FEDERAL ELECTION COMMISSION

RECORD

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STAFF

COMMISSION APPOINTS NEW STAFF DIRECTOR

On July 19, 1983, the Commission announced that it had named John C. Surina as its new Staff Director. In assuming the statutorily mandated position on July 25, Mr. Surina succeeded B. Allen Clutter, who resigned in May to assume an executive position in Cleveland, Ohio.

Since 1980, Mr. Surina had been Assistant Managing Director of the Interstate Commerce Commission. He served the agency in other capacities between 1973 and 1979. Recently, Mr. Surina was detailed to the "Reform 88" program at the Office of Management and Budget. In that role, he worked on projects to reform administrative management within the federal government. A native of Alexandria, Virginia, Mr. Surina holds a Bachelor of Science in Foreign Service from Georgetown University. He also attended East Carolina University in Greenville, North Carolina, and American University in Washington, D.C.

REGULATIONS

PUBLIC HEARINGS ON PROPOSED RULES FOR CORPORATE/LABOR COMMUNICATIONS

On August 9 and 10, 1983, the Commission will hold a second round of public hearings* on proposed revisions to FEC rules governing communications by corporations and labor organizations. The proposed rules were published in the Federal Register on March 4, 1983. 48 Fed. Reg. 9236.

Parties who wish to testify at the hearings have been asked to submit a written request by July 29, 1983. They should also submit a statement regarding the substance of their testimony on or before August 2, 1983. The requests and statements should be submitted to Ms. Susan E. Propper, Assistant General Counsel, FEC, 1325 K Street, N.W., Washington, D.C. 20463.

The Commission held its first public hearings on proposed revisions to these regulations on October 26, 1981. A copy of the proposed rules is available upon request from the Public Communications Office. Call 202/523-4068 or, toll free, 800/424-9530.

*The Commission announced the hearings in the July 14, 1983, issue of the Federal Register. 48 Fed. Reg. 32321.

RULES ON COLLECTING AGENTS AND JOINT FUNDRAISING SENT TO CONGRESS

On June 7, 1983, the Commission transmitted to Congress revised regulations governing transfers of funds, collecting agents and joint fundraising. The Commission prescribes regulations 30 legislative days after they have been transmitted to Congress.

The proposed revisions make a distinction between two situations: **joint fundraising**, i.e., election-related fundraising conducted by two or more committees, and **collecting agents**, i.e., organizations which collect and transfer contributions to separate segregated funds. To emphasize this distinction, the proposed regulations change the title of the current 11 CFR 102.6 from "Transfers of Funds; Joint Fundraising" to "Transfers of Funds; Collecting Agents" and create a new section, "Joint Fundraising by Committees Other Than Separate Segregated Funds," at 11 CFR 102.17. The proposed regulations address issues raised in advisory opinions and provide a complete set of procedures for both situations. The following paragraphs highlight the major provisions. Readers should not rely solely on this summary. Instead, they should consult the full text of the proposed changes, published in the Federal Register on June 7, 1983 (48 Fed. Reg. 26296) and available from the Commission's Office of Public Communications, 1325 K Street, N.W., Washington, D.C. 20463 (phone: 202/523-4068 or toll-free 800/424-9530).

Transfers of Funds

The proposed regulations, following current regulations, state that transfers between affiliated committees and between party committees of the same political party are not limited. The

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new rules add a provision (reflecting 2 U.S.C. §441a(a)(5)(A)) permitting participants in joint fundraising to transfer proceeds without limit as long as no committee receives more than its allocated share. The revisions also clarify that transfers must be made from funds which are permissible under the Act.

Although, as in current regulations, the proposed rules state that transfers of funds may trigger political committee status for an unregistered organization, an exception is made for transfers of contributions made by a collecting agent to a separate segregated fund (see below).

Collecting Agents

This new section in the proposed rules clarifies the application of the Act to fundraising on behalf of separate segregated funds. Under these rules, an unregistered organization acting as a collecting agent does not have to register as a political committee or file reports.

Definition of Collecting Agent. The new regulations define a collecting agent as an organization or committee which collects and transmits contributions to a separate segregated fund (SSF). A collecting agent must be connected to or affiliated with the separate segregated fund and may be:

-- The SSF's connected organization (i.e., the corporation or labor organization which established the SSF);
-- A parent, subsidiary, branch or local unit of the SSF's connected organization;
-- A local, national or international union collecting contributions on behalf of the SSF of any federation with which the union is affiliated; or
-- An affiliate of the SSF — either a registered political committee or an unregistered organization, such as a nonfederal PAC.

The proposed rules specify that neither a fundraising firm nor an individual who collects contributions for an SSF is considered a collecting agent.

If an SSF uses a collecting agent, the SSF is responsible for ensuring that the collecting agent observes requirements for keeping records and transmitting funds.

Soliciting Contributions. Under the proposed rules, a collecting agent may only solicit those individuals eligible for solicitation under 11 CFR Part 114 (i.e., the SSF's "restricted class") and must comply with the other requirements for soliciting voluntary contributions to an SSF (11 CFR 114.5).

The suggested regulations allow a collecting agent to pay for all the costs of soliciting and transmitting contributions to the SSF. These payments are not considered contributions or expenditures and do not trigger political committee status for an unregistered collecting agent, such as a nonfederal PAC. If the SSF pays solicitation costs which the collecting agent could have paid, as an administrative expense, the collecting agent may reimburse the SSF, but it must do so within 30 days.

The proposed rules also permit a collecting agent to include solicitations for SSF contributions in bills for membership dues or other fees. Similarly, a contributor may write one check representing both a contribution to the SSF and a payment to the collecting agent.

Transmitting Contributions. Collecting agents must forward contributions to the SSF within the time periods specified in 11 CFR 102.8 (contributions of $50 or less within 30 days, larger contributions within 10 days). Although checks made out to the SSF must be forwarded directly to the SSF, the suggested regulations provide the collecting agent with several options for depositing and transmitting other forms of contributions (including checks combined with payments to the collecting agent). The collecting agent may use:

-- A transmittal account, used solely for contributions to the SSF;
-- The collecting agent's own account, although the agent must keep separate records on all receipts and deposits which represent contributions to the SSF;
-- An account used for state and local election activity, if separate records are kept of SSF receipts and deposits; and
-- In the case of cash contributions, money orders or cashiers checks.

Forwarding Contributor Information. Under the proposed rules, the collecting agent must forward

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to the SSF the information on contributors specified in 11 CFR 102.8. However, if contributions of $50 or less are received at a mass collection, the collecting agent need only forward a record of the name of the function, the date and the total amount collected.

Recordkeeping and Reporting. The collecting agent, under the suggested regulations, must keep records of all contribution deposits and transmittals for 3 years and must make the records available to the Commission upon request. The SSF must also keep records of all transmittals of contributions received from the collecting agent for 3 years.

Only the SSF — not the collecting agent — reports contributions collected through the agent. The funds are reported as contributions from the original donors rather than as a transfer-in from the collecting agent.

Joint Fundraising

The suggested regulations create a new section setting forth the basic rules for conducting joint fundraising activities.

Who Must Observe Joint Fundraising Rules.* The proposed rules apply to political committees engaged in joint fundraising with other political committees and with unregistered committees and organizations. However, the proposed rules do not pertain to collecting agents and separate segregated funds.

Fundraising Representative. Joint fundraising participants must either establish a separate political committee or select a participating political committee to act as the fundraising representative. This committee is responsible for collecting proceeds, paying the expenses of the fundraiser and distributing proceeds to participants. The proposed regulations make clear that, although participants may hire a commercial firm or agent to assist in the joint fundraiser, they are still required to select or establish a political committee, as defined in 11 CFR 100.5, as the fundraising representative.

Start-Up Costs. Participants may advance money for the start-up costs of the fundraiser in proportion to the allocation formula, i.e., the formula by which participants agree to allocate joint fundraising proceeds and expenses. The suggested regulations state that if a committee advances more than its proportionate share, the excess amount is an in-kind contribution to the other participants and may not exceed the amount a participant may legally contribute to other participants.

If, however, all the participants are affiliated committees or if all are party committees of the same political party, unlimited amounts may be advanced since there are no limits on transfers between affiliated committees and between party committees.

Written Agreement. All joint fundraising participants must enter into a written agreement which identifies the fundraising representative and states the allocation formula. The fundraising representative must keep a copy of the agreement for 3 years and make it available to the Commission upon request.

Joint Fundraising Notice. In addition to the disclaimer notice required in 11 CFR 110.11, the suggested rules require each solicitation to contain a notice providing specific details about the joint fundraising activity:

-- The names of all participants, including unregistered organizations;
-- The allocation formula;
-- A statement informing contributors that they may designate contributions for a particular participant; and
-- A statement that the allocation formula may change if any contributor makes a contribution which exceeds the amount he or she may lawfully give to a participant.

In two situations, the joint fundraising notice requires additional information. First, if any participant is engaging in the joint fundraiser only to pay off debts, the notice must inform contribu-

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**The Explanation and Justification accompanying the proposed joint fundraising regulations states that, if all fundraising participants are party committees of the same political party, they do not have to adhere to the joint fundraising requirements. Because such committees are allowed to make unlimited transfers among one another (2 U.S.C. Section 441a(a)(4)), there is no need to have a prearranged formula for allocating joint fundraising proceeds (discussed above). Even if the party committees use an allocation formula, they do not have to publicize the formula, as required under the joint fundraising rules. The party committees would, however, have to follow the notice requirements of 11 CFR 102.5 if the activity were conducted in connection with both federal and nonfederal elections. If the party committees do not give public notice of an allocation formula, contributions received at the fundraiser would count toward the contributor's limit for the party committee sponsoring the event, i.e., the national committee or state committee running the fundraiser.*

tors that the allocation formula may change once the participant raises enough funds to pay its debts. Second, if any of the unregistered participants are permitted, under state law, to receive prohibited contributions, the notice must say that such contributions will be given only to participants that may legally accept them.

Separate Depository. The suggested regulations require participants to establish a separate depository account used solely for the receipt and disbursement of joint fundraising proceeds. The fundraising representative must deposit contributions into the account within 10 days, although it may delay distributing proceeds to the participants until the joint fundraiser is over and all expenses are paid.

Prohibited contributions acceptable by unregistered organizations under state law must be either deposited in a second account or transferred directly to the unregistered participants.

Recordkeeping. The fundraising representative and participating committees must screen contributions to ensure that they are neither prohibited under the Act nor in excess of contribution limits. (The proposed regulations permit a contributor to donate up to the total amount which he or she could give to all participants, subject to the contribution limits.) To facilitate screening, participants must make their contributor records available to the fundraising representative.

The fundraising representative must collect the contributor information specified in 11 CFR 102.8, later forwarding the records to the participants for reporting purposes. Additionally, the proposed rules require the fundraising representative to keep a record of the total amount of prohibited contributions received and of transfers of these funds to participants that may accept them. Records of disbursements must also be maintained by the fundraising representative in accordance with 11 CFR 102.9.

Allocating Gross Proceeds. Under the proposed rules, gross proceeds are allocated according to the formula stated in the fundraising agreement. The fundraising formula may change, however, if allocation under the formula results in:

-- An excessive contribution from a contributor to any participating political committee; or
-- A surplus of proceeds for a committee that participates in the fundraiser solely to retire debts.

Reallocation in either circumstance must be based on the other participants' proportionate shares under the allocation formula. (Designated or earmarked contributions which exceed the contributor's limit for a participant may not be reallocated without the written consent of the contributor.) If reallocation results in a contributor's exceeding the contribution limit, the fundraising representative must return the excess amount to the contributor.

The fundraising representative must distribute prohibited contributions only to the unregistered participants which may lawfully accept them; they do not have to be distributed according to the allocation formula.

Allocating Expenses and Distributing Net Proceeds. The suggested regulations require the fundraising representative to calculate each participant's share of expenses based on its allocated share of gross proceeds. (Prohibited contributions need not be included.) To determine the amount of net proceeds each participant receives, the fundraising representative subtracts the participant's share of expenses from the amount it was allocated in gross proceeds.

A participant may pay for the expenses of other participants, but such payments are considered in-kind contributions, subject to the limits. However, if any participants are affiliated committees or party committees of the same political party, fundraising expenses need not be allocated among those participants since the Act permits unlimited transfers between affiliated committees and between party committees; no in-kind contribution results if, for example, a party committee pays the expenses of another party committee.

Reporting. The fundraising representative, under the suggested rules, reports all contributions in the reporting period in which they are received. The representative is also responsible for reporting disbursements for the fundraiser in the reporting period in which they are made.

After the distribution of net proceeds, each participant reports its **net proceeds** as a transfer-in from the fundraising representative. At the same time, the participating committee files a memo Schedule A itemizing, as necessary, its share of **gross receipts** as contributions from the original donors.

FEC PRESCRIBES RULES ON CANDIDATE'S USE OF PROPERTY IN WHICH SPOUSE HAS INTEREST

On July 1, 1983, the Commission prescribed revised regulations governing a candidate's use of property jointly owned with a spouse or property in which the spouse has some other legal interest. The revised rules address two circumstances involving joint ownership of financial assets by a candidate and his/her spouse:

-- Loans requiring a spouse's signature; and
-- A candidate's access to jointly owned personal assets.

The revised rules affect the following sections of Commission Regulations: 11 CFR 100.7(a)(1)(i)(C)-(E), 100.7(b)(11), 100.8(b)(12), 110.10(b), 110.10(b)(1), 110.10(b)(3) and 9003.2(c)(3). Highlights of major modifications in the regulations appeared on page 3 of the June 1983 Record. The full text of the proposed rules was published in the Federal Register on April 27, 1983 (48 Fed. Reg. 19019). Copies of the notice may be obtained by writing the FEC's Public Communications Office, 1325 K Street, N.W., Washington, D.C. 20463 or by calling: 202/523-4068 or toll free 800/424-9530.

STATUS OF FEC REGULATIONS SENT TO CONGRESS

Regulations*	Date Sent to Congress	Federal Register Publication	Date Prescribed** by the Commission
11 CFR 100.7(a)(1)(i)(C), 100.7(b)(11), 100.8(b)(12), 110.10(b) and 9003.2(c)(3) Candidate's Use of Property in Which Spouse Has an Interest	4/22/83	4/27/83 48 Fed. Reg. 19019	7/1/83
11 CFR 102.6 and 102.17 Transfer of Funds; Collecting Agents, Joint Fundraising	6/2/83	6/7/83 48 Fed. Reg. 26296	
11 CFR 110.11 Disclaimer Notices	2/25/83	3/2/83 48 Fed. Reg. 8809	5/13/83
11 CFR 110.12(a)(2) - (a)(4) Annual Honoraria Limit	NA	4/8/82 47 Fed. Reg. 15098	4/8/82
11 CFR 114.3 and 114.4 Communications by Corporations and Labor Organizations	3/1/83 (withdrawn to obtain further public comment, 4/22/83)	3/4/83 48 Fed. Reg. 9236; 4/22/83 48 Fed. Reg. 17567	
11 CFR 106 and 9031 - 9039 Presidential Primary Matching Fund	1/24/83	2/4/83 48 Fed. Reg. 5224	4/4/83
11 CFR 9001 et seq. General Election Campaign Fund	7/1/83	7/11/83 48 Fed. Reg. 31822	
11 CFR Part 9008 Fund for Presidential Nominating Conventions	NA	7/21/83 48 Fed. Reg. 33244	7/21/83

**The chart is cumulative, listing all amendments to the FEC Regulations proposed after the 1981 edition of 11 CFR was published, including any technical amendments.*

***The Commission may prescribe its regulations 30 legislative days after it has transmitted them to Congress.*

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1983-17	Corporate PAC's payroll deduction plan for employees who are stockholders. (Date made public: June 14, 1983; Length: 2 pages, plus 14-page supplement)
1983-18	Contributions earmarked, through trade association PAC, to other trade association PACs. (Date made public: June 21, 1983; Length: 2 pages)

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1983-12: Multicandidate Committee's Expenditures for Constituent Congratulations Program

Payments made by the National Conservative Political Action Committee (NCPAC), a multicandidate political committee, to produce and broadcast a series of television messages intended to congratulate incumbent Senators on their job in office would constitute expenditures made to influence the Senators' reelection campaigns. As such, they would be reportable by NCPAC. To the extent that NCPAC coordinates the production of the television messages with the Senators or their agents, payments for them would be considered in-kind contributions to the Senators' campaigns, which would be subject to the limits and other requirements of the election law. 2 U.S.C. §441a (a)(7)(B).

NCPAC plans to broadcast the 30-second television messages (i.e., the Constituent Congratulations Program) during 1983 and 1984. Despite NCPAC's contention that the messages would be run without regard to the incumbent Senators' reelection campaigns, the Commission assumed, based on information received from NCPAC, that the Senators featured in the proposed broadcasts would be candidates* under the election law. For the following reasons, the Commission concluded that NCPAC's payments to produce and broadcast the television messages would be for the purpose of influencing their reelection:

1. NCPAC's status as a "political committee" under the election law and its status as a "political organization" for federal income tax purposes support the inference that the Constituent Congratulations Program has been designed to influence the 1984 Senate races.
2. The content of the proposed messages indicates that an election-influencing purpose underlies the program. For example, each television message refers to a Senator by name, identifies the home state and the date of the last election, and mentions the Senator's commendable service to the state. The frequency of these references is in marked contrast to the cryptic, generalized mention of issues in each message.
3. NCPAC plans to broadcast the messages during the eighteen months prior to the 1984 general election.
4. The program does not appear to have any significant content unrelated to election-influencing activity. This contrasts with situations in previous opinions where payments made by nonpolitical organizations to sponsor candidate appearances and activities did not constitute expenditures because their primary purpose was not to influence federal elections. See, for example, AO's 1977-42, 1978-88 and 1981-37. (Date issued: June 13, 1983; Length: 6 pages)

AO 1983-14: Candidate Committee's Disposal of Excess Campaign Funds

The Congressional Boosters for Don Clausen (the Boosters), Mr. Clausen's principal campaign committee for his unsuccessful 1982 reelection campaign, may not contribute all its excess campaign funds to the 1984 campaign of the Republican candidate (as yet unidentified) who will campaign for the seat formerly held by Mr. Clausen. The Boosters may, however, contribute up to $1,000 per election to the 1984 candidate's campaign and up to $5,000 per year to any multicandidate

Of the 33 Senators who are up for reelection in 1984, two have publicly announced that they will not be seeking reelection. The remaining 31 currently qualify as candidates under the election law.

committee (other than a party committee, which could accept unlimited funds). 2 U.S.C. §§441a(a)(1) and (1)(C); 11 CFR 110.1 and 110.1(c).

Although, under Commission Regulations, the Boosters could transfer an unlimited amount of its excess funds to any local, state or national party committee, transfers to nonparty committees are considered contributions, subject to the Act's limits. 2 U.S.C. §439a; 11 CFR 113.2. Also, if the Boosters qualified as a multicandidate committee, they could contribute up to $5,000 (rather than $1,000) to a federal candidate, per election. See 2 U.S.C. §§441a(a)(2)(A) and (a)(4) and 11 CFR 100.5(c)(3). Alternatively, the Boosters could donate some, or all, of their excess funds to a charitable organization. (Date issued: June 14, 1983; Length: 3 pages)

AO 1983-15: State Funds Deposited in State Party's Account

Under Virginia law, a taxpayer receiving an income tax refund may opt to check off $2.00 of the refund for the qualified state political party of his or her choice. The state treasurer then disburses the funds to those parties designated by the taxpayers. The state party receiving check-off funds may deposit them in its federal account; the funds would be considered contributions from the taxpayers. Since these contributions ($2.00 each) would be too small to trigger the detailed reporting (and recordkeeping) requirements for larger contributions,* the recipient party committee would disclose the funds as unitemized contributions. In preparing the federal account's reports, therefore, the party committee would disclose the total amount of check-off funds received during the reporting period as a memo entry on line 11(a) of FEC Form 3X. Although not required to do so by the Act or FEC Regulations, it would be helpful if the party also noted in the memo entry that the funds were derived from the state's voluntary check-off plan. (Date issued: July 1, 1983; Length: 4 pages)

*See 2 U.S.C. Sections 434(b)(3)(A) and 432(c)(2)-(c)(3); 11 CFR 102.9(a)(2), 104.3(a)(4) and 110.4(c)(3).

STATISTICS

FINANCIAL ACTIVITY OF PARTY COMMITTEES

During the 1981-82 election cycle, Republican party committees at the national, state and local levels spent more than five times as much as their Democratic counterparts and contributed three times more funds to federal candidates.

Information released by the FEC showed that, of the $214 million they spent, Republican party committees contributed 2.6 percent ($5.6 million) to federal candidates. They also made special coordinated party expenditures* on behalf of their candidates in the general election, which amounted to 6.7 percent (or $14.3 million) of the total they spent. By contrast, of the $40 million the Democratic party spent, 4.3 percent (or $1.7 million) was contributed to federal candidates. The Democratic party committees made special coordinated expenditures amounting to 8.2 percent (or $3.3 million) of their total disbursements.

The FEC study showed a significant increase in spending by both parties during the 1981-82 election cycle. Total spending by Republican party committees represented a 32.1 percent increase over their spending during the 1979-80 Presidential election cycle, and a 149 percent increase over 1977-78. Democratic party committees, on the other hand, spent only 14 percent more during the 1981-82 election cycle than they had during 1979-80. However, the Democratic committees' spending during 1981-82 represented a 50 percent increase over their spending during 1977-78.

Republican party committees began the 1981-82 election cycle with $6.7 million cash-on-hand. They raised an additional $214.9 million** and had a cash-on-hand balance of $7.4 million at the close of December 1982. They had debts totaling $5.3 million. By contrast, Democratic party committees started the cycle with $2.5 million cash-on-hand. They raised a total of $39 million and had a remaining cash-on-hand balance of $1.4 million. Their debts at the end of 1982 totaled $4.1 million.

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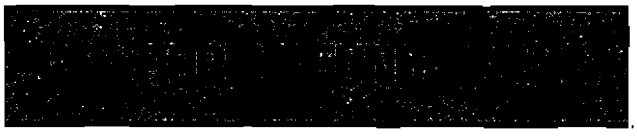
These limited expenditures are separate from contributions made by national and state party committees to candidates and therefore do not count against contribution limits. They are, however, subject to separate expenditure limits. See 2 U.S.C. Section 441a(d) and 11 CFR 110.7.

**Receipt figures have been adjusted for transfers between committees of the same political party.*

The receipt figures for the two major parties showed a variation in their sources of support. For example, PAC contributions amounted to 7.8 percent (or $3.1 million) of Democratic party committees' total receipts ($39.0 million). PAC contributions to Republican party committees, on the other hand, constituted only 0.5 percent (or $1.1 million) of their total receipts ($214.9 million).

More detailed information on party activity may be obtained from the study, FEC Reports on Financial Activity: 1981-82 Interim Report No. 4, Party and Non-Party Political Committees: Volumes 1 and 2. The study may be purchased ($5.00 per volume) from the FEC's Public Records Office, 1325 K Street, N.W., Washington, D.C. 20463. Checks should be made payable to the FEC.



FEC CERTIFIES CONVENTION FUNDING FOR MAJOR PARTIES

On June 23, 1983, the Commission determined that the Republican and Democratic parties were each eligible to receive a public grant for their national Presidential nominating conventions in 1984. During July, the two major parties' convention committees each received a payment of $5,871,000 from the Secretary of the U.S. Treasury, based on the FEC's certification of the payments to the Secretary.

Under the Presidential Election Campaign Fund Act, each major party is entitled to $3 million (plus a cost-of-living adjustment) to finance its Presidential nominating convention. 26 U.S.C. §9008(b). Since each party's convention committee is eligible to receive its grant in the year preceding its convention, the Commission's certifications were based on the 1982 cost-of-living adjustment. During 1984, when figures become available on the 1983 cost-of-living adjustment,* the Commission will certify additional funds for each convention committee.

To establish eligibility for a convention grant, the national committee of each major party must file an application statement with the FEC and register a convention committee. Each party's convention committee and its national committee must also agree to comply with certain requirements of the federal election law and Commission Regulations. See Part 9008 of Commission Regulations.

The cost-of-living adjustment (COLA) is calculated annually by the Secretary of Labor, using 1974 as the base year.

COMMON CAUSE v. FEC

On June 10, 1983, the U.S. District Court for the District of Columbia approved dismissal of Common Cause's suit against the FEC (Civil Action No. 83-0720). Common Cause requested the dismissal because, on May 23, 1983, the FEC had taken final action on the administrative complaint which had precipitated the suit.

Pursuant to 26 U.S.C. §437g(a)(8)(A), Common Cause had asked the district court to issue an order directing the Commission to take final action, within 30 days, on a complaint Common Cause had filed on September 26, 1980. In its administrative complaint, Common Cause had alleged that five political committees had made expenditures on behalf of the 1980 Republican Presidential nominee which were in violation of 26 U.S.C. §9012(f). (This provision prohibits unauthorized committees from making expenditures exceeding $1,000 to further the election of a publicly funded Presidential nominee.) For further details on Common Cause's suit, see page 7 of the May 1983 Record.

CARTER/MONDALE PRESIDENTIAL COMMITTEE, INC. v. FEC

On June 24, 1983, the U.S. Court of Appeals for the District of Columbia ruled that, since the Carter/Mondale Presidential Committee (the Committee) had failed to file its petition for review of certain final FEC repayment determinations within 30 days after the FEC had made them, the court had no jurisdiction over the petition. Filed on July 6, 1982, the Committee's petition concerned certain final Commission determinations with regard to the FEC's audit* of the Committee's publicly funded primary campaign in 1980.

Since it dismissed the suit on jurisdictional grounds, the court did not address the issue of whether the FEC could require the Committee to:

-- Repay federal matching funds in an amount equal to total federal and private funds used for nonqualified campaign expenses; or
-- Repay only the portion of nonqualified expenses that were paid with federal funds.

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Pursuant to 26 U.S.C. Section 9038, the Commission is required to audit the campaign of any primary candidate who receives public matching funds.

NEW LITIGATION

FEC v. NCPAC and FCM

Pursuant to 26 U.S.C. §§9011(b) and 9010(c), the FEC asks a three-judge district court to declare that:

-- Expenditures (in excess of $1,000) that the National Conservative Political Action Committee (NCPAC) and Fund for a Conservative Majority (FCM) each intend to make on behalf of the publicly funded Republican Presidential nominee in 1984 would be prohibited by, and in violation of, 26 U.S.C. §9012(f)(1); and
-- Section 9012(f)(1), as applied to the defendant committees, is constitutional.

NCPAC and FCM are both multicandidate political committees not authorized by any candidate. Under Section 9012(f)(1) of the Presidential Election Campaign Fund Act, unauthorized political committees (i.e., those not authorized by a candidate) may not make expenditures exceeding $1,000 to further the election of a publicly funded Presidential nominee.

U.S. District Court for the Eastern District of Pennsylvania, Docket No. 83-2823, June 14, 1983.

Democratic Party of the United States v. NCPAC and FEC (Intervening Defendant)

On May 16, 1983, the Democratic Party of the United States and others filed suit against the National Conservative Political Action Committee (NCPAC) and Fund for a Conservative Majority (FCM). The Democratic Party alleged that the defendant political committees have made and were making expenditures in violation of 26 U.S.C. §9012(f), which prohibits expenditures by unauthorized political committees in excess of $1,000 on behalf of a major party's publicly funded Presidential nominee.

On June 3, 1983, the FEC filed a motion to intervene as defendant in the suit. The Commission then sought dismissal of the action on grounds that it had exclusive primary jurisdiction over civil enforcement of violations alleged in the suit and that plaintiffs lacked standing to bring suit. On June 22, 1983, the district court granted the FEC's motion to intervene and consolidated the suit with the suit the FEC had filed against NCPAC and FCM. (See FEC v. NCPAC and FCM above.) The FEC's motion to dismiss the Democratic Party's suit is now pending before the court.

Common Cause v. Harrison Schmitt (FEC Intervenor); FEC v. Americans for Change

On June 16, 1983, the Fund for a Conservative Majority (FCM) filed a petition with the U.S. District Court for the District of Columbia seeking a declaratory order from the court that would give "force and effect" to the court's September 30, 1980, decision in the consolidated cases of Common Cause v. Harrison Schmitt and FEC v. Americans for Change. In that ruling, the district court held that Section 9012(f) was unconstitutional as applied to Americans for Change, Americans for an Effective Presidency and Fund for a Conservative Majority, three multicandidate political committees that had planned to make expenditures in excess of $1,000 in support of the Republican Presidential candidate's general election campaign. On January 19, 1982, the Supreme Court voted 4 to 4 to affirm the lower court's decision, with Justice Sandra O'Connor not participating.

Based on the district court's 1980 ruling, FCM asks the court to:

-- Order the FEC to dismiss its suit against NCPAC and FCM, pertaining to enforcement of Section 9012(f) (see FEC v. NCPAC and FCM above);
-- Prohibit the FEC from filing suits in state and federal courts which seek to enforce or to construe Section 9012(f)(1);
-- Direct the FEC to withdraw an advisory opinion (AO 1983-11) issued to FCM on May 18, 1983, which stated that FCM would be subject to the $1,000 spending limit imposed by Section 9012(f)(1) should FCM make expenditures on behalf of the publicly funded Republican Presidential nominee in 1984; and
-- Direct the FEC to issue an alternative advisory opinion to FCM stating that FCM's proposed expenditures would not be subject to Section 9012(f)(1).

U.S. District Court for the District of Columbia, Docket No. CA 80-1609, June 16, 1983.

Congressman Charles E. Rose v. FEC

Pursuant to 2 U.S.C. §§437g(a)(8)(A) and (C), Congressman Charles E. Rose (D-NC) asks the district court to:

-- Declare that, in failing to act on Congressman Rose's administrative complaint within 120 days, the FEC acted contrary to law; and
-- Issue an order directing the Commission to take final action on this complaint within 30 days.

In his suit, Mr. Rose stated that he had filed an administrative complaint with the FEC alleging that:

continued

-- A marketing company had contributed to his opponent in the Democratic primary (in violation of 2 U.S.C. §441b and 11 CFR 114.2).
-- The primary opponent had paid for political broadcasting time with a personal check (in violation of 2 U.S.C. §432(h)(1) and 11 CFR 102.10).
-- The principal campaign committee of Mr. Rose's primary election opponent had made excessive in-kind contributions to the general election campaign of the Republican candidate opposing Mr. Rose (in violation of 2 U.S.C. §§441a(a)(1)(A) and 441b; and 11 CFR 110.1(a) and 114.2).
-- The Congressional Club, which owned the marketing company (cited above), had failed to report the election activities of the company (in violation of 2 U.S.C. §§434(b), 441a and 441b; and 11 CFR 104.3, 110 and 114.2).

U.S. District Court for the District of Columbia, Docket No. 83-1687, June 13, 1983.

Reagan for President Committee v. FEC

Pursuant to 26 U.S.C. §9041(a), the Reagan for President Committee, Mr. Reagan's principal campaign committee in 1980, asks the appeals court to review a final determination made by the FEC on June 3, 1983. The FEC's determination required the Reagan campaign to repay $87,707.90 in primary matching funds (plus interest) to the U.S. Treasury. (The FEC had certified the funds to President Reagan for his 1980 primary campaign.)

U.S. Court of Appeals for the District of Columbia Circuit, Docket No. 83-1666, June 16, 1983.

FEDERAL REGISTER

FEDERAL REGISTER NOTICES

The item below identifies an FEC document that appeared in the Federal Register during July 1983. Copies of this notice are available in the Public Records Office.

Notice	Title
1983-17	11 CFR Parts 100, 110 and 9003: Candidate's Use of Property in Which Spouse Has an Interest; Announcement of Effective Date (48 Fed. Reg. 30351, July 1, 1983)
1983-18	11 CFR Parts 9001-9007 and 9012: Presidential Election Campaign Fund; Transmittal of Regulations to Congress (48 Fed. Reg. 31822, July 11, 1983)
1983-19	11 CFR Part 114: Communications by Corporations and Labor Organizations; Announcement of Second Hearing (48 Fed. Reg. 32321, July 14, 1983)
1983-20	11 CFR Part 9008: Presidential Election Campaign Fund: Federal Financing of Presidential Nominating Conventions; Final Rule: Technical Amendments (48 Fed. Reg. 33244, July 21, 1983)

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