



FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA ITEM
For Meeting of: 05-07-09

MEMORANDUM

SUBMITTED LATE

TO: The Commission
FROM: Steven T. Walther *STW by BCP*
Chairman
DATE: May 6, 2009
RE: Proposed Weekly Digest

2009 MAY - 6 P 4: 10
RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

Attached are two drafts of a "Weekly Digest" for your consideration that serve as templates for the Commission to provide increased transparency to the public through the release of a brief weekly synopsis of immediate past and planned forthcoming Commission actions and events.

The first attached draft (Draft Template A) was prepared in my office and circulated to the Commissioners on November 25, 2008 for consideration by the Press Committee. Although Draft Template A is based on actual actions and events, items were included in this draft for illustrative purposes and did not necessarily actually occur during a one-week period.

The second attached draft (Draft Template B) was prepared by the Press Office staff at the request of the Press Committee and is a slightly revised version of a draft that was circulated to the Commissioners on May 5, 2009. This draft is based on actual actions and events that took place during the week of April 19-25, 2009.

The format of both drafts is consistent with that used by other Federal agencies such as the Security and Exchange Commission and the Federal Communications Commission.

The weekly release of information in the form of a Weekly Digest would include: (1) all of the public actions taken by the Commission for the previous week; (2) any interesting events occurring at the Commission regardless of formal actions being taken; (3) important items of litigation; and (4) a schedule for the upcoming week or two. The Weekly Digest could also include important releases, which would provide guidance on any particular aspect of compliance with the applicable law or regulations.

The Weekly Digest would also allow any interested person the ability to immediately click on hyperlinks that would provide access to the publicly available information on the Commission's website regarding each particular matter.

Draft Template A



**Federal Election Commission
Weekly Digest
October 24, 2008**

Commission Meetings

The Commission held an Executive Session on Tuesday, October 21, 2008. The sunshine notice is available at <http://www.fec.gov/agenda/2008/agenda20081023.shtml>.

The Commission held an Open Session on Thursday, October 23, 2008. The agenda and related documents are available at <http://www.fec.gov/sunshine/2008/notice20081009.pdf>. Audio recording of the meeting is available at <http://www.fec.gov/audio/audio.shtml>.

Advisory Opinions

The Commission received a new Advisory Opinion Request from the Pacific Green Party of Oregon on October 20, 2008 (Advisory Opinion 2008-13). The Pacific Green Party of Oregon seeks recognition as a State committee of a political party. Comments on the request must be received on or before October 30, 2008. The Advisory Opinion Request is available at <http://saos.nictusa.com/saos/searchao?SUBMIT=pending>.

The Commission is scheduled to consider Agenda Document 08-32 (Draft Advisory Opinion) at its Open Session on October 30, 2008. The National Right to Life Committee sought to use general treasury funds to finance the broadcast of two advertisements. The draft response concludes that the first advertisement may be broadcast using general treasury funds, because the advertisement does not contain any express advocacy, and therefore the funding of its broadcast would not constitute an expenditure, and the advertisement would be a permissible corporate-funded electioneering communication. The second NRLC advertisement, however, contains express advocacy and, therefore, the funds used to finance its broadcast would constitute an expenditure. Accordingly, the NRLC may not use general treasury funds to finance its broadcast because corporations are banned from expressly advocating the defeat of a clearly identified candidate in communications to the general public. Comment on the draft Comments must be submitted in writing to the Commission Secretary with a duplicate copy to the Office of General Counsel. Comments in legible and complete form may be submitted by fax machine to the Secretary at (202) 208-3333 and to OGC at (202) 219-3923. The deadline for the submission of comments is 12:00 p.m. (Eastern Time) on October 29, 2008. The Agenda Document is available at <http://www.fec.gov/agenda/2008/mtgdoc08-32.pdf>.

The Commission issued Advisory Opinion 2008-10 (VoterVoter.com) on October 23, 2008. WideOrbit, Inc., d/b/a VoterVoter.com ("the corporation"), a privately held corporation, has developed and operates an Internet service that enables individuals and nonconnected political committees to post advertisements created by them to the VoterVoter.com website; such ads would expressly advocate the election or defeat of clearly identified Federal candidates. The individuals and committees will post these ads so that other individuals will be able to view these ads and use the corporation as a media buyer to purchase television airtime to broadcast them. The Commission concluded that under the facts presented and the conditions set forth in this opinion, the Corporation's proposed services are permissible. Advisory Opinion 2008-10 is available at <http://saos.nictusa.com/saos/searchao?SUBMIT=ao&AO=2771>.

Regulations

The Commission approved a Notice of Proposed Rulemaking (NPRM) to repeal the Millionaires' Amendment regulations on October 21, 2008. In *Davis v. Federal Election Commission*, the Supreme Court held that sections 319(a) and (b), regarding House of Representatives elections, were unconstitutional. The Court's holding also applies to the contribution and spending limits in section 304 regarding Senate elections. The NPRM proposes to remove current Commission rules that had implemented the Millionaires' Amendment. Public comments on the NPRM are due November 21, 2008. The NPRM is available at http://www.fec.gov/pdf/nprm/millionaire_amend/2008/notice_2008-11.pdf.

The Commission held a public hearing regarding Disclosure of Bundled Contributions by Lobbyists/Registrants and Lobbyist/Registrant PACs on October 23, 2008. The hearing transcript is available at http://www.fec.gov/pdf/nprm/bundling_hloga/lobbyist_bundling_transcript.pdf. The audio recording is available at http://www.fec.gov/pdf/nprm/bundling_hloga/publichearing091708.shtml.

Enforcement

The Commission made public six enforcement cases related to the so-called "Millionaires' Amendment" on October 21, 2008. Under the Millionaires' Amendment, when a candidate's personal expenditures exceeded certain thresholds, that candidate's opponent(s) became eligible to receive contributions from individuals at an increased limit and could benefit from increased coordinated party expenditures. On June 26, 2008, the Supreme Court ruled in *Davis v. Federal Election Commission* those provisions, along with some additional reporting requirements, were unconstitutional. As a result of *Davis*, the Commission will take no further action in the following MURs related to reporting requirements under the Millionaires' Amendment.

MUR 5726 – Jack Davis for Congress. The Commission voted to take no further action and close the file with respect to Jack Davis, Jack Davis for Congress, Robert R. Davis, in his official capacity as treasurer. Documents related to this proceeding are available by searching for "5726" in the case number field at <http://eqs.nictusa.com/eqs/searcheqs>.

MUR 5785 – James E. Pederson and Pedersen 2006. The Commission voted to take no further action and close the file with respect to James E. Pederson, Peterson 2006 and Jeff Marella, in his official capacity as treasurer. Documents related to this proceeding are available by searching for "5785" in the case number field at <http://eqs.nictusa.com/eqs/searcheqs>.

MUR 5956 – Yarmuth for Congress. The Commission voted to take no further action and close the file. Documents related to this proceeding are available by searching for "5956" in the case number field at <http://eqs.nictusa.com/eqs/searcheqs>.

MUR 5978 – Kirk for Congress Committee. The Commission voted to dismiss the complaint, approve the Factual and Legal Analysis, as recommended in the First General Counsel's Report dated August 15, 2008 and close the file. Documents related to this proceeding are available by searching for "5978" in the case number field at <http://eqs.nictusa.com/eqs/searcheqs>.

MUR 5979 – James Oberweis and Oberweis for Congress. The Commission voted to dismiss the complaint, approve the Factual and Legal analyses, as recommended in the First General Counsel's Report dated July 23, 2008 and close the file. Documents related to this proceeding are available by searching for "5979" in the case number field at <http://eqs.nictusa.com/eqs/searcheqs>.

MUR 5994 – Chris Hackett for Congress. The Commission voted to dismiss the complaint, approve the Factual and Legal Analyses, as recommended in the First General Counsel's Report dated July 22, 2008 and close the file. Documents related to this proceeding are available by searching for "5994" in the case number field at <http://eqs.nictusa.com/eqs/searcheqs>.

Litigation

The Commission filed its opposition to Appellant's Motion for Injunction Pending Appeal in *The Real Truth About Obama v. Federal Election Commission* on October 20, 2008. The case involves a challenge by a nonstick, nonprofit, Virginia corporation to the Commission's express advocacy regulation, 11 CFR 100.22; regulation implementing the *Wisconsin Right to Life* decision, 11 CFR 114.15; the regulation defining when "contributions" are received in response to solicitations, 11 CFR 100.57; and the Commission's policy to determining political committee status. The brief is available at http://www.fec.gov/law/litigation/rtao_ac_fec_opp_rtao_mot_injunction.pdf.

Audit Reports

The Commission released the Final Audit Report on Nader for President 2004 on October 20, 2008. The Audit report concludes that Nader for President did not receive matching fund payments in excess of the Candidate's entitlement, and that no amounts are owed to the U.S. Treasury. The final audit report is available at http://www.fec.gov/audits/2004/20060120_nader_for_president2004.pdf.

Alternative Dispute Resolution

The Commission made public three cases resolved through its Alternative Dispute Resolution (ADR) program on October 24, 2008.

ADR 413 – Van Taylor for Congress, the principal campaign committee of 2006 Congressional candidate Nicholas Van Campen Taylor (TX/17), agreed to pay a \$5,300 civil penalty for failing to disclose all financial activity on its 2006 12 Day Pre-General Election and 30 Day Post-General Election reports. The Committee also agreed to attend the next FEC conference for congressional candidates. Documents related to this proceeding are available by searching for "413" in the case number field at <http://eqs.nictusa.com/eqs/searcheqs>.

ADR 409 – Blue America Political Action Committee agreed to pay a \$900 civil penalty for failing to file six 24 Hour Notices for independent expenditures made before the 2006 General Election. Blue America PAC also agreed to conduct a yearly audit for the next three years. Documents related to this proceeding are available by searching 409 in the case number field at <http://eqs.nictusa.com/eqs/searcheqs>.

ADR 255 – Terrell for Senate. Fourteen respondents agreed to pay a total of \$5,250 in civil penalties related to corporate contributions made to Terrell for Senate, the principal campaign committee of 2002 Senate candidate Suzanne Haik Terrell (LA). Documents related to this proceeding are available by searching for "255" in the case number field at <http://eqs.nictusa.com/eqs/searcheqs>.

Administrative Fines

AF 1187 – Ada M. Fisher for Congress. The Commission fined Ada M Fisher for Congress \$3,000 in civil penalty for failure to file its October 2004 quarterly report. Documents related to this proceeding are available in the Public Disclosure Division of the FEC, located at 999 E Street, NW, Washington, DC 20463.

AF 1490 – Pennachio for Pennsylvania. The Commission fined Pennachio for Pennsylvania \$1,500 in civil penalty for failure to file its 12 Day Pre-Primary 2006 report. Documents related to this proceeding are available in the Public Disclosure Division of the FEC, located at 999 E Street, NW, Washington, DC 20463.

Publications

The October issue of the *FEC Record* is available at <http://www.fec.gov/pdf/record/2008/oct08.pdf>.

Press Releases

FEC Completes Action on Six Enforcement Cases (issued October 20, 2008)
<http://www.fec.gov/press/press2008/20080923murs.shtml>.

FEC Clarifies Election Cycle Contribution Limits (issued October 21, 2008)
<http://www.fec.gov/press/press2008/20080912meeting.shtml>.

FEC Reaches Agreement with Health Care Companies Over Misuse of Corporate Funds (issued October 24, 2008)
<http://www.fec.gov/press/press2008/20080911mur.shtml>.

Coming Up Next Week (October 27, 2008 – October 31, 2008)

The Commission will hold an Executive Session on October 29, 2008. The sunshine notice is available at <http://www.fec.gov/agenda/agendas.shtml>.

Public comments on Advisory Opinion Request 2008-13 (Pacific Green Party of Oregon, described above) must be submitted on or before October 30, 2008. The Advisory Opinion Request is available at <http://saos.nictusa.com/saos/searchao?SUBMIT=pending>.

Public comments on Agenda Document 08-32 (Draft Advisory Opinion) must be submitted on or before 12:00 p.m. (EST) on October 29, 2008. The Agenda Document is available at <http://www.fec.gov/agenda/2008/mtgdoc08-32.pdf>.

Reporting Reminders

For some committees, this week's pre-general report will be the final FEC filing required before Election Day. Many filers, however, may be required to submit additional notices to disclose last-minute activity. Campaign committees must disclose within 48 hours any contribution of \$1,000 or more received between October 16 and November 1. (File [FEC Form 6](#) [\[Instructions\]](#) or our [on-line webform](#).) Individuals, 527 organizations and other groups making electioneering communications that aggregate \$10,000 or more must also file 24-Hour notices to disclose the funds they raised and spent. (File [FEC Form 9](#) [\[Instructions\]](#) or our [on-line webforms](#).) PACs, party committees and individuals/groups making independent expenditures that aggregate \$1,000 or more and are made after 10/15 but more than 24 hours before Election Day must file 24-Hour Notices to disclose the expenditures. PACs and party committees report such expenditures using [Schedule E](#) [\[PDF\]](#) [\[Instructions\]](#) [\[Online Webform\]](#). Unregistered individuals/groups use [FEC Form 5](#) [\[PDF\]](#) [\[Instructions\]](#) [\[Online Webform\]](#).

Previous Issues of the Weekly Digest

October 17, 2008 http://www.fec.gov/press/weekly_digest_10_17_2008

October 10, 2008 http://www.fec.gov/press/weekly_digest_10_10_2008

October 3, 2008 http://www.fec.gov/press/weekly_digest_10_03_2008

More issues available at <http://www.fec.gov/press>.

Are you a new political committee treasurer?
Visit Tips for Treasurers at <http://www.fec.gov/info/TipsforTreasurers.shtml>.

Draft Template B

FEDERAL ELECTION COMMISSION

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DRAFT

For Immediate Release
April 24, 2009

Contact: Judith Ingram
Mary Brandenberger
Julia Queen
Christian Hilland

FEC Digest: Week of April 19-25

PUBLICATIONS

The April issue of the FEC Record is available at: <http://www.fec.gov/pdf/record/2009/apr09.pdf>.

COMMISSION MEETINGS

The Commission held an Open Session on April 21 (continuation from April 16). An additional Open Session was held on April 23. Agendas and related documents are available at: <http://www.fec.gov/sunshine/2009/notice20090417.pdf>.

The Commission held an Executive Session on April 30. The Sunshine Act Notice is available at: <http://www.fec.gov/sunshine/2009/notice20090414.pdf>.

Podcasts of FEC audio files featuring meetings and hearings are available, generally two business days after the meeting or hearing. Click on the link below and follow the Podcast instructions. <http://www.fec.gov/audio/audio.shtml>.

CONGRESSIONAL AFFAIRS

The Commission has posted the 2009 FEC Legislative Recommendations (adopted March 19, 2009) on its web site.

Electronic Filing of Senate Reports

The Commission recommended Congress require electronic filing for all Senate candidates and their authorized committees under the same circumstances that obligate candidates for the House of Representatives to file electronically. If the current system of Senate filing with the Secretary of the Senate were replaced by direct electronic filing to the FEC, the reports would be available publicly within minutes and the information from them could be integrated in the Commission's searchable databases within a few days rather than the prolonged period of up to

30 days that process can take now. The Commission estimates that at least \$250,000 could be saved annually by requiring electronic filing.

Fraudulent Misrepresentation of Campaign Authority

The Commission recommended Congress revise the prohibitions on fraudulent misrepresentation of campaign authority to encompass *all* persons purporting to act on behalf of candidates and real or fictitious political committees and political organizations instead of limiting the ban to just candidates and their agents and employees. The Commission also recommends that Congress remove the requirement that the fraudulent misrepresentation must pertain to a matter that is “damaging” to another candidate or political party, because proving damages as a threshold matter is often difficult and unnecessarily impedes the Commission’s ability to pursue persons who employ fraud and deceit to undermine campaigns.

Conversion of Campaign Funds

The Commission recommended Congress extend the prohibition of the personal use of campaign funds to all political committees, not just to candidates and those committees supporting them. Such an extension of the prohibition would be an essential tool for combating the theft of political committee funds.

Senior Executive Service

The Commission recommended Congress end the exclusion of the FEC from eligibility for the Senior Executive Service in order to bring the Commission’s personnel structure and practices in line with that of other, comparable Federal agencies. This move would ensure that the Commission can compete with other government agencies and the private sector in recruiting and retaining key management personnel.

These recommendations are available at: <http://www.fec.gov/law/legrec2009.pdf>.

ADVISORY OPINIONS

Opinion Rendered

On April 23, 2009, the Federal Election Commission issued an advisory opinion requested by Senator James E. Risch (R-ID) and the Jim Risch for Lieutenant Governor Committee (Advisory Opinion 2009-06). The Commission determined that the Committee and its agents may solicit, receive, and spend funds that exceed the amount limits contained in the Federal Election Campaign Act of 1971, as amended (the Act), for the sole purpose of retiring debts from Risch’s previous campaign for State office in Idaho. Advisory Opinion 2009-06 is available at: http://saos.nictusa.com/saos/searchao?SUBMIT=continue&PAGE_NO=-1.

On April 21, 2009, the Commission was unable to reach a decision and concluded its review of Advisory Opinion 2009-03. The advisory opinion was requested by InterContinental Exchange Inc. Advisory Opinion 2009-03 is available at: http://saos.nictusa.com/saos/searchao?SUBMIT=continue&PAGE_NO=-1.

Request Received

The Commission made public an Advisory Opinion Request it received from Visclosky for Congress and Michael C. Malczewski, its treasurer, on April 20. Visclosky for Congress seeks to use its campaign funds to pay legal expenses. The Commission has 60 days to act on the request after receiving a complete AO query, including a 10-day period in which members of the public can submit written comments. Advisory Opinion Request 2009-10 is available at: <http://saos.nictusa.com/saos/searchao?SUBMIT=ao&AO=2930>.

ENFORCEMENT

On April 23, the Commission made public five enforcement matters, finding no reason to believe in one case, taking no further action in three matters, and closing the file in one. (<http://www.fec.gov/press/press2009/20090423MUR.shtml>). Case documents can be found by entering the MUR number in the case number field at: <http://eqs.nictusa.com/eqs/searcheqs>.

MUR 5854 - The Lantern Project. The Commission found no reason to believe a violation occurred.

MURs 5694, 5910 - Americans for Job Security. The Commission took no further.

MUR 5977 - American Leadership Project. The Commission took no further action.

MUR 6005 – American Leadership Project; Roger V. Salazar; Jason Kinney; Michele Dunkerly; Jay Eisenhofer; Paul Goldenberg; Monica Graham; Stephen P. Kennedy; William Titleman; Richard Ziman; Mattis Goldman; Paul Rivera; and Erick Mullen. The Commission took no further action.

MUR 5993 – Ed Fallon; Fallon for Congress; I'm for Iowa. The Commission closed the file.

LITIGATION

The Commission filed its brief in *Koerber v. FEC* on April 17. A copy of the brief is available at the 4th Circuit Court of Appeals and through the PACER service on the court's web site.

The suit, which was filed in the U.S. District Court for the Eastern District of North Carolina, challenges the constitutionality of the FEC's disclaimer and reporting requirements for electioneering communications that "may reasonably be interpreted as something other than as an appeal to vote for or against a specific candidate," as described by the Supreme Court in *FEC v. Wisconsin Right to Life (WRTL)*. The Plaintiffs also challenge the constitutionality of the Commission's analysis of political committee status.

The Commission filed an Opposition Motion in the *Republican National Committee v. FEC* case on April 15. A copy of the Motion is available from the District Court and through the PACER service on the court's web site.

The complaint, being heard in the U.S. District Court for the District of Columbia, challenges the constitutionality of the "Soft Money of Political Parties" provisions of the Federal Election Campaign Act (the Act). The Plaintiffs state that the soft money provisions as applied to their intended activities are overly broad and unconstitutional under the First Amendment guarantees of free speech and association, and are outside of Congress' authority to regulate elections.

ALTERNATIVE DISPUTE RESOLUTION

The Commission made public one case resolved through its Alternative Dispute Resolution Program on April 22. Documents related to ADR cases can be reviewed by searching for ADR number in the case number field at: <http://eqs.nictusa.com/eqs/searcheqs>.

ADR 473 – Alleghany Energy Inc Federal Political Action Committee and Mike Kriner as Treasurer agreed to: 1) send a representative to an FEC conference within six months of the agreement; 2) create a method that will alert and respond to the Reports Analysis Division's Requests for Additional Information within 30 days of the agreement; 3) generate a compliance manual within 30 days of the agreement; and 4) acquire an on-site compliance specialist within 30 days of the agreement.

PUBLIC DISCLOSURE

Growth in PAC Financial Activity Slows

<http://www.fec.gov/press/press2009/20090415PAC/20090424PAC.shtml>

The Commission introduced the House and Senate campaign finance maps for the 2010 elections on its web site, providing an overview of campaign activity for 2010 Congressional candidates.

http://www.fec.gov/DisclosureSearch/mapHSApp.do?election_yr=2010)

NEXT WEEK (APRIL 26 – MAY 2, 2009)

On April 29, the FEC will host a Roundtable on Lobbyist Bundling for practitioners in the ninth-floor hearing room at 9:30 a.m.

The Commission will hold Executive Sessions on April 28 and April 29. The Sunshine Act Notice is available at: <http://www.fec.gov/sunshine/2009/notice20090421.pdf>.