-1 must be filed with the next report whenever the committee draws on the line of credit. 104.3(d)(1) and (3). (See example of Schedule C-1.) For loans derived from a candidate loan, the reporting on Schedule C-1 is simplified. See the next section for more information.



## Completing FEC Reports

### LOANS FROM CANDIDATE'S PERSONAL FUNDS (SCHEDULE A)

<b>SCHEDULE A (FEC Form 3)</b> <b>ITEMIZED RECEIPTS</b>	Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE OF	<input type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 11d <input type="checkbox"/> 12 <input checked="" type="checkbox"/> 13a <input type="checkbox"/> 13b <input type="checkbox"/> 14 <input type="checkbox"/> 15
Any information copied from such Reports and 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.				
NAME OF COMMITTEE (In Full) Doe for Congress Committee				
Full Name (Last, First, Middle Initial) A. Doe, Jane (personal funds)		Date of Receipt MM / DD / YYYY 02 / 10 / 2008		
Mailing Address 626 Pritham Ave. City: Springfield State: VA Zip Code: 00000		Amount of Each Receipt this Period 1000.00		
FEC ID number of contributing federal political committee. C		Personal funds <input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(f)(4)1a-1)		
Name of Employer U.S. House Occupation U.S. Representative		Election Cycle-to-Date 2200.00		
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) _____				

Line-by-line instructions for filling out the schedule appear in the Form 3 instruction booklet. The committee treasurer or designated assistant treasurer must sign the schedule on Line G and attach a copy of the loan agreement. 104.3(d)(2). Finally, an authorized representative of the lending institution must sign the statement on Line I.

### LOANS FROM CANDIDATE'S PERSONAL FUNDS (SCHEDULE C)

<b>SCHEDULE C (FEC Form 3)</b> <b>LOANS</b>	Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE OF	<input type="checkbox"/> 13a <input checked="" type="checkbox"/> 13b
NAME OF COMMITTEE (In Full) Doe for Congress Committee				
LOAN SOURCE Full Name (Last, First, Middle Initial) Jane Doe - personal funds		Election: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) _____		
Mailing Address 626 Pritham Ave. City: Springfield State: VA ZIP Code: 00000				
Original Amount of Loan 1000.00		Cumulative Payment To Date 0.00		Balance Outstanding at Close of This Period 1000.00
TERMS Date Incurred: MM / DD / YYYY (03 / 23 / 2008) Date Due: MM / DD / YYYY (none) Interest Rate: none % (apr) Secured: <input type="checkbox"/> <input checked="" type="checkbox"/>				
List All Endorsers or Guarantors (if any) to Loan Source				

## 18. Reporting Bank Loans, Brokerage Loans and Other Lines of Credit When Made to Candidates

Bank loans to candidates and loans derived from advances on a candidate's brokerage accounts, credit cards, home equity line of credit, or other lines of credit obtained for use in connection with his or her campaign must be reported by the committee. 100.83. The committee must report the loan from the candidate as a receipt and repayment of the loan to the candidate as a disbursement. 104.3(a)(3)(vii)(B) and (b)(2)(iii)(A).

### Schedule A

The candidate may choose either to loan or to contribute the loan proceeds to the authorized committee. If the candidate treats the funds as a personal contribution, the receipt of the contribution from the candidate must be reported on Schedule A for Line 11(d).

### CANDIDATE HOME EQUITY LINE OF CREDIT (SCHEDULE A)

<b>SCHEDULE A (FEC Form 3)</b> <b>ITEMIZED RECEIPTS</b>	Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE OF	<input type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 11d <input type="checkbox"/> 12 <input checked="" type="checkbox"/> 13a <input type="checkbox"/> 13b <input type="checkbox"/> 14 <input type="checkbox"/> 15
Any information copied from such Reports and 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.				
NAME OF COMMITTEE (In Full) Doe for Congress Committee				
Full Name (Last, First, Middle Initial) A. Doe, Jane		Date of Receipt MM / DD / YYYY 03 / 15 / 2008		
Mailing Address 626 Pritham Ave. City: Springfield State: VA Zip Code: 00000		Amount of Each Receipt this Period 50000.00		
FEC ID number of contributing federal political committee. C		home equity line of credit <input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(f)(4)1a-1)		
Name of Employer U.S. House Occupation U.S. Representative		Election Cycle-to-Date 60000.00		
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) _____				

If the candidate treats the funds as a loan, the receipt of the loan must be reported on Schedule A for Line 13(a). (See example on previous page.) If the funds are designated as a contribution, then the committee cannot repay the underlying loan to the financial institution. AO 2006-37.

**Schedule B**

If the funds are designated as a loan, the committee’s repayment to the lending institution or the candidate is reported as an itemized entry on Schedule B. The committee is not required to report repayments by the candidate to the lending institution. 104.3(b)(4). The loan must also be continually reported on Schedule C or C-P until it is extinguished. (See examples at right.)

**Schedule C**

The committee need only list the candidate as the source of the loan on Schedule C. However, the type of loan the candidate receives (i.e. bank loan, brokerage account, credit card, home equity line of credit, other line of credit) must also be disclosed in either the first box for endorsers and guarantors with a notation for loan type or in the box for “Loan Source” after the candidate’s name. (See example at right.)

**Schedule C-1**

The committee must disclose, in the report covering the period when the loan was obtained, the following information on Schedule C-1 (see example on following page):

### CANDIDATE HOME EQUITY LINE OF CREDIT PRINCIPAL PAYMENT

<b>SCHEDULE B (FEC Form 3)</b> <b>ITEMIZED DISBURSEMENTS</b>	Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one) <input type="checkbox"/> 17 <input type="checkbox"/> 18 <input checked="" type="checkbox"/> 19a <input type="checkbox"/> 19b <input type="checkbox"/> 20a <input type="checkbox"/> 20b <input type="checkbox"/> 20c <input type="checkbox"/> 21	PAGE OF
Any information copied from such Reports and 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.			
NAME OF COMMITTEE (In Full) Doe for Congress Committee			
Full Name (Last, First, Middle Initial)		Date of Disbursement	
A. National Trust Bank		MM / DD / YYYY 03 / 30 / 2008	
Mailing Address 800 Lincoln Avenue		Amount of Each Disbursement this Period	
City: Reston VA    State: VA    Zip Code: 00000		5000.00	
Purpose of Disbursement Line of Credit Payment (Candidate Loan)		<input type="checkbox"/> Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53	
Candidate Name Jane Doe			
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)			
State: VA    District: 12			

### CANDIDATE HOME EQUITY LINE OF CREDIT INTEREST PAYMENT

<b>SCHEDULE B (FEC Form 3)</b> <b>ITEMIZED DISBURSEMENTS</b>	Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one) <input checked="" type="checkbox"/> 17 <input type="checkbox"/> 18 <input type="checkbox"/> 19a <input type="checkbox"/> 19b <input type="checkbox"/> 20a <input type="checkbox"/> 20b <input type="checkbox"/> 20c <input type="checkbox"/> 21	PAGE OF
Any information copied from such Reports and 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.			
NAME OF COMMITTEE (In Full) Doe for Congress Committee			
Full Name (Last, First, Middle Initial)		Date of Disbursement	
A. National Trust Bank		MM / DD / YYYY 03 / 30 / 2008	
Mailing Address 800 Lincoln Avenue		Amount of Each Disbursement this Period	
City: Reston VA    State: VA    Zip Code: 00000		350.00	
Purpose of Disbursement Interest payment on candidate loan		<input type="checkbox"/> Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53	
Candidate Name Jane Doe			
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)			
State: VA    District: 12			

### CANDIDATE HOME EQUITY LINE OF CREDIT (SCHEDULE C)

<b>SCHEDULE C (FEC Form 3)</b> <b>LOANS</b>	Use separate schedule(s) for each category of the Detailed Summary Page	PAGE OF
FOR LINE NUMBER: (check only one) <input checked="" type="checkbox"/> 13a <input type="checkbox"/> 13b		
NAME OF COMMITTEE (In Full) Doe for Congress Committee		
LOAN SOURCE Full Name (Last, First, Middle Initial) Jane Doe - Home equity line of credit		Election: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼
Mailing Address 626 Pritham Ave.		
City: Springfield VA    State: VA    ZIP Code: 00000		
Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
50000.00	5000.00	45000.00
<b>TERMS</b>		
Date Incurred	Date Due	Interest Rate
MM / DD / YYYY 03 / 15 / 2008	MM / DD / YYYY 01 / 31 / 2010	6.0 % (apr)
Secured:		<input checked="" type="checkbox"/> <input type="checkbox"/>

## Completing FEC Reports

- The date, amount, and interest rate of the loan, advance or line of credit;
- The name and address of the lending institution; and
- The types and value of collateral or other sources of repayment that secure the loan, advance or line of credit. 104.3(d)(1).

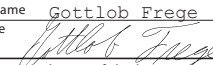
Unlike loans to committees, when reporting bank loans obtained by the candidate or loans derived from the candidate's brokerage account, credit card, home equity line of credit or other line of credit, the committee is not required to submit the loan agreement to the Commission. Note, however, that Schedule C-1 must still be filed when the candidate obtains a loan and then contributes the proceeds to the committee. 104.3(d)(4).

### Keeping Records

The committee must retain records relating to the loan for three years after the date of the election in which the candidate ran. Additionally, the candidate must preserve the following records for three years after the election for which he or she was a candidate:

- Records to demonstrate the ownership of the accounts or assets securing the loans;
- Copies of the executed loan agreements and all security and guarantee statements;
- Statements of account for all accounts used to secure any loan for the period the loan is outstanding such as brokerage accounts or credit card accounts and statements on any line of credit account that was used for the purpose of influencing the candidate's election for federal office;
- Documentation to establish the source of the funds in the account and the time of the loan; and

## CANDIDATE HOME EQUITY LINE OF CREDIT (SCHEDULE C-1)

SCHEDULE C-1 (FEC Form 3) LOANS AND LINES OF CREDIT FROM LENDING INSTITUTIONS		Supplementary for Information found on Page ____ of Schedule C
Federal Election Commission, Washington, D.C. 20463		
NAME OF COMMITTEE (in Full)  Doe for Congress Committee		FEC IDENTIFICATION NUMBER C 00033000
LENDING INSTITUTION (LENDER) Full Name National Trust Bank	Amount of Loan 50000.00	Interest Rate (APR) 12.5 %
Mailing Address 800 Lincoln Avenue	Date Incurred or Established 03 / 15 / 2008	Date Due 01 / 31 / 2010
City Reston	State VA	Zip Code 00000
A. Has loan been restructured? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, date originally incurred		
B. If line of credit, Amount of this Draw: 0.00		Total Outstanding Balance: 0.00
C. Are other parties secondarily liable for the debt incurred? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (Endorsers and guarantors must be reported on Schedule C.)		
D. Are any of the following pledged as collateral for the loan: real estate, personal property, goods, negotiable instruments, certificates of deposit, chattel papers, stocks, accounts receivable, cash on deposit, or other similar traditional collateral? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes If yes, specify: <u>real estate</u>		What is the value of this collateral? 250000.00  Does the lender have a perfected security interest in it? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
E. Are any future contributions or future receipts of interest income, pledged as collateral for the loan? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, specify:		What is the estimated value? 0.00
A depository account must be established pursuant to 11 CFR 100.82(e)(2) and 100.142(e)(2). Date account established: _____ Location of account: _____ Address: _____ City, State, Zip: _____		
F. If neither of the types of collateral described above was pledged for this loan, or if the amount pledged does not equal or exceed the loan amount, state the basis upon which this loan was made and the basis on which it assures repayment.		
G. COMMITTEE TREASURER Typed Name <u>Gottlob Frege</u> Signature 		DATE 03 / 15 / 2008
H. Attach a signed copy of the loan agreement.		

- Documentation for all payments made on the loan by any person. 104.14(b)(3) and (4).

## 19. Reporting Refunds, Returns and Bounced Checks

### Refunds v. Returns

A refund occurs when the committee has actually deposited a contribution in its bank depository and then pays it back to the contributor by issuing a check. When a committee refunds a contribution to a donor, the committee must include the refund in the total for the appropriate category of refund on the Detailed Summary Page (Lines 20(a), (b) or (c)). If the committee previously itemized the incoming contribution on Schedule A, then it

must itemize the refund on a Schedule B for the appropriate category of refund. 104.8(d) (4). (See examples at right.)

Alternatively, a committee may return a contribution to the donor without depositing it, although the return must be made within 10 days of the treasurer's receipt of the contribution. 103.3(a). In this case, the committee does not have to report either the receipt or the return of the contribution.

### Checks Returned Due to Insufficient Funds

If a committee reports the receipt of a check and later finds it cannot be negotiated because of insufficient funds in the donor's account, the committee should deduct the amount of the check in its next report as follows:

- If the committee did not itemize the receipt on a previous report, it subtracts the amount of the check from the total for the appropriate category of receipts. The reduced total is entered on the Detailed Summary Page.
- If the committee previously itemized the receipt, it itemizes the return of the check as a negative entry on the appropriate Schedule A. (See example at right.)

Checks received and returned by the bank in the same reporting period do not need to be reported.

### REFUNDED CONTRIBUTIONS (SCHEDULE A)

<b>SCHEDULE A (FEC Form 3)</b>		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one) <input type="checkbox"/> 11a <input type="checkbox"/> 11b <input checked="" type="checkbox"/> 11c <input type="checkbox"/> 11d <input type="checkbox"/> 12 <input type="checkbox"/> 13a <input type="checkbox"/> 13b <input type="checkbox"/> 14 <input type="checkbox"/> 15
<b>ITEMIZED RECEIPTS</b>		PAGE OF	
Any information copied from such Reports and 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.			
NAME OF COMMITTEE (In Full) Doe for Congress Committee			
Full Name (Last, First, Middle Initial) A. Very Controversial PAC		Date of Receipt 03 / 19 / 2008	
Mailing Address 879 Peabody Street		Refunded 3/30/08	
City Washington State DC Zip Code 00000		Amount of Each Receipt This Period 5000.00	
FEC ID number of contributing federal political committee. C		See Schedule B, Line 20(c)	
Name of Employer		Election Cycle-to-Date 5000.00	
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		<input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(j)(4)41a-1)	

### REFUNDED CONTRIBUTIONS (SCHEDULE B)

<b>SCHEDULE B (FEC Form 3)</b>		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one) <input type="checkbox"/> 17 <input type="checkbox"/> 18 <input type="checkbox"/> 19a <input type="checkbox"/> 19b <input type="checkbox"/> 20a <input checked="" type="checkbox"/> 20b <input type="checkbox"/> 20c <input type="checkbox"/> 21
<b>ITEMIZED DISBURSEMENTS</b>		PAGE OF	
Any information copied from such Reports and 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.			
NAME OF COMMITTEE (In Full) Doe for Congress Committee			
Full Name (Last, First, Middle Initial) A. Very Controversial PAC		Date of Disbursement 03 / 30 / 2008	
Mailing Address 879 Peabody Street		Amount of Each Disbursement This Period 5000.00	
City Washington State DC Zip Code 00000		See Schedule A, Line 11(c)	
Purpose of Disbursement Refund of 3/19/08 contribution		<input type="checkbox"/> Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53	
Candidate Name Jane Doe		Category/Type 001	
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼	
State: District:			

### CHECKS RETURNED DUE TO INSUFFICIENT FUNDS

<b>SCHEDULE A (FEC Form 3)</b>		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one) <input checked="" type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 11d <input type="checkbox"/> 12 <input type="checkbox"/> 13a <input type="checkbox"/> 13b <input type="checkbox"/> 14 <input type="checkbox"/> 15
<b>ITEMIZED RECEIPTS</b>		PAGE OF	
Any information copied from such Reports and 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.			
NAME OF COMMITTEE (In Full) Doe for Congress Committee			
Full Name (Last, First, Middle Initial) A. Light, Jack		Date of Receipt 03 / 01 / 2008	
Mailing Address 421 Overdraw Street		Amount of Each Receipt This Period -300.00	
City Falls Church State VA Zip Code 00000		bounced check	
FEC ID number of contributing federal political committee. C		<input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(j)(4)41a-1)	
Name of Employer None		Election Cycle-to-Date 0.00	
Occupation Graduate Student			
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)			

## 20. Reporting Transfers Between Authorized Committees

As explained in Chapter 9, authorized committees may make and receive transfers to and from other federal authorized committees of the same candidate. The following sections explain the rules for reporting the permissible transfers discussed in Chapter 9.

### Transfers Between Candidate's Committees for the Same Office

#### In the Same Election Cycle

Transfers between a candidate's authorized committees for the same election are reported by the transferring committee on Line 18 of the Form 3 Detailed Summary Page, and by the committee receiving the transfer on Line 12 of the Form 3 Detailed Summary Page. 104.3(a)(3)(vi) and (b)(2)(ii). The receiving committee does not need to re-itemize the sources of the funds transferred (e.g., contributions that comprise the transfer) because the transferring committee has already itemized them in its report to the principal campaign committee, which is attached to the principal campaign committee's consolidated report (Form 3Z). 110.3(c). (See example below.)

#### In Different Election Cycles

The receiving committee also does not have to itemize contributions transferred between committees authorized by one candidate for two different election cycles as long as the original contributions count against the limits for the election for which the contributions were intended. 110.3(c)(4).

**EXAMPLE:** A 2008 House candidate has a surplus from that campaign. The candidate may roll over that amount to his or her committee for reelection in 2010 without again itemizing the contributions that make up the transfer, provided that:

- He or she did not become a candidate for the 2010 election before the 2008 general election; and
- The surplus transferred from the 2008 committee consists of contributions that count against the 2008 limits rather than the 2010 limits (i.e., were designated for or made prior to the 2008 general election).

### Transfers Between Candidate's Committees for Multiple Offices

A candidate's authorized committee for one office (e.g., a Senate campaign) receiving a transfer from that candidate's authorized committee for another office (e.g., a House campaign) must report the

total transfer on Line 12 of the Form 3 Detailed Summary Page and must itemize the transfer on Schedule A, regardless of amount. 104.3(a)(4)(iii)(A). (See Chapter 9 for information on when such transfers are permissible.) In addition, as discussed in Chapter 9, the receiving committee must aggregate the contributions that make up the transfer with any other contributions it receives from the same contributor. 110.3(c)(5).

If the aggregate contributions from one contributor exceed \$200 in the election cycle, the receiving committee

must itemize the contributions as memo

TRANSFERS BETWEEN CANDIDATE'S COMMITTEES, SAME OFFICE	
<b>SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS</b>	
Use separate schedule(s) for each category of the Detailed Summary Page	
FOR LINE NUMBER: (check only one) PAGE 1 OF 15 <input type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 11d <input checked="" type="checkbox"/> 12 <input type="checkbox"/> 13a <input type="checkbox"/> 13b <input type="checkbox"/> 14 <input type="checkbox"/> 15	
Any information copied from such Reports and 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.	
NAME OF COMMITTEE (In Full) Doe for Congress Committee	
Full Name (Last, First, Middle Initial) A. Friends of Jane Doe	
Mailing Address 147 Felicity Circle	
City State Zip Code Fairfax VA 000000	
FEC ID number of contributing federal political committee. C 00000002	
Name of Employer Occupation	
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) _____	
Election Cycle-to-Date 3000.00	
Date of Receipt MM / DD / YYYY 03 / 21 / 2008	
Amount of Each Receipt this Period 3000.00	
<input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(j)(4)(A)-1)	

entries on a Schedule A. The recipient committee must also report the total transfer on Line 12 of the Form 3 Detailed Summary Page and must itemize the source of the transfer on Schedule A, regardless of amount. See AO 1984-38.

The committee making the transfer must report the transfer on Line 18 of the Form 3 Detailed Summary Page and must itemize the disbursement on Schedule B, regardless of amount. 104.3(b)(4)(ii).

## Transfers of Joint Fundraising Receipts

For information on reporting transfers of joint fundraising receipts, see Appendix C, “Joint Fundraising.”

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## 21. Reporting Investments

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A committee that has invested its funds—for example, in a savings account, money market fund or certificate of deposit—must include the total amount invested in its cash on hand (Line 27 of the Form 3 Detailed Summary Page). It should not report any investment as a disbursement, since the money has not actually been spent, but, instead, is still a committee asset. 104.3(a)(1).

### Reporting Additional Depository

#### Funds Invested with Banks

If a committee invests the funds in a bank that was not previously identified as a campaign depository on the Statement of Organization (FEC Form 1), the committee must file an amended Statement of Organization disclosing the name and address of the new depository. The amendment must be filed within 10 days of making the investment. 102.2(a)(2).

#### Funds Invested with Other Establishments

If committee funds are invested in a fund that is not operated by a bank (such as a money market fund operated by a brokerage firm), no amendment to the Statement of Organization is required. Before using the funds (principal or interest) to make expenditures, the committee must first transfer them to a designated campaign checking account. 103.3(a). See, for example, AO 1986-18.

Note, however, that interest or other income earned on these investment accounts need not be placed in the campaign depository account before they are reinvested. As noted above, investments are not expenditures; they are simply a conversion of assets from one form to another. The committee must report the reinvested income from investments following the rules explained below. AO 1997-6.

## Reporting Investment Income and Loss

Report investment income received or lost during the reporting period in the “Other Receipts” category (Line 15) of the Detailed Summary Page. If investment income from one source aggregates over \$200 during a calendar year, itemize the interest on a Schedule A for Line 15. 104.3(a)(4)(vi). Losses are indicated by negative entries.

## Reporting Income Tax

A committee must report, as an operating expenditure, income tax paid on investment income. Income tax payments must be itemized on a Schedule B for Line 17 (Operating Expenditures) only if the payments aggregate over \$200 during an election cycle to the same payee (the local, state or federal government).

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## 22. Completing the Report

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As noted previously, paper filers should complete the itemization schedules first so that they may accurately complete the Summary Page and the Detailed Summary Page. (See examples at left.) After completing the schedules, transfer their totals, plus other relevant totals derived from the committee’s records, to the Detailed Summary Page. Calculations from the Detailed Summary Page and from Schedules C and D are then transferred to the Summary Page. Paper filers should refer to the next two sections for detailed information. Note that electronic filing software completes these tasks automatically.

## 23. The Detailed Summary Page

The Detailed Summary Page lists the totals for various categories of receipts and disbursements. Some of the figures are taken from the totals listed on the attached Schedules A and B, some are totals of figures that are not itemized on these schedules and some are combined totals of itemized figures from the schedules plus some unitemized figures. (See example of Detailed Summary Page below and on following page.)

### Column A and Column B

Note that Column A is for the figures relating to amounts received and disbursed during the reporting period covered by the report. Column B lists totals for the election cycle to date.

### Line 11. Contributions

Line 11(a). Contributions from Individuals/Persons Other Than Political Committees (i.e. Individuals and Other Groups That Are Not Political Committees)

Use Line 11 to report contributions from individuals and groups other than political committees (such as partnerships, sole proprietorships and certain LLC's and Indian tribes).

- Enter the total of itemized contributions from individuals and other groups (not political committees) on Line 11(a)(i).
- On Line 11(a)(ii), enter the total amount of unitemized contributions.
- On Line 11(a)(iii), enter the total of itemized and unitemized contributions from individuals/others.

### Line 11(b). Contributions from Political Party Committees

On Line 11(b), enter the total amount of contributions from party committees including any party organizations not registered with the FEC. As noted earlier in the chapter, these contributions must be itemized on a Schedule A for this Line, regardless of amount. 104.3(a)(3)(iii).

### Line 11(c). Contributions from Other Political Committees

On Line 11(c), enter the total amount of contributions from other political committees (such as PACs or other candidates' commit-

DETAILED SUMMARY PAGE		
DETAILED SUMMARY PAGE		
FEC Form 3 (Revised 12/2003)	of Receipts	Page 3
Write or Type Committee Name Doe for Congress Committee		
Report Covering the Period: From: 01 / 01 / 2008 To: 03 / 31 / 2008		
I. RECEIPTS	COLUMN A Total This Period	COLUMN B Election Cycle-to-Date
11. CONTRIBUTIONS (other than loans) FROM:		
(a) Individuals/Persons Other Than Political Committees	5385.00	15385.00
(i) Itemized (use Schedule A).....		
(ii) Unitemized.....	2307.00	12307.00
(iii) TOTAL of contributions from individuals .....	7692.00	27692.00
(b) Political Party Committees.....	00.00	00.00
(c) Other Political Committees (such as PACs) .....	6260.00	14260.00
(d) The Candidate.....	1200.00	4000.00
(e) TOTAL CONTRIBUTIONS (other than loans) (add Lines 11(a)(iii), (b), (c), and (d))..	22844.00	45952.00
12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES .....	4900.00	6000.00
13. LOANS:		
(a) Made or Guaranteed by the Candidate.....	71000.00	76000.00
(b) All Other Loans.....	0.00	0.00
(c) TOTAL LOANS (add Lines 13(a) and (b)).....	71000.00	76000.00
14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.) .....	0.00	0.00
15. OTHER RECEIPTS (Dividends, Interest, etc.).....	750.00	1400.00
16. TOTAL RECEIPTS (add Lines 11(e), 12, 13(c), 14, and 15) (Carry Total to Line 24, page 4).....	99494.00	129352.00

tees) and other such groups not registered with the FEC, which, as noted earlier in the chapter, must be itemized on a Schedule A for this Line, regardless of amount. 104.3(a)(3)(iv).

**Line 11(d). Contributions from Candidate**

On Line 11(d), enter the total contributions from the candidate. This includes any contributions from the candidate that were itemized on Schedule A for this Line, as well as any contributions that did not have to be itemized. If the contribution is derived from an underlying loan to the candidate from a lending institution, or from an advance from the candidate’s brokerage account, credit card or line of credit, report the underlying loan on Schedule C-1.

**Line 12. Transfers from Other Authorized Committees**

On Line 12, enter the total amount of transfers from the candidate’s other authorized committees (if there are any such committees) which, as noted earlier in the chapter, must be itemized on a Schedule A for this Line, regardless of amount.

**Line 13. Loans**

**Line 13(a). Loans Made or Guaranteed by the Candidate**

On Line 13(a), enter the total amount of loans made or guaranteed by the candidate which, as noted earlier in the chapter, must be itemized on a Schedule A for this Line, regardless of amount.

**Line 13(b). All Other Loans**

On Line 13(b), enter the total of all other loans (i.e., those not made or guaranteed by the candidate) the committee received during the reporting period which, as

noted earlier in the chapter, must be itemized on a Schedule A for this Line, regardless of amount.

**Line 14. Offsets to Operating Expenditures**

On Line 14, enter the total amount of offsets to operating expenditures (such as refunds or rebates) received during the reporting period. The figure might include unitemized offsets as well as itemized offsets, which, as noted earlier, are listed on a Schedule A for this Line.

**DETAILED SUMMARY PAGE (CONTINUED)**

DETAILED SUMMARY PAGE of Disbursements		
FEC Form 3 (Revised 02/2003)		Page 4
II. DISBURSEMENTS	COLUMN A Total This Period	COLUMN B Election Cycle-to-Date
17. OPERATING EXPENDITURES .....	6010.00	14054.00
18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES .....	0.00	0.00
19. LOAN REPAYMENTS:		
(a) Of Loans Made or Guaranteed by the Candidate.....	5271.18	6271.18
(b) Of All Other Loans .....	0.00	0.00
(c) TOTAL LOAN REPAYMENTS (add Lines 19(a) and (b)).....	5271.18	6271.18
20. REFUNDS OF CONTRIBUTIONS TO:		
(a) Individuals/Persons Other Than Political Committees .....	0.00	0.00
(b) Political Party Committees .....	0.00	0.00
(c) Other Political Committees (such as PACs).....	5000.00	10000.00
(d) TOTAL CONTRIBUTION REFUNDS (add Lines 20(a), (b), and (c)).....	5000.00	10000.00
21. OTHER DISBURSEMENTS .....	2000.00	4000.00
22. TOTAL DISBURSEMENTS (add Lines 17, 18, 19(c), 20(d), and 21) ▶	12281.18	34325.18
III. CASH SUMMARY		
23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD.....		5367.31
24. TOTAL RECEIPTS THIS PERIOD (from Line 16, page 3).....		99494.00
25. SUBTOTAL (add Line 23 and Line 24).....		104861.81
26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22).....		18281.18
27. CASH ON HAND AT CLOSE OF REPORTING PERIOD (subtract Line 26 from Line 25) .....		86580.13



## Line 15. Other Receipts

On Line 15, enter the total amount of any other receipts—both itemized and unitemized—included for the reporting period. Note that the type of receipts included here may vary widely (e.g., from dividends to certain sales of campaign assets). Remember that those receipts aggregating over \$200 from any source during the election cycle must be itemized on a Schedule A for this Line.

## Line 17. Operating Expenditures

On Line 17, enter the total amount of disbursements for operating expenditures—both itemized and unitemized—made during the reporting period. Remember that these disbursements must be itemized when they aggregate over \$200 to any one source during the election cycle. Therefore, the amount entered on this Line will not match the amount totaled on Schedule B for Line 17, which includes only itemized expenditures (unless the committee chooses to itemize expenditures that it is not required to itemize).

## Line 18. Transfers to Other Authorized Committees

On Line 18, enter the total amount of transfers made to the candidate's other authorized committees (if any such committees exist). As noted earlier in the chapter, such transfers must be itemized on a Schedule B for this Line, regardless of amount.

## Line 19. Loan Repayments

### Line 19(a). Repayments on Loans Made or Guaranteed by the Candidate

On Line 19(a), enter the total of repayments of principal of loans made or guaranteed by the candidate. Such payments of principal must be itemized on a Schedule B for this Line, regardless of amount. As noted earlier in the chapter, payments of interest are considered operating expenditures, not repayments on loans (see Section 17, "Reporting Loans").

### Line 19(b). Repayments on All Other Loans

On Line 19(b), enter the total of repayments of principal of all loans not made or guaranteed by the candidate. Such payments of principal

must be itemized on a Schedule B for this Line, regardless of amount. As noted earlier in the chapter, payments of interest are considered operating expenditures, not repayments on loans (see Section 17, "Reporting Loans").

## Line 20. Refunds of Contributions

### Line 20(a). Refunds of Contributions to Individuals/Persons Other Than Political Committees (i.e., Individuals and Other Groups That Are Not Political Committees)

On Line 20(a), enter the total amount of contributions refunded to individuals or groups (other than political committees). Remember that contribution refunds need only be itemized (on a Schedule B) if the original contributions were itemized (on a Schedule A). (See Section 19, "Reporting Refunds, Returns and Bounced Checks".)

### Line 20(b). Refunds to Political Party Committees

On Line 20(b), enter the total amount of contributions refunded to political party committees. Remember that, since these contributions must be itemized regardless of amount, the refunds will have to be itemized as well.

### Line 20(c). Refunds to Other Political Committees

On Line 20(c), enter the total amount of contributions refunded to other political committees (i.e., other than political party committees). Remember that, since these contributions must be itemized regardless of amount, the refunds will have to be itemized as well.

## Line 21. Other Disbursements

On Line 21 enter the total of all other disbursements—itemized and unitemized—made during the reporting period. Note that this Line may contain a wide array of disbursements. Remember that disbursements aggregating over \$200 to the same payee during the election cycle must be itemized on a Schedule B for this Line.

## Line 23. Beginning Cash on Hand

A committee must report the cash on hand it possessed at both the beginning of the reporting period and the close of the reporting period. Note that the closing cash balance for the current reporting period appears on the next report as the beginning cash on hand. Cash on hand includes petty cash, funds held in checking and savings accounts, traveler’s checks, certificates of deposit, treasury bills and other investments valued at cost. 104.3(a)(1).

### First Report

Beginning cash on hand—i.e., money that the committee had in its possession at the time of registration—is subject to the contribution limit, prohibitions and disclosure requirements of federal law. (The committee must exclude any contributions that are not permissible under federal law.) If the beginning cash-on-hand balance is not \$0, then the committee must itemize, as memo entries on Schedule A, contributions and other receipts included in the beginning cash-on-hand balance. (See Section 5 of this chapter, “When to Itemize Receipts.”)

## Line 24. Total Receipts This Period

Enter the total receipts figure from Line 16 of the Detailed Summary Page.

## Line 26. Total Disbursements This Period

Enter the amount of total disbursements from Line 22 of the Detailed Summary Page.

## POST ELECTION DETAILED SUMMARY PAGE

POST-ELECTION DETAILED SUMMARY PAGE  
Report of Receipts and Disbursements

FEC Form 3 (Revised 07/05) Page 5

• If the candidate participated in the general election, use this form for the 30-day Post-General report.  
• If the candidate did NOT participate in the general election, use this form for the Year-end report covering through December 31 of the election year (due on January 31).

This form is used in lieu of filling out Line Numbers 6 through 7 on Page 2 (Summary Page) and Pages 3 and 4 (the Detailed Summary Page) for the last report filed by a candidate during the current election cycle.

Write or Type Committee Name  
Doe for Congress Committee

Report Covering the Period: From: 10 / 15 / 2008 To: 11 / 24 / 2008

**I. RECEIPTS**

COLUMN A Total this Period	COLUMN B Election Cycle Total as of 11 / 04 / 2008 (date of general election)	COLUMN C Total for 11 / 05 / 2008 (date after general election) through 11 / 24 / 2008 (last day of reporting period)
<b>11. CONTRIBUTIONS (other than loans) FROM:</b>		
<b>(a) Individuals/Persons Other than Political Committees</b>		
<b>(i) Itemized (use Schedule A)</b>		
10385.00	108680.00	4600.00
<b>(ii) Unitemized</b>		
2500.00	12005.00	275.00
<b>(iii) Total of contributions from individuals</b>		
12885.00	120685.00	4875.00
<b>(b) Political Party Committees</b>		
50.00	5050.00	0.00
<b>(c) Other Political Committees</b>		
16000.00	65000.00	1000.00

## Line 27. Cash On Hand at Close of Reporting Period

Subtract the total disbursements for the period (Line 26) from the subtotal (entered on Line 25) of beginning cash on hand for the reporting period (Line 23) and the total receipts for the reporting period (Line 24) to derive the closing cash-on-hand balance. (In other words, (Beginning Cash on Hand + Total Receipts for Reporting Period) – Total Disbursements for Reporting Period = Closing Cash on Hand.) Note that for the next report, this amount must be entered on Line 23 (Cash On Hand At Beginning Of Reporting Period).

## 24. Post-Election Detailed Summary Page

In election years, the reporting period for the Post-General (or, in cases where the candidate was not a candidate in the general election, the Year-End) report will span two election cycles. For this report only, committees must not use the normal Detailed Summary Page; instead, they must use the Post-Election Detailed Summary Page. This form divides the post-election reporting period into two time frames:

- From the beginning of the reporting period through the date of the election; and
- From the day after the election to the end of the reporting period. (See example on previous page.)

The campaign must divide its records into those two time periods in order to fill out the form. Campaigns that do not participate in the general election must file the Post-Election Detailed Summary Page with their election-year year-end report. Committees involved in a special general election must also file the Post-Election Detailed Summary Page with any Special Post-General report required.

Electronic filers must file this form electronically, and thus must ensure that their filing software is able to generate this form, or use FECFile. Paper filers may download this form from <http://www.fec.gov/info/forms.shtml#candidates>.

## 25. The Summary Page

After completing the Detailed Summary Page, totals from that page and from Schedules C and D are used to complete the Summary Page (see example), as indicated below:

### Line 1. Name and Address

Fill in the committee's full name and mailing address. If the address has changed, be sure to check the appropriate box.

### Line 2. ID Number

Enter the committee's FEC identification number on Line 2. If the committee is filing its first report, it may not yet have received an ID number;

**SUMMARY PAGE**

**FEC FORM 3** **REPORT OF RECEIPTS AND DISBURSEMENTS**  
For An Authorized Committee Office Use Only

1. NAME OF COMMITTEE (in full) **TYPE OR PRINT** t Example: If typing, type over the lines.

ADDRESS (number and street)

Check if different than previously reported. (ACC)

2. **FEC IDENTIFICATION NUMBER** t  **CITY** <sup>1</sup>  **STATE** <sup>1</sup>  **ZIP CODE** <sup>1</sup>  **STATE** t  **DISTRICT**

3. IS THIS REPORT  NEW (N) OR  AMENDED (A)

4. **TYPE OF REPORT** (Choose One)

(a) Quarterly Reports:

April 15 Quarterly Report (Q1)

July 15 Quarterly Report (Q2)

October 15 Quarterly Report (Q3)

January 31 Year-End Report (YE)

Termination Report (TER)

(b) 12-Day **PRE**-Election Report for the:

Primary (12P)  General (12G)  Runoff (12R)

Convention (12C)  Special (12S)

Election on  /  /  in the State of

(c) 30-Day **POST**-Election Report for the:

General (30G)  Runoff (30R)  Special (30S)

Election on  /  /  in the State of

5. Covering Period  /  /  through  /  /

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Signature of Treasurer  Date  /  /

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

**FEC FORM 3**  
(Revised 02/2003)

in that case the committee should leave this space blank.

A committee should include its ID number in all reports, statements, notices and other written communications with the FEC.

### Line 3. Original or Amended Report

Check “amended” only when amending a report that has already been filed with the FEC; otherwise, check “new.”

### Line 4. Type of Report

Check the appropriate box and, if necessary, fill in the appropriate information (for 12-day pre-election, 30-day post-election, special election reports and termination reports).

### Line 5. Coverage Dates

The period covered by the report begins on the day after the close of books of the last report filed by the committee. If the report is the first one filed by the committee, then the reporting period begins with the date of the committee’s first activity.

### Line 6. Net Contributions (Other Than Loans)

- On Line 6(a), enter the amount of total contributions other than loans from Line 11(e) of the Detailed Summary Page.
- On Line 6(b), enter the amount of refunds from Line 20(d) of the Detailed Summary Page.

### Line 7. Net Operating Expenditures

- On Line 7(a), enter the amount of total operating expenditures from Line 17 of the Detailed Summary Page.

## SUMMARY PAGE (CONTINUED)

**SUMMARY PAGE**  
of Receipts and Disbursements

FEC Form 3 (Revised 02/2003) Page 2

Write or Type Committee Name  
Doe for Congress Committee

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Report Covering the Period: From: 01 / 01 / 2008 To: 03 / 31 / 2008

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	COLUMN A This Period	COLUMN B Election Cycle-to-Date
<b>6. Net Contributions (other than loans)</b>		
(a) Total Contributions (other than loans) (from Line 11(e)) ....	22844.00	45952.00
(b) Total Contribution Refunds (from Line 20(d)) .....	5000.00	10000.00
(c) Net Contributions (other than loans) (subtract Line 6(b) from Line 6(a)) .....	17844.00	35952.00
<b>7. Net Operating Expenditures</b>		
(a) Total Operating Expenditures (from Line 17) .....	6010.00	14054.50
(b) Total Offsets to Operating Expenditures (from Line 14) .....	0.00	0.00
(c) Net Operating Expenditures (subtract Line 7(b) from Line 7(a)) .....	6010.00	14054.50
<b>8. Cash on Hand at Close of Reporting Period (from Line 27) .....</b>	86580.13	
<b>9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D) .....</b>	0.00	
<b>10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D) .....</b>	70678.82	

- On Line 7(b), enter the amount of total offsets to operating expenditures from Line 14 of the Detailed Summary Page.

### Line 8. Cash on Hand at Close of Reporting Period

On Line 8, enter the amount of cash at hand at the close of the reporting period from Line 27 of the Detailed Summary Page.

### Line 9. Debts Owed to Committee

On Line 9, transfer the total amount owed to the committee from the appropriate Schedule C and/or D.

### Line 10. Debts Owed by Committee

On Line 10, transfer the total amount owed by the committee from the appropriate Schedule C and/or D.

## Treasurer's Name and Signature

The treasurer must sign and date Form 3 at the bottom of the Summary Page. Only a treasurer or assistant treasurer designated on Form 1 (Statement of Organization) may sign the report. 104.14(a). In the case of electronic filers, the treasurer's password serves as the "signature." See Chapters 2, 11 and 12 for more information on the treasurer's responsibilities.

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## 26. Filing Amendments

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The committee must file an amended report if it:

- Discovers that an earlier report contained erroneous information; or
- Does not obtain all the required information about a particular itemized receipt or disbursement in time to include it in the appropriate report.

### Paper Filers

When filing an amended Form 3, the committee should complete the Summary Page (including the treasurer's signature), indicating on Line 3 that the document is an amended report.

In addition to the Summary Page (Pages 1 and 2 of Form 3), the committee should file a corrected version of the schedule that contained the incomplete or incorrect itemized information in the earlier report, along with a revised Detailed Summary Page (Pages 3 and 4 of Form 3), if appropriate. Transactions originally reported correctly do not need to be itemized again. The Commission recommends that the treasurer attach a cover letter explaining the change.

### Electronic Filers

Electronic filers must electronically resubmit the entire report, not just the amended portions. The committee must check the amendment box on the new report before filing. The amendments must be formatted to comply with the Electronic Filing Specifications Requirements mentioned in Chapter 12. 104.18(f).



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## CHAPTER 14

# Winding Down the Campaign

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This chapter explains the requirements for an authorized committee that wishes to close down its operations at the end of a campaign.<sup>1</sup>

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## I. Terminating the Committee

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### Eligibility

A committee may file a termination report at any time, provided that:

- The committee no longer intends to receive contributions, make expenditures or make any disbursements that would otherwise qualify it as a political committee; and
- Neither the committee seeking to terminate nor any other authorized committee of the same candidate has any outstanding debts or obligations.

102.3 and 116.1. Campaigns with debts or obligations should see “Retiring Debts” and “Settling Debts,” below.

A committee involved in an FEC enforcement action, an FEC audit or litigation with the FEC, however, must continue to file regularly scheduled reports until the matter is resolved.

### Termination Report

When filing the committee’s termination report, the treasurer must check the “Termination Report” box on Line 4 of the Summary Page of Form 3. The termination report must disclose:

- All receipts and disbursements not previously reported, including an accounting

of debt retirement (See “Retiring Debts” and “Settling Debts” below); and

- The purposes for which any remaining committee funds or assets will be used. (See Chapter 8, Expenditures and Other Uses of Campaign Funds; see also “Sale of Campaign Assets,” below.) 102.3(a).

### Committee No Longer Required to Report Once Notified

The committee’s reporting obligation ends only when the Commission notifies the committee in writing that the termination report has been accepted. Until the committee receives this notification, it must continue to file reports.

### Administrative Termination

The FEC, upon its own initiative or at the request of a political committee, may administratively terminate a committee’s reporting status. For details on administrative termination, consult section 102.4 of the regulations.

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## 2. Conversion to Multicandidate Committee

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In past advisory opinions, the Commission has explicitly permitted a principal campaign committee to become a multicandidate committee as an alternative to the committee’s termination. In meeting the requirements for multicandidate status, a former principal campaign committee may avail itself of the length of time of its prior registration, the number of contributions it has made in the past and the number of contributions it has received. Note that the prohibition on converting campaign funds to personal use still applies to such a committee. See Advisory Opinions (AOs) 2004-3,

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<sup>1</sup> If a candidate wishes to use the committee for a subsequent federal campaign, he or she may redesignate it as an authorized committee using FEC Form 2. See Chapter 2, “Candidate and Committee Registration,” for more information.

1988-41 and 1985-30 and the *Campaign Guide for Nonconnected Committees* for more information.

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### 3. Sale of Campaign Assets

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#### Purchaser Makes Contribution

Generally, when a campaign sells its property, the purchase is considered a contribution to the campaign by the purchaser. The payment, therefore, must not come from prohibited sources and must not exceed the contribution limits.

#### Sale of Campaign Materials

The sale of fundraising items or materials developed uniquely for the committee (such as artwork, publications and opinion polls<sup>2</sup>) results in contributions from the purchasers. 100.53. See also, for example, AOs 1982-24 and 1980-19. (However, note the exception for mailing lists, below.)

#### Commercial Ventures

The Commission has determined that when a committee asset is sold or used for an ongoing commercial venture to produce revenue for a committee, the proceeds are considered contributions to the committee. See AOs 1991-34 and 1983-2.

#### Purchaser Does Not Make Contribution

Under limited circumstances, however, the sale of a campaign asset does not result in a contribution.

#### Mailing Lists

Mailing lists developed by a campaign for its own use may be sold at the “usual and normal” charge without the purchaser making a contribution. See, for example, AOs 2002-14, 1982-41 and 1981-53.

#### Liquidation of Equipment and Supplies

The Commission has said that the sale of campaign equipment and supplies does not result in a contribution under certain conditions. AOs 2003-19 and 1986-14.

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2 For more information on opinion polls, see Commission regulations at 106.4.

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## 4. Retiring Debts

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### Through Contributions

When raising contributions to retire debts after the election is over, a campaign must remember three general rules:<sup>3</sup>

- First, the contributions are still subject to the limits and prohibitions of the *Federal Election Campaign Act*, even if the candidate lost the election and does not plan to run for future federal office.
- Second, contributions made after an election to retire debts must, in most cases, be specifically designated for that election by the contributor. See “Designated and Undesignated Contributions,” Chapter 4.
- Finally, contributions designated for, but made after, a particular election may not exceed the campaign’s net debts outstanding, as explained in Chapter 4.

110.1(b)(3)(i).<sup>4</sup>

### Through Sale of Assets

A campaign may sell its assets to raise funds to retire debts. Please note that the sale or use of assets to retire debts may result in contributions from the purchasers, as explained in section 3, above.

### Through Transfers

A campaign may receive funds to retire debts through transfers of excess funds from the same candidate’s federal campaign for a different election cycle, as long as the transferor commit-

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3 A campaign may raise funds to retire debts through joint fundraising. See Appendix C.

4 The Commission has ruled that a federal officeholder may solicit, receive and expend both federally permissible funds, as well as funds that do not comply with the Act, in order to retire existing debt incurred by a previous nonfederal campaign, so long as the fundraising is solely in connection with the nonfederal campaign, refers only to the candidate or to other candidates for that same nonfederal office and is permitted under state law. AO 2007-1.



tee has no outstanding debts. 116.2(c)(2). See Chapter 9, “Transfers.” See also AO 1997-10.

## Salary Owed to Campaign Staff

Unpaid salary or wages owed to campaign employees are not considered contributions from those employees. Uncompensated services rendered by an employee may be converted to volunteer work, or the amount owed may be treated as a debt, as explained below. 116.6(a). Note, however, that FEC rules do not require an employee to accept less than full payment for his or her services. 116.6(b).

### Treatment as Volunteer Service

Uncompensated employee service may be considered volunteer service if the employee signs a statement agreeing to the arrangement. 116.6(a). (Services performed by volunteers are exempt from limits and reporting requirements. See Chapter 7.)

### Treatment as Debt

Alternatively, the committee may treat the unpaid amount of salary as a debt to the employee (see Chapter 13 for reporting information). The committee and the employee may settle the debt for less than the amount owed, using the procedures described in the next section. 116.6(b).

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## 5. Settling Debts

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### Eligibility for Debt Settlement

Only a terminating committee may settle a debt for less than the full amount owed to the creditor. A “terminating committee” is one that does not intend to raise contributions or make expenditures—except for the purposes of paying winding-down costs and retiring its debts. 116.1(a) and 116.2(a). An authorized committee may not settle any debts, however, if any other authorized committee of the same candidate has enough permissible cash on hand to pay all or part of the debt. 116.2(c)(1) and (2).

## Debts Subject to Settlement

The types of debts that are subject to debt settlement requirements include:

- Amounts owed to commercial vendors;
- Debts arising from advances by individuals (e.g., staff using personal funds or credit to purchase goods and services on behalf of the committee);
- Salary owed to committee employees; and
- Debts arising from loans from political committees or individuals, including candidates. 116.7(b).

The debt settlement rules do not apply to disputed debts, which are covered by other rules (see below). 116.7(c)(2).

They also do not apply to bank loans, though the Commission recognizes that under extraordinary circumstances, such as the death or bankruptcy of the candidate, settlement of bank loans may be appropriate. (The Commission will consider specific requests on a case-by-case basis.)

## Debt Settlement Rules

A commercial vendor (incorporated or unincorporated) may forgive or settle a debt owed by a committee without incurring a contribution if:

- Credit was initially extended in the vendor’s ordinary course of business, and the terms of the credit were similar to those observed by the vendor when extending a similar amount of credit to a nonpolitical client of similar risk. 116.3 and 116.4(d)(1).
- The committee undertook all reasonable efforts to satisfy the outstanding debt, such as fundraising, reducing overhead costs and liquidating assets. 116.4(d)(2).
- The vendor made the same efforts to collect the debt as those made to collect debts from a nonpolitical debtor in similar circumstances. Remedies might include, for example, late fee charges, referral to a debt collection agency or litigation. 116.4(d)(3). If the committee or the creditor fails to take these steps, the difference between the amount owed and the amount actually paid may be considered a contribution subject to

limits and source prohibitions (i.e., prohibited if the vendor is incorporated). 114.2(b).

## Debt Settlement Plans

After a terminating committee has reached agreements with its creditors, the treasurer must file a debt settlement plan on FEC Form 8. Once the plan has been submitted to the Commission for review, the committee must postpone payment on the debt until the Commission has completed the review. 116.7(a). Payments to creditors must be disclosed in the committee's termination report.

### Completing Form 8

Step-by-step instructions for completing Form 8 are included with the form. The Commission recommends that the committee include as many debts as possible in the plan and submit a separate Part II (second page) for each creditor along with Part I (cover page). The treasurer must also submit Part III (third page) to indicate how the committee intends to address other debts not included in the submission. The treasurer must sign and date the first page. The creditor must also sign the form to indicate his or her acceptance of the settlement. As an alternative, the treasurer may attach a signed statement from the creditor containing the same information.

### Reporting Debts Undergoing Settlement

Debts undergoing settlement must be continuously reported until the Commission has completed its review of the committee's debt settlement plan. The committee may file a termination report once all debts have been paid, settled, forgiven or otherwise extinguished. 116.4(f), 116.5(e) and 116.6(c).

## Disputed Debts

A disputed debt is a bona fide disagreement between the creditor and the committee as to the existence of a debt or the amount owed by the committee. When filing a debt settlement plan, a terminating committee must describe any disputed debts and the committee's efforts to resolve them on Part III of Form 8. 116.10(b).

## Creditor's Rights

No commercial vendor or other creditor is required to forgive or settle debts owed by committees. 116.4(e).

## Assigning Debts to Another Committee

To expedite termination, an authorized committee that qualifies as a terminating committee and has no remaining cash on hand may assign its debts to another authorized committee of the same candidate, provided that:

- The committee transferring the debts was organized for an election that has already been held;
- Within 30 days before the assignment takes effect, the transferor committee notifies each creditor in writing of the name and address of the committee assuming the debts; and
- The committee assuming the debts notifies the FEC in writing that it has assumed the obligation to pay the debts. That committee must continue to report the debts until they are retired.

116.2(c)(3).

## Forgiveness of Debts Owed by Ongoing Committees

### Forgiveness Rules

A creditor may forgive a debt owed by an ongoing committee (that is, one that does not qualify as a terminating committee) if the debt has been outstanding at least 24 months and:

- The ongoing committee (1) has insufficient cash on hand to pay the debt, (2) has had receipts of less than \$1,000 and disbursements of less than \$1,000 during the previous 24 months and (3) owes debts to other creditors of such magnitude that the creditor could reasonably conclude that the ongoing committee will not pay its particular debt; or
- The creditor is unable, after reasonable diligence, to locate the ongoing committee.

116.8(a).

### **Notification to Commission**

A creditor who intends to forgive a debt owed by an ongoing committee must notify the Commission of its intent in writing. The letter must provide the following information:

- The terms of the initial extension of credit and a description of the terms under which the creditor has extended credit to similar nonpolitical debtors;
- A description of the campaign's efforts to satisfy the debt;
- A description of the steps taken by the creditor to obtain payment, along with a comparison of those remedies with others pursued by the creditor under similar circumstances; and
- An indication that the creditor has forgiven other debts involving nonpolitical debtors in similar circumstances.

116.8(b).

### **Commission Review**

The Commission will review each proposal to forgive a debt to ensure that the creditor, the ongoing committee and the candidate have complied with the Act's contribution limits and prohibitions. 116.8(c).



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# Appendix A: Earmarked and Bundled Contributions

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An earmarked contribution is one which the contributor directs (either orally or in writing) to a clearly identified candidate or the candidate's authorized committee through an intermediary or conduit. Earmarking may take the form of a designation, instruction or encumbrance and may be direct or indirect, express or implied, written or oral. 110.6(b)(1). Earmarked contributions require additional disclosure, as summarized below. In addition, under the provisions of the *Honest Leadership and Open Government Act of 2007 (HLOGA)*, Pub. Law No. 110-81, 121 Stat. 735, signed into law September 14, 2007, certain bundled contributions may trigger additional disclosure of the identity of the bundler, as summarized in section 6 of this Appendix. As of this *Guide's* publication, regulations implementing these provisions of *HLOGA* had not taken effect.

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## I. Earmarked Contributions

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### Conduit/Intermediary

Anyone who receives and forwards an earmarked contribution to a candidate or candidate's authorized committee is considered a conduit or intermediary. 110.6(b)(2). (The terms conduit and intermediary are interchangeable; conduit will be used in the remainder of this appendix.)

Individuals, political committees, unregistered committees and partnerships may act as conduits for earmarked contributions.

### Persons Not Considered Conduits

For the purposes of the earmarking rules, certain individuals and organizations are not considered conduits even though they

may participate in activities to raise money for a candidate. These persons include:

- An employee or full-time volunteer working for a candidate committee;
- An individual who occupies a significant position in a candidate's campaign and who is expressly authorized to raise money on behalf of the candidate;
- A committee affiliated with the candidate committee; and
- A commercial fundraising firm retained by the candidate committee. 110.6(b)(2)(i).

### Prohibitions Apply

No corporation, labor organization or other entity prohibited from making contributions in connection with federal elections may act as a conduit for an earmarked contribution. A nonconnected committee or a separate segregated fund (SSF), however, may act as a conduit. 114.2(f)(3).

Furthermore, no individual may receive a contribution on behalf of a candidate (as a conduit or otherwise) while acting as the representative of a corporation, labor organization or other entity prohibited from making contributions. 110.6(b)(2)(i)(A) and (E) and 114.2(f).

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## 2. Effect on Contribution Limits

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### Contributor's Limit

An earmarked contribution counts against the contributor's contribution limit for the recipient candidate. 110.6(a).

### Conduit's Limit

#### Direction or Control

The conduit's limit is affected when the conduit exercises direction or control over the contributor's choice of recipient candidate (see contributions earmarked through SSF, below). In that case, the full amount of the contribution counts against the limits of both the original contributor and the conduit, even though the candidate receives only

one check. 110.6(d). For examples of how the Commission has viewed the direction or control rule in specific situations, see Advisory Opinions (AOs) 2003-23, 1986-4, 1981-57 and 1980-46.

#### **Effect on Unregistered Organization**

An unregistered organization acting as a conduit should be aware that conduit activity could result in a contribution by the organization, under the circumstances described above. In such a case, the activity may trigger registration requirements for the unregistered organization.

### **Contributions Earmarked Through SSF**

#### **Unsolicited**

As discussed in Section I, a corporation or labor organization may never act as a conduit for earmarked contributions. A corporation or labor organization's SSF, however, may collect and forward earmarked contributions. An unsolicited earmarked contribution, transmitted to a candidate through the SSF, counts against the original contributor's contribution limits, but it does not count against the limits on the SSF's own contributions to the candidate. 110.6(d)(1).

#### **Solicited**

If, however, the earmarked contribution was solicited from the restricted class by a communication from the SSF's connected organization, under 114.3, and was collected by the SSF, it is considered a contribution to both the SSF and the candidate, and from both the individual contributor and the SSF. As such, the earmarked contribution counts against several contribution limits. Note that, under these circumstances, the contribution automatically counts against the SSF's contribution limits regardless of whether the SSF exercised direction or control over the choice of recipient. 114.2(f)(2)(iii) and (f)(4)(iii).

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### **3. Forwarding Earmarked Contributions**

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#### **10-Day Limit**

The conduit must forward an earmarked contribution, along with a report (see below) to the recipient candidate committee within 10 days of receiving the contribution. 102.8(a) and (c) and 110.6(c)(1)(iii).

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### **4. Transmittal to Campaign**

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Along with the funds, the conduit must forward to the recipient candidate committee a transmittal report containing information that the candidate's campaign committee will need for its own records and reports. 110.6(c)(1).

#### **Contributions Exceeding \$50**

When an earmarked contribution exceeds \$50, the accompanying transmittal report must contain the name and mailing address of the original contributor, the date the contribution was received by the conduit and the amount. 102.8(a) and 110.6(c)(1)(iv)(A). The report should also state the election designated by the contributor, if any. 110.1(b)(2).

#### **Contributions Exceeding \$200**

When an earmarked contribution exceeds \$200, the accompanying report must contain the name and mailing address of the contributor, the contributor's occupation and name of employer, the date the contribution was received by the conduit and the amount. 102.8(a) and 110.6(c)(1)(iv). The report should also state the election designated by the contributor, if any. 110.1(b)(2).

## 5. Reporting Earmarked Contributions

An earmarked contribution must be reported by both the conduit (political committee or unregistered entity) and the recipient authorized committee. The conduit must comply with special reporting rules, which vary depending on whether the contribution was deposited in the conduit's bank account or was passed on directly to the campaign in the form of the original contributor's check. I 10.6(c)(1)(v).

### Reports by Political Committee Conduit

A political committee that serves as a conduit of an earmarked contribution must disclose the earmarked contribution, regardless of amount, on two separate reports: the committee's next regularly scheduled FEC report, and a special transmittal report (mentioned above) sent to the recipient authorized committee. I 10.6(c)(1).

#### Next Regular FEC Report

The conduit's next regularly scheduled report must indicate whether the earmarked contribution was:

- Transmitted through the conduit's account, in which case each contribution must be reported on the reporting schedules for itemized receipts and disbursements (Schedules A and B); or
- Transmitted in the form of the original contributor's check, in which case each earmarked contribution must be reported as a memo entry on Schedules A and B.

I 10.6(c)(1)(iv) and (v). For more information, see Appendix D of the *Campaign Guide for Nonconnected Committees* and Appendix D of the *Campaign Guide for Corporations and Labor Organizations*.

### Reports by Unregistered Conduit

A conduit that is not a registered political committee (that is, the conduit is an individual, a partnership or a group) must, within 30 days of forwarding the contribution, file a report by letter with the Federal Election Commission (not the Secretary of the Senate) and must, when the contribution is

forwarded, file a transmittal report by letter with the recipient authorized committee. I 10.6(c)(1)(ii).

### Contents of Reports by Conduit

The above reports filed by a conduit must contain the following information:

- The name and mailing address of the original contributor and, if the contribution is from an individual and exceeds \$200, the contributor's occupation and employer;
- The amount of the earmarked contribution;
- The date the contribution was received by the conduit;
- The recipient of the contribution, as designated by the contributor;
- The date the contribution was forwarded to the recipient; and
- Whether the contribution was passed on in cash, by the contributor's check or by the conduit's check. Note that if the conduit is an individual, he or she may deposit earmarked contributions into a personal bank account. See I 10.6(c)(1)(iv). However, contributions may not be commingled with the personal funds of any individual. I 02.15.

### Report by Recipient Committee

The recipient of an earmarked contribution also has a reporting obligation if the earmarked contributions received from a single conduit exceed \$200 in an election cycle. In that case, on Schedule A, the authorized committee must:

- Identify the conduit by name and address (and occupation and employer if the conduit is an individual);
- Report the date of receipt and total amount of earmarked contributions received from that conduit; and
- Itemize the original contributions from each individual whose total contributions to the committee aggregate over \$200 per election cycle (including the full name, mailing address, occupation and employer of the contributor, the amount earmarked and the date the conduit received the contribution). I 10.6(c)(2).

(See example at right.) If appropriate, the campaign must report whether the conduit's limit were affected. See 110.6(d)(2).

## 6. Contributions Bundled by Lobbyists/Registrants and Lobbyist PACs

Under the provisions of HLOGA, additional disclosure is required for certain bundled contributions. Bundled contributions include contributions physically collected and forwarded by a lobbyist/registrant or lobbyist PAC, as well as contributions for which the lobbyist/registrant or lobbyist PAC receives credit by the recipient authorized committee, through record, designation or other form of recognition. The Commission is currently undertaking a rulemaking to implement the new law.<sup>1</sup> For more information, visit [http://www.fec.gov/law/law\\_rulemakings.shtml#bundling](http://www.fec.gov/law/law_rulemakings.shtml#bundling).

EARMARKED CONTRIBUTION		FOR LINE NUMBER: PAGE OF	
<b>SCHEDULE A (FEC Form 3)</b>		Use separate schedule(s) for each category of the Detailed Summary Page	
<b>ITEMIZED RECEIPTS</b>		<input checked="" type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 11d <input type="checkbox"/> 12 <input type="checkbox"/> 13a <input type="checkbox"/> 13b <input type="checkbox"/> 14 <input type="checkbox"/> 15	
Any information copied from such Reports and 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.			
NAME OF COMMITTEE (In Full) Doe for Congress Committee			
Full Name (Last, First, Middle Initial) A. Levi-Strauss, Claude		Date of Receipt M M / D D / Y Y Y Y 03 / 13 / 2008	
Mailing Address 5739 Totem Street		Amount of Each Receipt this Period 1000.00	
City Alexandria		Earmarked through AnthroPAC	
State VA		<input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(f)(4)(A)-1)	
Zip Code 00000			
FEC ID number of contributing federal political committee. C			
Name of Employer Alexandria University		Occupation Anthropologist	
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		Election Cycle-to-Date 1000.00	
Full Name (Last, First, Middle Initial) B. Anthropologists Association PAC (AnthroPAC)		Date of Receipt M M / D D / Y Y Y Y 03 / 15 / 2008	
Mailing Address 2321 Origin Street		Amount of Each Receipt this Period 1150.00	
City Alexandria		MEMO	
State VA		Total earmarked through conduit. PAC limit not affected.	
Zip Code 00000			
FEC ID number of contributing federal political committee. C 00000002			
Name of Employer		Occupation	
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		Election Cycle-to-Date 1150.00	

<sup>1</sup> The requirements of HLOGA apply to the first reports required to be filed after a 90-day period following promulgation of the FEC's new regulations implementing the law.



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## Appendix B: Contributions from Partnerships<sup>1</sup>

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Outlined below are special rules concerning contributions received from partnerships and from limited liability companies taxed as partnerships.

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### I. Contribution Limits

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#### Contributions Made by Partnership

Contributions received by a candidate's authorized committees from a partnership may not exceed \$2,300 per election. In addition, a contribution from a partnership also counts proportionately against each participating partner's own limit with respect to the same candidate. 110.1(b)(1) and (e).

#### Contributions Made by Individual Partners

Each partner may make contributions of \$2,300 per election, per candidate. 110.1(b)(1). Although contributions made by the partnership as a whole count proportionately against each participating partner's \$2,300 limit, contributions made by individual partners from their own funds do not count against the partnership's limit. 110.1(e).

Note, however, that certain partnerships and partners may be prohibited from contributing. See "Prohibited Partnership Contributions," below.

#### Limited Liability Companies

In some cases, limited liability companies (LLCs) are treated as partnerships. For the purposes of contribution limitations and prohibitions, an LLC is treated as a partnership if:

- It does not have publicly traded shares; and
- It has chosen to file, under IRS rules, as a partnership; or
- It has made no choice, under IRS rules, as to whether it is a corporation or a partnership. 110.1(g)(2) and (3).

Under these conditions, an LLC may make contributions to political committees, subject to the rules described in this appendix. See also Chapter 4, Section 10.

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### 2. Attribution Among Partners

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#### Formula

A portion of the partnership contribution must be attributed to each contributing partner.<sup>2</sup> If all partners within the organization are contributing, the partnership may attribute the contribution according to each partner's share of the firm's profits.

However, if the partnership attributes a contribution on another basis agreed to by the partners, the following rules must be observed:

- The profits of only the partners to whom the contribution is attributed are reduced (or their losses increased); and
- The profits (or losses) of those partners are reduced (or losses increased) in the amount of the contribution attributed to them.

The portion attributed to each partner must not, when aggregated with other contributions from that person, exceed his or her contribution limit. 110.1(e). See also "Partnerships or LLCs with Corporate Partners or Members" in the next section, below.

#### Notice to Recipient Committee

Because a contribution from a partnership is a joint contribution, the partnership must provide to the recipient committee, along with the

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<sup>1</sup> For information on contributions from limited liability companies, see Chapter 4, Section 10.

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<sup>2</sup> A portion of a contribution drawn on a partnership account may not be attributed to the spouse of a partner, unless the spouse is also a member of the partner

contribution, a written notice listing the names of the contributing partners and the amount to be attributed to each. However, unlike other joint contributions, the signature of each contributing partner is not required. 110.1(k)(1).

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### 3. Prohibited Partnership Contributions

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#### Professional Corporations

Although law firms, doctors' practices and similar businesses are often organized as partnerships, some of these businesses may instead be professional corporations. Unlike a partnership, a professional corporation is prohibited from making any contributions because contributions from corporations are unlawful. 114.2.

#### Partnerships or LLCs with Corporate Partners or Members

Because contributions from corporations are prohibited, a partnership or LLC with corporate partners or members may not attribute any portion of a contribution to the corporate partners. 110.1(e) and 114.2(b). See also "Contributions from Limited Liability Companies" in Chapter 4, Section 10 of this *Guide*.

A partnership or LLC composed solely of corporate partners may not make any contributions. Advisory Opinions (AOs) 2001-7 and 1981-56; see also AOs 2003-28, 2001-18 and 1992-17 for a limited exception pertaining to exempt costs for an affiliated corporate partner's SSF.

#### Partnerships or LLCs with Foreign National Members

Similarly, because contributions from foreign nationals are prohibited, a partnership or LLC may not attribute any portion of a contribution to a partner who is a foreign national. 110.20. See Chapter 5, Section 1, for further information on the foreign national prohibition.

### Partnerships or LLCs with Federal Government Contracts

A partnership or LLC that is negotiating a contract with the federal government or that has not completed performance of such a contract is prohibited from making contributions. However, an individual partner in such a firm may make contributions from personal funds (rather than from funds drawn on the partnership's account). 115.4. See also AOs 2005-20 and 1991-1 and Chapter 5, Section 1.

Also, an individual, who is, in his or her own right or as a sole proprietor, a federal government contractor or negotiating a contract with the federal government may not make contributions using any funds (business or personal) under his or her control. 115.5. Note that the spouse of such an individual is not prohibited from making a personal contribution in his or her own name unless he or she is also a federal contractor.

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### 4. Reporting Partnership/LLC Contributions

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#### Included in Total Figure

Partnership or LLC contributions are included in the total figure reported for "Contributions From Individuals/Persons Other Than Political Committees" on the Detailed Summary Page of Form 3 (Line 11a).

#### Itemization

If a contribution from a partnership or LLC exceeds \$200 or aggregates over \$200 during an election cycle, the committee must itemize the contribution on a Schedule A used for "Contributions from Individuals/Persons Other Than Political Committees" (Line 11(a)).

Additionally, if an individual partner's share of the contribution exceeds \$200 when combined with other contributions received from that partner in the same election cycle, the committee must disclose, as a memo entry, itemized information on the partner (name, address, occupation, date contribution received, partner's





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# Appendix C: Joint Fundraising

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## I. Introduction

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### What Is Joint Fundraising

Joint fundraising is election-related fundraising conducted jointly by a political committee and one or more other political committees or unregistered organizations.

### Who Must Observe Joint Fundraising Rules

The rules described in this appendix apply to political committees and unregistered organizations engaged in joint fundraising.

Please note that nothing in these rules supersedes the fundraising restrictions of 11 CFR Part 300. Participants in joint fundraisers should consult those regulations in addition to the provisions described below. See Appendix E, “Fundraising by Federal Candidates and Officeholders.”

The participants in joint fundraising activity may include:

- Party committees,
- Party organizations not registered as political committees,
- Federal and nonfederal candidate committees,
- Nonparty political committees (except separate segregated funds—SSFs) and
- Unregistered nonparty organizations. 102.17(a)(1)(i) and (2).

The rules in this appendix do not apply to fundraising by collecting agents and separate segregated funds. 102.17(a)(3). Such organizations may only jointly raise funds with another affiliated organization; for more information, see Chapter 3, Section 9 of the *Campaign Guide for Corporations and Labor Organizations*.

### Overview of Rules

All participants in a joint fundraising effort, including unregistered organizations, must:

- Create or select a federal political committee to act as the joint fundraising representative;
- Agree to a formula for allocating proceeds and expenses;
- Sign a written agreement naming the joint fundraising representative and stating the allocation formula;
- Establish a separate account for joint fundraising receipts and disbursements;
- Notify the public of the allocation formula and certain other information (detailed below) when soliciting contributions;
- Screen contributions to make sure they comply with the limits and prohibitions of the *Federal Election Campaign Act* (the Act); and
- Report allocated proceeds and expenses (applies to political committees only). 102.17.

The committee named as the fundraising representative has additional responsibilities, as explained below.

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## 2. Fundraising Representative

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Joint fundraising participants must either establish a new political committee (using a Statement of Organization, FEC Form 1) or select a participating political committee to act as the joint fundraising representative. 102.17(a)(1)(i); see also Advisory Opinion (AO) 2007-24. (It is strongly recommended for ease of compliance with the law that participants establish a new political committee.) This committee is responsible for collecting and depositing joint fundraising contributions; paying expenses; allocating proceeds and expenses to each participant; keeping records; and reporting overall joint fundraising activity. 102.17(b)(1) and (b)(2). A new political committee established for the joint fundraiser must register with the FEC using FEC Form 1, Statement of Organization, and must include the name of each participating federal candidate in the new committee’s name. 11 CFR 102.14. (An existing committee would

be required to amend its Statement of Organization.) Thus, for example, a joint fundraising committee established to raise funds for a candidate and a party could not be called “Victory ’08,” but might be called the “John Doe Victory ’08” committee. Any federal candidate participating in the fundraiser must designate the fundraising representative as an authorized committee (by amending the Statement of Candidacy, FEC Form 2). 102.17(a)(1)(i), (b)(1) and (b)(2); AO 2007-24.

### Joint Fundraising Representative

If a new committee is established, it collects all the contributions. 102.17(b)(1). Note that such a committee may not itself be a participant in any other joint fundraising effort, though it may conduct more than one event or activity on behalf of its own participants. 102.17(a)(1)(i). Alternatively, if a committee participating in the fundraiser serves as the joint fundraising representative, it and any other participating committees may collect contributions; however, all contributions received by the other participants must be forwarded to the joint fundraising representative within 10 days of receipt. 102.17(b)(2). Under either option, the procedures outlined in the sections below for joint fundraising apply.

### Use of Commercial Firm

Although participants may hire a commercial fundraising firm or other type of agent to assist with organizing and holding the joint fundraiser, they are still required to establish or select a new political committee to serve as the fundraising representative. 102.17(a)(1)(ii).

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## 3. Written Agreement

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Before conducting a joint fundraiser, all participants must enter into a written agreement that identifies the joint fundraising representative and states the allocation formula—the amount or percentage that the participants agree to use for allocating proceeds and expenses. The joint fundraising representative must retain a copy of the written agreement for three years and make it available to the FEC upon request. 102.17(c)(1).

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## 4. Separate Depository

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### Establishing the Account

The joint fundraising participants or the joint fundraising representative must establish a separate account solely for the receipt and disbursement of all joint fundraising proceeds. Each participating political committee must amend its Statement of Organization (FEC Form 1) to show the account as an additional depository.<sup>1</sup> 102.17(c)(3)(i).

### Depositing Contributions

The joint fundraising representative must deposit contributions into the account within 10 days after receiving them. Only contributions permissible under the Act may be deposited in the joint fundraising account. If any participant is an unregistered organization which may, under state law, accept prohibited contributions, the participants may either establish a second account for such contributions or forward them directly to the participants that may accept them. 102.17(c)(3)(i) and (ii).

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## 5. Statements of Organization

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### Joint Fundraising Representatives

As noted above, the joint fundraising committee must file a Statement of Organization (FEC Form 1). The Statement of Organization must:

- Identify the committee as the joint fundraising representative;
- List the names and addresses of all federal committees participating in the joint fundraising effort; and
- Name the depository institution being used by the joint fundraising committee.

(See example opposite page.) 102.2.

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<sup>1</sup> Note that when paper filers amend the Statement of Organization (FEC Form 1), only the committee’s name, address and the new or changed information need be included.

**FORM 1 FILED BY JOINT FUNDRAISING REPRESENTATIVE**

**Joint Fundraising Representative:**

- (g)  This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, at least one of which is an authorized committee of a federal candidate.
- (h)  This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, none of which is an authorized committee of a federal candidate.

Committees Participating in Joint Fundraiser

1.	Doe for Congress	FEC ID number	C	00033000
2.	Johnson for Congress	FEC ID number	C	00044000
3.		FEC ID number	C	
4.		FEC ID number	C	
5.		FEC ID number	C	

**Other Joint Fundraising Participants**

Each participant in the joint fundraiser (other than the joint fundraising representative) must amend its FEC Form 1, Statement of Organization, to provide the name and address of the joint fundraising representative—identified as the “JFR”—and to state the name and address of the depository institution holding the joint fundraising account, if that account is different from the depository named on its current FEC Form 1. (See example at left.) In addition, each federal candidate participating in the fundraiser must amend Form 2 (Statement of Candidacy) to designate the joint fundraising representative as an authorized candidate committee. 11 CFR 102.17(a)(1)(i), (b)(1) and (b)(2).

**FORM 1 FILED BY PCC SHOWING AFFILIATION**

FEC Form 1 (Revised 12/2007)

Page 3

Write or Type Committee Name

Doe for Congress

**6. Name of Any Connected Organization, Affiliated Committee, Leadership PAC Sponsor or Joint Fundraising Representative**

Doe / Johnson Golf Outing

Mailing Address: 201 King Street  
 Alexandria, VA 00000  
 CITY STATE ZIP CODE

Relationship:

- Connected Organization
- Affiliated Committee
- Leadership PAC Sponsor
- Joint Fundraising Representative

**7. Custodian of Records:** Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name: Herman Lotze  
 Mailing Address: 319 Main Street  
 Springfield, VA 00000  
 CITY STATE ZIP CODE  
 Title or Position: Bookkeeper  
 Telephone number: 703 - 000 - 0000

**8. Treasurer:** List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name of Treasurer: Gottlob Frege  
 Mailing Address: 319 Main Street  
 Springfield, VA 00000  
 CITY STATE ZIP CODE  
 Title or Position: Treasurer  
 Telephone number: 703 - 000 - 0000

**6. Start-Up Costs**

Participants may advance funds to the joint fundraising representative for start-up costs of the fundraiser. (Note, however, that individuals may not advance such costs or pay for expenses out of pocket to be reimbursed later. See AO 2007-24.) The amount advanced by a participant should be in proportion to the agreed upon allocation formula. Any amount advanced in excess of a participant’s proportionate share is considered a contribution and must not exceed the amount the participant may contribute to the other participants. 102.17(b)(3)(i) and (ii). (However, an exception is made for funds transferred between

party committees under 102.6(a)(1)(ii) and 110.3(c)(1). See also Section 14 below.)

## Example

Committees A, B and C determine they need \$2,000 in start-up costs. According to their allocation formula (Committees A and B, 25 percent each; Committee C, 50 percent), Committees A and B each advance \$500 to the joint fundraising representative, and Committee C, \$1,000. If, however, Committee C advances the entire \$2,000, it has made a \$500 contribution to each of the other committees.

## Unregistered Organizations

An unregistered organization (such as a party organization that has not yet qualified as a political committee) must use permissible funds when advancing money for start-up costs. 102.17(c)(3)(i). If an unregistered participant advances more than its share of start-up costs and thus makes a contribution, the contributed amount may trigger registration and reporting requirements under the Act. 100.5.

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## 7. Joint Fundraising Notice

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### General Rule

In addition to any fundraising or disclaimer notices required (see Chapter 10, Sections 1 and 2), a joint fundraising notice must appear with every solicitation for contributions. The notice must contain the following information:

- The names of all participants, regardless of whether they are registered political committees or unregistered organizations;
- The allocation formula (the amount or percentage of each contribution that will be allocated to each participant);
- A statement informing contributors that they may designate contributions for a particular participant (notwithstanding the formula); and
- A statement that the allocation formula may change if any contributor makes a contribution

which would exceed the amount he or she may lawfully give to any participant.

102.17(c)(2)(i).

## Special Situations

In two situations, participants must include additional information in the joint fundraising notice:

- If a participant is engaging in the joint fundraiser to pay off outstanding debts, the notice must state that the allocation formula may change if the participant receives enough funds to pay its debts. See Chapter 4, Section 8, “Contributions to Retire Debts.”
- If, under state law, any unregistered participant is permitted to receive contributions prohibited under the Act, the notice must say that such contributions will be given only to participants that may legally accept them. 102.17(c)(2)(ii).

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## 8. Screening Contributions

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The fundraising representative and participants must screen all contributions to make sure they are neither prohibited by the Act nor in excess of the Act’s contribution limits. (Prohibited contributions received by unregistered organizations do not have to be screened.) The maximum amount a contributor may give to a joint fundraiser is the total amount he or she may contribute to all participants without exceeding any limits.

To facilitate screening, participants must provide the joint fundraising representative with records of past contributions so that the representative may determine whether a donor has exceeded the contribution limits. 102.17(c)(4)(i) and (c)(5).

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## 9. Recordkeeping

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### Receipts

With regard to gross proceeds, the joint fundraising representative must collect the following contributor information and later forward it to the participating political committees:



- For contributions exceeding \$50, the amount, date of receipt and the contributor's name and address.
- For contributions exceeding \$200, the amount, date of receipt and the contributor's name, address, occupation and employer.

100.12, 102.8(b) and 102.17(c)(4)(ii).

The date of receipt is the date the joint fundraising representative receives the contribution. 102.17(c)(3)(iii).

## Prohibited Contributions

The joint fundraising representative must also keep a record of the total amount of prohibited contributions received, if any, and of any transfers containing prohibited funds made to participants that may accept them. 102.17(c)(4)(ii).

## Disbursements

The joint fundraising representative must retain, for three years, records on all disbursements made for the joint fundraiser. 102.17(c)(4)(iii) and 102.9. The required recordkeeping information is described under Chapter 11, Section 4, "Recording Disbursements." If a commercial fundraising firm or agent is used, it must forward required records on disbursements to the joint fundraising representative. 102.17(c)(4)(iii).

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## 10. Paying Expenses: Step 1—Allocating Gross Proceeds

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In general, expenses must be paid before proceeds may be transferred to the participants. Thus, the joint fundraising representative may make payments for fundraising expenses from gross proceeds collected at the fundraiser (and from funds advanced by the participants). 102.17(c)(7)(iii). Nevertheless, it must allocate (but not transfer) gross proceeds among the participants.

Generally, the joint fundraising representative must allocate gross proceeds according to the allocation formula. However, as

stated in the fundraising notice, the formula may change if the allocation results in:

- An excessive contribution from a contributor to one of the participating committees; or
- A surplus for a participant raising money solely to pay off campaign debts.

Reallocation under these circumstances must be based on the other participants' proportionate shares under the allocation formula. If reallocation results in a contributor's exceeding the contribution limits for the remaining participants, the joint fundraising representative must return the excess amount to the contributor. 102.17(c)(6)(i).

## Example

Using the same example mentioned above (allocation formula: Committees A and B, 25 percent each; Committee C, 50 percent), the participants receive a \$2,000 contribution from a donor who had previously contributed up to his limit to Committee C. If the fundraising representative were to divide the contribution according to the allocation formula, Committee C would receive an excessive contribution of \$1,000. Instead, the excess \$1,000 is divided equally between Committees A and B, since their proportionate shares under the allocation formula are equal. Each receives an extra \$500, bringing their total allocation to \$1,000 apiece.

If, however, Committee A can accept only \$800 from the contributor without exceeding the limit, the excess \$200 is allocated to Committee B. If Committee B cannot accept the money for the same reason, the \$200 must be returned to the contributor.

## Designated Contributions

Designated or earmarked contributions that exceed the contributor's limit for a participant may not be reallocated without the prior written consent of the contributor. 102.17(c)(6)(ii).

## Prohibited Contributions

Prohibited contributions must be distributed only to the unregistered participants that may lawfully accept them; they do not have to be distributed according to the allocation formula. 102.17(c)(6)(iii).

## II. Paying Expenses: Step 2—Allocating Expenses

After gross proceeds are allocated, the joint fundraising representative must calculate each participant's share of expenses based on its actual share of gross proceeds. This allocation may differ from the original formula—see example below. (Prohibited contributions may be excluded from the gross proceeds when determining the ratio.) 102.17(c)(7)(i)(A). Expenses for a

series of fundraising events must be allocated on a per-event basis. 102.17(c)(7)(i)(C).

### Example

At the start of the fundraiser, Committees A, B and C agree to allocate 25 percent of proceeds and expenses to Committee A, 25 percent to Committee B and 50 percent to Committee C. However, because the joint fundraising representative must reallocate some contributions, Committee A is actually allocated 20 percent of gross proceeds; Committee B, 35 percent; and Committee C, 45 percent. The fundraising representative must

allocate the joint fundraising expenses, \$10,000, on the same basis: \$2,000 to Committee A, \$3,500 to Committee B and \$4,500 to Committee C.

JOINT FUNDRAISING (SCHEDULE A)	
<b>SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS</b>	Use separate schedule(s) for each category of the Detailed Summary Page
FOR LINE NUMBER: (check only one) <input type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 11d <input type="checkbox"/> 15 <input checked="" type="checkbox"/> 12 <input type="checkbox"/> 13a <input type="checkbox"/> 13b	PAGE OF
Any information copied from such Reports and 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.	
NAME OF COMMITTEE (In Full) Doe for Congress Committee	
Full Name (Last, First, Middle Initial) A. Doe/Johnson Golf Outing 2008	
Mailing Address 201 King Street. City Alexandria State VA Zip Code 00000	Date of Receipt MM / DD / YYYY 03 / 28 / 2008
FEC ID number of contributing federal political committee. C 00000000	Amount of Each Receipt this Period 1900.00
Name of Employer Occupation	Joint Fundraiser <input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(4)1a-1)
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Election Cycle-to-Date 2000.00
Full Name (Last, First, Middle Initial) B. Rosity, Jenny	
Mailing Address 1324 Seven Chimney Lane City Centreville State VA Zip Code 00000	Date of Receipt MM / DD / YYYY 02 / 25 / 2008
FEC ID number of contributing federal political committee. C	MEMO Amount of Each Receipt this Period 1000.00
Name of Employer Centreville College Occupation Professor	Joint Fundraiser <input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(4)1a-1)
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Election Cycle-to-Date 1000.00
Full Name (Last, First, Middle Initial) C. Magnanimous, Joseph	
Mailing Address 490 Main Street City Fredericksburg State VA Zip Code 00000	Date of Receipt MM / DD / YYYY 02 / 25 / 2008
FEC ID number of contributing federal political committee. C	MEMO Amount of Each Receipt this Period 1000.00
Name of Employer Wittgenstein & Russell Occupation Attorney	Joint Fundraiser <input type="checkbox"/> Limits Increased Due to Opponent's Spending (2 U.S.C. §441a(i)(4)1a-1)
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Election Cycle-to-Date 1000.00
SUBTOTAL of Receipts This Page (optional)..... 1900.00	
TOTAL This Period (last page this line number only)..... 10060.00	

### Excess Payment

If a participant pays for more than its allocated share of expenses, the excess payment is considered a contribution, subject to the Act's limits (see "Start-Up Costs," Section 6 of this chapter). 102.17(c)(7)(i)(B). (Party committees are excepted from this rule when paying for other party committee participants because, as explained below, they may make unlimited transfers to other party committees.)

Remember, if an unregistered participant makes such a contribution, the payment may trigger registration and reporting requirements for that organization. 100.5.

## 12. Paying Expenses: Step 3—Calculating Net Proceeds

The joint fundraising representative may delay transferring net proceeds to participants until after it receives all contributions and pays all expenses for the fundraiser. To determine net proceeds, the fundraising representative subtracts the participant's share of expenses from its share of gross proceeds. 102.17(c)(3)(ii) and (c)(7)(i)(A).

### Example

Committees A, B and C raise \$50,000 in gross proceeds and spend \$10,000 in expenses, leaving \$40,000 in net proceeds. The joint fundraising representative allocates \$10,000 (20 percent) in gross proceeds to Committee A and \$2,000 (20 percent) in expenses; Committee A's net proceeds equal \$8,000.

## 13. Reporting

### By Joint Fundraising Representative

The joint fundraising representative reports all joint fundraising proceeds in the reporting period in which they are received. If any prohibited contributions are received for a participating unregistered organization, the joint fundraising representative must report them as a memo entry. Any Schedules A used to itemize contributions must clearly indicate on the schedule that the receipts are joint fundraising proceeds. 102.17(c)(3) (iii) and (c)(8)(i)(A).

The joint fundraising representative must also report all disbursements made for the joint fundraiser in the reporting period in which they are made. 102.17(c)(8)(ii). Transfers of net proceeds to the joint fundraising participants are reported as transfers to affiliated committees and itemized on a separate Schedule B for that category.

### Electronic Filing

If the joint fundraising participants include a House campaign or a party committee (regardless of whether a Senate campaign is participating), then the joint fundraising representative must file electronically if its total yearly contributions or total yearly expenditures exceed, or are expected to exceed, \$50,000. 104.18. For more information on electronic filing, see Chapter 12, Section 5.

### Participants

After the joint fundraising representative distributes the net proceeds, each participating political committee reports its share as a transfer-in from the joint fundraising representative on Line 12 (Transfers from Other Authorized Committees) and itemizes the transfer on a separate schedule A for that Line. (See example on previous page.) Using the records received from the joint fundraising representative, a participating committee also must itemize its share of gross receipts as contributions from the original donors on a memo entry Schedule A (to the extent required by the rules on itemization—see Chapter 13, Section 4). When itemizing gross contributions, the participant must report the date of receipt as the day the joint fundraising representative received the contribution. 102.17(c)(3)(iii) and (c)(8)(i)(B).

## 14. Exception for Party Committees<sup>2</sup>

Payments made by a party committee (that is a registered federal political committee) on behalf of another party committee are considered transfers of funds rather than contributions. Because there is no limit on transfers between party committees of the same political party, a party committee may pay any amount of another party committee's allocated start-up costs and fundraising expenses. Moreover, if all the participants in the fundraiser are party committees, start-up costs and fundrais-

<sup>2</sup> This section also applies to nonconnected committees and unregistered political organizations that are affiliated. See Chapter 4, Section 1 for the definition of affiliated.

ing expenses need not be allocated at all. 102.6(a)(1)(i) and (ii); 102.17(b)(3)(iii) and (c)(7)(ii).

## **Payments by Unregistered Party Organizations**

The same exception also applies to unregistered party organizations. They must, use funds permissible under the Act when making payments for start-up costs and fundraising expenses. Furthermore, such payments by a party organization on behalf of a registered party committee count against the \$1,000 contribution/expenditure threshold for registration as a political committee. 100.5, 102.6(a)(2) and 102.17(c)(7)(ii).

## Appendix D: Communications

NOTE: This section discusses communications that are not made by the campaign, but that are made by individuals and committees in support of, or opposition to, a candidate. Candidates and their campaigns may reproduce and distribute this appendix to anyone who requests FEC guidelines on such communications. Citations refer to Federal Election Commission regulations, contained in title 11 of the Code of Federal Regulations (11 CFR). Advisory opinions (AOs) issued by the Commission are cited as well. If you have any questions after reading this appendix, please call the Commission: 1-800/424-9530 (toll free) or 202/694-1100.

### I. Public Communications

It is important to understand the Act and FEC regulations' definition of "public communication" because many of the rules regarding political communications depend upon whether the communication in question is a public communication.

#### Definition

A public communication is a communication to the general public made by means of:

- Any broadcast, cable or satellite communication;
- Newspaper;
- Magazine;
- Outdoor advertising facility;
- Mass mailing (more than 500 pieces of substantially similar mail within any 30-day period);
- Telephone bank (more than 500 substantially similar telephone calls within any 30-day period);
- An advertisement placed for a fee on another person's web site; or

- Any other form of general public political advertising<sup>1</sup> 100.26, 100.27 and 100.28.

### 2. Coordinated Communications

When a committee, group or individual pays for a communication that is coordinated with a campaign or a candidate, the communication is either an in-kind contribution or, in some limited cases, a coordinated party expenditure by a party committee.

#### Coordination Defined

Coordinated means made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party committee or its agents.<sup>2</sup> 109.20.

#### Determining Coordination

FEC regulations provide for a three-pronged test to determine whether a communication is coordinated. A communication must satisfy all three prongs of the test to be considered a coordinated communication (and as a result, count against contribution or coordinated party expenditure limits). 109.21(a).

The three prongs of the test consider:

- The source of payment (payment prong);
- The subject matter of the communication (content prong); and
- The interaction between the person paying for the communication and the candidate or political party committee (conduct prong).

#### Payment Prong

A coordinated communication is paid for, in whole or in part, by a person other than the candidate, an authorized committee or a

- 1 The term general public political advertising does not include any Internet communication except for a communication placed for a fee on another person's web site.
- 2 For the purposes of 11 CFR Part 109 only, agent is defined at 11 CFR 109.3.

political party committee with whom the communication is coordinated. 109.21(a)(1).

### Content Prong

A communication that meets any one of these four standards meets the content prong:

- A communication that is an electioneering communication (see Section 5 of this appendix);
- A public communication that republishes, disseminates or distributes candidate campaign materials, unless the activity meets one of the exceptions at 109.23(b);
- A public communication that expressly advocates the election or defeat of a clearly identified candidate for federal office; or
- A public communication that:
  - Refers to a clearly identified House or Senate candidate and is publicly distributed in the identified candidate’s jurisdiction within 90 days of the candidate’s primary or general election;
  - Refers to a clearly identified Presidential candidate and is publicly distributed during the period starting 120 days before the primary election and ending on the date of the general election;
  - Refers to a political party in a midterm election cycle, is coordinated with a party committee and is publicly distributed within 90 days of a primary or general election;
  - Refers to a political party in a Presidential election cycle, is coordinated with a party committee and is publicly distributed during the period starting 120 days before the primary and ending on the date of the general election;
  - Refers to a political party, is coordinated with a House or Senate candidate and is publicly distributed in that candidate’s jurisdiction within 90 days of the primary or general election; or
  - Refers to a political party, is coordinated with a Presidential candidate and is publicly distributed during the period

starting 120 days before the primary until the date of the general election.<sup>3</sup>

For communications that refer to both a party and a clearly identified federal candidate, see 109.21(c)(4)(iv). 109.21(c)(4)(i)-(iv).

### Conduct Prong.

The purpose of the conduct prong is to determine when interaction between the campaign and the person paying for the communication might constitute coordination. When the conduct prong, the content prong and the payment prong are all satisfied, then the communication is a coordinated communication and results in an in-kind contribution. (See Chapter 13, Section 10 for instructions on how to report such a contribution.) A communication that satisfies any one of the conduct standards described below satisfies the conduct prong.

**1) Request or Suggestion.** This conduct standard has two parts, and satisfying either satisfies the standard. The first part is satisfied if the person creating, producing or distributing the communication does so at the request or suggestion of a candidate, authorized committee, political party committee or agent of any of these. A communication satisfies the second part of the “request or suggestion” conduct standard if the person paying for the communication suggests the creation, production or distribution of the communication to the candidate, authorized committee, political party committee or agent of any of the above, and the candidate or political party committee assents to the suggestion. 109.21(d)(1).

**2) Material Involvement.** This conduct standard is satisfied if a candidate, candidate committee, political party committee or an agent of any of these was “materially involved in decisions” regarding any of the following aspects of a public communication paid for by someone else:

- Content of the communication;

3 The rules at 109.21(c)(4) regarding the public communication content standard time frames are the subject of a litigation challenge in *Shays et al. v. FEC*, \_ F. Supp. 2d \_\_, 2007 WL 2616689 (D.D.C. Sept. 12, 2007) (Shays III). On 9/12/07, the District Court remanded this regulation to FEC for reconsideration. The FEC filed a notice of appeal with the Court of Appeals for the D.C. Circuit on October 16, 2007.

- Intended audience;
- Means or mode of the communication;
- Specific media outlet used;
- Timing or frequency of the communication; or
- Size or prominence of a printed communication or duration of a communication by means of broadcast, cable or satellite. 109.21(d)(2).

**3) Substantial Discussion.** A communication meets this conduct standard if it is created, produced or distributed after one or more substantial discussions between the person paying for the communication, or the person's agents, and the candidate clearly identified in the communication or that candidate's committee, that candidate's opponent or opponent's committee, a political party committee or an agent of the above. A discussion would be "substantial" if information about the plans, projects, activities or needs of the candidate or political party committee that is material to the creation, production or distribution of the communication is conveyed to the person paying for the communication. 109.21(d)(3).

**4) Employment of Common Vendor.**<sup>4</sup> The conduct standard provides that the use of a common vendor in the creation, production or distribution of a communication satisfies the conduct standard if:

- The person paying for the communication contracts with, or employs, a "commercial vendor" to create, produce or distribute the communication;<sup>5</sup> and
- The commercial vendor, including any officer, owner or employee of the vendor, has a previous or current relationship with the candidate or political party committee that puts the commercial vendor in a position to acquire information about the campaign plans, projects, activities or needs of the candidate or political party committee. This previ-

ous relationship is defined in terms of nine specific services related to campaigning and campaign communications. Note that these services would have to have been rendered within 120 days before the purchase or public distribution of the communication; and

- The commercial vendor uses or conveys information about the campaign plans, projects, activities or needs of the candidate or political party committee, or information previously used by the commercial vendor in serving the candidate or political party committee, to the person paying for the communication, and that information is material to the creation, production or distribution of the communication. 109.21(d)(4). See "Safe Harbor for Use of a Firewall," below.

**5) Former Employee/Independent Contractor.**<sup>6</sup> This conduct standard applies to communications paid for by a person or the employer of a person, who has previously been an employee or an independent contractor of a candidate's campaign committee or a political party committee during the 120 days before the purchase or public distribution of the communication.

This standard requires that the former employee use or convey information about the plans, projects, activities or needs of the candidate or political party committee, or information used by the former employee in serving the candidate or political party committee, to the person paying for the communication, and the information is material to the creation, production or distribu-

<sup>4</sup> The rules at 109.21(d)(4) regarding the common vendor conduct standard are the subject of a litigation challenge in *Shays et al. v. FEC*, \_\_ F. Supp. 2d \_\_, 2007 WL 2616689 (D.D.C. Sept. 12, 2007) (Shays III). On September 12, 2007, the District Court remanded this regulation to FEC for reconsideration. The FEC filed a notice of appeal with the Court of Appeals for the D.C. Circuit on October 16, 2007.

<sup>5</sup> The term commercial vendor is defined at 116.1(c).

<sup>6</sup> The rules at 109.21(d)(5) regarding the former employee conduct standard are the subject of a litigation challenge in *Shays et al. v. FEC*, \_\_ F. Supp. 2d \_\_, 2007 WL 2616689 (D.D.C. Sept. 12, 2007) (Shays III). On 9/12/07, the District Court remanded this regulation to FEC for reconsideration. The FEC filed a notice of appeal with the Court of Appeals for the D.C. Circuit on October 16, 2007.

tion of the communication. 109.21(d)(5).<sup>7</sup> See “Safe Harbor for Use of a Firewall” and “Safe Harbor for Publicly Available Information,” below.

### **Dissemination, distribution or republication of campaign material.**

A communication that republishes, disseminates or distributes campaign material only satisfies the first three conduct standards on the basis of the candidate’s conduct—or that of his or her committee or agents—that occurs after the original preparation of the campaign materials that are disseminated, distributed or republished. 109.21(d)(6).<sup>8</sup>

### **Agreement or formal collaboration.**

Neither agreement (defined as a mutual understanding on any part of the material aspect of the communication or its dissemination) nor formal collaboration (defined as planned or systematically organized work) is necessary for a communication to be a coordinated communication. 109.21(e).

## **Safe Harbor Provisions to the Conduct Prong**

### **Safe Harbor for Responses to Inquiries About Legislative or Policy Issues.**

A candidate’s or political party committee’s response to an inquiry about that candidate’s or party’s positions on legislative or policy issues,

7 Under the rules, a candidate or political party committee would not be held responsible for receiving or accepting an in-kind contribution that resulted only from conduct described in the Employment of Common Vendor and Former Employee/Independent Contractor sections. 109.21(d)(4) and (d)(5). However, the person paying for a communication that is coordinated because of conduct described in these sections would still be responsible for making an in-kind contribution for purposes of the contribution limitations, prohibitions and reporting requirements of the Act. 109.21(b)(2).

8 Please note that the financing of the distribution or republication of campaign materials, while considered an in-kind contribution by the person making the expenditure, is not considered an expenditure made or a contribution received by the candidate’s authorized committee unless the dissemination, distribution or republication of campaign materials is coordinated. Additionally, republications of campaign materials coordinated with party committees are in-kind contributions to such party committees, and are reportable as such. 109.23(a).

which does not include discussion of campaign plans, projects, activities or needs, will not satisfy any of the conduct standards. 109.21(f).

### **Safe Harbor for Publicly Available Information.**

The standard for substantial discussion, material involvement, use of a common vendor and involvement of a former employee are not satisfied if the information used in creating or distributing the communication was obtained from a publicly available source. Publicly available sources include, but are not limited to:

- Newspaper or magazine articles;
- Candidate speeches or interviews;
- Transcripts from television shows;
- Press releases;
- A candidate or political party’s web site; and
- Any publicly available web site.

109.21(d)(3).

### **Safe Harbor for Use of a Firewall.<sup>9</sup>**

None of the conduct standards is satisfied if the vendor, political committee, former employee or contractor implements a firewall. The firewall must effectively prohibit the flow of information between employees or consultants providing service to the person paying for the communication and those employees or consultants providing services to a political party committee or to the candidate who is clearly identified in the communication or to the campaign of the candidate opposing the candidate clearly identified in the communication. The firewall must be described in a written policy statement that is distributed to all employees, consultants and clients affected by the policy. 109.21(h).

### **Safe Harbor for Candidate Endorsements and Solicitations.**

A federal candidate may endorse or solicit funds for a candidate for federal or nonfederal office in a public communication without the communication

9 The rules at 109.21(h) regarding the establishment of a firewall are the subject of a litigation challenge in *Shays et al. v. FEC*, 500 F. Supp. 2d 10, 2007 WL 2616689 (D.D.C. Sept. 12, 2007) (Shays III). On 9/12/07, the District Court remanded this regulation to FEC for reconsideration. The FEC filed a notice of appeal with the Court of Appeals for the D.C. Circuit on October 16, 2007.



being considered a “coordinated communication” with respect to the endorsing or soliciting candidate, so long as the communication does not promote or support the candidate making the solicitation and does not attack or oppose his/her opponent. The safe harbor described in this paragraph also covers candidate solicitations for other political committees (including party committees) and candidate solicitations for certain tax-exempt organizations as described at 11 CFR 300.65. 109.21(g)(1) and (2).

### 3. Independent Expenditures

Individuals and political committees may support (or oppose) candidates by making independent expenditures. Independent expenditures are not contributions and are not subject to contribution limits. Compare 109.20(b). (However, contributions made to a committee or to another person making independent expenditures are subject to limits, as explained at the end of this section.)

Because they are expenditures under the Act, independent expenditures must be paid for with federally permissible funds.

#### Defined

An independent expenditure is an expenditure for a communication, such as a web site, newspaper, television or direct mail ad, that:

- Expressly advocates the election or defeat of a clearly identified federal candidate; and
- Is not coordinated with a candidate, candidate’s committee, party committee or their agents. (See section I, Coordination, above.) 100.16(a).

#### Clearly Identified Candidate

A candidate is “clearly identified” if the candidate’s name, nickname or image appears, or the identity of the candidate is otherwise apparent. Examples include: “the President,” “your Congressman,” “the Democratic Presi-

dential nominee,” “the Republican candidate for Senate in the State of Georgia.” 100.17.

#### Express Advocacy

“Express advocacy” means that the communication includes a message that unmistakably urges election or defeat of one or more clearly identified candidate(s). There are two ways that a communication can be considered express advocacy: by use of certain “explicit words of advocacy of election or defeat” and by the “only reasonable interpretation” test. 100.22.

#### Explicit words of advocacy of election or defeat

The following words convey a message of express advocacy:

- “Vote for the President,” “re-elect your Congressman,” “support the Democratic nominee,” “cast your ballot for the Republican challenger for the U.S. Senate in Georgia,” “Smith for Congress,” “Bill McKay in ‘08”;
- Words urging action with respect to candidates associated with a particular issue, e.g., “vote Pro-Life”/ “vote Pro-Choice,” when accompanied by names or photographs of candidates identified as either supporting or opposing the issue;
- “Defeat” accompanied by a photograph of the opposed candidate, the opposed candidate’s name or “reject the incumbent”; and
- Campaign slogan(s) or word(s), e.g., on posters, bumper stickers and advertisements, that in context can have no other reasonable meaning than to support or oppose a clearly identified candidate, for example, “Nixon’s the One,” “Carter ‘76,” “Reagan/Bush.” 100.22(a).

#### “Only Reasonable Interpretation” Test

In the absence of such “explicit words of advocacy of election or defeat,” express advocacy (candidate advocacy) is found in a communication that, when taken as a whole and with limited reference to external events, such as

the proximity to the election, can only be interpreted by a “reasonable person” as advocating the election or defeat of one or more clearly identified candidate(s). 100.22(b)(1) and (2).

This test requires advocacy of a candidate that is unmistakable, unambiguous and suggestive of only one meaning (that being the election or defeat of a candidate). 100.22(b)(1).

Note that the author’s intent is irrelevant. The test is how a “reasonable” receiver of the communication objectively interprets the message. If reasonable minds could not differ as to the unambiguous electoral advocacy of the communication, it is express advocacy (candidate advocacy) regardless of what the author intended.

Multiple-page communications or multiple inserts in the same envelope in a direct mail piece are to be read all together as a whole.

### General Rule

Generally, individuals, groups and committees permitted to make contributions in connection with federal elections may make independent expenditures. Those persons prohibited from making contributions or expenditures in connection with federal elections—for example, incorporated entities, labor organizations and individuals or businesses under contract to the federal government—are similarly prohibited from making independent expenditures. However, there is an exception to this rule.

### Certain Nonprofit Corporations

There is a limited exception to the general prohibition on corporate expenditures. Qualified Nonprofit Corporations (QNCs) may make independent expenditures. To qualify as a QNC, a nonprofit corporation must meet all five of the following criteria:

- The corporation’s express purpose is the promotion of political ideas.
- The corporation does not engage in business activities.
- The corporation does not have shareholders or other persons who have a claim on its assets or earnings, or for whom there are disincentives to disassociate themselves from the organization.

- The corporation is a social welfare organization as described in 26 U.S.C. §501(c)(4).
- The corporation was not established by a business corporation or labor organization and does not accept anything of value from such entities. 114.10(c).

## Disclaimer Notice Required

A communication representing an independent expenditure must display a disclaimer notice. See “Disclaimers” later in this chapter for more information.

## Allocation Among Candidates

When an independent expenditure is made on behalf of more than one clearly identified candidate, the committee must allocate the expenditure among the candidates in proportion to the benefit that each is expected to receive. For example, in the case of a published or broadcast communication, the attribution should be determined by the proportion of space or time devoted to each candidate in comparison with the total space or time devoted to all the candidates. 104.10 and 106.1(a).

## Contributing to Committees That Make Independent Expenditures

A contribution by a party committee to a committee that makes independent expenditures is subject to the \$5,000 per calendar year limit. 110.1(d) and 110.2(d).

A contribution to a committee that supports only one candidate, however, is subject to the committee’s per candidate, per election limit. 110.1(h) and 110.2(h).

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## 4. Reporting Requirements for Independent Expenditures

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### Made by a Political Committee

A federally registered political committee reports independent expenditures on Schedule E of FEC Form 3X. A political committee must itemize each

independent expenditure which exceeds \$200 or which, when added to previous independent expenditures made on behalf of (or in opposition to) the same candidate, aggregates over \$200 during a calendar year. Schedule E instructions explain what itemized information must be disclosed. (Independent expenditures of \$200 or less must be subtotaled and reported as unitemized expenditures on Schedule E.) 104.3(b)(3)(vii) and 104.4(a).

## Made by Any Other Person

Any other person (individual or group) must file a report with the FEC on Form 5 at the end of the first reporting period in which independent expenditures aggregate more than \$250 and must continue to file reports in any succeeding reporting period during the same year in which additional independent expenditures of any amount are made. 109.2(a). Form 5 instructions explain what information must be disclosed. Also, all individuals, groups or qualified nonprofit corporations (QNCs) whose independent expenditures exceed, or are expected to exceed, \$50,000 in any calendar year, must electronically file FEC Form 5. Visit <http://www.fec.gov/electfil/online.shtml> to access WebForms for this purpose.

## Date Made

An independent expenditure is considered made on the first date on which the communication is published, broadcast or otherwise publicly disseminated. See 104.4(f). For each person who receives a payment or disbursement during the calendar year aggregating in excess of \$200 in connection with an independent expenditure, provide on Schedule E the full name, mailing address and zip code of the payee receiving any disbursement, the date and amount of any independent expenditure aggregating in excess of \$200 and the purpose of the independent expenditure (e.g., radio, television, newspaper).

## Certification

Both Schedule E (used by political committees) and Form 5 (used by others) require a certification, under penalty of perjury, that the expenditure meets the standards for indepen-

dence. 104.3(b)(3)(vii)(B), 104.4(d)(1) and (2) and 109.10(e)(1)(v). See Section 2 of this Appendix.

## 24-Hour Pre-Election Reports

Any independent expenditure of \$1,000 or more (in the aggregate) that is made after the 20th day, but more than 24 hours, before the day of an election must be reported within 24 hours after the expenditure is made. The report must include all the information required on Schedule E or Form 5 and must be received by the Secretary of the Senate or the Federal Election Commission, as appropriate, within 24 hours after the expenditure is made. 104.4 and 109.10(d). A political committee must disclose a last-minute independent expenditure a second time on a Schedule E filed with its next scheduled report. The committee may, if it wishes, note that the expenditure was previously reported.

## 48-Hour Reports

Political committees and other persons who make independent expenditures at any time during a calendar year—up to and including the 20th day before an election—to disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more.

### Independent expenditures aggregating less than \$10,000.

Committees must report on Schedule E of Form 3X independent expenditures that aggregate less than \$10,000 with respect to a given election during the calendar year that are made up to and including the 20th day before an election. The report must be filed no later than the filing date of the committee's next regularly scheduled report. 104.4(a) and (b)(1). Individuals other than political committees disclose on FEC Form 5 independent expenditures aggregating in excess of \$250 with respect to a given election during the calendar year that are made during this time period. The report must be filed by the filing deadline of the next report under the quarterly filing schedule. 109.10(b).

Both committees and individuals must file an additional report each time that independent expenditures made less than 20 days, but more than 24 hours, before an election aggregate in excess of \$1,000. These reports must be received

by the Commission by the end of the day following the date that the communication is publicly disseminated. All individuals and committees, even those supporting or opposing Senate candidates, must file 24-hour notices of independent expenditures with the Commission. Electronic filers must file these reports electronically, and paper filers may file by fax or e-mail. Additionally, electronic filers and paper filers may file 24-hour reports using the FEC web site's online program. 100.19(d)(3), 104.4(c) and 109.10(d).

### **Independent expenditures aggregating \$10,000 and above**

Once an individual's or committee's independent expenditures reach or exceed \$10,000 in the aggregate at any time up to and including the 20th day before an election, they must be reported within 48 hours of the date that the expenditure is publicly distributed. All 48-hour reports must be filed with and received by the Commission at the end of the second day after the independent expenditure is publicly distributed. Electronic filers must file these reports electronically, and paper filers may file by fax or e-mail. 100.19(d)(3), 104.4(b)(2) and 109.10(c).

### **Aggregating independent expenditures for reporting purposes.**

Independent expenditures are aggregated toward the various reporting thresholds on a per-election basis within the calendar year. Consider, as examples, the following scenarios, all of which occur outside of the 20-day window before an election when 24-hour notices are required:

- If a committee makes \$5,000 in independent expenditures with respect to a Senate candidate, and \$5,000 in independent expenditures with respect to a House candidate, then the committee is not required to file 48-hour reports, but must disclose this activity on its next regularly scheduled report.
- If the committee makes \$5,000 in independent expenditures with respect to a clearly identified candidate in the primary, and an additional \$5,000 in independent expenditures with respect to the same candidate in the general, then again no 48-hour notice

is required and the expenditures are disclosed on the committee's next report.

- If the committee makes \$6,000 in independent expenditures supporting a Senate candidate in the primary election and \$4,000 opposing that Senate candidate's opponent in the same election, then the committee must file a 48-hour report.

The date that a communication is publicly disseminated serves as the date that a person or committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amounts of \$1,000 or \$10,000. The calculation of the aggregate amount of the independent expenditures must include both disbursements for independent expenditures and all contracts obliging funds for disbursements of independent expenditures. 104.4(f).

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## **5. Party Communications**

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In addition to general coordinated communications, there are "party coordinated communications," which are communications paid for by a party and coordinated with a candidate's campaign. Additionally, some communications by party committees may trigger additional requirements for those committees because they qualify as federal election activity.

### **Determining Coordination**

Party coordinated communications satisfy a similar three-pronged test for coordination. However, there are two important differences. First, the communication is paid for by a political party committee. Second, electioneering communications do not satisfy the content prong. 109.37(a)(1)-(3).

### **In-kind Contribution vs. Party Coordinated Expenditure**

Party coordinated communications must be treated by the party committee as either an in-kind contribution to the candidate or as a coordinated party expenditure to the general election campaign of the candidate. 109.37(b). For

more information on the rules for coordinated party expenditures, see Chapter 7, Section 7 and the *Campaign Guide for Political Party Committees*.

## Party Communications as Federal Election Activity

Certain activities are restricted under the Act when they qualify as federal election activity (FEA). If a party committee pays for a public communication (defined in Section 1 above) that refers to a clearly identified candidate for federal office and that promotes, attacks, supports or opposes any candidate for federal office, the activity qualifies as FEA. 100.24(b)(3). The communication does not need to expressly advocate the election or defeat of the federal candidate to qualify as federal election activity. FEA requires specific payment methods.

For further information on all types of federal election activity, see the *Campaign Guide for Political Party Committees*.

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## 6. Electioneering Communications

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An electioneering communication is any broadcast, cable or satellite communication that 1) refers to a clearly identified federal candidate, 2) is publicly distributed within 60 days of a general election or 30 days of a primary and 3) is targeted to the relevant electorate, in the case of House and Senate candidates. 100.29(a).

### Clearly Identified Candidate

A candidate is clearly identified if his or her name, nickname, photograph or drawing appears in the ad, or if the ad contains an unambiguous reference to the candidate through titles such as “the President,” “your Representative,” or “the incumbent.” 100.29(b)(2).

### Public Distribution

A communication is “publicly distributed” when it is aired, broadcast, cablecast or otherwise disseminated through the facilities of

a radio or television station, cable television system or a satellite system. 100.29(b)(3).<sup>10</sup>

### Targeted to the Relevant Electorate

A communication is “targeted to the relevant electorate” when it is receivable by 50,000 or more persons in the candidate’s district (for a House candidate) or state (for a Senate candidate). 100.29(b)(5).

## What is Not an Electioneering Communication?

A communication is not an electioneering communication if it:

- Is publicly disseminated through means other than broadcast, cable or satellite media. 100.29(c)(1);
- Appears in a news story, commentary or editorial that is publicly distributed by broadcast, cable, or satellite facilities not owned or controlled by any political party or candidate. 100.29(c)(2);
- Is a *bona fide* news story distributed by facilities owned and controlled by a party or candidate. 100.29(c)(2) and 100.132(a) and (b);
- Constitutes an expenditure or independent expenditure that is required to be reported as such. 100.29(c)(3);
- Constitutes a candidate debate or forum or promotion of such a debate or forum by the sponsor of the event. 100.29(c)(4) and 110.13; or
- Is paid for by a candidate for nonfederal office in connection with a nonfederal election, provided that the communication does not promote, support, attack or oppose any federal candidate. 100.29(c)(5).

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<sup>10</sup> In the case of a Presidential or Vice Presidential candidate, publicly distributed also means that the communication can be received by 50,000 or more persons in a state within 30 days of a primary, or received by 50,000 or more persons anywhere in the U.S. within 30 days of the national nominating convention. 100.29(b)(3)(ii).

### **Prohibition on Corporations and Labor Organizations Making Electioneering Communications**

Generally, corporations and labor organizations are prohibited from making payments for an electioneering communication to those outside the restricted class. 114.2(b)(3). In addition to these limitations on use of general treasury funds, corporations and labor organizations may not provide funds to any person if they know or have reason to know, or are willfully blind to the fact that, the funds are for the purpose of making electioneering communications.

114.14(a). Persons who accept funds provided by a corporation or labor organization may not:

- Use those funds to pay for electioneering communications; or
- Provide any portion of those funds to any person for the purpose of defraying the cost of an electioneering communication.

### **Exceptions**

The above prohibition does not apply to

- Certain electioneering communications permissible under the “WRTL exemption” (see discussion below). 114.15; or
- Qualified nonprofit corporations (see discussion below); or
- Funds disbursed by a corporation or labor organization in the usual and normal course of business such as through salary, royalties or income from bona fide employment; interest earnings, stock or other dividends, or proceeds from the sale of investments; and receipts of payments for the fair market value of goods provided or services rendered. 114.14(c).

Persons who receive funds from corporations or labor organizations for purposes that do not meet the exceptions mentioned above must be able to demonstrate through a reasonable accounting method that no portion of the funds were used to pay for an electioneering communication. 114.14(d)(1).

### **The “WRTL Exemption”**

In 2007, the Supreme Court held that the electioneering communication financing restrictions were unconstitutional “as applied” to ads that Wisconsin Right to Life, Inc., a nonprofit corporation, intended to run before the 2004 elections. The Supreme Court concluded that these financing restrictions were unconstitutional as applied to these ads because the ads had a reasonable interpretation other than as an appeal to vote for or against a clearly identified federal candidate. The Commission has implemented this decision in its regulations as a regulatory exemption to the prohibition on corporate and labor organization funding, 114.15. The exemption is based on the content of the communication, not the type of organization making the communication.

The WRTL exemption has two parts: a general exemption and a safe harbor provision. Communications meeting the safe harbor provision are deemed permissible without further requirements. A communication will qualify for the safe harbor if it:

- Does not mention any election, candidacy, political party, opposing candidate or voting by the general public;
- Does not take a position on any candidate’s character, qualifications or fitness for office; and
- Either focuses on a legislative, executive or judicial matter or issue and urges a candidate to take a position with respect to that matter or issue or urges the public to adopt a particular position and to contact the candidate with respect to the matter or issue; OR proposes a commercial transaction, such as purchase of a book, video or other product or service, such as attendance (for a fee) at a film exhibition or other commercial event. 114.15(b).

Communications that do not qualify for the safe harbor may still be permissible under the general exemption. 114.15(a). If an electioneering communication does not qualify for the safe harbor, the Commission will consider two factors. The first is whether the communication includes any indicia of express advocacy, meaning that it mentions any election, candidacy, political party, opposing candidate or voting by the general public

or takes a position on the candidate's character, qualifications or fitness for office. The second is whether the communication has content that would support a determination that it has an interpretation other than as an appeal to vote for or against a clearly identified federal candidate. A communication would meet this factor if it:

- Focused on a public policy issue and either urged a candidate to take a position on the issue or urged the public to contact the candidate about the issue;
- Proposed a commercial transaction, such as purchase of a book, video or other product or service, or such as attendance (for a fee) at a film exhibition or other event; or
- Included a call to action or other appeal that, interpreted in conjunction with the rest of the communication, urged an action other than voting for or against or contributing to a clearly identified federal candidate or political party. 11 CFR 114.15(c)(1)-(2).

The Commission will consider these two factors to determine whether, on balance, the communication has a reasonable interpretation other than as an appeal to vote for or against a federal candidate. If there is any doubt about whether the communication qualifies for the general exemption, the Commission will permit the communication. 114.15(c)(3).

In making its determination, the Commission will only consider the communication itself and basic background information necessary to put the communication into context. For example, the Commission may consider whether a named individual is a candidate and whether the communication describes a public policy issue. 114.15(d).

Examples of communications that have been determined to be permissible and of communications that have been determined not to be permissible under this exemption are available on the Commission's website at [http://www.fec.gov/pages/bcra/rulemakings/ECs\\_WRTL\\_Exemption\\_Examples.shtml](http://www.fec.gov/pages/bcra/rulemakings/ECs_WRTL_Exemption_Examples.shtml). 114.15(e). Corporations and labor organizations that make permissible electioneering communications under this exemption aggregating in excess of \$10,000 in a calendar year must

comply with the FEC's reporting requirements for electioneering communications. 114.15(f).

## Who May Make Electioneering Communications?

### Corporate/Labor/Trade Association PACs

The separate segregated fund (PAC) of a corporation, labor organization or trade association may make communications that meet the definition of electioneering communications. However, because such communications would be reportable as "expenditures" under the Act, they are not technically considered electioneering communications. 100.29(c)(3) and 114.5(i). If such a communication is coordinated with a campaign, it counts as an in-kind contribution, subject to limitations and reporting requirements. See Section 2 of this Appendix.

### Qualified Nonprofit Corporations

Qualified nonprofit corporations (QNC) may make electioneering communications. To qualify, the entity must be a nonprofit corporation incorporated under 26 U.S.C. § 501(c)(4) that is ideological in nature and qualifies for exemptions under 11 CFR 114.10(c).

If a QNC makes electioneering communications that aggregate in excess of \$10,000 in a calendar year, it must certify that it is eligible for the QNC exemption. 114.10(e)(1)(ii). For more information, see the Commission brochure, Electioneering Communications.

Note that QNCs still may not make contributions to federal political committees, nor may they accept any funds from corporations or labor organizations. 114.10(d)(2) and (3). Also, these regulations do not supersede any section of the Internal Revenue Code regarding 501(c)(4) organizations. 100.29(i).

### "527" Organizations

The prohibition against the use of corporate funds to make or finance electioneering communications does not apply to certain political organizations incorporated under 26 U.S.C. § 527.

Incorporated state party committees and state candidate committees registered as "527" organizations are exempt from the corporate prohibition provided that the committee:

- Is not a political committee as defined at 100.5;
- Incorporates for liability purposes only;
- Does not use any funds donated by corporations or labor organizations to fund the electioneering communication; and
- Complies with the FEC's reporting requirements for electioneering communications. 114.2(b)(3).

Unincorporated, unregistered "527" organizations may also make electioneering communications, subject to the disclosure requirements and the prohibition against corporate and labor funds.

### Individuals and Partnerships

Individuals and partnerships may make or finance electioneering communications, provided that certain conditions are met. Persons who accept funds from corporations or labor organizations may not use those funds to pay for electioneering communications, nor may they give these funds to another to defray the costs of making an electioneering communication. 114.14(b).

Individuals and partnerships making electioneering communications must be able to demonstrate through a reasonable accounting procedure that no prohibited funds were used to pay for the electioneering communication. 114.14(d).

## Coordinated Electioneering Communication

As noted above, an electioneering communication meets the content and payment tests under the Commission's three-part test for determining whether a communication is coordinated. 109.21(a)(1) and (c)(1). If the conduct prong is met as well, then the electioneering communication would be considered an in-kind contribution subject to contribution limitations, source prohibitions and reporting by both the payee and the campaign. To avoid receiving an illegal excessive or prohibited contribution, campaigns should avoid interacting with those making electioneering communications in the manner noted above under "Conduct Prong" in Section 2 of this Appendix.

For more information, see Chapter 7, Section 12 and the brochure "Electioneering Communica-

tions," available from the FEC at <http://www.fec.gov/pages/brochures/electioneering.shtml>.

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## 7. Disclaimer Notices on Communications

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Any public communication made by a political committee—including communications that do not expressly advocate the election or defeat of a clearly identified federal candidate or solicit a contribution—must display a disclaimer. As explained below, disclaimers must also appear on political committees' Internet web sites and in certain e-mail communications. 110.11(a)(1). Moreover, all independent expenditures and electioneering communications require a disclaimer, regardless of who has paid for them. This section focuses on disclaimer requirements for communications that are not paid for by the campaign. For information on disclaimer notices on communications and advertisements paid for by the campaign, see Chapter 10, section 2. Please note that solicitations must meet additional disclaimer requirements. See Chapter 10.

### Wording of Disclaimer

#### Communications Not Authorized by a Candidate

Communications not authorized by a candidate or his/her campaign committee, including any solicitation, must disclose the full name and permanent street address, telephone number or web site address of the person who paid for the communication, and also state that the communication was not authorized by any candidate. 110.11(b) and (d)(3).

**EXAMPLE:** Paid for by the Citizens PAC ([www.citizenspac.org](http://www.citizenspac.org)) and not authorized by any candidate or candidate's committee.

In addition to the requirement above, for a radio or television communication that is not authorized by a candidate or the candidate's authorized committee, a representative of the individual or group paying for the communication must state that XXX is responsible for this communication, where XXX is the name of the political committee or other person who paid for the communication. If applicable, the name of the sponsoring committee's connected



organization is also required in the disclaimer.<sup>11</sup> 110.11(c)(4)(i). See Visibility Requirements, below

### Communications Authorized by a Candidate

The disclaimer for a communication authorized by a candidate or candidate's committee, but paid for by any other person, must state both who paid for the communication and that it was authorized by that candidate. 110.11(b)(2).

**EXAMPLE:** Paid for by the Citizens PAC and authorized by the John Doe for Congress Committee.

### Coordinated Party Expenditures

On a communication that is made as a coordinated party expenditure before a nominee is officially chosen, the disclaimer notice need only identify the committee that paid for the message. 110.11(d)(1)(ii).

**EXAMPLE:** Paid for by the XYZ State Party Committee.

Once a candidate has been nominated for the general election, the disclaimer notice must also state who authorized the communication and comply with the other applicable requirements listed below.

**EXAMPLE:** Paid for by the XYZ State Party Committee and authorized by John Doe for Congress Committee. 110.11(d)(2).

### Exempt Party Activity

On an exempt activity communication, such as campaign materials, the disclaimer notice must identify the committee that paid for the message, but need not state whether the communication is authorized by a candidate. 110.11(e).

**EXAMPLE:** Paid for by the XYZ State Party Committee.

## Visibility Requirements

All disclaimers must be clear and conspicuous regardless of the medium in which the communication is transmitted. A disclaimer is not clear and

conspicuous if it is difficult to read or hear, or if its placement is easily overlooked. 110.11(c)(1).

### Specific requirements for radio and television communications.

For radio and television communications authorized by a candidate, the candidate must deliver an audio statement identifying himself or herself, and stating that he or she has approved the communication. For example, the candidate could state "My name is John Doe and I approved this message." See AOs 2004-10 and 2004-1. For a television communication, this disclaimer must be conveyed by either:

- A full-screen view of the candidate making the statement; or
- A clearly identifiable photographic or similar image of the candidate that appears during the candidate's voice-over statement. 110.11(c)(3)(ii)(A) and (B).

In the case of a televised ad not authorized by a candidate, the disclaimer must include a statement that is conveyed by a full screen view of a representative of the political committee or other person making the statement, or a voice-over by the representative. 110.11(c)(4)(ii).

Both authorized and unauthorized television communications must also contain a clearly readable written statement that appears at the end of the communication, for a period of at least four seconds with a reasonable degree of color contrast between the background and the disclaimer statement. The written statement must occupy at least four percent of the vertical picture height, and it must be shown for a period of four seconds. 110.11(c)(3)(iii) and 110.11(c)(4).

### Safe harbor for television communication disclaimers

A still picture of the candidate shall be considered clearly identifiable if it occupies at least 80 percent of the vertical screen height. Disclaimers that are printed in black text on a white background, as well as disclaimers that have at least the same degree of contrast with the background color as the degree of contrast between the background color and the color of the largest text used in the communication, will be considered clearly readable. 110.11(c)(3)(iii)(C).

<sup>11</sup> In addition, communications transmitted through telephone banks, defined by 11 CFR 100.28 as more than 500 substantially similar calls within 30 days, must carry this same disclaimer statement made by a representative of the individual or group paying for the communication. 110.11(a).

### **Specific requirements for printed communications.**

Printed materials must contain a printed box that is set apart from the contents in the communication. The disclaimer print in this box must be of sufficient type size to be clearly readable by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement. 110.11(c)(2)(ii) and (iii).

The regulations contain a safe harbor that establishes a fixed, twelve-point type size as a sufficient size for disclaimer text in newspapers, magazines, flyers, signs and other printed communications that are no larger than the common poster size of 24 X36. 110.11(c)(2)(i). Disclaimers for larger communications will be judged on a case-by-case basis.

The regulations additionally provide two safe harbor examples that would comply with the color-contrast requirement:

- The disclaimer is printed in black text on a white background; or
- The degree of contrast between the background color and the disclaimer text color is at least as great as the degree of contrast between the background color and the color of the largest text in the communication. 110.11(c)(2)(iii).<sup>12</sup>

### **Multiple-Paged Document**

A disclaimer need not appear on the front page or cover of a multiple-paged document so long as it appears somewhere within the communication. 110.11(c)(2)(iv).

### **Package of Materials**

Each communication that would require a disclaimer if distributed separately must still display the disclaimer when included in a package of materials. 110.11(c)(2)(v). For example, if a campaign poster is mailed with a solicitation for contributions, a separate disclaimer must appear on the solicitation and the poster.

### **When Disclaimer Not Required**

A disclaimer is not required:

- When it cannot be conveniently printed (e.g., pens, bumper stickers, campaign pins, campaign buttons and similar small items).
- When its display is not practicable (e.g., clothing, water towers and skywriting).
- When the item is of minimal value, does not contain a political message and is used for administrative purposes (e.g., checks and receipts). 110.11(f). See AOs 2004-10 and 2002-9.

<sup>12</sup> Please note these examples do not constitute the only ways to satisfy the color contrast requirement.

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## Appendix E: Fundraising by Federal Candidates and Officeholders

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### Prohibition

The Act and Commission regulations prohibit federal candidates and officeholders from raising and spending funds outside the limits and prohibitions of federal law. 300.60-62. Specifically, federal candidates and officeholders, or entities established, financed, maintained or controlled by them or acting on their behalf, may not solicit,<sup>1</sup> receive, direct,<sup>2</sup> transfer, spend or disburse funds in connection with a federal election, including funds for federal election activity, unless the funds are within the Act's limits, prohibitions and reporting requirements. 300.61. Federal candidates and officeholders may not solicit, receive, direct, transfer, spend or disburse funds in connection with a nonfederal election unless those funds are from federally permissible sources

- 1 To solicit means to ask, request or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds or otherwise provide anything of value. A solicitation is an oral or written communication that, construed as reasonably understood in the context in which it is made (including the conduct of the persons involved), contains a clear message asking, requesting or recommending that another person make a contribution, donation, transfer of funds or otherwise provide anything of value. A solicitation may be made directly or indirectly, and does not include mere statements of political support or mere guidance as to the applicability of a particular law or regulation. 300.2(m). See the regulations at 300.2(m)(1)-(3) for examples of communications and statements that do or do not constitute solicitations.
- 2 To direct means to guide, directly or indirectly (through a conduit or intermediary), a person who has expressed an intent to make a contribution, donation, transfer of funds or otherwise provide anything of value, by identifying a candidate, political committee or organization for the receipt of such funds or things of value. Direction does not include merely providing information or guidance as to the applicability of a particular law or regulation. 300.2(n).

and do not exceed the contribution limits for candidates and political committees. 300.62.

The Act and Commission regulations provide for exceptions to these general prohibitions, including exceptions for certain tax-exempt organizations and for certain fundraising events at which the candidate appears merely as a guest, as discussed below.

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## I. Fundraising for State/Local Candidates and Elections

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### Nonfederal Elections

A federal candidate, officeholder or his or her agents, and any entity directly or indirectly established, financed, maintained or controlled by, or acting on behalf of, one or more federal candidates or officeholders, may raise funds in connection with a nonfederal election, but only in amounts consistent with state law and that do not exceed the Act's contribution limits or come from prohibited sources.<sup>3</sup> 300.62; see also Advisory Opinion (AO) 2005-2.

### Ballot Initiatives

In AO 2005-10, the Commission determined that, federal candidates and officeholders, in their individual capacities, may make solicitations on behalf of ballot measure committees for funds that are not subject to the limits, prohibitions and reporting requirements of the Act where no federal candidate would appear on the ballot on the date the initiative is on the ballot; the ballot measure committees are formed solely to support or oppose ballot initiatives and are not directly or indirectly established, financed, maintained or controlled by the federal officeholders, by anyone acting on their behalf or by any political party committee; and the funds are not raised on behalf of any party committee. On the other hand, in those situations where a federal candidate or officeholder established or substan-

- 3 See 11 CFR 300.2(b) and (c) for a list of the factors considered by the Commission in determining whether an entity is directly or indirectly established, financed, maintained or controlled by, or acting on behalf of, a federal candidate, officeholder or agent. See also AOs 2006-4 and 2005-2.

tially financed such a committee, the committee's activities have been viewed by the Commission as being "in connection with a federal election." As a result, only funds permissible under the Act were permitted to be raised or spent. Compare AO 2005-10 with AOs 2006-4, 2004-29 and 2003-12.

In AO 2007-28, the Commission concluded that two Congressional representatives who were also federal candidates could solicit up to \$20,000 during any calendar year from individuals on behalf of a ballot initiative committee that was not directly or indirectly established, financed, maintained or controlled by, or acting on behalf of, either officeholder. None of the funds raised by the Representatives would be used for public communications that referred to them, and they would not participate in, or coordinate with the ballot initiative committee regarding, other publications paid for by the committee. The Commission was unable to agree on a single rationale for this decision when granting this advisory opinion.

## Candidates Who Run for Both Federal and Nonfederal Office

Commission regulations provide a limited exception for federal candidates and officeholders who seek state or local office. The restrictions on raising and spending funds outside the Act's limitations and prohibitions do not apply to any federal candidate or officeholder who is or was also a candidate for state or local office so long as the raising or spending of funds is 1) solely in connection with his or her state or local campaign; 2) refers only to him or her or to other candidates for that same state or local office; and 3) is permitted under state law. 300.63.

If the candidate or officeholder is simultaneously running for both federal and state or local offices, then the candidate or his or her agents may only raise and spend funds within the limits, prohibitions and reporting requirements of the Act for the federal election. 300.63; see also AOs 2007-1, 2005-12 and 2005-2.

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## 2. Attending Fundraising Events

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### State or Local Candidate Fundraiser

A federal candidate or officeholder or agent thereof may attend, speak or be a featured guest at a state or local candidate fundraiser.

When involved in such events, the candidate may only ask for funds in amounts and from sources that are both consistent with state law and not in violation of the Act's limits and prohibitions.

If the federal candidate or officeholder or agent approves, authorizes or consents to be named or featured in written publicity that constitutes a solicitation, the solicitation must contain a clear and conspicuous, express statement that the solicitation is limited to funds that comply with the Act's limitations and prohibitions. The mere mention of a federal candidate, officeholder or agent in the text of such publicity does not by itself constitute a solicitation or direction of nonfederal funds by that individual. If the publicity constitutes a solicitation by the individual and the publicity asks for funds outside the limits and prohibitions of the Act, then the inclusion of the disclaimer does not make such publicity permissible. See AOs 2003-36 and 2003-3.

Note that the cost of the solicitation, if paid for by the nonfederal campaign, does not constitute an in-kind contribution to the federal candidate so long as the solicitation does not promote, attack, support or oppose the soliciting candidate or another candidate seeking election to the same office. 109.21(g)2). For more information, see Appendix D, Section 2, "Coordinated Communications."

### Disclaimer Notices at an Event

If the individual makes a solicitation at an event, he or she must make an oral disclaimer, or written notices must be clearly and conspicuously displayed, indicating that the federal candidate/officeholder (or his or her agents) is only soliciting federally permissible funds. The Commission has approved the following safe harbor disclaimer:

"I am asking for a donation of up to \$2,300 per election from an individual's own funds [or up to \$5,000 per election from a multicandidate political committee or a political party committee]. I am

not asking for funds from corporations, labor organizations or other federally prohibited sources.”

Note that the making or appearance of such a disclaimer does not permit the individual to then encourage a potential donor to disregard the Act’s limits and prohibitions. See AOs 2003-36 and 2003-3.

## State or Local Party Fundraiser

A federal candidate or officeholder may attend, speak or be a featured guest at a fundraising event for a state or local party committee, including events at which Levin funds (See the *Campaign Guide for Political Party Committees*, Chapter 8, Section 3 “Levin Funds”) or nonfederal funds are raised. At such events the candidate may speak without restriction. Also, a state or local party committee may advertise (through pre-event invitation materials and other party communications) that the candidate will appear at the event; however, this exemption does not permit the candidate or officeholder to solicit nonfederal funds for state party committees in written solicitations, pre-event publicity or through other fundraising appeals. 300.64 and AO 2007-11.

For example, federal candidates and officeholders are prohibited from

- Serving on host committees for party fundraisers at which nonfederal funds are raised; and
- Signing solicitation letters for events at which nonfederal funds are raised.

See the *Explanation and Justification for 11 CFR 300.64 at 70 FR 37651 (6/30/2005)*.

Note that this exemption does not apply to events held on behalf of both a party and a nonfederal candidate (or candidates). Such events are governed by the rules summarized under “State or Local Candidate Fundraiser” at the beginning of this section.

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## 3. Supporting Tax-Exempt Organizations

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### General Rule for Solicitations

A federal candidate, officeholder or his or her agents may make solicitations for tax-exempt organizations. The regulations regarding solicitation for tax-exempt organizations differ depending on whether the funds solicited will be used for certain federal election activities and whether the organization’s principal purpose is to conduct federal election activity.

### Limits and Prohibitions on Solicitations

#### General Solicitations

A federal candidate or officeholder (or individual acting on behalf of either) may make a general solicitation on behalf of a 501(c) tax-exempt organization, or an organization that has applied for this tax status, without limits on the source or amount of funds, if

- The organization does not make expenditures or disbursements in connection with elections, or
- It is not the principal purpose of the organization to conduct election activities, including federal election activity, and
- The solicitation is not to obtain funds for activities in connection with an election, including federal election activity. 300.65(a), (b) and (c). See also AOs 2004-14 and 2003-20.

#### Specific Solicitations for Federal Election Activity

A federal candidate or officeholder (or individual acting on behalf of either) may also make a specific solicitation explicitly to obtain funds to pay for certain federal election activities conducted by a tax-exempt organization or for a tax-exempt organization whose principal purpose is to undertake such activities. The federal election activities for which such a specific solicitation may be made are limited to:

- Voter registration activity during the period that begins 120 days before the date of a

regularly scheduled federal election and ends on the day of that election; and

- Voter identification, get-out-the vote or generic campaign activity conducted in connection with an election in which a federal candidate appears on the ballot (regardless of whether a state or local candidate also appears on the ballot). See 11 CFR 100.24 and 100.25.

When making specific solicitations for a tax-exempt organization, the candidate may solicit only individuals and may solicit no more than \$20,000 per calendar year from each contributor. 300.65(b) and (c).

### **General Prohibition**

Federal law permits limited solicitations by federal candidates and officeholders only for the specific federal election activities listed above; these individuals must not make any solicitations on behalf of a 501(c) organization, or an organization that has applied for this tax status, for any other types of election activities, such as public communications promoting or supporting federal candidates. 300.65(d).

### **Safe Harbor**

To determine that a 501(c) organization is not one whose principal purpose is to conduct election activities, such as those outlined in the above two paragraphs, a federal candidate or officeholder may obtain and rely upon a written certification, signed by an officer of the organization, stating that:

- It is not the organization's principal purpose to engage in election activities; and
- The organization does not intend to pay debts incurred from expenditures or disbursements in connection with an election for federal office (including for federal election activities) in a prior election cycle.

If the federal candidate or officeholder (or an agent of either) has actual knowledge that the certification is false, then the certification may not be relied upon. 300.65(e) and (f).

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## Appendix F: Millionaires' Amendment

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### I. The Millionaires' Amendment: Increased Limits for Candidates Running Against a Self-Financed Opponent

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Under the provisions of the Bipartisan Campaign Reform Act known as the Millionaires' Amendment, House and Senate candidates running against a self-financed opponent may be eligible to receive contributions from individuals under increased limits and to have increased coordinated party expenditures made on their behalf. All candidates, however, have some reporting obligations under the Millionaires' Amendment, even if they do not spend personal funds or spend enough to trigger increased limits. This appendix summarizes the requirements of the Millionaires' Amendment.

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### 2. Requirements for All Campaigns

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The provisions of the Millionaires' Amendment may, in certain circumstances, increase the contribution limits for House and Senate candidates facing opponents who spend personal funds in excess of certain threshold amounts. In order to facilitate continual monitoring of personal spending by candidates and compliance with the notification requirements of the Millionaires' Amendment, all House and Senate campaigns must file certain reports and statements, even if the candidate has no plans to expend personal funds.

### Threshold Amounts and Triggers for Increased Limits

The threshold amounts and the triggers for increased limits for House and Senate candidates differ. House candidates whose personal spending exceeds \$350,000 may trigger increased limits for their opponents. 400.9(b). For Senate candidates, the threshold amount is the sum of \$150,000 plus an amount equal to the voting age population of the state in question multiplied by \$0.04.<sup>1</sup> 400.9(a). Senate candidates may qualify for increased limits only after an opposing candidate's personal spending exceeds twice the threshold amount. The FEC posts the actual calculations of the Senate threshold amounts each year online at <http://www.fec.gov/pages/bcra/rulemakings/millionairesenate.shtml>.

### Form 2—Declaration of Intent in Statement of Candidacy

At the outset of the campaign, candidates must estimate on their Statement of Candidacy (FEC Form 2) the amount by which their personal spending on the campaign will exceed the applicable threshold amount (summarized in the preceding subsection). 101.1(a).

As explained in more detail in Chapter 2, Section 2, and in the Form 2 Instructions, House candidates must file the original Form 2 with the FEC, while Senate candidates file the original Form 2 with the Secretary of the Senate. In addition, both House and Senate candidates must fax or e-mail a copy of Form 2 to each opposing candidate's campaign (Senate candidates must also fax the form to the FEC).<sup>2</sup> 400.20. For this reason, committees are required to list fax numbers (where available) on the Statement of Organization (FEC Form 1). 102.2(a)(1)(vii).

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1 Differently formulated:  $\$150,000 + (.04 \times (\text{voting age population})) = \text{Senate threshold}$ .

2 See Chapter 2, Section 2

## Form 3Z-1—Disclosure of Gross Receipts and Aggregate Expenditures from Personal Funds

To facilitate certain calculations explained below and required for campaigns affected by the Millionaires’ Amendment, all principal campaign committees must file a report disclosing the campaign’s aggregate gross receipts and the candidate’s aggregate contributions from personal funds for the primary and general elections (FEC Form 3Z-1). This report is required to be included with the July Quarterly report (due on July 15 of the year before the candidate’s election) and the Year-End report (due January 31 of the year in which the candidate’s election takes place) for the year before the candidate’s election, 104.19.

For paper filers, Form 3Z-1 is available as part of the FEC Form 3 packet; electronic filers should ensure that their software can generate Form 3Z-1.

### EXPENDITURES FROM PERSONAL FUNDS AND GROSS RECEIPTS (SCHEDULE 3Z-1)

Name of Candidate		Candidate ID Number	
Bob Sardanapalus		S4VA22222	
Name of Principal Campaign Committee		Committee ID Number	
Sardanapalus for Senate		C 00670000	
Committee Address			
1313 Opulence Ave.			
City	State	ZIP	
Arlington	VA	22207	
Report Covering Period (check one) <input type="checkbox"/> through June 30, or <input checked="" type="checkbox"/> through December 31 of the year preceding the year of the general election			
	Primary	General	
1. Gross receipts of authorized committees .....	0.00	10,000,000.00	
2. Aggregate amount of contributions from personal funds of the candidate ....	0.00	0.00	
3. Gross receipts minus the candidate's personal contributions .....	0.00	10,000,000.00	

or coordinated party expenditures limits. Thus, an expenditure from personal funds made by a candidate does not automatically result in increased contribution limits. The Act and regulations also take into account fundraising by the campaigns.

## 3. Triggering the Millionaires’ Amendment

An opposing candidate’s campaign-related expenditures from personal funds in excess of the triggering threshold noted above may result in increased individual contribution and coordinated party expenditure limits once that candidate has spent a significant amount of personal funds as compared to the amount of expenditures from personal funds made by the other candidates in the election. In addition, after July 15 of the year before the candidate’s election, the formula for determining whether a candidate is eligible for increased individual contribution and/or coordinated party expenditure limits takes into account the fundraising advantage (if any) that the candidate may have. Candidates with a significant fundraising advantage may not be eligible for increased individual contribution and/

## Election Cycles and Opposing Candidates

It is important to understand the definitions of election cycle and opposing candidate in order to comply with the requirements of the Millionaires’ Amendment.

### Election Cycle

For purposes of the Millionaires’ Amendment, an election cycle means the period beginning on the day after the date of the most recent election for the specific office sought and ending on the date of the next election for that office. The regulations specify that a primary and a general election are considered separate election cycles; however, a runoff election is considered part of the election cycle necessitating the runoff election. 400.2. See AO 2006-6.



**Opposing Candidate**

For purposes of the Millionaires' Amendment, the opposing candidate in a primary election means all other candidates seeking the nomination of the same political party in that same election. In the general election, the opposing candidate means all other candidates seeking election to the same office. 400.3.

**Expenditures from Personal Funds**

As noted in Chapter 3, a candidate may contribute or loan unlimited personal funds to his or her campaign, or make unlimited expenditures on behalf of the campaign. 110.10. However, if the amount of personal funds contributed, loaned and spent exceeds the threshold amounts summarized in Section 2 of this Appendix, the candidate is required to file certain notifications.

**Unspent Funds Transferred Between Election Cycles**

Because the threshold is applied on an election-cycle basis, a candidate's expenditures from personal funds made before the primary election will not trigger the Millionaires' Amendment for a general election opponent. However, any personal funds contributed by a candidate during the primary that are unspent and available for use in the general election do count toward the candidate's personal spending threshold for the general election. A campaign must use a reasonable accounting method to determine the amount of unspent personal funds that are transferred to the next election. If unspent funds from the previous election cause a House candidate to exceed the threshold amount or a Senate candidate to exceed twice the threshold amount (see Section 2 of this Appendix), the

**NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS (FORM 10)**

Page \_\_\_\_\_ of \_\_\_\_\_

**FEC FORM 10**  
**24-HOUR NOTICE OF EXPENDITURE FROM CANDIDATE'S PERSONAL FUNDS (11 CFR 400.21 and 400.22)**  
**(Millionaires' Amendment)**

1. Name of Candidate: Bob Sardanapalus  
 2. Office Sought: Senate  
 3. State: VA  
 4. District: \_\_\_\_\_  
 5. Candidate ID Number: S4VA22222

6. Name of Principal Campaign Committee: Sardanapalus for Senate  
 7. Committee ID Number: C 000670000

8. Address: 1313 Opulence Ave  
 9. City, State and ZIP Code: Arlington, VA 22207

10. Expenditures of Personal Funds (If the candidate has made expenditures for different elections, submit a separate Form 10 for each election.)  
 Aggregate Expenditures Previously Reported During the Election Cycle: 0.00

DATE	ELECTION	AMOUNT	CHECK IF LOAN/DEBT
A. 03 / 02 / 2008	<input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other	12000000.00	<input checked="" type="checkbox"/>
B. / /	<input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other		<input type="checkbox"/>
C. / /	<input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other		<input type="checkbox"/>
D. / /	<input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other		<input type="checkbox"/>

11. Total Expenditures This Notice: 12000000.00  
 12. Total Expenditures Election Cycle To Date: 12000000.00

13. 48 Hour Notice of Last-Minute Contributions  
 a) Check box if this filing satisfies Form 6 filing requirements (see instructions)   
 b) Name of Employer: \_\_\_\_\_  
 c) Occupation: \_\_\_\_\_

TYPE OR PRINT NAME OF COMMITTEE TREASURER: Matthew Moneyman  
 SIGNATURE OF COMMITTEE TREASURER: *Matthew Moneyman*  
 DATE: 3/21/08

SPG020 For further information contact: Federal Election Commission, 999 E Street, NW, Washington, DC 20463  
 Toll Free 800-424-9530, Local 202-694-1100  
 FEC Form 10 - 09/2005

committee triggers the Millionaires' Amendment and must file FEC Form 10 (Notification of Expenditures from Personal Funds), as explained in the next section. AOs 2006-25, 2006-21 and 2006-6.

**Notifications Required for Candidates Expending Personal Funds in Excess of Threshold**

A candidate's principal campaign committee must notify the entities specified below within 24 hours when the candidate makes an expenditure from personal funds that aggregates in excess of the triggering threshold for an election cycle, as sum-

marized above. 400.21. Such notifications must be received by the entities specified below within 24 hours of the time the expenditure was made. To satisfy this reporting requirement, the candidate files FEC Form 10 (Notification of Expenditures from Personal Funds) as explained here:

#### **Initial Notification of Expenditures from Personal Funds**

- House candidates must file Form 10 by faxing or e-mailing a copy of FEC Form 10 (or by sending an e-mail containing all the required information) to the Commission, each opposing candidate and the national party committee of each opposing candidate. 400.24(b). House candidates must also file Form 10 electronically with the FEC. 400.24(b). An online web form is available for this purpose at <https://webforms.nictusa.com>.
- Senate candidates must file the original Form 10 by faxing or e-mailing a copy to the Secretary of the Senate. (The original hard copy of Form 10 must be sent to the Secretary of the Senate as well.) Senate candidates must also fax or e-mail a copy to the Commission and each opposing candidate. 400.24(a).

#### **Subsequent Notifications for Expenditures from Personal Funds**

From that time on, the candidate must also notify all of the entities mentioned above within 24 hours, using FEC Form 10, whenever the candidate makes an additional expenditure from personal funds in excess of \$10,000. 400.22.

#### **Last Minute Expenditures from Personal Funds**

As noted in Chapter 12, principal campaign committees must disclose contributions and personal loans of \$1,000 or more made from 20 days up to 48 hours before an election. Normally, such last-minute contributions must be disclosed within 48 hours using FEC Form 6 or an electronic equivalent (see Chapter 12, Section 3, under the subheading “Last-Minute Contributions” for more information). In the situation where a last-minute contribution from a candidate necessitates a filing of Form 10, the candidate must file the Form 10 as normally required to meet the notification requirements discussed above, but must also meet the 48-hour notice requirement by check-

ing Box 13 on Form 10. See the instructions for Form 10 for more information (available online at <http://www.fec.gov/pdf/forms/fecfrm10i.pdf>).

## **Requirements for Opposing Candidates Receiving Notification of Personal Funds Expended**

Campaigns must use the opposition personal funds amount formula to determine whether an opposing candidate has spent sufficient personal funds in comparison to the amounts spent by the candidate and/or raised by the campaigns to trigger increased contribution limits for the election cycle. The formula for calculating the opposition personal funds amount depends upon the date on which the calculation is made. 400.10(a) and (b). A committee that receives notification that an opposing candidate has expended personal funds must complete the worksheet provided in the instructions for FEC Form 11 (available online at <http://www.fec.gov/pdf/forms/fecfrm11i.pdf>). This worksheet assists the committee with the necessary calculations and helps the committee determine if it has qualified for additional limits and possibly triggered additional filing requirements (summarized in the next sections).

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## **4. Increased Individual Contribution and Coordinated Party Expenditure Limits**

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### **House**

When a House candidate’s opposition personal funds amount exceeds \$350,000:

- The contribution limits for the candidate triple (\$6,900 per election); and
- The national and state party committees may make unlimited coordinated expenditures on behalf of the candidate. 400.41.

## Senate

For Senate candidates, the extent to which a candidate's opposition personal funds amount exceeds the threshold determines the amount of the increase in contribution limits. If it exceeds:

- Twice the threshold (\$300,000 + (\$0.08 x VAP)), then the individual contribution limits for the candidate are tripled (\$6,900 per election);
- Four times the threshold (\$600,000 + (\$0.16 x VAP)), then the individual contribution limits for the candidate are raised six-fold (\$13,800 per election);
- Ten times the threshold (\$1,500,000 + (\$0.40 x VAP)), then the contribution limits for the candidate are raised six-fold (\$13,800 per election), and the national and state party committees may make unlimited coordinated expenditures on the candidate's behalf.

400.40.

## Avoiding Excessive Contributions and Coordinated Party Expenditures under the Increased Limits

Campaigns that accept contributions under the increased limits must continually monitor the opposition personal funds amount to ensure their continued eligibility for the increased limits and that they have not accepted excessive contributions. Once a campaign is no longer eligible, it must file a notification to that effect, using FEC Form 12 (Notice of Suspension of Increased Limits). The instructions for FEC Form 12 contain a worksheet that candidates may use to moni-

### CALCULATION OF OPPOSITIONAL PERSONAL FUNDS AMOUNT

#### FEC FORM 11

24-HOUR NOTICE OF OPPOSITION PERSONAL FUNDS AMOUNT (11 CFR 400.30)  
(Millionaires' Amendment)

1. Name of Candidate Karen Penury		2. Candidate ID Number SVA11111	
3. Office Sought Senate		4. State VA	5. District
6. Name of Principal Campaign Committee Friends of Penury for Senate		7. Committee ID Number C 000720000	
8. Address 57 West Street		9. City, State and Zip Code Vienna, VA 22222	
The information below is based on the worksheet calculations and receipt of a 24-hour Notice of Expenditure of Personal Funds (FEC Form 10) from the following committee/candidate:			
10. Name of Candidate Bob Sardanapalus			
11. Name of Committee Sardanapalus for Senate		12. Committee ID Number C 000670000	
13. Committee Address 1313 Opulence Ave.			
14. City, State and Zip Code Arlington, VA 22207		15. Date of Receipt of FEC Form 10: 03 / 21 / 2008	
16. Opposition Personal Funds Amount (11 CFR 400.10 See worksheet in instructions) 11,900,000.00 (From Part A, Line # 3 or 9 of worksheet)		17. Election <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other	
18. Type <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Special			
I certify that I have examined this notice and to the best of my knowledge and belief, it is true, correct and complete.			
Joe Themistocles PRINT OR TYPE NAME			
SIGNATURE OF CANDIDATE OR TREASURER OF PRINCIPAL CAMPAIGN COMMITTEE		DATE 3/22/08	

FESAN063

FEC Form 11 (Rev. 02/2003)

tor their eligibility for increased limits. See the discussion of Form 12 in the next section.

When the aggregate amount of contributions under the increased limit and coordinated party expenditures under the increased limit is equal to 100 percent of the opposition personal funds amount (for House candidates) or 110 percent of the opposition personal funds amount (for Senate candidates) then:

- Candidates must not accept any more contributions under the increased limit (400.31(d)(1) and 400.31(e)(1)); and
- National and state party committees must not make any coordinated party expenditures under the increased limit on the candidate's behalf. (400.31(d)(2) and (e)(2)).

## 5. Reporting and Notifications by Committees Benefiting from Increased Limits

### Party Committees

National or state political party committees that make coordinated expenditures on behalf of a candidate whose limits have been raised in accordance with the above provisions must notify the Commission and the candidate on whose behalf the expenditure is made within 24 hours. This notification is made by faxing or e-mailing a copy of Schedule F to the Commission and to the candidate or authorized candidate committee on whose behalf the expenditure was made. 400.30(c)(2). See the *Campaign Guide for Political Party Committees* for more information.

### Campaign Committees


#### Form 11 Calculation of Opposition Personal Funds Amount

Each time a candidate committee receives a Form 10 from an opponent, it must recalculate its opposition personal funds amount using the worksheet provided with the instructions for FEC Form 11. If the committee's opposition personal funds amount exceeds the threshold for increased coordinated party expenditures (i.e., \$350,000 for House candidates and \$1,500,000 + (\$.40 x VAP) for Senate candidates), then it must file a calculation of its opposition personal funds amount with the FEC and with its national and state party committees on FEC Form 11 within 24 hours. 400.30(b)(2).

## NOTICE OF SUSPENSION OF INCREASED LIMITS

### FEC FORM 12

#### 24-HOUR NOTICE OF SUSPENSION OF INCREASED LIMITS (11 CFR 400.31) (Millionaires' Amendment)

1. Name of Candidate Karen Penury		2. Candidate ID Number S4VA11111	
3. Office Sought Senate		4. State VA	5. District
6. Name of Principal Campaign Committee Friends of Penury for Senate		7. Committee ID Number C 000720000	
8. Address 57 West Street		9. City, State and Zip Code Vienna, VA 22222	
10. Election <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other		11. Type <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Special	
12A. To be filled out by House candidates and their principal campaign committees:			
On <input type="text"/> / <input type="text"/> / <input type="text"/> , the campaign reached 100% of the opposition personal funds amount of <input type="text"/> as previously disclosed on an FEC Form 11 filed on <input type="text"/> . National and State committees of political parties may no longer make coordinated party expenditures in conjunction with the general election that exceed the limitations set forth in 11 CFR 109.32.			
12B. To be filled out by Senate candidates and their authorized committees:			
On <input type="text"/> / <input type="text"/> / <input type="text"/> , the campaign reached 110% of the opposition personal funds amount of <input type="text"/> 12,000,000.00 as previously disclosed on an FEC Form 11 filed on <input type="text"/> . National and State committees of political parties may no longer make coordinated party expenditures in conjunction with the general election that exceed the limitations set forth in 11 CFR 109.32.			
I certify that I have examined this notice and to the best of my knowledge and belief, it is true, correct and complete.			
Joe Themistocles TYPE OR PRINT NAME OF CANDIDATE OR TREASURER OF PRINCIPAL CAMPAIGN COMMITTEE			
 SIGNATURE OF CANDIDATE OR TREASURER OF PRINCIPAL CAMPAIGN COMMITTEE			3/22/08 Date

For further information, contact:  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463  
Toll Free 800-424-9530 Local 202-694-1100

FES3AN061

FEC Form 12 (Rev. 02/2003)

### Form 12 Notice of Suspension of Increased Limits

Candidates operating under increased limits (or their principal campaign committees) must fax or e-mail FEC Form 12 within 24 hours after the aggregate amount of contributions accepted and coordinated party expenditures made under the increased limits reaches:

- 100 percent of the opposition personal funds amount for House candidates; or
- “ 110 percent of the opposition personal funds amount for Senate candidates.

400.31(d)(1)(ii) and (e)(1)(ii).

To make this calculation, use the worksheet provided with the instructions for FEC Form 12, available online at <http://www.fec.gov/pdf/forms/fecfrm12i.pdf>.

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## 6. Withdrawal of Opponent

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If a candidate's self-financed opponent withdraws from the election:

- The candidate may no longer accept any contribution under the increased limits; and
- The national and state party committees must not make any coordinated expenditures on the candidate's behalf under the increased limits.

400.32(b) and (c).

An opponent is considered to have withdrawn from the election on the earlier of the following dates:

- The date on which the candidate publicly announces that he or she is no longer a candidate and ceases to conduct campaign activities; or
- The date on which the candidate becomes ineligible for nomination or election by operation of law.

400.32(a)(2)(i) and (ii).

Prior to the end of the election, the candidate is not required to refund contributions raised under the increased limit received before the date of the opponent's withdrawal; however, at the end of each election cycle all remaining funds from contributions under the increased limit must be disposed of as described in the following section.

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## 7. Disposal of Excess Contributions Made at Increased Limit

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The following rules apply for disposing of any excess contributions made under the increased limit:

- The candidate's committee must refund any excess contributions within 50 days of the election for which they were designated. 400.51;

- Contributions made under the increased limit cannot be redesignated for another election. 400.52;
- The candidate's committee must refund the excess contributions to individuals who made them. 400.53(a);
- Any refund checks not cashed within six months of the date on the check must be disgorged to the U.S. Treasury within nine months of the election. 400.53(b); and
- The committee must disclose the source, amount and manner in which any excess contributions were refunded on its next report falling more than 50 after the election. 400.54.

These rules generally prohibit the transfer of funds raised under the increased limit from one election to the next. To determine which contributions are excess contributions for purpose of the rules, a campaign may use a last-in, first-out accounting method. AO 2004-45.



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## Appendix G: Compliance with Other Laws

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In addition to complying with the *Federal Election Campaign Act*, campaigns must observe laws and rules outside the Commission's jurisdiction. This appendix lists some of the laws that affect the activities of candidates, political committees and federal officeholders. The FEC has no jurisdiction over these laws.

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### I. Ethics in Government Act/ Personal Finance Reports

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The Ethics in Government Act requires all candidates to file reports on personal finances.

- **Senate Candidates:** Senate Select Committee on Ethics, 220 Hart Senate Office Building, Washington, DC 20510 (phone: 202/224-2981; web: <http://ethics.senate.gov>).
- **House Candidates:** House Committee on Standards of Official Conduct, Suite HT-2, The Capitol, Washington, DC 20515-6328 (phone: 202/225-7103; web: <http://www.house.gov/ethics>).
- **Presidential Candidates:** Under the Ethics in Government Act, candidates for President and Vice President (except the incumbent President and Vice President) file their personal financial disclosure forms with the FEC, and the Commission is the agency responsible for public disclosure of those forms. However, detailed review and approval of those forms is the responsibility of the Office of Government Ethics (phone: 202-482-9300; web: <http://www.usoge.gov/home.html>).

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### 2. House and Senate Rules

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The U.S. Senate and House each have rules regulating activity of incumbent Senators and

Representatives. Contact the Senate Select Committee on Ethics or the House Committee on Standards of Official Conduct (addresses given in section I above).

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### 3. Ballot Access Rules

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State laws and procedures govern how candidates come to appear on election ballots. For information, individuals should contact the chief election official in their state.

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### 4. Tax Laws

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Campaigns should be aware that they have to comply with federal and state laws on income tax. For information on federal tax laws, contact the Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: EEO (phone: 1-877/829-5500; web: <http://www.irs.gov/polorgs>).

Committees that need to obtain a taxpayer ID number should call 800/TAX-FORM (1-800/829-3676) for information. Each regional IRS office also has a toll-free number; consult your telephone directory for the number in your state. Campaigns should also consult the appropriate state agency for information on state income tax laws.

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### 5. Communications Act

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For information on rules concerning rates for purchasing broadcast time, equal access to broadcast media, and procedures for filing complaints in this area, contact the Federal Communications Commission, Mass Media Bureau, Political Programming Staff, 445 12th Street, SW, Washington, DC 20554 (phone: 1-888-225-5322 or 202-418-1440; web: <http://www.fcc.gov/mb/policy/political>).

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### 6. Hatch Act

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For information on the Hatch Act, which regulates political activity by federal employ-

ees, contact the Office of Special Counsel, U.S.  
Merit Systems Protection Board, 1730 M Street,  
NW, Suite 218, Washington, DC 20036-4505  
(phone: 1-800/854-2824 or 202/254-3650;  
web: <http://www.osc.gov/hatchact.htm>).



## Appendix H: Definitions

**Act**—The *Federal Election Campaign Act of 1971*, as amended (2 U.S.C. §§431–455). 100.18.

**Advisory Opinions (AOs)**—A formal ruling from the Commission regarding the legality of a specific activity proposed in an advisory opinion request. Part 112.

**Affiliated Committees**—Committees and organizations that are considered one committee for purposes of the contribution limits. 110.3(a)(1). Affiliated committees include (1) All committees established or authorized by a candidate as part of his or her campaign for federal or nonfederal office; (2) all committees established, financed, maintained or controlled by the same person, group or organization. 100.5(g)(1) and (2); 110.3(a)(1)(i)

**Agent**—An agent of a federal candidate or officeholder is any person who has actual authority, either express or implied, to engage in any of the following activities on behalf of the candidate or officeholder:

- To request or suggest that a communication be created, produced or distributed;
- To make or authorize a communication that meets one or more of the “content standards” for coordination. See Appendix D, Section 2;
- To request or suggest that any other person create, produce, or distribute any communication;
- To be materially involved in decisions regarding the content, intended audience, means, media outlet, timing, frequency, size, prominence or duration of a communication;
- To provide material or information to assist another person in the creation, production or distribution of any communication;
- To make or direct a communication that is created, produced or distributed with the use of material or information derived from a substantial discussion about the communication with a different candidate; or

- To solicit, receive, direct, transfer or spend funds in connection with any election.

- 109.3(b) and 300.2(b)(3).

**Authorized Committee**—Any political committee, including the principal campaign committee, authorized in writing by a federal candidate to receive contributions and make expenditures on his or her behalf. 100.5(f)(1). Authorized committees are often called “candidate committees” or “campaign committees.”

**Bank**—A state bank; a federally chartered depository institution (including a national bank); or a depository institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. 100.82(a)-(d); 100.142(a)-(d) and 103.2.

**BCRA**—The *Bipartisan Campaign Reform Act of 2002*, which amended the FECA.

**Campaign**—A candidate for a federal office, his or her authorized agents, principal campaign committee and any other authorized committees.

**Campaign Committee**—Popular term for an authorized committee.

**Candidate**—An individual seeking election to federal office becomes a candidate when he or she or agents acting on his or her behalf raise contributions that exceed \$5,000 or make expenditures that exceed \$5,000. 100.3.

**Candidate Committee**—Popular term for an authorized committee.

**Clear and Conspicuous**—A disclaimer is clear and conspicuous if the print is not difficult to read and the placement cannot be easily overlooked. 110.11(c)(1).

**Clearly Identified Candidate**—A candidate is clearly identified when his or her name, nickname, photograph or drawing appears or when his or her identity is apparent by unambiguous reference. 100.17; 106.1(d).

**Contribution**—A payment, service or anything of value given to influence a federal election; or the payment by any person of compensation to another person if those services are rendered without charge to a political committee for any purpose. 100.52(a) and 100.54. See Chapter 3, "Understanding Contributions."

**Commercial Vendor**—Any person providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services. 116.1(c).

**Coordinated**—Made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee or their agents, or a political party committee or its agents. 109.20.

**Coordinated Communication**—A communication that satisfies a three pronged test:

- The communication must be paid for by a person other than a federal candidate, authorized committee, or a political party committee, or any agents of the aforementioned entities with whom the communication is coordinated. (See, Party Coordinated Communication, below);
- One or more of the four content standards set forth in 109.21(c) must be satisfied; and
- One or more of the five conduct standards set forth in 109.21(d).

A payment for a communication satisfying all three prongs is an in-kind contribution to the candidate or political party committee with which it was coordinated. 109.21. See Appendix D, Section 2.

**Coordinated Party Expenditure**—Commonly referred to as a "441a(d)" expenditure for its derivation from 2 U.S.C. 441a(d), this is a special type of expenditure that can be made only by a national or state political party committee in connection with the general election of a candidate. These expenditures are subject to a separate set of limits and do not count against the party's normal contribution limits with respect to each candidate. 109.30 and 109.32-34.

**Corporation**—Any separately incorporated entity (other than a political committee that has incorporated for liability purposes only). 100.134(l) and 114.12(a). The term corporation covers both for-profit and nonprofit corporations and includes nonstock corporations, incorporated membership organizations and incorporated cooperatives.

**Date Contribution Is Made**—The date the contributor relinquishes control over a contribution; in the case of an in-kind contribution, the date the goods or services are provided by the contributor. This date determines the election limit against which a contribution counts. 110.1(b)(6).

**Date Contribution Is Received**—The date the campaign (or campaign agent) takes possession of the contribution. This date is used for FEC reporting. 102.8(a).

**Direct**—For purposes of part 300, to direct means to guide, directly or indirectly, a person who has expressed an intent to make a contribution, donation, transfer of funds or otherwise provide anything of value, by identifying a candidate, political committee or organization for the receipt of such funds or things of value. 300.2(n). See Appendix E.

**Direct Mail**—A communication to the general public using either a commercial mailing firm or mailing lists purchased from a commercial vendor. 100.87(a), 100.89(a) 100.147(a) and 100.149(a).

**Disbursement**—Any purchase or payment made by a political committee or any other person that is subject to the Act. 300.2(d).

**District or Local Party Committee**—Any organization that is part of the official party structure, and is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district precinct or any other subdivision of a state. 100.14(b).

**Donation**—A payment, gift, subscription, loan, advance, deposit or anything of value given to a person but does not include contributions. 300.2(e).

**Earmarked Contribution**—A contribution that the contributor directs (either orally or in writing) to a clearly identified candidate or authorized committee through an intermediary or conduit. Earmarking may take the form of a designation, instruction or encumbrance, and it may be direct or indirect, express or implied. 100.6. See also Bundled Contribution and Appendix A.

**Election**—Any one of several processes by which an individual seeks nomination for election, or election, to federal office. They include: a primary election, including a caucus or convention that has authority to select a nominee; a general election; a runoff election; and a special election held to fill a vacant seat. 100.2.

**Election Cycle**—

(1) For purposes of aggregating contributions and expenditures for FEC reporting, the period beginning the day after the previous general election (for federal office) and ending on the day of the next general election. 100.3(b). ( For House candidates, the election cycle is two years; for Presidential candidates, four years; for Senate candidates, six years).  
(2) For purposes of the Millionaires' Amendment, the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. 400.2(a); See Appendix F.

**Electioneering Communication**—Any broadcast, cable or satellite communication that (1) refers to a clearly identified candidate for federal office; (2) is publicly distributed within certain time periods before an election and (3) is targeted to the relevant electorate. 100.29. See Appendix D.

**Election Year**—Year in which there are regularly scheduled elections for federal office (even-numbered years).

**Expenditure**—A purchase or payment made for the purpose of influencing a federal election. A written agreement to make an expenditure is also considered an expenditure. 100.111 and 100.112. See the chapter on expenditures.

**Express Advocacy**—Unambiguously advocating the election or defeat of a clearly identified federal candidate. There are two ways that a communication can be defined as express advocacy (candidate advocacy): by use of certain “explicit words of advocacy of election or defeat” and by the “only reasonable interpretation” test. 100.22.

- “Explicit words of advocacy of election or defeat”:
  - “Vote for the President,” “re-elect your Congressman,” “support the Democratic nominee,” “cast your ballot for the Republican challenger for the U.S. Senate in Georgia,” “Smith for Congress,” “Bill McKay in ‘16”;
  - Words urging action with respect to candidates associated with a particular issue, e.g., “vote Pro-Life”/ “vote Pro-Choice,” when accompanied by names or photographs of candidates identified as either supporting or opposing the issue;
  - “Defeat” accompanied by the name or photograph of the opposed candidate or “reject the incumbent”; and
  - Campaign slogan(s) or word(s), e.g., on posters, bumper stickers and advertisements, that in context can have no other reasonable meaning than to support or oppose a clearly identified candidate, for example, “Nixon’s the One,” “Carter ‘76,” “Reagan/Bush.” 100.22(a).
- “Only Reasonable Interpretation” Test: In the absence of such “explicit words of advocacy of election or defeat,” express advocacy (candidate advocacy) is found in a communication that, when taken as a whole and with limited reference to external events, can only be interpreted by a “reasonable person” as advocating the election or defeat of one or more clearly identified candidate(s). 100.22(b).

**FEC Identification Number**—Number assigned to a committee upon registration with the FEC. Used for identification purposes with the FEC only, this number is not a taxpayer identification number.

**FECA**—The *Federal Election Campaign Act of 1971*, as amended (2 U.S.C. §§431–455). 100.18. Sometimes referred to as “the Act.”

**Federal Funds**—Funds that comply with the limits, prohibitions and reporting requirements of federal law. 300.2(g). Corporations, unions, foreign nationals, national banks and federal government contractors are prohibited from making contributions or expenditures in connection with a federal election. 2 U.S.C. §§ 441b, 441c and 441e. See also 2 U.S.C. §441f prohibiting contributions in the name of another. Permissible sources of funds for contributions to federal political committees include individuals and entities that are not otherwise prohibited. See Chapters 3 and 5.

**Federal Office**—U.S. Presidency and Vice Presidency and seats in the U.S. Congress: Senator, Representative, Delegate (District of Columbia, Guam, American Samoa and Virgin Islands) and Resident Commissioner (Puerto Rico). 100.4.

**Federal Officeholder**—An individual elected to or serving in the office of President or Vice President of the United States, or a Senator or Representative in, or a Delegate or Resident Commissioner to, to the Congress of the United States. 113.1(c) and 300.2(o).

**Foreign National**—(1) an individual who is not a citizen of the United States or a national of the United States and has not been lawfully admitted to the U.S. for permanent residence, as defined in 8 U.S.C. §1101(a)(20); or (2) a foreign principal, as defined in 22 U.S.C. §611(b). 110.20(a)(3).

**Government Contractor**—A person who enters into contract, or is bidding on such a contract, with any agency or department of the United States government and is paid, or is to be paid, for services, material, equipment, supplies, land or buildings with funds appropriated by Congress. 115.1.

**HLOGA**—The *Honest Leadership and Open Government Act of 2007*, Pub. Law No. 110-81, 121 Stat. 735, which amended parts of the FECA.

**Identification**—For purposes of recordkeeping and reporting, a person's full name and address and, in the case of an individual, his or her occupation (principal job title or position) and employer (organization or person by whom an individual is employed) as well. 100.12, 100.20 and 100.21.

**Identification Number**—See FEC Identification Number.

**Independent Expenditure**—An expenditure for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate, or his or her authorized committees or agents, or a political party committee or its agents. 100.16. See Appendix D.

**In-Kind Contribution**—A contribution of goods, services or property offered free or at less than the usual and normal charge. 100.52(d).

**Joint Contribution**—A contribution made by more than one person on a single check or other written instrument. 110.1(k)(1).

**Joint Fundraising**—Fundraising conducted jointly by a political committee and one or more other committees. See Appendix C.

**Labor Organization**—An organization, agency or employee representative committee or plan in which employees participate and which deals with employers on grievances, labor disputes, wages, hours of employment or working conditions. 114.1(d).

**Leadership PAC**—A political committee that is directly or indirectly established, financed, maintained or controlled by a federal candidate or officeholder which is neither an authorized committee nor affiliated with the candidate's authorized committee. 2 U.S.C. §434(i)(8)(B).

**Memo Entry**—Supplemental information on a reporting schedule. The dollar amount in a memo entry is not incorporated into the total figure.

**Multicandidate Committee**—A political committee that has been registered at least 6 months, has more than 50 contributors and, with the exception of state party committees, has made contributions to at least 5 candidates for federal office. 100.5(e)(3).

**National Party Committees**—Political committees established and maintained by a national political party. A party's national committee, House campaign committee and Senate campaign committee are defined as national party committees. 110.1(c)(2). See also Advisory Opinion 2006-36.

**Negative Entry**—An amount entered on a reporting schedule that is subtracted from the total balance for that schedule. Parentheses around a number indicate a negative entry.

**Net Debts Outstanding**—The total of a campaign's unpaid debts incurred with respect to an election plus estimated costs to liquidate the debts minus cash on hand and receivables. 110.1(b)(3)(ii). See Chapter 4, Section 8, "Contributions to Retire Debts."

**Nonconnected Committee**—Any committee which conducts activities in connection with an election but which is not established or administered by a candidate, political party, corporation or labor organization. 106.6(a).

**Nonelection Year**—A year in which there is no regularly scheduled federal election (odd-numbered years).

**Nonfederal Election**—An election for a state or local office.

**Nonfederal Funds**—Funds that are not subject to the limitations or prohibitions of the Act. 300.2(k).

**Nonpartisan, Tax-Exempt Organization**—An organization staging candidate debates which is exempt from federal taxation under 26 U.S.C. §501(c)(3) or (4) and which does not support, endorse or oppose candidates or political parties. 110.13(a)(1).

**Ongoing Committee**—A political committee that has not terminated and does not qualify as a terminating committee. 116.1(b).

**Operating Expenditures**—A committee's day-to-day expenditures for items such as rent, overhead, administration, personnel, equipment, travel, advertising and fundraising. 106.1(c).

**Opposing Candidate**—In the primary election, another candidate seeking the nomination of the same political party for election to the same office that the candidate is seeking. In the general election, another candidate seeking election to the same office that the candidate is seeking. 400.3.

**PAC**—Acronym for political action committee; see definition below.

**Party Committee**—A political committee that represents a political party and is part of the official party structure at the national, state or local level. 100.5(e)(4).

**Party Coordinated Communication**—A communication that satisfies a similar three-pronged test as for a "coordinated communication" (see above), except that the first prong requires that the communication be paid for by a political party committee or its agents. A payment for a communication satisfying all three prongs is either an in-kind contribution to, or a "coordinated party expenditure" on behalf of, the candidate with whom it was coordinated. 109.37.

**Permissible Funds**—Contributions that do not violate the Act's limits or prohibitions. See Federal Funds.

**Person**—An individual, partnership or any group of persons (such as a political committee, corporation or labor organization), not including the federal government. 100.10.

**Personal Funds of Candidate**—Generally, assets which an individual had at the time he or she became a candidate:

- Legal right of access to or control over;
- and either
- Legal and rightful title; or
  - An equitable interest.

Personal funds also includes certain categories of income and other funds received by the candidate. 100.33.

**Personal Use of Campaign Funds**—Any use of funds in a campaign account of a candidate (or former candidate) to pay for an expense (of any person) that would exist irrespective of the candidate's campaign or responsibilities as a federal officeholder. 113.1(g). See Chapter 8.

**Political Action Committee (PAC)**—Popular term for a political committee that is neither a party committee nor an authorized committee of a candidate. PACs sponsored by a corporation or labor organization are called separate segregated funds; PACs without a corporate or labor sponsor are called nonconnected PACs.

**Political Committee**—A group that meets one of the following conditions:

- An authorized committee of a candidate (see definition of candidate).
- A state party committee or nonparty committee, club, association or other group of persons that receives contributions or makes expenditures, either of which aggregate over \$1,000 during a calendar year.
- A local unit of a political party (except a state party committee) that: (1) receives contributions aggregating over \$5,000 during a calendar year; (2) makes contributions or expenditures either of which aggregate over \$1,000 during a calendar year; or (3) makes payments aggregating over \$5,000 during a calendar year for certain activities which are exempt from the definitions of contribution and expenditure (100.80, 100.87 and 100.89; 100.140, 100.147 and 100.149).
- Any separate segregated fund upon its establishment. 100.5.

**Principal Campaign Committee**—An authorized committee designated by a candidate as the principal committee to raise contributions and make expenditures for his or her campaign for a federal office. 100.5(e)(1).

**Prohibited Sources**—Those entities that are prohibited from making contributions or expenditures in connection with, or for the purpose of influencing, a federal election. 110.4, 110.20, 114.2 and 115.2. See the chapter on prohibited contributions.

**Public Communication**—A communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing (500 pieces of mail of substantially similar nature within 30 day period) or telephone bank (500 calls of a substantially similar nature within 30 day period), but not communications over the Internet (except for those placed for a fee on another person's web site) 100.26, 100.27 and 100.28.

**Reattributed Contribution**—The portion of an excessive contribution that has been attributed in writing to another contributor and signed by both contributors. 110.1(k)(3)(ii). See Chapter 3.

**Receipt**—Anything of value (money, goods, services or property) received by a political committee.

**Redesignated Contribution**—The portion of a contribution (usually excessive) that has been designated by the contributor, in writing, to an election other than the one for which the funds were originally given. 110.1(b)(5).

**Refunded Contribution**—A contribution is refunded when the recipient committee first deposits the contribution and later sends the contributor a check for the entire amount (or a portion) of the contribution. 103.3(b). Compare with definition of returned contribution.

**Restricted Class**—The executive and administrative personnel, members and stockholders (and the families of each) of a corporation or labor organization. 114.3(a); 114.5(g); 114.7(a) and (h); and 114.8(c), (h) and (i).

**Returned Contribution**—A contribution is returned when the recipient committee sends the original check (or other negotiable instrument) back to the contributor, without depositing it. 103.3(a). Compare with definition of refunded contribution.

**Runoff Election**—An election held after a primary or a general election when no candidate wins the previous election. 100.2(d).

**Separate Segregated Fund (SSF)**—A political committee established by a corporation or labor organization, popularly called a corporate or labor PAC. 114.1(a)(2)(iii).

**Solicit**—For the purposes of part 300, to solicit means to ask, request or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds or otherwise provide anything of value. 300.2(m). See Appendix E.

**Special Election**—A primary, general or runoff election that is not a regularly scheduled election and that is held to fill a vacant seat in the House of Representatives or the Senate. 100.2(f).

**State Party Committee**—A committee which, by virtue of the bylaws of a political party or the operation of state law is part of the official party structure and is responsible for the day-to-day operation of the party at the state level, including an entity that is directly or indirectly established, financed, maintained or controlled by that organization, as determined by the Commission. 100.14(a).

**Terminating Committee**—A political committee that is winding down its activities in preparation for filing a termination report. A terminating committee has ceased to receive contributions or make expenditures (other than for debt retirement purposes or winding down costs). 116.1(a).

**Usual and Normal Charge**—With regard to goods provided to a political committee, the term refers to the price of those goods in the market from which they ordinarily would have been purchased at the time they were provided. With regard to services, the term refers to the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered. 100.52(d)(2).







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