FEDERAL ELECTION COMMISSION

RECORD

September 1987 999 E Street NW Washington DC 20463 Volume 13, Number 9

REGULATIONS

PUBLIC FINANCING REGULATIONS: FINAL RULES PRESCRIBED

On August 12, 1987, the Commission approved the publication of a Federal Register notice announcing the effective date of amended FEC Regulations governing publicly financed Presidential candidates in both primary and general elections. The regulations implement the Presidential Election Campaign Fund Act, 26 U.S.C. §§9001-9012, and the Presidential Primary Matching Payment Account Act, 26 U.S.C. §§9031-9042. The regulations became effective on August 18, 1987. See 52 Fed. Reg. 30904. (August 18, 1987).

For a summary of the amended regulations, see pages 9-10 of the July 1987 Record. The regulations and the Explanation and Justification were published in the Federal Register on June 3, 1987 (52 Fed. Reg. 20864), and will be included in the 1987 edition of the 11 CFR. An announcement will appear in the Record when the new edition of the Commission's Regulations is available.

COMMISSIONERS

SENATE CONFIRMS SECOND TERMS FOR TWO COMMISSIONERS

On July 24, 1987, the Senate confirmed Lee Ann Elliott and Danny Lee McDonald to serve their second six-year terms (through April 30, 1993) as FEC Commissioners. Commissioners are appointed by the President and confirmed by the Senate. Both Mrs. Elliott and Mr. McDonald were first appointed to the Commission in December 1981.

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CONNECTICUT SPECIAL ELECTION REPORTS DUE

For those committees involved in the Connecticut special election which was held August 18, 1987, post-general election reports are due September 17. Political committees authorized by candidates (candidate committees) who participated in the special election must file the post-election report. Other political committees which supported candidates in the special election (and which do not report on a monthly basis) must also file the post-election report. If you have questions, call the Commission's Information Services Division, toll free, 800/424-9530 (or locally, in Washington, D.C., 202/376-3120).

NEW PIN-FEED FORMS

New pin-feed versions of the Summary and Detailed Summary pages of FEC Forms 3 and 3X will be available from the Commission this autumn. The new forms, which are designed to facilitate computerized filings, incorporate the stylistic changes made to Forms 3 and 3X in April 1987. Committees wishing to request copies of the new pin-feed Summary and Detailed Summary forms may write the Information Services Division or call, toll free, 800/424-9530. The forms will be sent as soon as they are available from the printer.

In addition to using the Commission's pin-feed Summary and Detailed Summary forms, committees may, with prior approval, use computer-produced Schedules A and B to report itemized receipts and disbursements. The Commission's Reports Analysis Division will review proposed formats to ensure that they contain complete information, conform to the format of Schedules A (itemized receipts) and B (itemized disbursements), and can be legibly photocopied or microfilmed. Requests for approval, accompanied by sample formats, should be submitted to the Federal Election Commission, Reports Analysis Division, 999 E Street, N.W. Washington, D.C. 20463.

REPORTS DUE IN OCTOBER

The following paragraphs explain the reporting schedule for the various categories of reporting committees whose reports are due in October. Note that, during this nonelection year, committees authorized by candidates for Congress are only required to report semiannually: July 31, 1987, and January 31, 1988. Similarly, committees not authorized by candidates, which have not notified the FEC of their intent to file monthly, submit their reports semiannually.

Presidential Quarterly Filers

Authorized Presidential committees which have chosen to file on a quarterly (rather than a monthly) basis are required to file a quarterly report by October 15. The report should cover all activity from the closing date of the last report filed or from the date of registration,* whichever is later, through September 30, 1987.

All Monthly Filers

Unauthorized committees (i.e., committees not authorized by candidates) and authorized Presidential committees which file on a monthly schedule are required to file reports by the 20th of each month. The report should cover all financial activity of the previous month. For example, the October monthly report should be filed by October 20 and should cover all activity from the closing date of the last report filed or from the date of registration,* whichever is later, through September 30, 1987.

Questions on reporting procedures and requests for additional forms should be addressed to the Information Services Division, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463; or call 202/376-3120 or toll free 800/424-9530.

**The first report filed by a committee must include all funds received or disbursed prior to becoming a political committee, even if the transaction did not occur during the reporting period covered by the report. 11 CFR 104.3(a) and (b).*

OPINIONS

ADVISORY OPINION REQUESTS

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

AOR	Subject
1987-22	Data provided to candidates by corporate pollster. (Date made public: July 14, 1987; Length: 10 pages plus 8-page supplement)
1987-23	Federal PAC's acceptance of contributions from state committee partially funded by union dues. (Date made public: July 17, 1987; Length: 2 pages plus 19-page supplement)
1987-24	Hotel corporation's provision of discounted and complimentary items to candidates. (Date made public: July 23, 1987; Length: 2 pages)
1987-25	Foreign national's volunteer activity in presidential campaign. (Date made public: July 30, 1987; Length: 1 page)

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 1987-12: Transfer of Funds from State Campaign Committee to Federal Campaign Committee

The Committee to Elect Jerry Costello (the state committee), a committee organized under the laws of Illinois as Mr. Costello's campaign committee for local office, may transfer $155,194 to the Costello for Congress Committee (the federal committee) for the 1988 election cycle, provided that: 1) the transferred funds come from sources which are permissible under the Act and 2) both the state committee and the federal committee comply with the Act's registration and reporting requirements.

Because the two committees are controlled by Mr. Costello for campaign-related purposes, they are regarded as being affiliated for purposes of making the proposed transfer. Therefore, the transfer of funds from the state committee to the federal committee would not be subject to the Act's contribution limits at 2 U.S.C. §441a(a). See AO 1984-46. The state committee must exclude any contributions not permissible under the Act from the funds to be transferred. See 11 CFR 104.12 and AOs 1984-46, 1984-3, 1983-34, 1982-52 and 1980-117.

The amount transferred would apply towards the threshold for determining whether the state committee is a "political committee" as defined at 11 CFR 100.5. See 11 CFR 102.6(a)(2). If the state committee transfers more than $1,000 to the federal committee, the state committee would become a federal committee. See 2 U.S.C. §431(4)(A); 11 CFR 100.5(a) and 102.6(a). The state committee would then be required to register and report as a political committee, disclosing on its first report the sources of the funds in its account. See 11 CFR 104.12. The state committee's cash on hand would be presumed to be composed of the contributions it had most recently received, and the state committee would be required to itemize such contributions to the extent required by the Act and Commission Regulations. See 2 U.S.C. §434(b); 11 CFR 104.3(a). The state committee's report of the transfer may also serve as the state committee's termination report. See 11 CFR 102.3.

The Commission noted that, because the funds included in the transfer were contributed to the state committee before the 1986 general election, in which Mr. Costello ran for local office, they would not have to be aggregated with later contributions for the 1988 election cycle from the same donors. See AOs 1987-4 and 1982-52.

The Commission expressed no opinion concerning the application of any Illinois law that may govern disposition of the state committee's funds. (Date issued: June 12, 1987; Length: 3 pages)

AO 1987-15: Relationship between Presidential Candidate's Authorized Committee and Delegate Committees

Representative Jack F. Kemp, a 1988 Presidential candidate, has designated a principal campaign committee, the Kemp for President Committee (the Committee). In response to the Committee's request for an advisory opinion, the Commission addressed two separate issues concerning the relationship between the Committee and groups who seek selection as delegates to the 1988 Republican national nominating convention (delegate committees).

Use of Candidate's Name by Delegate Committees

Mr. Kemp has no legal authority for refusing an "unauthorized" delegate committee the "right" to use his name or for requiring any delegate committee to state that it is "unauthorized." Under the Commission's Regulations, a delegate committee is required to use the word "delegate" in its name and may, whether or not it is authorized to do so, include the name of the Presidential candidate it supports in its committee name. 11 CFR 102.14(b)(1). The Commission noted that delegate committees' expenditures for public communications may be subject to the disclaimer requirements under the Commission's Regulations, and the receipts and disbursements of delegate committees may also be subject to the disclosure requirements. See 2 U.S.C. §441d, 11 CFR 110.11 and 11 CFR 110.14(e).

Providing Mailing Lists to Delegate Committees

If the Committee were to provide mailing lists to delegate committees, those delegate committees would be precluded from making independent expenditures on behalf of Mr. Kemp's Presidential candidacy. In providing such lists (regardless of whether the lists were part of a "fair exchange" of mailing lists), the Committee would be coordinating with and assisting the delegate committees' fundraising efforts undertaken to finance the expenditures on Mr. Kemp's behalf. Any resulting expenditures would not qualify as independent expenditures because they would be made "...with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, the presidential candidate or authorized committee of such candidate." 11 CFR 110.14(d)(2)(ii)(B).

The Commission was unable to reach a decision, by the requisite four-vote majority, concerning: 1) whether a delegate committee that requests and receives Mr. Kemp's authorization to use his name in its committee title could make independent expenditures on Mr. Kemp's behalf, and 2) whether Mr. Kemp's approval or certification of favored delegates, in states which require the candidate to approve a list of delegates, would preclude those delegates from forming a delegate committee and making independent expenditures on Mr. Kemp's behalf. (Date issued: August 12, 1987; Length: 4 pages)

AO 1987-21: Effect of Corporate Reorganization on PAC's Contribution Limits and Affiliation with Proposed New PAC

Separate segregated funds established, respectively, by the Diamond Shamrock Corporation (DSC) and its spin-off, Diamond Shamrock R&M, Inc. (R&M), would be affiliated political committees by virtue of the relationship between the two sponsoring organizations. For purposes of the Act's contribution limits, all separate segregated funds established by R&M or DSC would be treated as a single fund.

On February 2, 1987, the Board of Directors of DSC, now known as MAXUS Energy Corporation (MAXUS), adopted a corporate reorganization plan, prompted at least in part by several hostile takeover attempts by outside investors. The reoganization featured a tax-free spin-off, to the holders of DSC common stock, of the common stock of R&M, previously a wholly-owned subsidiary of DSC. DSC had sponsored a separate segregated fund since 1978 and recently changed the name of the fund to MAXUS Employees' Political Action Committee (MAXUS PAC). R&M planned to form a separate segregated fund soon.

If R&M were a wholly-owned subsidiary of DSC, as was true before the spin-off, the two organizations would automatically be affiliated under the election law. See 2 U.S.C. §441a(a)5, 11 CFR 110.3(a)(1)(ii)(A) and AO 1985-27. Absent that relationship, the Commission had to consider criteria in the Regulations to determine whether the two corporations were affiliated. 11 CFR 110.3(a)(1)(iii)(A), (B) and (C). Commission Regulations offer the following indicia of affiliation

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Scott E. Thomas, Chairman; Thomas J. Josefiak, Vice Chairman; Joan Aikens; Lee Ann Elliott; Danny Lee McDonald; John Warren McGarry; Walter J. Stewart, Secretary of the Senate, Ex Officio; Donnald K. Anderson, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530. (TDD For Hearing Impaired 202/376-3136)

between two entities:
- o ownership of a controlling interest in voting shares or securities;
- o provisions (of by-laws or constitutions) which give one entity the authority, power or ability to direct another entity; and
- o the authority, power or ability to hire, appoint, discipline, discharge, demote, remove or otherwise influence the decision of the officers of an entity.

While acknowledging that the relationship between DSC and R&M may change in the future, the Commission concluded, on the basis of these criteria, that the two organizations are now affiliated. It offered several reasons:
- o Although MAXUS does not own any stock in R&M, both corporations had, at the time of the spin-off, identical stockholder bases, and stock ownership has not yet significantly diverged. Further, for the transaction to have qualified as a tax-free spin-off under the Federal tax code, the original stockholders of DSC had to have a substantial "continuity of interest" in both DSC and R&M.
- o DSC appointed R&M's Board of Directors.
- o DSC established R&M in a manner that makes it difficult to replace the board appointed by DSC without the new board's permission.
- o Although the same majority may not necessarily control both corporations, significant overlap exists in the personnel and organizational structures of both corporations.

Because DSC and R&M are affiliated, all separate segregated funds established by DSC (now MAXUS) or R&M would be treated as a single fund for purposes of the Act's contribution limits. 2 U.S.C. §441a(a)(5).

The Commission noted that the facts presented in this request are substantially the same as those in AO 1986-42, in which the Commission found that, for purposes of the Act and the Commission's Regulations, the original corporation and the spun-off corporation were affiliated. (Date issued: July 24, 1987; Length: 5 pages)

AO 1987-23: Federal PAC's Acceptance of Contributions from State Committee

The Electro Political Action Committee 323 (Electro PAC), a multicandidate committee sponsored by the International Brotherhood of Electrical Workers, may not accept contributions from the Lake Worth Fire Fighters Campaign Fund (Campaign Fund), a state committee whose receipts include union dues monies.

The Campaign Fund is a Committee of Continuous Existence (CCE) organized under the Florida Election Code. Under the Florida Election Code, a CCE must derive at least 25 percent of its income from "dues or assessments payable on a regular basis by its membership pursuant to provisions contained in the charter or bylaws." Each month the Lake Worth Fire Fighters, Local 2817, a labor organization, gives the Campaign Fund $10 on behalf of each member of the Local. These funds come from union dues.

The Act prohibits a labor organization or corporation from making any contribution or expenditure whatsoever in connection with a federal election. 2 U.S.C. §441b; see also 11 CFR 114.1 (b). The Act expressly prohibits the use of labor organization dues to make contributions or expenditures in connection with, or to influence, any federal election. 2 U.S.C. §441b(b)(2). Moreover, Commission Regulations state that a separate segregated fund may not utilize dues or other monies required as a condition of membership in a labor organization to make contributions or expenditures in connection with a federal election. 11 CFR 114.5(a)(1). See also AOs 1980-133 and 1980-27. The Campaign Fund, therefore, may not make any contribution to Electro PAC, nor may Electro PAC accept such a contribution in connection with any federal election. (Date issued: August 14, 1987; Length: 2 pages)

CONFERENCE SERIES REMINDER

The three fall conferences on election laws are proceeding on schedule. For more information on the series, contact the FEC's Information Services Division at: 202/376-3120 or toll-free 800/424-9530.

Conference Schedule

September 16-18*	Burlington, Vermont FEC and Vermont Secretary of State
October 15-16*	Madison, Wisconsin FEC and Wisconsin State Election Board
November 15-17*	Austin, Texas FEC and Texas Secretary of State

**The first day of the conference is for registration and, in some cases, a reception.*

COURT CASES

JOHN GLENN PRESIDENTIAL COMMITTEE, INC. v. FEC

On June 23, 1987, in CA No. 86-1348, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the FEC's final repayment determination of May 15, 1986, with respect to the John Glenn Presidential Committee, Inc. (the Committee), the principal campaign committee for Senator Glenn's publicly funded 1984 Presidential primary campaign.

Background

The Committee had asked the appeals court to review the repayment determination, which found that the Committee had made nonqualified campaign expenses (amounting to $248,004.62) as a result of exceeding its spending limits for the Iowa and New Hampshire primaries, and which required the Committee to repay $74,955.62 to the U.S. Treasury.*

The Committee had asserted that the state expenditure limits in 2 U.S.C. §441a(b)(1)(A) were unconstitutional. The Committee had also contested the FEC's determination in three specific areas, involving the FEC's allocation of the Committee's expenditures for telephone calls, public opinion polls, and buttons and bumper stickers.

Court's Ruling

The court found no constitutional infirmity in the FEC's actions taken under 26 U.S.C. §9038(b)(2), the provision of the Presidential Primary Matching Payment Account Act which authorizes the recoupment of federal funds. The court noted that 26 U.S.C. §9038(b) allows the recoupment of public monies only.

Regarding the FEC's application of its Regulations concerning the allocation of expenditures in three specific areas, the court found that the FEC ruled rationally and had not abused its authority.

**The public funding statutes require Presidential primary candidates to repay the U.S. Treasury for nonqualified campaign expenses. 26 U.S.C. Section 9038(b)(2). Under the statute, spending in excess of the state-by-state spending limits is considered one type of nonqualified expense. When a campaign incurs nonqualified expenses, the campaign must repay that portion of the nonqualified expense which represents public matching funds.*

FEC v. LOUIS ROCHA, JR.

On June 29, 1987, the United States District Court, Middle District of Florida, approved a consent order between the Commission and the defendant in FEC v. Louis Rocha, Jr. (Civil Action No. 86-1203-Civ-T-10C).

Background

On March 31, 1986, the Commission entered into a conciliation agreement with Louis Rocha, Jr., in which Mr. Rocha agreed to pay a $3,000 civil penalty for knowingly accepting contributions made by one person in the name of another person. See 2 U.S.C. §441f. Although Mr. Rocha agreed to pay the penalty in 12 equal monthly installments, he had not paid any portion of the penalty by August 20, 1986, when the FEC filed suit.

Consent Order

The consent order states that, in light of the defendant's present compliance with the terms of the conciliation agreement, the Commission agrees to the dismissal of the action, without prejudice to renew should the defendant violate the conciliation agreement in the future.

FEC v. CITIZENS PARTY

On July 31, 1987, the U.S. District Court for the District of Columbia entered a default judgment against the Citizens Party, a political party committee, and the party's acting treasurer, Kirby Edmonds, for the respondents' failure to timely pay in full a previously agreed upon civil penalty, in violation of the terms of a conciliation agreement they had entered into with the FEC on March 20, 1986. (FEC v. Citizens Party et al.; Civil Action No. 86-3113 (OG).)

The court also: 1) ordered the defendents to pay interest on the $1,250 unpaid balance of the civil penalty for the period from June 18, 1986, to December 8, 1986, and 2) permanently enjoined the defendants from further violations of the agreement.

COMMON CAUSE v. FEC (Suit Six)

On August 3, 1987, the U.S. District Court for the District of Columbia issued an order which granted the FEC's motion for summary judgment on all issues in this case except one: the allocation, between the federal and nonfederal accounts of state party committees, of expenses of certain specified activities (e.g., voter registration, "get out the vote" efforts, and campaign materials used in connection with volunteer activities). (Common Cause et al. v. FEC, Civil Action No. 86-1838.) For reconsideration of that issue, the court remanded to the FEC Common Cause's

petition for rulemaking concerning the use of "soft money"* in federal elections. (For summaries of the petition and the FEC's actions, see the January 1986 FEC Record, p. 6, and the June 1986 FEC Record, p. 6.)

Background

Common Cause filed its petition for rulemaking on November 7, 1984. The FEC published a notice of availability in the Federal Register, sent copies of the petition to a number of organizations and received five comments. On December 5, 1985, the FEC's general counsel recommended that the Commission seek information and comments on "soft money" issues. The FEC then scheduled two days of public hearings, published a notice of inquiry on the matter in the Federal Register, sent the notice to 77 organizations and considered the 15 comments it received in response. The Commission also received testimony from Common Cause, the Center for Responsive Politics and the Republican National Committee. On April 29, 1986, the FEC denied Common Cause's petition for rulemaking (see 51 Fed. Reg. 15915). On June 30, 1986, Common Cause filed this court action pursuant to the Administrative Protection Act, 5 U.S.C. §706, which provides that agency action that is "not in accordance with the law" must be set aside by the reviewing court.

In its motion for summary judgment, Common Cause argued that the FEC:

- o improperly construed the Federal Election Campaign Act (the Act) by a) improperly considering "intent" as a requisite factor when it concluded that nonfederal funds had not been transferred to the state and local level with the intent to influence federal elections and b) allowing the allocation of expenditures made in connection with federal and nonfederal elections;
- o inadequately regulated the allocation of federal and nonfederal funds, thereby creating a loophole through which "soft money" could be used in connection with federal elections; and
- o acted arbitrarily and capriciously in denying the petition for rulemaking, given ample evidence to justify a rulemaking.

Court Ruling

The court noted that, in 1979, Congress amended the Act to permit state and local party committees to spend money in federal elections for voter registration, "get out the vote" activities, and campaign materials used in connection with volunteer activities. 2 U.S.C. §§431 (8)(B)(x), 431(8)(B)(xii), 431(9)(B)(viii) and 431(9)(B)(ix). Under the Act, only monies that are subject to the provisions of the Act may be used for these activities. 2 U.S.C. §§431(8)(B)(x)(2), 431(8)(B)(xii)(2), 431(9)(B)(viii)(2) and 431(9)(B)(ix)(2). Under the Commission's Regulations at 11 CFR 102.5 and 106.1, when financing these political activities in connection with both federal and nonfederal elections, state and local party committees may spend money from both their federal and nonfederal accounts, allocating "on a reasonable basis."

In reviewing the FEC's denial of the rulemaking petition, the court rejected plaintiffs' argument that the FEC improperly considered intent as a requisite element. The court found that the question of intent was not crucial or even relevant in the FEC's denial of the rulemaking. Instead, the court said, the FEC had found that there was inadequate evidence to conclude that any "soft money" had been used in the ways Common Cause alleged in its petition.

The court also rejected Common Cause's contention that no allocation method is permissible under the Act, noting that "the FECA regulates federal elections only," and that "Congress would have had to have spoken much more clearly in the amendments at issue to contradict" this limit on the FECA's reach. The court further noted that "the plain meaning of the Act is that any improper allocation of nonfederal funds by a state committee would be a violation of the FECA."

The court maintained, however, that the Commission's Regulations provide "no guidance whatsoever on what allocation methods a state or local party committee may use," and thus found that a revision of the Commission's Regulations was warranted with respect to this one issue and remanded the matter to the Commission.

Finally, the court found that it was not arbitrary and capricious for the Commission to decline to initiate a rulemaking based on the evidence before it, except with respect to the allocation issue discussed above. The court observed, "The Commission opened its doors to comments from each of the fifty state election finance agencies, as well as both major parties and various other groups interested in the issue of campaign financing. Only fifteen responses were received, some of which adamantly stated that there were no abuses of the type alleged by Common Cause. Indeed, there was testimony that some of the anecdotes submitted by Common Cause were factually erroneous." In conclusion, the court granted the FEC's motion for summary judgment affirming its decision to deny the rulemaking petition with respect to all issues except that of allocation.

**In its complaint, Common Cause defined the term "soft money" as "funds from sources prohibited under the FECA that are given to political committees and party organizations ostensibly for use at the state and local level, but which are actually used in connection with and to influence federal elections in violation of the FECA."*

FEC v. CAMPAIGN RESOURCE TECHNOLOGIES, INC. ET AL.

On August 3, 1987, the U.S. District Court for the District of Arizona, Tucson Division, approved a final consent order and judgment between the Commission and defendants Campaign Resource Technologies, Inc. (CRT) and John Kaur (No. CIV 86-448 TUC ACM).

During the 1983-84 Presidential election cycle, the Bergland for President Committee (the Committee), the principal campaign committee for David Bergland's 1984 Presidential campaign, contracted with CRT for certain campaign services. CRT, in turn, subcontracted certain services to John Kaur, who was doing business as Digitgraph Computer Systems Company (Digitgraph).

In the consent order, defendants CRT and John Kaur agree that they violated 2 U.S.C. § 432(b) by failing to forward to the Committee's treasurer, within 10 days, approximately $6,000 in campaign contribution checks received by CRT and Digitgraph on behalf of the Committee.

The court imposed a $5,000 civil penalty, which the defendants agreed to pay within 30 days of filing the consent order. The court also permanently enjoined the defendant from future similar violations of the Act.

NEW LITIGATION

Congressman Stark v. FEC, et al. (Suit Two)

Pursuant to 2 U.S.C. §437g(a)(8)(A), Congressman Fortney H. (Pete) Stark asks the court to declare that the FEC acted contrary to law in dismissing his administrative complaint on June 9, 1987. In a complaint filed in October 1986, Congressman Stark alleged, among other things, that certain excessive contributions made to David M. Williams' 1986 Congressional campaign by the American Medical Association Political Action Committee (AMPAC), the separate segregated fund of the American Medical Association, resulted in violations of the election law by both parties.

Congressman Stark further asks the court to:

- o Issue an order directing the defendants to proceed in conformity with the provisions of 2 U.S.C. §437g within 30 days;
- o Declare that Commissioner Lee Ann Elliott should recuse herself from any further participation in the FEC's consideration of the complaint, consistent with Canons 3 and 5 of the Code of Judicial Conduct; and,
- o Retain jurisdiction over the suit so that, if the FEC fails to act, Congressman Stark could proceed under 2 U.S.C. §437g(a)(8)(C) to remedy the violation.

U.S. District Court for the District of Columbia, Civil Action No. 87-1700, June 22, 1987.

INFORMATION

FEC REACTIVATES STATE COMPUTER ACCESS TO CAMPAIGN FINANCE DATA

The Commission has reactivated its program to provide state direct computer access to federal campaign finance information and plans to offer the program in 25 states before the 1988 election. The state offices will make data available to the public.

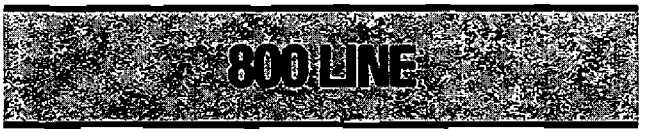
The cooperative effort between the FEC and various state offices (such as Secretaries of State, State Boards of Elections and other state commissions) is part of the agency's continuing effort to broaden public access to federal campaign finance information. This information is centralized in the FEC's Public Records Office in Washington.

Nine states were "on-line" in the State Access Program before the FEC curtailed the service in 1986 because of Congressionally-mandated budget cuts. (For a summary of the budget cuts, see page 1 of the February 1986 Record.) They were: Georgia, California, Alabama, Massachusetts, Illinois, Washington, Michigan, Colorado and Rhode Island. In addition, six other states were testing the system at that time: New Jersey, Connecticut, Wisconsin, Ohio, Tennessee and Iowa. States to be added this fall include: Florida, Hawaii, Louisiana and Vermont.

Under the revived program, the Commission will make available the following types of data:

- o Indexes providing descriptive information on all registered political committees, such as their sponsoring organization, frequency of filing reports, and multicandidate committee status;
- o Indexes showing the total receipts and disbursements of committees; and
- o Listings of all PAC contributions to federal candidates.

An index listing individuals who contributed $500 or more to candidates and political committees will become available later.



NEW TREASURER

Committtes frequently ask the FEC what they should do when they have a new treasurer. This brief article is designed to explain the Act's reporting requirements concerning changes in officers.

What should our committee do if we have a new treasurer? A new treasurer (and any other change in the information disclosed on the Statement of Organization) **must** be reported within 10 days after the change takes place.

How should we report the change? By filing an amended Statement of Organization (FEC Form 1) or a signed letter. The amendment need contain only the committee's name, its identification number (assigned by the FEC when the Statement was originally filed) and the name of the new treasurer.

Could we notify the Commission simply by having the new treasurer sign the next report (FEC Form 3 or 3X)? No. The change in the position of treasurer must be reported separately--either in a letter or on an amended Statement of Organization (FEC Form 1).

If I don't have my committee's identification number, how can I get it? By calling the FEC's Public Records Office, toll free, 800/424-9530 (or locally, in Washington, D.C., 202/376-3140).

Who should sign the amendment to the Statement of Organization? Either the outgoing or the incoming treasurer may sign.

Must the treasurer be involved with the committee's day-to-day operations? No. The treasurer is responsible for seeing that certain activities are carried out, but other individuals (such as committee support staff or professional consultants) may actually perform the duties. However, the treasurer (or a properly designated assistant treasurer) must actually sign all reports. For example, an accountant or bookkeeper could handle the recordkeeping and reporting duties, and the treasurer would sign the report. Even if other individuals perform these duties, however, the treasurer remains responsible for the committee's compliance with campaign finance laws. For more information about the treasurer's responsibilities, see the FEC's brochure "Committee Treasurer."

Why does the FEC recommend that committees also designate an assistant treasurer on the Statement of Organization? To ensure continuity even if the treasurer is unavailable. Under the law, a political committee must have a treasurer when it conducts financial transactions. However, an assistant treasurer who has been designated on the Statement may assume the treasurer's responsibilities in case the treasurer is absent or resigns unexpectedly. The assistant treasurer, for example, could sign a committee's reports. Moreover, with an assistant treasurer, a committee could continue to accept contributions and make expenditures even if the office of treasurer were vacant.

How does a committee name an assistant treasurer? By filing an amendment to the Statement of Organization (following the same procedures described above). Note that your committee may name an assistant treasurer at any time. If you have any questions, call the FEC's Information Services Division, toll free, on 800/424-9530 (or locally, in Washington, D.C., 202/376-3120).

PUBLIC APPEARANCES

9/8	The Academy for State and Local Government Washington, D.C. Vice Chairman Thomas J. Josefiak
9/18	Second Friday Group Los Angeles, California Commissioner Lee Ann Elliott
9/22-25	Business Industry Political Action Committee New York, New York Atlanta, Georgia Dallas, Texas Commissioner Lee Ann Elliott
9/27-30	Council on Governmental Ethics Laws Quebec City, Canada Chairman Scott E. Thomas Commissioner John Warren McGarry John Surina, Staff Director Lawrence Noble, Acting General Counsel Kent Cooper, Assistant Staff Director for Public Disclosure Louise Wides, Assistant Staff Director for Information Services

PUBLIC FUNDING

PARTIES APPROVED FOR CONVENTION FUNDING

Each of the two major political parties has received $8,892,000 from the U.S. Treasury for planning and conducting their 1988 Presidential nominating conventions. The Commission agreed that the parties had satisfied all the eligibility requirements for public funds and, accordingly, on July 6, asked the Secretary of the Treasury to make the payments.

Under federal election law, the national committees of major and minor parties may receive public funds to defray the expenses of their nominating conventions. The monies come from the Presidential Election Campaign Fund, which is financed through dollars voluntarily checked off by taxpayers on their federal income tax returns. The parties may receive convention payments any time after July 1 of the year preceding the convention.

Each convention committee is entitled to receive $4 million plus a cost-of-living adjustment (COLA). The figure currently stands at $8,892,000. This amount will be adjusted early in the spring of 1988 when updated COLA figures become available.

CLEARINGHOUSE

THE FEC JOURNAL ON ELECTION ADMINISTRATION

The National Clearinghouse on Election Administration recently published Volume 14 of The FEC Journal of Election Administration. The issue focuses on the use of mail in elections. Articles discuss expediting official election mailings, the Federal Voting Assistance Program and elections conducted entirely by mail. The Journal also reports the status of a number of Clearinghouse projects of special interest to election administrators. For more information, call the Clearinghouse, toll free, 800/424-9530 (or locally, in Washington, D.C., 202/376-5670).

ADVISORY PANEL

The Clearinghouse will hold its annual meeting of the Advisory Panel and Voting System Standards Committee December 8-10 at the Grand Hyatt Hotel in Washington, D.C. All interested persons are welcome.

To fill vacancies, the Commission has appointed two new individuals to the 16-member Advisory Panel. They are Douglas Jernigan, Supervisor of Elections, Montgomery County, Maryland; and Anita Rodeheaver, Harris County Clerk, Houston, Texas.

CHANGE OF ADDRESS

Political Committees

Registered political committees are automatically sent the Record. Any change of address by a registered committee must, by law, be made in writing as an amendment to FEC Form 1 (Statement of Organization) and filed with the Clerk of the House, the Secretary of the Senate, or the FEC, as appropriate.

Other Subscribers

Record subscribers (who are not political committees), when calling or mailing in a change of address, are asked to provide the following information:

1. Name of person to whom the Record is sent.
2. Old address.
3. New address.
4. Subscription number. The subscription number is located in the upper left hand corner of the mailing label. It consists of three letters and five numbers. Without this number, there is no guarantee that your subscription can be located on the computer.

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FEDERAL ELECTION COMMISSION
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