

Record

December 2004

Federal Election Commission

Volume 30, Number 12

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Regulations

Final Rules on Political Committee Status

On October 28, 2004, the Commission concluded its political committee status rulemaking by approving the explanation and justification (E&J) to accompany the final rules. The rules expand the definition of contribution in a way that may require additional organizations to register and file reports with the FEC, beginning in 2005. The regulations also change the methods PACs (i.e., separate segregated funds and nonconnected committees) use to allocate expenses between their federal and nonfederal accounts.

The final rules and their E&J will be published in a future *Federal Register*, and are available on the FEC web site at www.fec.gov/law/law_rulemakings.shtml#political_committee_status. The effective date for these rules is January 1, 2005.

Funds Treated as Contributions

Under new regulations at 11 CFR 100.57, funds received in response to a communication that indicates any portion of the funds will be used to support or oppose the election of a clearly identified federal candidate, will be considered contributions to the person making the communication. 11 CFR 100.57(a).

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Court Cases

Shays and Meehan v. FEC

On October 28, 2004, the Federal Election Commission voted to ask the U.S. Court of Appeals for the D.C. Circuit to overturn a U.S. District Court's conclusions regarding several Commission regulations that implemented the Bipartisan Campaign Reform Act of 2002 (BCRA). (See the November 2004 *Record*, page 1, for more information regarding *Shays and Meehan v. FEC*.)

The Commission voted to pursue on appeal the District Court decisions regarding:

- Coordinated communications content standards at 11 CFR 109.21(c)(4)(i)-(iii);
- The definition of "solicit" at 11 CFR 300.2(m) and "direct" at 11 CFR 300.2(n);
- The regulation governing payment of state, district or local party employee wages or salaries at 11 CFR 300.33(c)(2);
- The *de minimis* exemption for Levin funds that allows state and local party committees to use federal funds, Levin funds or a combination of both for certain federal election activities aggregating up to \$5,000 in a calendar year at 11 CFR 300.32(c)(4); and

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Court Cases

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- The requirement that a communication be publicly distributed “for a fee” to be an “electioneering communication” at 11 CFR 100.29(b)(3)(i).

In addition, the Commission will ask the Court of Appeals to review findings about the plaintiffs’ standing and the ripeness of the issues in this litigation. While the appeal is pending, the FEC will undertake rulemaking proceedings in response to the District Court’s decision.

—Meredith Trimble

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Regulations

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Many solicitations financed using a combination of federal and nonfederal funds will be subject to this rule. For example, if a solicitation refers to a political party and a clearly identified federal candidate, but not a nonfederal candidate, all of the funds received in response are considered contributions. 11 CFR 100.57(b)(1).

However, if an allocable solicitation refers to both a clearly identified federal candidate and a clearly identified nonfederal candidate, the recipient need only treat 50% of the total funds received as contributions. This federal minimum applies regardless of whether the solicitation also refers to a political party. 11 CFR 100.57(b)(2).

A second exception to the general rule applies to solicitations for joint fundraisers conducted between or among campaign committees of a federal candidate and campaign organizations of nonfederal candidates. 11 CFR 100.57(c). These fundraisers continue to be governed by regulations at 11 CFR 102.17. However, the new rules would apply to solicitations for all other joint fundraisers. For example, the new rules would apply to a solicitation for a joint fundraiser between political committees and/or other organizations that indicated that any portion of the funds received will be used to support or oppose the election of a clearly identified federal candidate.

Allocation

Allocable Expenses. The current rules at 11 CFR 106.6 outline the activities PACs may allocate between their federal and nonfederal accounts. These rules speak to generic voter drives, voter identification, and get-out-the-vote (GOTV) drives conducted without mentioning a specific candidate as allocable expenses. The new rules provide guidance on how PACs allocate voter drives that

mention a specific federal or nonfederal candidate. 11 CFR 106.6(b)(4) and (5). In addition, the new rules classify public communications by PACs that refer to a political party, and may or may not refer to clearly identified federal and/or nonfederal candidate, as allocable expenses. 11 CFR 106.6(b)(6), (7) and (8).

Allocation Methods. Revised 11 CFR 106.6(c) replaces the former “funds expended” allocation method with a new flat minimum federal percentage. PACs must now use at least 50% federal funds to pay administrative expenses and costs of generic voter drives that encourage support of candidates of a particular party or associated with a particular issue, without mentioning a specific candidate. Additionally, public communications that refer to a political party, but not to specific candidates, must be financed using the 50% federal funds flat minimum percentage.

The rules also specify that PACs must pay the following expenses with 100% federal funds:

1. Public communications that refer to one or more clearly identified federal candidates, regardless of any reference to a political party, but do not refer to any clearly identified nonfederal candidates; and
2. Voter drives, including voter identification, voter registration, GOTV drives, or any other activities that through public communications or other printed materials urge the public to:
 - Register, vote or support one or more clearly identified federal candidates, but do not refer to any clearly identified nonfederal candidates; or
 - Register, vote or support one or more clearly identified federal candidates and also urge support for candidates of a particular party or associated with a particular issue, but do not

refer to any clearly identified nonfederal candidates. 11 CFR 106.6(f)(1).

By contrast, the following expenses may be paid with 100% nonfederal funds:

1. Public communications that refer to political party and one or more clearly identified nonfederal candidate, but do not refer to any clearly identified federal candidates; and
2. Voter drives, including voter identification, voter registration, GOTV drives, or any other activities that through public communications or other printed materials urge the public to:
 - Register, vote or support one or more clearly identified nonfederal candidates, but not refer to any clearly identified federal candidates; or
 - Register, vote or support one or more clearly identified nonfederal candidates and also urge support for candidates of a particular party or associated with a particular issue, but do not refer to any clearly identified federal candidates. 11 CFR 106.6(f)(2).

PACs must pay for the following expenses by using the “time/space” allocation method similar to 11 CFR 106.1 and detailed in 11 CFR 106.6(f)(3):

- Public communications that refer to one or more clearly identified federal candidates, and also refer to any clearly identified nonfederal candidates, regardless of whether there is a reference to a political party; and
- Voter drives that urge the public to register, vote or support one or more clearly identified nonfederal candidates and one or more clearly identified nonfederal candidates. 11 CFR 106.6(f)(3).

Additional Information

On January 19, 2005, the FEC will conduct a roundtable workshop with the IRS regarding these new regulations and IRS 527 rules. See the roundtable chart on page 10 for more details.

—Elizabeth Kurland

Final Rules on Party Committees’ Coordinated and Independent Expenditures

On October 28, 2004, the Commission approved final rules that remove restrictions placed on political party committees’ ability to make both independent expenditures and coordinated party expenditures with respect to the same candidate in connection with a general election. The final rules also delete regulations prohibiting a political party committee that makes coordinated expenditures with respect to a candidate from transferring funds to, assigning coordinated expenditures authority to or receiving a transfer from a political party that has made or intends to make an independent expenditure with respect to that candidate.

The rules restricting party committee independent and coordinated expenditures were promulgated in January 2003 in order to implement section 213 of the Bipartisan Campaign Reform Act of 2002 (BCRA). However, in *McConnell v. FEC*, the Supreme Court found that section of the BCRA to be unconstitutional. Therefore, the Commission has removed the rules that implemented section 213.

The final rules and their Explanation and Justification were published in the November 3, 2004, *Federal Register* (69 FR 63919), and they are available on the FEC web site at http://www.fec.gov/law/law_rule-makings.shtml. These rules will take effect on December 3, 2004.

—Amy Kort

Advisory Opinions

AO 2004-34

State Party Status

The Libertarian Party of Virginia (the Party) satisfies the requirements for state committee status.

The Federal Election Campaign Act (the Act) defines a state committee as “the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.” 2 U.S.C. §431(15). In order to achieve state committee status under Commission regulations, an organization must meet three requirements. 11 CFR 100.14 and 100.15. It must:

- Be a political party that gained ballot access for at least one federal candidate who has qualified as a candidate under the Act;¹
- Have bylaws or a similar document that “delineates activities commensurate with the day-to-day operation” of a party at a state level; and
- Be part of the official party structure.

The Libertarian Party of Virginia meets all three requirements. It satisfies the first requirement—ballot access for at least one federal candidate. Harry Browne appeared as the Party’s candidate on the Virginia ballot in 2000, and he met the

¹ Gaining ballot access for a federal candidate is an essential element for qualifying as a political party. See 11 CFR 100.15.

(continued on page 4)

Advisory Opinions

(continued from page 3)

requirements for becoming a federal candidate under 2 U.S.C. §431(2).²

The Party satisfies the second requirement because its bylaws delineate activity commensurate with the day-to-day functions of a political party on the state level and are consistent with the state party rules of other political organizations that the Commission has found to satisfy this requirement for state committee status. See AOs 2003-27, 2002-10, 2002-6 and 2002-3. It is also an affiliate of the national Libertarian Party, which qualified for national committee status in 1975. See AO 1975-129.

Finally, as the Libertarian Party's state party organization in Virginia, the Party is part of the official party structure and, thus, meets the third requirement as well. See AOs 2004-9, 2003-27, 2002-6, 1997-7 and 1996-27. See also AOs 2002-10, 2002-6 and 2002-3.

Date Issued: October 21, 2004;
Length: 4 pages.

—Amy Kort

AO 2004-37

Brochure Advocating Candidates Not a Contribution

Representative Maxine Waters intends, through her principal campaign committee (PCC) or leadership PAC, to produce a brochure

² An individual becomes a candidate for the purposes of the Act once he or she receives contributions aggregating in excess of \$5,000 or makes expenditures in excess of \$5,000. 2 U.S.C. §431(2) and 11 CFR 100.3. The Commission has granted state committee status to a state affiliate of a qualified national party committee where its only federal candidates, as defined under the Act, were the Presidential and Vice Presidential candidates of the national party. AOs 2004-9, 2002-3 and 1999-26.

that expressly advocates for various federal and nonfederal candidates. The proposed brochure would not constitute support of, or be an in-kind contribution to, the federal candidates listed, provided that the federal candidates or their authorized committees reimburse the PCC or leadership PAC in the appropriate amounts and in a timely manner. Those reimbursements would likewise not constitute support of, or be contributions to, the sponsoring committee. The requestors did not request the Commission's opinion regarding arrangements with or payments by nonfederal candidates or their committees.

Background

Representative Maxine Waters is a U.S. Representative from California who ran for re-election on November 2, 2004. She would like to produce a brochure, either through the Citizens for Waters principal campaign committee (the Waters Committee) or People Helping People leadership PAC (PHP), that will expressly advocate the election of clearly identified federal and nonfederal candidates in the general election. The brochure, promoted as Representative Waters' "official sample ballot," will feature a prominent picture of Representative Waters and convey her opinions and endorsements of federal and nonfederal candidates who will be given space and prominence in proportion to their prominence on the Democratic ticket. Federal candidates will be included in the brochure only if their principal campaign committees reimburse for the full production and distribution costs attributable to them. Approximately 200,000 brochures will be distributed via U.S. Mail; different versions, each more than 500 pieces, will be created to accurately reflect the actual ballot within the recipient's voting precinct. The initial request and subsequent opinion speak only to the federal candidates involved.

Analysis

No in-kind contribution to federal candidates listed. Under Commission regulations at 11 CFR 109.21, a coordinated communication is considered an in-kind contribution to the candidate or party with whom it is coordinated. The first factor to consider in determining whether a communication is coordinated is whether someone other than the referenced candidate or party paid for the ad. In this case, because each federal candidate will be included in the brochure only if he or she reimburses the Waters Committee or PHP for the attributable costs, the brochure would not satisfy the payment prong of the coordinated communication test. Therefore, payments by either the Waters Committee or PHP for the brochure would not constitute support of, or in-kind contributions to, any federal candidate appearing in the brochure, so long as reimbursement is made within a reasonable period of time.¹ Because the brochure would not be an in-kind contribution to the federal candidates listed within, the production and distribution costs would not be subject to the limits of either 2 U.S.C. 432(e)(3) (support of a federal candidate from a principal or authorized campaign committee of another federal candidate) or 441a(a)(2)(A) (contribution from a PAC to a federal candidate).²

¹ See *Advisory Opinion 2004-1*, which concludes that communications produced and distributed by one candidate's authorized committee and coordinated with a second candidate's authorized committee would not result in an in-kind contribution to the second authorized committee so long as the second committee reimbursed the first for the attributed portion of the communication costs.

² The Commission assumes that if PHP produces and distributes the sample ballot, the Waters Committee, like the authorized committees of all the other federal candidates listed, will reimburse PHP for the full costs attributable to Representative Waters.

No support of or contributions to Waters Committee or PHP by listed candidates. Reimbursements by the authorized committees of the federal candidates listed in the brochure in amounts equal to the attributable costs associated with each candidate's listing would not constitute support of the Waters Committee or contributions to PHP because, in this situation, mere reimbursement within a reasonable period of time would not constitute "anything of value" to the Waters Committee or PHP. Note that excess reimbursements would constitute contributions and be subject to the appropriate limits of the Act.

Attribution of costs to listed candidates. Attribution to each federal candidate shall be determined by the proportion of space devoted to each candidate as compared to the total space devoted to all candidates, whether federal or nonfederal. 11 CFR 106.1(a) and 106.1(a)(1).

Reporting of initial payments and reimbursements. The Waters Committee (on FEC Form 3) or PHP (on FEC Form 3X) must report the brochure production and distribution costs as operating expenditures. Likewise, reimbursements by each authorized committee of the individual candidates listed in the brochure must be reported as offsets to operating expenditures. Assuming the costs attributable to each candidate will exceed \$500, the Waters Committee or PHP must disclose the costs attributable to each candidate as a debt owed to it on Schedule D of the 30-Day Post-General Election Report and future reports, unless a candidate's complete reimbursement occurs on or before November 22, 2004, the closing date of the Post General Election Report. The Waters Committee or PHP should include notations with the above entries citing this advisory opinion.

Disclaimer Requirements. Because the brochure will be distributed by a mass mailing, it will constitute a public communication.

Accordingly, the brochure must include a disclaimer stating that it was paid for by the authorized committees of each federal candidate appearing in it. As the Commission has previously allowed for some flexibility in listing candidate names in a disclaimer notice, in this instance the Waters Committee or PHP may mark each paying candidate with an asterisk and include a statement on the mailing declaring that the brochure was "paid for by the authorized committees of the candidates marked with an asterisk."

Date Issued: October, 21, 2004;
Length: 6 Pages

—Meredith Trimble

Alternative Disposition of Advisory Opinion Requests

On October 28, 2004, the requestors withdrew Advisory Opinion Request 2004-38, regarding a federal candidate's raising and spending of funds for recount expenses.

—Amy Kort

On November 2, 2004, the requestors withdrew Advisory Opinion Request 2004-39, regarding a state party committee's ability to raise and spend donations in unlimited amounts for recount expenses.

—Meredith Trimble

Advisory Opinion Requests

AOR 2004-40

Determination of political committee's status as a state party committee (Libertarian Party of Maryland, October 19, 2004)

AOR 2004-41

Affiliation of membership organization SSFs (CUNA Mutual Insurance Society, October 25, 2004)

AOR 2004-42

Ability of LLC wholly owned by single corporate member and not electing to be treated as a corpora-

tion by the IRS to pay administrative and solicitation costs of SSF; whether SSF may be named after LLC rather than its corporate connected organization (Pharmavite LLC, October 22, 2004)

AOR 2004-43

Whether a broadcaster makes an in-kind contribution by charging a candidate the "lowest unit charge" for advertising time when the candidate might not be "entitled" under the Communications Act because one of the candidate's advertisements has not contained the disclaimers required by BCRA (Missouri Broadcasters Association, November 1, 2004)

Compliance

MUR 5268: Labor Organization's Use of Employee Time in Federal Campaign Activity and Coerced Contributions to Federal Candidates

The Commission recently entered into a conciliation agreement with the Indiana-Kentucky Regional Council of Carpenters (the successor to the Kentucky State District Council of Carpenters, or KSDCC) resulting in a \$297,000 civil penalty. Three of KSDCC's former officers, J. Stephen Barger, Donald Mitchell and Thomas Schulz, were also named in the agreement. The conciliation agreement resolves violations of the Federal Election Campaign Act (the Act) stemming from the organization's use of union employees for federal campaign activity and requiring employees to make contributions to federal candidates.

Background

The Act prohibits labor organizations from making contributions,

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Compliance

(continued from page 5)

in-kind or otherwise, to federal candidates. The Act also prohibits labor organizations from coercing employees to make contributions, and from facilitating and serving as conduits for earmarked contributions to federal candidates. In addition, while a labor organization may expressly advocate a candidate's election or defeat in communications to its members, it must report communication costs that exceed \$2,000 with respect to primary or general elections.

Conciliation

On September 27, 2004, the Commission entered into a conciliation agreement with the Indiana-Kentucky Regional Council of Carpenters. According to the agreement, KSDCC assigned union employees known as "field representatives" to work directly for the campaigns of federal, state and local candidates on union time during at least the 1998, 2000 and 2002 election cycles. As a result, KSDCC provided as much as \$141,000 in salaries for union staff working for candidates, constituting prohibited in-kind contributions for the value of time spent working for federal candidates.

In addition, during at least the 2000 and 2002 election cycles, KSDCC solicited and monitored contributions from its employees to federal candidates. The evidence showed that these contributions were a required part of the job for some employees, and that employees feared reprisals, including being fired, if they failed to contribute. The union further acted as a conduit for these contributions by collecting, bundling and forwarding them to the candidate committees.

In addition, KSDCC made partisan communications expressly advocating the election or defeat of a federal candidate to its members that exceeded the \$2,000 reporting threshold, but failed to disclose those communication costs to the FEC.

The agreement requires KSDCC to pay the aforementioned civil penalty to the FEC and to cease and desist from violating the Act. KSDCC will send at least three representatives to an FEC training conference for labor organizations and will inform all employees what activities are permissible and prohibited under the Act through internal training seminars.

For additional information on this case, please visit the Commission's Public Records Office or consult the [Enforcement Query System](#) on the FEC's web site and enter case number 5268.

—Meredith Trimble

Nonfilers

Congressional Committees Fail to File Reports

The following principal campaign committees failed to file required Pre-General Election reports:

- Committee to Elect Daniel James Barnett Senator for the Christian Party 2004 (CO/00);
- Buckley for Senate (GA/11);
- O'Grady for Senate (NY/00);
- Honest Abe Hirschfeld for United States Senate (NY/00);
- Paul Van Dam for US Senate (UT/00);
- Randy Camacho for Congress 2004 (AZ/02);
- Lawrence R. Wiesner for Congress Committee (CA/01);
- David R. Hernandez Jr. for Congress (CA/28);
- Byron for Congress (CA/49);
- Murray for Congress (FL/08);
- Robert Johnson for Congress Committee (FL/11);
- Simon Pristoop for Congress Committee (FL/15);
- Committee to Elect Leyva for US Congress (IN/01);

- Morse for Congress (MA/04);*
- Jane Brooks for Congress (MD/02);
- Lott for Congress Committee (MS/04);
- Ada M. Fisher for Congress (NC/12);
- Friends of Rich Hoffman (NY/02);
- Laba for Congress (NY/28);
- Jeff Hardenbrook for Congress (OH/08);
- Friends of Jeff Seemann for Congress (OH/16);
- Fjetland for Fair Elections (TX/22);
- Gary R. Page for Congress (TX/24);
- Paul J. Lord for Congress (WA/09); and
- Thomas for Congress (WI/01).

The following principal campaign committees failed to file required October Quarterly reports:

- Honest Abe Hirschfeld for United States Senate (NY/00);
- O'Grady for Senate (NY/00)
- David R. Hernandez Jr. for Congress (CA/28);
- Byron for Congress (CA/49);
- Murray for Congress (FL/08);
- Morse for Congress 2004 (MA/04);*
- Ada M. Fisher for Congress (NC/12);*
- Laba for Congress (NY/28); and
- Gary R. Page for Congress (TX/24).

Prior to the reporting deadlines, the Commission notified committees of their filing obligations. Committees that failed to file the required reports were subsequently notified that their reports had not been received and that their names would be published if they did not respond within four business days.

The Federal Election Campaign Act requires the Commission to publish the names of principal campaign committees if they fail to file Pre-General Election reports or

*The committee is required to file electronically, but filed only on paper.

the quarterly report due before the candidate's election. 2 U.S.C. §437g(b). The agency may also pursue enforcement actions against nonfilers and late filers on a case-by-case basis.

The next regularly scheduled disclosure reports for candidate committees will be the 30-Day Post-General Election report due December 2, 2004.

—Meredith Trimble

Statistics

Independent Expenditures for September and October

During the first 18 days of October, party committees, PACs and others reported making nearly \$87.2 million in independent expenditures on behalf of or against federal candidates.¹ Most of this spending was reported by the two major parties, whose national, senatorial and congressional campaign committees reported \$73.2 million in independent spending. This spending is in addition to nearly \$45.5 million reported for the month of September. Between January 1, 2003, and August 31, 2004, a further \$65.8 million in independent expenditures was reported by individuals, political committees and other organizations.²

Independent expenditures expressly advocate the election or defeat of a clearly identified federal candidate by using messages such as "vote for" or "defeat" and are made

¹ *Independent expenditures disclosed between October 19, 2004 and October 28, 2004 totaled \$98.9 million. For more information, please refer to the independent expenditure update press releases dated October 25 and October 29 at <http://www.fec.gov/press/press2004>.*

² *Some activity during that time period has yet to be tabulated from quarterly reports filed on October 15.*

independently of any candidate's campaign or any political party committee. Political committees, using funds within the limits and prohibitions of federal law, may make unlimited independent expenditures. Individuals may also make unlimited independent expenditures. Individuals, political committees and other groups making independent expenditures must file additional reports to disclose their activity within 48 hours each time spending exceeds \$10,000 for a given election during a calendar year. During the final 20 days of the campaign, up to 24 hours before the election, independent expenditures aggregating \$1,000 or more must be reported within 24 hours. (Last-minute independent expenditures are not included in the figures provided in this article).

The Democratic National Committee reported the largest independent expenditure totals in September and October, spending a two-month total of nearly \$52.1 million mostly in opposition to President Bush's reelection.

Groups reporting more than \$1 million in independent spending in October included the Republican National Committee (\$5 million), the National Republican Senatorial Committee (\$4.6 million), the Democratic Senatorial Campaign Committee (\$2.5 million), the United Auto Workers PAC (\$2.3 million), the National Rifle Association Political Victory Fund (\$2.1 million), Moveon PAC (\$1.3 million), the Service Employees International Union PAC (\$1.1 million) and the League of Conservation Voters Inc. (\$1 million).

Groups reporting more than \$1 million in independent spending in September included the National Republican Congressional Committee (\$7.1 million), Moveon PAC (\$5.7 million), the Democratic Congressional Campaign Committee (\$2.2 million) and the National Republican Senatorial Committee (\$1.6 million).

Independent expenditures are distinct from "electioneering communications" which must also be disclosed. Electioneering communications are broadcast ads that make reference to a clearly identified federal candidate without expressly advocating his or her election or defeat. Reported spending on these ads totaled \$27.3 million during the first 18 days of October and \$12.3 million during the month of September.

FEC press releases dated October 5 and October 20, 2004, offer additional information, including lists of all groups reporting independent expenditures and the totals spent for or against each candidate. The releases are available on the FEC web site at <http://www.fec.gov/press/press2004>.

—Amy Kort

Fundraising High Through Pre-Election Period

Fundraising by national party committees and Congressional candidates increased substantially in the 2004 election cycle over fundraising from prior cycles. Financial activity for national party committees and Congressional campaigns, from January 1, 2003, to October 13, 2004, is detailed below.

National Party Committees

The national committees of the two major parties raised just over \$1 billion between January 1, 2003, and October 13, 2004. Republican party committees raised \$554.7 million in federally permissible "hard money," while the Democratic committees raised \$451.8 million. During this period, the parties reported spending \$875.3 million.

The 2004 election cycle is the first in which national parties have been prohibited from receiving "soft money" under the Bipartisan Campaign Reform Act of 2002 (BCRA). The Democratic National Committee (DNC) and Republican National Committee (RNC) raised

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Statistics

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substantially more during this cycle than in any prior campaign, even when money raised in prior cycles is included. However, both parties' Senatorial committees and the DCCC raised less in 2004 than in previous cycles.

Spending directly in support of federal candidates increased substantially in 2004, with the Democratic national party committees reporting \$105 million in independent expenditures. Independent expenditures advocate the election of specific candidates but are not coordinated with campaigns. In addition, Democratic committees spent a total of \$19 million in expenditures on behalf of general election candidates that were coordinated with the campaigns. Republican national party committees reported \$43.6 million in independent expenditures and \$11.9 million in coordinated expenditures.

Congressional Campaigns

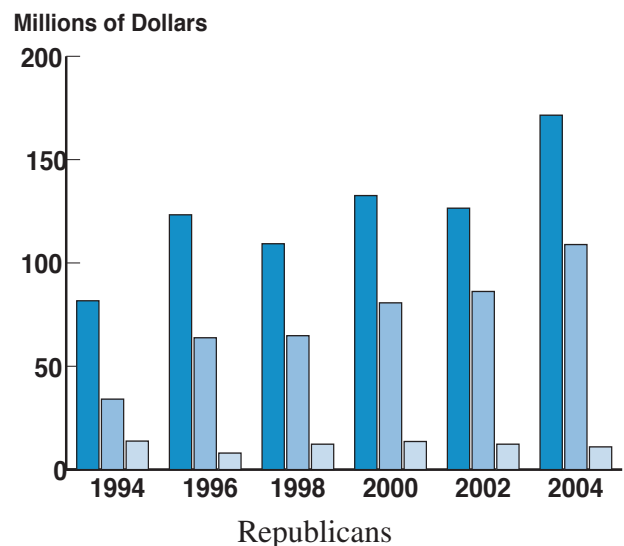
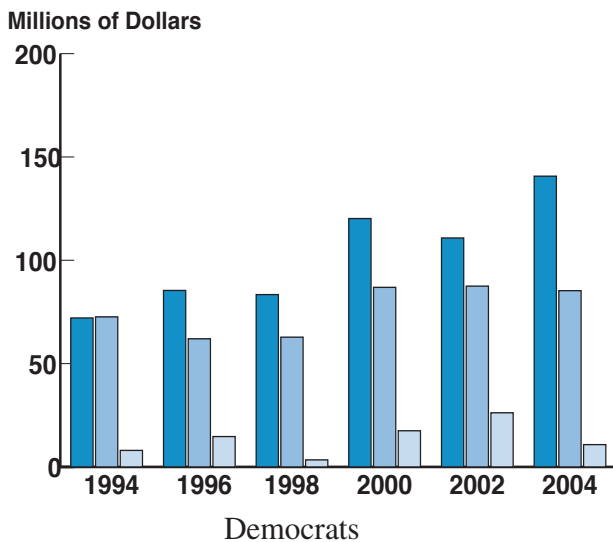
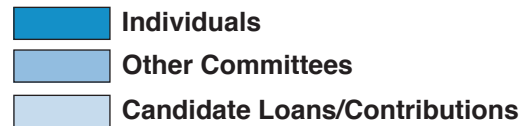
From January 1, 2003, through October 13, 2004, Congressional campaigns raised a total of \$872.5 million and spent \$711.6 million, an increase of 20 percent in receipts and 15 percent in spending over the comparable period in 2002.

Senate candidates raised \$327.7 million and spent \$278 million, representing increases of 27 percent and 22 percent, respectively. Note, however, that comparisons across election cycles are difficult for Senate races as the states involved vary and a few campaigns, particularly in large states, can significantly affect the totals. House candidate fundraising increased 16 percent over 2002 levels to reach a total of \$544.8 million. The chart below details the sources of funding for House candidates over the past decade. Spending by House candidates totaled \$433.6 million, up 11 percent. This growth is found mainly among Republican candidates whose

fundraising increased by 28 percent since 2002, with spending up by 21 percent. Fundraising by Democratic House candidates, by contrast, increased by 4 percent, while their spending rose only 1 percent. Both the number of open seat candidates and their financial activity declined for both parties in 2004, with the smallest number of open seat campaigns since 1990.

Contributions from individuals continue to be the largest source of receipts for Congressional candidates, totaling \$553.2 million and representing 63.4 percent of all fundraising as of October 13. PAC contributions totaled \$250.9 million or 28.8 percent, while candidates themselves contributed or loaned a total of \$31.7 million, representing 3.6 percent of all receipts. When compared to the same time period in 2002, contributions by individuals increased 34 percent, PAC contributions increased 12 percent and contributions and loans from candidates themselves decreased by 43 percent.

Sources of Funds for House Candidates—1994-2004



Additional Information

More information on campaign finance statistics for the 2003-2004 election cycle is available in press releases dated October 25, 2004, (party committees) and October 28, 2004 (Congressional). The releases are available:

- On the FEC web site at <http://www.fec.gov/press/press2004/summaries2004.shtml>;
- From the Public Disclosure office (800/424-9530, press 2) and the Press Office (800/424-9530, press 1); and

- By fax (call the FEC Faxline at 202/501-3413 and request document numbers 618 and 619).

—Meredith Trimble

Public Funding

Commission Certifies Matching Funds for Presidential Candidates

On October 29, 2004, the Commission certified \$203,484.83 in federal matching funds to three Presidential candidates for the 2004

election. The U.S. Treasury Department made the payment on November 1, 2004. This certification raises to \$28,126,711.37 the total amount of federal funds certified thus far to eight Presidential candidates under the Matching Payment Account Act.

Presidential Matching Payment Account

Under the Presidential Primary Matching Payment Account Act, the federal government will match up to \$250 of an individual’s total contributions to an eligible Presidential primary candidate. A candidate must establish eligibility to receive matching payments by raising in excess of \$5,000 in each of at least 20 states (i.e., over \$100,000). Although an individual may contribute up to \$2,000 to a primary candidate, only a maximum of \$250 per individual applies toward the \$5,000 threshold in each state. Candidates who receive matching payments must agree to limit their committee’s spending, limit their personal spending for the campaign to \$50,000 and submit to an audit by the Commission. 26 U.S.C. §§9033(a) and (b) and 9035; 11 CFR 9033.1, 9033.2, 9035.1(a)(2) and 9035.2(a)(1).

Candidates may submit requests for matching funds once each month. The Commission will certify an amount to be paid by the U.S. Treasury the following month. 26 CFR 702.9037-2. Only contributions from individuals in amounts of \$250 or less are matchable.

The chart at left lists the amount most recently certified to each eligible candidate who elected to participate in the matching fund program, along with the cumulative amount that each candidate has been certified to date.

—Amy Kort

Matching Funds for 2004 Presidential Primary Candidates: October Certification

Candidate	Certification October 2004	Cumulative Certifications
Wesley K. Clark (D) ¹	\$0	\$7,615,360.39
John R. Edwards (D) ²	\$15,378.00	\$6,640,318.44
Richard A. Gephardt (D) ³	\$0	\$4,104,319.82
Dennis J. Kucinich (D) ⁴	\$128,000.00	\$3,083,962.59
Lyndon H. LaRouche, Jr. (D) ⁵	\$0	\$1,456,019.13
Joseph Lieberman (D) ⁶	\$0	\$4,267,796.85
Ralph Nader (I) ⁷	\$60,106.83	\$858,934.15
Alfred C. Sharpton (D)	\$0	\$100,000.00 ⁸

¹ General Clark publicly withdrew from the Presidential race on February 11, 2004.

² Senator Edwards publicly withdrew from the Presidential race on March 3, 2004.

³ Congressman Gephardt publicly withdrew from the Presidential race on January 2, 2004.

⁴ Congressman Kucinich became ineligible to receive matching funds on March 4, 2004.

⁵ Mr. LaRouche became ineligible to receive matching funds on March 4, 2004.

⁶ Senator Lieberman publicly withdrew from the Presidential race on February 3, 2004.

⁷ Ralph Nader became ineligible to receive matching funds on September 2, 2004.

⁸ On May 10, 2004, the Commission determined that Reverend Sharpton must repay this amount to the U.S. Treasury for matching funds he received in excess of his entitlement. See the July 2004 Record, page 8.

Outreach

Upcoming Roundtables

In January 2005, the Commission will host three roundtable sessions. The first session will be a joint FEC-IRS workshop regarding the new FEC rules on political committee status and the IRS rules pertaining to 527 organizations. The remaining two sessions will focus on election year reporting, including new disclosure requirements under the Bipartisan Campaign Reform Act of 2002 (BCRA). See the chart below for details. Both reporting sessions will be followed by a half-hour reception at which each attendee will have an opportunity to meet the campaign finance analyst who reviews his/her committee's reports. Representatives from the FEC's Electronic Filing Office will also be available to meet with attendees.

Attendance is limited to 30 people per session, and registration is accepted on a first-come, first-

served basis. Please call the FEC before registering or sending money to ensure that openings remain. The registration form is available on the FEC web site at <http://www.fec.gov> and from Faxline, the FEC's automated fax system (202/501-3413, request document 590). For more information, call the Information Division at 800/424-9530, or locally at 202/694-1100.

—Amy Kort

Get Conference Info via E-Mail

Be the first to know about upcoming FEC conferences by signing up to receive advance notice e-mails. Simply send your contact information (e-mail address, name, organization, mailing address, fax and phone numbers) to Conferences@fec.gov and you will periodically receive updated information regarding FEC conferences of interest to your organization. The complete conference schedule for 2005 is also

available on the FEC's web site at <http://www.fec.gov/info/outreach.shtml#conferences>.

—Meredith Trimble

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Roundtable Schedule

Date	Subject	Intended Audience
January 19 9:30-11:00	FEC-IRS Workshop <ul style="list-style-type: none"> • New FEC rules on political committee status; • Overview of IRS 527 rules. 	<ul style="list-style-type: none"> • Political Action Committees; • 527 Organizations; and • Campaign Finance Attorneys.
January 26 9:30-11:30	<ul style="list-style-type: none"> • Year-End Reporting for PACs and Party Committees; • Meet your analyst and electronic filing staff at reception. 	<ul style="list-style-type: none"> • Individuals responsible for filing FEC reports for PACs and Party Committees.
January 26 1:30-3:30	<ul style="list-style-type: none"> • Year-End Reporting for Candidates and their Committees; • Meet your analyst and electronic filing staff at reception. 	<ul style="list-style-type: none"> • Individuals responsible for filing FEC reports for Candidate Committees.

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