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FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA ITEM
For Meeting of: 10-31-02
SUBMITTED LATE

OCT 30 2002

MEMORANDUM

TO: The Commission

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SUBJECT: Final Rules and Explanation and Justification for Contribution
Limitations and Prohibitions (Agenda Doc. No. 02-76)

The Office of General Counsel prepared Attachment A to this memorandum, which lists the corrections that need to be made to Agenda Document No. 02-76.

One of the changes that will be accomplished by the Final Rules and Explanation and Justification for Contribution Limitations and Prohibitions relates to an authorized committee's designation of contributions. In connection with the amendments to the contribution designation regulations, this Office notes that the Audit Division recommends that the Commission amend 11 CFR 102.9(e) to make explicit an authorized committee's obligation to demonstrate that at any particular time prior to the primary election the committee had recorded cash on hand greater than the net amount of funds accepted for the general election. In case the Commission wishes to amend the regulations in order to make this obligation explicit, this Office prepared the necessary changes, which are in Attachment B to this memorandum.

Recommendation

The Office of General Counsel recommends that the Commission approve Agenda Document No. 02-76 incorporating the corrections contained in Attachment A to this memorandum.

ATTACHMENT A
Agenda Document No. 02-76 Errata Sheet

1. At page 3, line 9: underline the end of the web address "20021002cancel.html" and underline "FR" in the citation
2. At page 3, line 10: delete "October" and replace it with "Oct."
3. At page 4, line 2: delete "designation of" and replace with "designating"
4. At page 6, line 5: delete "candidates" and replace with "committees"
5. At page 7, line 12: delete "Fed. Register" and replace it with "FR"
6. At page 9, line 18: delete "limitatons" and replace it with "limitations"
7. At page 13, line 15: delete "designated for or"
8. Move the paragraph that appears on page 16, lines 9 to 21, from there to follow the paragraph that ends on page 15, line 11
9. At page 19, line 4: delete "paragraph" and replace it with "11 CFR 110.1"
10. At page 20, line 16: insert the phrase "resulting from elections" after "contests"
11. At page 21, line 20: change "reattributions" to the singular "retribution"
12. At page 21, line 16: replace "whom" with "which" and delete "same"
13. At page 29, line 11: insert "contacting contributors such as new 11 CFR 110.1(b)(5)(ii)(B)(~~6~~) and (C)(~~7~~) or for" after "for"

Line 20: insert "to eliminate the signature requirements across the board or" after "rulemaking"
14. At page 35 and 36 in footnote 2: abbreviate "August" and "September" as Aug." and "Sept.," respectively
15. At page 47, in the first full paragraph: delete the last sentence that begins on Line 10 and ends on line 11
16. At page 49, lines 13, 15, 19 and 22: insert ", district," after "State"

17. At page 51, lines 6 and 17: insert “,district,” after “State”

Line 17: Insert “party” after “local”

18. At page 52, line 15: change “accounts” to the singular “account”

19. At page 53, line 17: insert “resulting from elections” after “contests”

20. At page 54, line 16: change “willingly” to “knowingly”

21. At page 55, lines 18 and 19: change “established, financed, maintained or controlled” to “establish, maintain, finance or control”

Line 20: change “identical” to “similar”

Lines 21 and 22: delete “an entity” and change “established, financed, maintained or controlled” to “establish, maintain, finance or control”

22. At page 56, line 12: replace “it” with “the prohibitions”

23. At page 61, line 8: delete “types”

24. At page 69, line 21: insert “and” after the semi-colon and before “all”

25. At page 71, line 18: change “(f)” to “(e)”

26. At page 73, line 22: change “(f)” to “(e)”

Line 23: change “(g)” to “(f)”

27. At page 76, line 21: change “purpose” to the plural “purposes”

28. At page 77, line 16: delete “also”

In footnote 10, the third sentence: replace the single quotation mark with a double quotation mark before the first occurrence of “in”

29. At page 78, line 17: insert “and disbursements” after “expenditures”

30. At page 90, line 10: insert a space between “not” and “cause” in “notcause”

31. At page 91, line 3: delete “account holder” and replace it with “contributor”

32. At page 91, line 16: delete “2” and replace it with “3”

33. At page 94, line 20: change "increase" to the plural "increases"

34. At page 99, Line 19: change "or" to "of"

35. At page 100, line 11: change "organization" to the plural "organizations"

Lines 16 and 17: change "established, financed, maintained and controlled" to "establish, maintain, finance and control"

ATTACHMENT B
Agenda Document No. 02-76
Further Changes

- 1
2
3
- 4 1. On page 5, line 20, delete "(e)" and replace with "(e)(1)."
- 5 2. On page 6, line 2, add the following sentence before "Additionally:"
- 6 New paragraph (e)(2) makes the standard for acceptable accounting methods explicit by
- 7 stating that the committee's records must demonstrate that, prior to the primary election,
- 8 recorded cash on hand was at all times equal to or in excess of the sum of general election
- 9 contributions received less the sum of general election disbursements made.
- 10 3. On page 6, line 2, delete "11 CFR 102.9(e)" and replace with "recodify existing
- 11 regulatory text as new paragraph (e)(3) in order."
- 12 4. On page 81, delete lines 21 through 23, and on page 82, delete lines 1 through 10,
- 13 and replace with the following:
- 14 (e) (1) If the candidate, or his or her authorized committee(s), receives
- 15 contributions ~~prior to the date of the primary election, which contributions~~
- 16 that are designated in writing by the contributor for use in connection with
- 17 the general election pursuant to 11 CFR 110.1(b) prior to the date of the
- 18 primary election, such candidate or such committee(s) shall use an
- 19 acceptable accounting method to distinguish between contributions
- 20 received for the primary election and contributions received for the
- 21 general election. Acceptable accounting methods include, but are not
- 22 limited to:
- 23 (i) The designation of separate accounts for each election, caucus or
- 24 convention, or

1 (ii) The establishment of separate books and records for each election.

2 (2) Regardless of the method used under paragraph (e)(1) of this section, an
3 authorized committee's records must demonstrate that, prior to the
4 primary election, recorded cash on hand was at all times equal to or in
5 excess of the sum of general election contributions received less the sum
6 of general election disbursements made.

7 (3) If a candidate is not a candidate in the general election, any contributions
8 made for the general election shall be refunded to the contributors,
9 redesignated in accordance with 11 CFR 110.1(b)(5) or 110.2(b)(5), or
10 reattributed in accordance with 11 CFR 110.1(k)(3), as appropriate.