

# Record

May 1997

Federal Election Commission

Volume 23, Number 5

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## Compliance

### MUR 3637 Kentucky Committee Agrees to \$75,000 Civil Penalty

The Kentucky State Democratic Central Executive Committee agreed to pay a \$75,000 civil penalty to the FEC after a review of its actions during the 1992 election cycle turned up numerous violations of the Federal Election Campaign Act (the Act) and Commission regulations.

Several of the violations revolve around the committee's failure to pay for the federal portion of allocable expenses resulting from joint activity with permissible funds.

Specifically:

- During the 1992 election cycle, the Committee made \$415,446 in disbursements for allocable expenses from its nonfederal accounts that should have initially been paid for from the federal accounts. This violated 11 CFR 102.5(a)(1)(i) and 106.5(g)(1)(i). The Committee made \$127,522 in disbursements for federal activity from its nonfederal accounts, which contained impermissible funds, in violation of 2 U.S.C. §§441a(f) and 441b(a) and 11 CFR 102.5(a)(1)(i).

(continued on page 2)

## Court Cases

### Clark v. FEC and the Commission on Presidential Debates

On March 10, the U.S. Court of Appeals for the District of Columbia Circuit ruled in the FEC's favor, granting its motion for summary affirmance in this case and denying the motion of John P. Clark and the Green Party USA for emergency summary reversal. The ruling upholds the district court's denial of a motion by Mr. Clark, other individual voters and the Green Party to intervene in a suit brought by the Natural Law Party (NLP) and its presidential and vice-presidential candidates against the FEC and the Commission on Presidential Debates (CPD).

This case stemmed from an October 4, 1996, ruling from this same court that upheld a lower court ruling and dismissed lawsuits filed against the FEC and the CPD by the NLP and the presidential and vice-presidential candidates running under the Reform Party banner. Both the NLP and the Reform Party candidates had sought to participate in the presidential debates being sponsored by the CPD. The CPD excluded the candidates—the NLP's

(continued on page 3)

## Compliance

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- The Committee also accepted and placed \$11,000 in impermissible contributions into its federal account, in violation of 2 U.S.C. §441b(a), which, in part, bars contributions from corporate and labor organizations.
- In making two transfers totaling \$59,185 from its nonfederal accounts to its federal accounts, the committee failed to comply with FEC regulations that establish the time limits in which such transfers are to be made—in this case, no more than 10 days before or 30 days after the federal payments for which they were designated were made. 11 CFR 106.5(g)(2)(ii)(A) and (B). The nonfederal accounts contained funds that were considered impermissible for the federal account. Thus, the transfer also violated 2 U.S.C. 441b(a).
- The Committee reported \$884,576 in disbursements for joint activity

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## Federal Register

Federal Register notices are available from the FEC's Public Records Office.

### Notice 1997-5

Filing Dates for Texas Special Elections (62 FR 15482, April 1, 1997)

### Notice 1997-3 (Correction)

Final Rule; Adjustments to Civil Monetary Penalty Amounts (62 FR 18167, April 14, 1997)

as coming from their federal accounts when that was not the case. 11 CFR 104.10(b)(4) and 2 U.S.C. §434(b).

- The Committee reported \$458,756 in fictitious transfers from their nonfederal accounts to their federal accounts. 11 CFR 104.10(b)(3) and 2 U.S.C. §434(b).
- The Committee failed to reconcile a cash-on-hand discrepancy between its 1990 and 1991 reports, in violation of 2 U.S.C. §434(b).
- Finally, the Committee did not report to the FEC within 10 days that a new treasurer had been appointed. 2 U.S.C. §433(c). The Committee also failed to have the signature of the designated treasurer on all reports, violating 2 U.S.C. §434(a)(1).

In addition to the penalty, the Committee agreed to refund the \$11,000 of impermissible funds it received in its federal accounts and to refund from its federal accounts to its nonfederal accounts \$59,185 that was not transferred in a timely manner.

This MUR, or Matter Under Review, was initiated as the FEC carried out its normal supervisory duties and after the Commission received a complaint from the Republican Party of Kentucky. After a review of the complaint and other pertinent facts, but prior to finding probable cause to believe the Committee had violated the law, the Commission entered into a conciliation agreement with the Committee. ♦

## Publications

### 1997 Federal/State Disclosure Directory Available on Web Site

The *Combined Federal/State Disclosure Directory 1997*, which lists the national and state offices responsible for public disclosure of a variety of financial- and election-related filings for candidates and officeholders, is now available. The publication contains information about campaign finances, candidates on the ballot, election results, lobbying, personal finances, public financing, spending on state initiatives and other financial filings.

New this year are a number of E-mail addresses for the various agencies and their staffs, as well as the agencies' home page addresses on the Internet. The agencies with on-line access to the FEC's database are noted.

The disclosure directory is available free at the FEC's web site—<http://www.fec.gov>—and on Macintosh- and IBM-formatted diskettes for \$3. Paper copies of the 1997 edition are also available free of charge. For more information, call the Public Records office at 800/424-9530 (Press 3) or 202/219-4140. ♦

## Court Cases

(continued from page 1)

Dr. John Hagelin and Mike Tompkins and the Reform Party's H. Ross Perot and Pat Choate—from the debates, saying that the minor party candidates did not meet the criteria for participation.

### Background

On September 6, 1996, the NLP filed an administrative complaint with the FEC and, on September 13, filed suit in U.S. District Court for the District of Columbia, contending that the CPD had violated FEC rules governing nonpartisan candidate debates. 11 CFR 113.10. Specifically, the NLP suit asked the court to impose a temporary restraining order and issue preliminary and permanent injunctions to prevent the CPD from using any debate selection criteria that did not comply with FEC rules. In the alternative, it asked the court to order the FEC, prior to the debates, to take action on its administrative complaint. See the November 1996 *Record*.

The Green Party, Mr. Clark and seven other individuals, all independent voters or supporters of the Green Party USA and its 1996 presidential candidate Ralph Nader, filed a motion for intervention on September 27, 1996. The district court found that Mr. Clark and the others “show[ed] their curiosity in the case, but...fail[ed] to demonstrate sufficient grounds for intervention.” On September 30, the court therefore denied the motion for intervention. However, it did grant Clark leave to file a brief as a friend of the court.

On November 22—more than a month after the appeals court had ruled in this case and weeks after the debates and 1996 elections had taken place—Mr. Clark filed a notice of appeal of the district court ruling. Mr. Clark had not participated as a friend of the court in the appeals process, nor in a subsequent and unsuccessful petition from Mr.

Hagelin for an expedited rehearing and rehearing en banc.

### FEC Arguments and Appeals Court Order

First, the FEC argued that the appellants had failed to demonstrate a common question of law, a requirement for permissive intervention under Fed. R. Civ. P. 24.<sup>1</sup> Among other things, Mr. Clark's complaint claimed that the CPD's debate selection criteria violated unspecified sections of the U.S. Constitution. Mr. Hagelin's complaint, on the other hand, had claimed that the CPD's criteria violated FEC regulations at 11 CFR 110.13. Further, the FEC argued that there were no common “questions of fact,” as required by Rule 24(b), between Mr. Clark's and Mr. Hagelin's complaints. In addition, the FEC said that the Clark appellants had not shown an independent jurisdictional basis for their claims. The would-be plaintiffs did not even include a presidential or vice-presidential candidate who might have claimed exclusion from the debates.

Timeliness was also at issue, the FEC argued. Rule 24(b) states that a court must consider “whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.” Because the debates were to begin shortly after the original complaints were filed, the district court set about adjudicating the matter on an expedited schedule, but Mr. Clark's motion was not filed until the last day of the briefing schedule.

Finally, the FEC argued that because the district court granted Mr. Clark the option of filing a brief

<sup>1</sup> *Federal Rule of Civil Procedure 24(b) states that would-be intervenors must timely file their applications and demonstrate that their claim or defense and the “main action” have a question of law or fact in common. In addition, they must show an independent jurisdictional basis for their claims.*

as a friend of the court, it did not abuse its discretion in denying his initial motion to intervene. The appeals court found that the merits of the parties' positions were so clear that they warranted summary action. It held that the district court did not abuse its discretion in denying the appellants' motion to intervene.

U.S. Court of Appeals for the District of Columbia Circuit, 96-5361, March 10, 1997; U.S. District Court for the District of Columbia, 96-2132, September 30, 1996. ♦

### FEC v. Kalogianis

On March 25, 1997, the U.S. District Court for the District of New Hampshire ordered Anastasios Kalogianis to pay a \$37,500 civil penalty to the FEC for making \$249,000 in excessive contributions to the Tsongas for President Committee during the 1992 election cycle. Both parties to this suit agreed to the judgment and consent order.

Mr. Kalogianis made six loans to the Tsongas Committee. Although one of the checks was made payable to Nicholas Rizzo, the committee's chief fundraiser, the money was given with the intention that it be used in the Tsongas campaign. See the October 1996 *Record*.

The Federal Election Campaign Act (the Act) states that no person may make contributions to any federal candidate or his or her authorized candidate committee which, in the aggregate, exceed \$1,000. 2 U.S.C. 441a(a)(1)(A). A contribution includes anything of value made by any person for the purpose of influencing a federal election, including loans. 2 U.S.C. §431(8)(A)(i). Further, Commission regulations state that a loan that exceeds the contribution limits of the Act is unlawful whether or not it is repaid. 11 CFR 100.7(a)(1)(i)(A).

(continued)

## Court Cases

(continued from page 3)

In addition to the civil penalty, Mr. Kalogianis was permanently enjoined from making similar violations of the Act.

U.S. District Court for the District of New Hampshire, 96-427-JD. ♦

### Common Cause v. FEC (96-5160)

On March 21, the U.S. Court of Appeals for the District of Columbia Circuit found that Common Cause lacked standing to litigate certain claims against the Commission, and the court therefore dismissed those claims. Common Cause had appealed a lower court ruling that upheld the Commission's dismissal of several allegations in an administrative complaint filed by Common Cause.

#### Background

The lawsuit concerns Montana's 1988 senatorial race. Common Cause alleged that the National Republican Senatorial Committee (NRSC) and the Montana Republican Party (MRP) violated the Federal Election Campaign Act (the Act) by making contributions and expenditures in excess of the legal contribution limits for Republican candidate Conrad Burns. Common Cause also alleged that the national and state parties failed to accurately report these contributions and expenditures to the FEC. Common Cause and James K. Addy, Mr. Burns's Democratic opponent in the race, filed administrative complaints with the FEC. After investigating these allegations, the FEC's Office

of General Counsel recommended that the Commission find probable cause to believe that the NRSC and the MRP had violated the Act. However, because none of the proposed probable cause findings garnered the required four affirmative votes, the Commission voted 5-0 to dismiss the complaints and close the matter.

Common Cause and Mr. Addy challenged the FEC's dismissal in U.S. District Court for the District of Columbia. The district court ruled in the FEC's favor, finding "that deference is owed to the views of the 'declining-to-go-ahead' Commissioners when reviewing a Commission decision to dismiss a complaint based on a deadlock." It granted partial summary judgment to the FEC and remanded one reporting violation to the Commission for review.

Common Cause appealed the decision (except for the portion that was favorable to it) and claimed that deference is not owed to the "declining-to-go-ahead" Commissioners when its members decide to dismiss a complaint based on a previous deadlock. The appeals court did not address this argument because it found that Common Cause lacked standing.

#### Analysis for Standing

In order to show standing, a plaintiff must have suffered an injury in fact, or an actual wrong against a legally protected interest, that is traceable to the challenged act and is likely to be redressed by a favorable decision from a court. Organizations may have standing to sue in order to vindicate the rights and immunities it enjoys or, under certain conditions, on behalf of its members. When an organization sues on its own behalf, it must show a concrete injury to its activities with a resulting drain on its resources in order to attain standing. In the case of an organization suing on behalf of its members, the organization must show that its

members would otherwise have standing to sue in their own right, that the interests it seeks to protect are germane to the organization's purpose and that neither the claim asserted nor the relief requested requires individual members to participate in the lawsuit.

The appeals court rejected all three of Common Cause's theories as to why it had standing.

- *Member Standing.* The court found that Common Cause was unclear on exactly what "political information" was denied its members. However, in the court's view, the nature of the information was crucial to the injury-in-fact analysis. If the information allegedly withheld was simply that a violation of the Act had occurred, then Common Cause's members did not suffer the type of injury that the court had previously held to be sufficient for standing. To allow a plaintiff to establish the required injury in fact in those circumstances, the court concluded, would be "tantamount to recognizing a justiciable interest in the enforcement of the law. This we cannot do."
- *Organizational Standing.* The court also said Common Cause itself did not have standing in this case. It found that the organization was asserting an interest in knowing whether the NRSC and MRP had violated the Act's contribution and expenditure limits. Just as this was an inadequate interest to establish standing when Common Cause asserted it on behalf of its members, it was inadequate to establish Common Cause's own standing. The court stated that, in contrast, if Common Cause had asserted "an interest in knowing how much money a candidate spent in an election, infringement of such an interest may...constitute a legally cognizable injury." While Common Cause also alleged that the NRSC and MRP had violated the Act's reporting requirements,

**Read future issues of the Record to find out about FEC conferences scheduled this fall.**



this was a small part of its complaint. Further, Common Cause asked only for an investigation and, if its allegations were proven, monetary penalties against the two Republican committees. The court specifically noted that Common Cause did not ask for any kind of disclosure of the allegedly undisclosed financial information.

• *Dismissal of Complaint.* The court also rejected Common Cause's final argument—that it had standing because the FEC had dismissed its complaint in a manner contrary to law. The organization relied on a section of the law that grants any person who has filed an administrative complaint with the FEC the right to seek review in the U.S. District Court for the District of Columbia if the Commission dismisses that complaint. 2 U.S.C. §437g(a)(8)(A). Based on the U.S. Supreme Court's ruling in *Lujan v. Defenders of Wildlife*<sup>1</sup>, the court said that “absent the ability to demonstrate a ‘discrete injury’ flowing from the alleged violation of FECA, Common Cause cannot establish standing merely by asserting that the FEC failed to process its complaint in accordance with law.” Section 437g(a)(8)(A), the court explained, “does not confer standing; it confers a right to sue upon parties who otherwise already have standing.” Because Common Cause did not demonstrate an injury as a result of the alleged violations of the Act, it could not assert standing under this provision.

U.S. Court of Appeals for the District of Columbia Circuit, 96-5160, March 21, 1997; U.S. District Court for the District of Columbia, 94-2104, March 29, 1996; U.S. District Court for the District of Columbia, 94-2112 and 94-2104, September 30, 1994. ♦

<sup>1</sup> *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992).

## DNC v. FEC (96-2506)

On February 20, with the agreement of both parties, the U.S. District Court for the District of Columbia dismissed this case without prejudice and ordered the FEC to periodically update the Democratic National Committee (DNC) on the status of an administrative complaint it filed against Bob Dole's 1996 presidential campaign. See the January 1997 *Record*.

In June 1996, the DNC filed an administrative complaint with the Commission alleging that Mr. Dole's presidential committee, Dole for President, Inc., disregarded the limit on expenditures during the pre-primary season. The administrative complaint was designated MUR 4382. Under the Presidential Primary Matching Payment Account Act, presidential candidates may receive matching payments for their primary campaigns if they agree to limit their expenditures to a set amount—in this case, a little more than \$37 million. 2 U.S.C. §441a(b)(1)(A).

After no apparent action had taken place on the complaint, the DNC, on October 31, filed suit asking the court to order the FEC to move forward on its allegations against the Dole campaign. The DNC said that in failing to act on its complaint within 120 days after it was filed—the original administrative complaint was filed June 12 and a supplemental complaint was filed on July 22—the FEC was acting contrary to law. 2 U.S.C. §437g(a)(8)(A).

The court said that the FEC should give lawyers for the DNC confidential, updated chronologies on the Commission's actions in MUR 4382. The first was to be delivered at the end of March with subsequent chronologies presented at 12-month intervals until the matter was resolved or there was further court action.

The contents of the chronologies may not be disclosed to anyone not involved in the administrative complaint. Additionally, DNC counsel may use the information only in preparation for litigation that may result from the MUR. To ensure that there is no unauthorized dissemination of the chronologies, DNC counsel must inform in writing each person who sees the information that it may not be shared with others. The DNC must maintain a list of those people, what information they have seen and a written statement from each person acknowledging that he or she understands the confidentiality provisions that are part of this court action.

U.S. District Court for the District of Columbia, 96-2506. ♦

## FEC v. Christian Action Network

On April 7, the U.S. Court of Appeals for the Fourth Circuit granted a request from the Christian Action Network (CAN) that the FEC pay its attorney fees and other costs associated with this case. The court remanded the case to the U.S. District Court for the Western District of Virginia, Lynchburg Division, to set the amount to be awarded. The appeals court had previously upheld the lower court's ruling to dismiss and, in this opinion, included a lengthy analysis of express advocacy and corporate communications.

The Commission had filed suit against CAN in 1994, charging that it made independent expenditures with corporate funds and failed to comply with election laws that govern reporting and disclaimers. See the December 1994, September 1995 and October 1996 issues of the *Record*. ♦

## Statistics

### Party Committees Raise, Spend Millions During 1996 Election Cycle

Republican committees continued to outpace their Democratic counterparts in fundraising during the 1995-1996 election cycle. However, both parties showed substantial increases in their collection efforts on Year-End reports filed with the FEC. The reports covered financial activity from January 1, 1995, through December 31, 1996.

Republican committees on the national, state and local levels reported \$416.5 million in federal receipts, a 57 percent increase from the last presidential election cycle that ended in 1992. Those same committees spent \$408.5 million in connection with federal elections during the election cycle, a 62 percent increase. National, state and local Democratic committees raised \$221.6 million for their federal accounts and spent \$214.3 million, a 36 percent increase in both categories over the same reporting period in 1992.

Soft money, or nonfederal dollars, also showed increases for both parties in receipts and disbursements. Republican national party committees<sup>1</sup> raised \$138.2 million in soft dollars and spent \$149.7

<sup>1</sup> These are the Republican National Committee, National Republican Senatorial Committee and National Republican Congressional Committee.

### Political Party Federal Activity During Presidential Election Cycles (in millions)

	1980	1984	1988	1992	1996	
<b>Democrats</b>	Raised	\$37.2	\$98.5	\$127.9	\$177.7	\$221.6
	Spent	\$35.0	\$97.4	\$121.9	\$171.9	\$214.3
	Contributions	\$1.7	\$2.6	\$1.7	\$1.9	\$2.2
	Coord. Expenditures	\$4.9	\$9.0	\$17.9	\$28.0	\$22.6
<b>Republicans</b>	Raise	\$169.5	\$297.9	\$263.3	\$267.3	\$416.5
	Spent	\$161.8	\$300.8	\$257.0	\$256.1	\$408.5
	Contributions	\$4.5	\$4.9	\$3.4	\$3.0	\$3.7
	Coord. Expenditures	\$12.4	\$20.1	\$22.7	\$33.8	\$31.0

million. Both totals were more than double the figures from the last presidential election cycle. Democratic national party committees<sup>2</sup> more than tripled the amount of soft money raised and spent in the 1992 cycle. The committees raised \$123.9 million in soft money and spent \$121.8 million.

This election cycle marked the first time that party committees could make independent expenditures. Only the senatorial campaign committees and some state and local party committees took advantage of this option. Republican party committees spent \$10 million on independent expenditures, while

<sup>2</sup> These are the Democratic National Committee, Democratic Senatorial Campaign Committee and Democratic Congressional Campaign Committee.

Democratic party committees spent \$1.5 million.

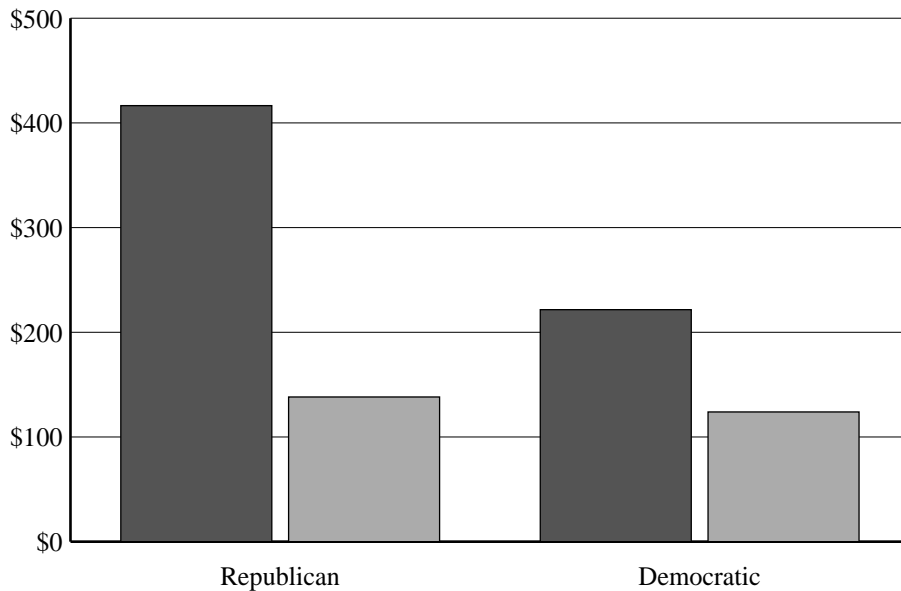
The charts above and on the right provide additional information about the Year-End reports. Information about the financial activities of the major parties found in the Year-End reports is available in a March 19 news release. The release is available:

- At the FEC's web site at <http://www.fec.gov> (click on "News Releases and Media Advisories" or "Financial Information for Candidates, Parties, and PACs" at the main menu); and
- From the Public Records office by calling 1-800-424-9530 (press 3). ♦

### Hard Dollars and Soft Money Collected by Party Committees During 1996 Election Cycle



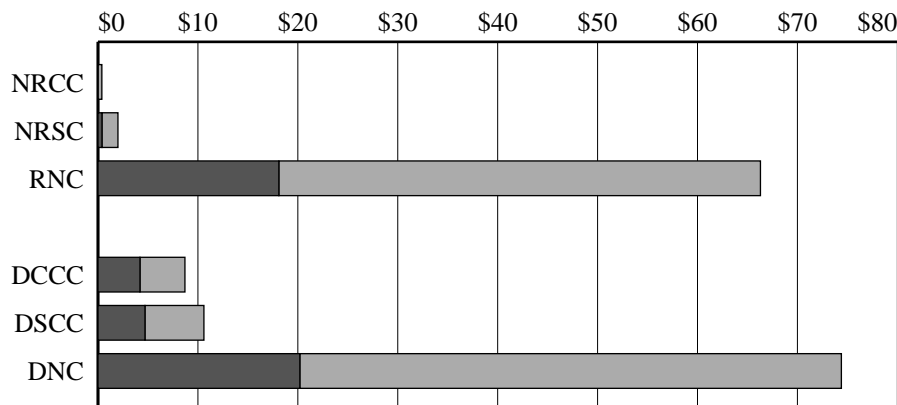
In Millions



### Transfers by National Party Committees to State and Local Party Committees



In Millions



### Looking for Back Issues of the Record?

Whether you're researching a range of campaign finance issues or looking for specific information from 1996 and 1997, look to the FEC's official web site to find issues of the *Record*. The web site—<http://www.fec.gov>—includes issues dating from January 1996 to the present. Go to the web site and click on "Help for Candidates, Parties and PACs" to see back issues. Also click on "What's New" to find the most current issue of the *Record*.

Newly available is a hypertext version of the 1996 *Record* index. The index features alphabetical links that can be used to search for information by topic. Each topic listing is linked to the first page of the *Record* issue in which that topic was discussed. Clicking on a topic link will download the selected newsletter issue to your computer.

For each of the issues available at the web site, you will need Adobe® Acrobat Reader software to view or print the publication. The FEC's web site has a link that will take you to Adobe's web site, where you can download the latest version of the software for free.

## Advisory Opinions

### AO 1997-1 Use of Excess Campaign Funds for Charitable Foundation

Former Alabama Congressman Tom Bevill may donate the remaining cash balance of his principal campaign committee, Friends of Tom Bevill, to the newly created Bevill Foundation provided the Foundation does not use the funds to compensate the candidate, his family or former campaign staff.

The Foundation would make grants solely to various educational, charitable, literary, scientific and religious organizations. None of its funds would be used to influence a federal election, and no person associated with Mr. Bevill's former congressional staff or family would be employed at the Foundation. Mr. Bevill, his wife and daughter, Susan B. Livingston, would act as the board of directors of the foundation. While Ms. Livingston intends to provide some legal services to the Foundation, she would not be compensated for that work. The Foundation plans to seek tax-exempt status under IRS statutes (26 U.S.C. §§170(c) and 501(c)(3)).

Candidate committees may not convert campaign funds to the personal use of the candidate or any other person. 11 CFR 113.1(g) and 113.2(d). FEC guidelines define personal use as "any use of funds in a campaign account...that would exist irrespective of the candidate's campaign or duties as a federal officeholder." The rules also state that donations from campaign funds to such tax-exempt organizations described in 26 U.S.C. §170(c) are not considered personal use unless a current or former candidate receives compensation from the organization before it has expended the entire amount that the candidate's commit-

tee donated to it. 11 CFR 113.1(g)(2).

As the recipient of funds from Mr. Bevill's committee, the Foundation is under the same statutory prohibition regarding the use of those funds as applies to the committee itself. The Foundation remains covered by the restriction on personal use of the funds by the candidate or anyone else until it has spent an amount equal to the amount it received from the committee. The Commission assumes that Foundation funds will not be used as compensation to Bevill family members or to any entity that is controlled by or employs Bevill family members. It also assumes that none of Mr. Bevill's former staff members will be compensated.

Date Issued: March 17, 1997;  
Length: 4 pages. ♦

### AO 1997-2 Use of Campaign Funds for Travel to Congressional Retreat

Members of the U.S. House of Representatives could use campaign funds to pay travel expenses and attendance for themselves, their spouses and their children in connection with the Bipartisan Congressional Retreat.

Democratic and Republican leaders in the House, along with the Congressional Institute and The Aspen Institute, planned the bipartisan retreat for early March at the Hershey Lodge and Convention Center in Hershey, PA. House members were invited in an attempt to establish a more constructive spirit and ethic for member-to-member relations.

The legislators and their families attended plenary sessions that covered topics ranging from public policy matters to the impact of congressional duties on personal and family lives. In addition, congressional members and their spouses participated in small group sessions

to expound on those issues that impact on House members. Children had their own programs provided by the lodge. The weekend also included a special dinner for the members and their families.

Retreat organizers charged an attendance fee of \$60 for each House member, \$30 for each spouse and \$10 for each child. The principal cost of the retreat was paid for by a grant from the Pew Charitable Trusts. Members were responsible for their own travel expenses.

Candidate committees may not convert campaign funds to the personal use of the candidate or any other person. 11 CFR 113.1(g) and 113.2(d). FEC guidelines define personal use as "any use of funds in a campaign account...that would exist irrespective of the candidate's campaign or duties as a federal officeholder." An exemption to the ban on the personal use of campaign funds, however, permits the use of campaign funds to defray any ordinary and necessary expenses incurred in connection with a person's duties as a federal officeholder. This includes travel costs for the officeholder and spouse so long as the function they are attending is directly connected to bona fide official responsibilities.

Because the express purpose of the retreat was to improve the effectiveness of the legislative environment in the House of Representatives, the outing was directly related to members' official responsibilities as officeholders. The Commission based this conclusion on several facts: the event would be bipartisan; it had the support of congressional leaders; and it was expected to draw a large number of members from both major political parties.

Moreover, under 11 CFR 113.1(g), the personal use of funds refers to any use of campaign funds that would exist irrespective of the candidate's campaign or duties as a federal officeholder. In this case, the



cost of travel and attendance occurred only because of the House members' duties as federal office-holders. Consequently, members could use campaign funds to pay the expenses. This also held true for members' spouses, who are covered under 11 CFR 113.2(a)(1).

As the retreat organizers stressed the importance of full family participation to the success of the retreat—this was reflected in planned group activities—the Commission concluded in this specific circumstance that campaign funds could be used to pay for the travel expenses and attendance fees of the children of participating House members.

Campaign committee disbursements for this retreat should be reported as “other disbursements” on FEC forms.

Date Issued: March 17, 1997;  
Length: 5 pages. ♦

## Alternative Disposition of Advisory Opinion Requests

### AOR 1996-47

The Commission voted unanimously to close the file on AOR 1996-47 without issuing an opinion. The request, submitted on November 3, 1996, sought the Commission's opinion on whether the National Reform Party Steering Committee would qualify as a national committee of a political party under the Federal Election Campaign Act. The heads of reform parties in five states disassociated themselves from the request. Also, the requesters failed to respond to or clarify a number of questions that came about in response to the AOR. Commission regulations at 11 CFR 112.1(c) require a complete description of all relevant facts pertaining to each AOR. The steering committee may resubmit this AOR when it can provide all necessary documentation and clarifications. ♦

## Advisory Opinion Requests

Advisory opinion requests are available for review and comment in the Public Records Office.

### AOR 1997-4

Application of contribution limits to PA limited liability company that was formerly a partnership (Eckert Seamans Cherin & Mellott, March 19, 1997; 1 page plus 44-page attachment)

### AOR 1997-5

Qualification of lessee of trading “seat” on Exchange as member (Chicago Mercantile Exchange, April 1; 7 pages plus 199-page attachment) ♦

## Information

### Update on Electronic Filing

The FEC has heard from a number of committee treasurers who are interested in learning more about the agency's new electronic filing process. As the FEC reported in the February issue of the *Record*, it is now possible to file disclosure reports electronically on computer disk. The required formats have been established and are available from the Commission's web site (<http://www.fec.gov>) and by request (call the Data Division at 800/424-9530 or 202/219-3730).

### First Steps

During this first year, the agency is focusing on committees that have their own internal computer systems and software companies that offer products currently used by committees. This will allow the FEC to gain experience with the electronic filing system. The agency will publish on a regular basis a list of companies that have said they were making the necessary modifications to their programs. Committees that use software from any of these companies might want to check with them to see when new versions that allow for electronic filing will be available.

Software companies currently implementing electronic filing include:

- Aspen Software (of Pennsylvania)
- Aristotle Industries
- Capitol Hill Software
- Donnelson and Associates (Micropac)

Other software companies also may be working on the process, without any help from the FEC. If vendors call the FEC to say that they are developing electronic filing software, the agency will be happy to add them to the list. Call the Data Division at 1/800-424-9530 (press 1).

### FEC Software

For small committees not currently using a comprehensive software program, the FEC is developing very basic program that will be available in early 1998. This software will allow committees to keep reportable information on receipts and disbursements and automatically prepare the electronic filing. It will not, however, have the added features that most commercially-available programs currently contain.

The *Record* will continue to publish details on the progress of electronic filing, and the Commission looks forward to hearing from committees as it moves forward on this important project. ♦

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## Information

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### Flashfax Menu

Flashfax documents may be ordered 24 hours a day, 7 days a week, by calling **202/501-3413** on a touch tone phone. You will be asked for the numbers of the documents you want, your fax number and your telephone number. The documents will be faxed shortly thereafter.

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- 315. Contributions
- 316. Coordinated Party Expenditure Limits
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- 318. Volunteer Activity
- 319. Independent Expenditures
- 320. Local Party Activity
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- 323. Foreign Nationals
- 324. The \$25,000 Annual Contribution Limit
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#### Public Funding

- 330. Public Funding of Presidential Elections
- 331. The \$3 Tax Checkoff
- 332. 1993 Changes to Checkoff
- 333. Recipients of Public Funding
- 334. Presidential Fund Tax Checkoff Status
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- 344. Filing a Complaint
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- 346. 1996 Congressional Primary Dates
- 347. 1996 Special Election Reporting Dates

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- 401. The FEC and the Federal Campaign Finance Law
- 402. La Ley Federal relativa al Financiamiento de las Campañas
- 403. Federal and State Campaign Finance Laws
- 404. Compliance with Laws Outside the FEC's Jurisdiction
- 405. Biographies of Commissioners and Officers
- 406. Telephone Directory
- 407. Table of Organization
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- 409. Free Publications
- 410. Personnel Vacancy Announcements
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- 424. List of Reports Available
- 425. Voting Accessibility for the Elderly and Handicapped Act
- 426. National Voter Registration Act Regulations
- 427. National Voter Registration Act of 1993
- 428. The Electoral College
- 429. Organizational Structure of the American Election System
- 430. Primary Functions of an Electoral System

#### Money in Politics Statistics

- 525. 1991-2 Political Money
- 526. 1995 Mid-Year PAC Count
- 527. 1993-4 Congressional
- 528. 1993-4 National Party
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- 532. 1995-6 PAC Finances

#### 1996 Presidential Election

- 550. 1996 Presidential Primary Dates
- 551. Selected 1996 Campaign Names and Addresses

- 552. Selected 1996 Campaign Finance Figures
- 553. 1996 Matching Fund Certifications and Convention Fund Payments
- 554. 1996 Presidential General Election Ballots

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- 1007. Part 100.7, Contribution
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- 101. Part 101, Candidate Status and Designations
- 102. Part 102, Registration, Organization and Recordkeeping by Political Committees
- 1021. Part 102.17, Joint Fundraising by Committees Other Than SSFs
- 103. Part 103, Campaign Depositories
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- 107. Part 107, Presidential Nominating Convention, Registration and Reports
- 108. Part 108, Filing Copies of Reports and Statements with State Offices
- 109. Part 109, Independent Expenditures
- 110. Part 110, Contribution and Expenditure Limitations and Prohibitions
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  - 113. Part 113, Excess Campaign Funds and Funds Donated to Support Federal Officeholder Activities
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- 115. Part 115, Federal Contractors
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### **FEC Accepts Visa and Mastercard**

FEC customers can now pay for FEC materials with Visa or Mastercard. Most FEC materials are available free of charge, but some are sold, including financial statistical reports (\$10 each), candidate indexes (\$10) and PAC directories (\$13.25). The FEC also has a 5 cents per page copying charge for paper documents and a 15 cents per page copying charge for microfimed documents.

Paying by credit card has its advantages. For instance, since the FEC will not fill an order until payment is received, using a credit card speeds delivery by four to five days.

Visitors to the FEC's Public Records Office will also be able to make payments by credit card. Regular visitors, such as researchers and reporters, who in the past have paid for FEC materials out of their own pockets, may now make payments with a company credit card.

The credit card payment system also reduces costs and paperwork associated with check processing, enabling FEC staff to better serve walk-in visitors.

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