

# RECORD

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## 800 LINE

### PACs: ALLOCATING FEDERAL AND NONFEDERAL EXPENSES

Many PACs have called the FEC asking whether they are subject to the new allocation rules that became effective at the beginning of 1991. This article explains when PACs must allocate and what expenses must be allocated. The article covers both separate segregated funds and nonconnected PACs:

- o A separate segregated fund (SSF) is a committee established by a corporation—including an incorporated trade association or other nonprofit corporation—or a labor organization. 11 CFR 114.1(a) (2)(iii). An SSF is also referred to as a corporate or labor PAC.
- o A nonconnected PAC is a committee that is not a corporate or labor PAC, a party committee or a committee authorized by a federal candidate. 11 CFR 106.6(a).

### Why Allocate?

PACs must allocate expenses that jointly influence federal elections (Presidential, U.S. House and U.S. Senate) and non-federal elections (state and local). The reason for this is that they must use "hard money"—funds that comply with federal law—to pay for the federal portion of the expense. The new rules provide specific allocation formulas to determine the federal portion of each allocable expense, i.e., the amount that must be paid with funds that are permissible under federal law.

### Who Must Allocate?

**PACs with Federal and Nonfederal Accounts.** The allocation rules apply to SSFs and nonconnected PACs that maintain both a federal account (that is, an account registered under federal law) and a nonfederal account (which may be registered under state law). The federal account is the "hard money" account—the account which is used for all of the PAC's federal activity and which contains funds raised in

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## SPECIAL ELECTIONS

### ARIZONA AND PENNSYLVANIA SPECIAL ELECTIONS

Pennsylvania and Arizona have scheduled special elections to fill recently vacated seats. Political committees authorized by candidates participating in these elections must file reports according to the tables that appear on pages 3 and 4.

PACs and party committees may also have to file reports in connection with special elections, as explained below.

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**Arizona Special Elections**

Arizona has scheduled special elections to fill the 2nd Congressional District seat of Congressman Morris K. Udall, who recently retired. The special primary will be held August 13, 1991, and the special general election, September 24. Note that the mid-year report is waived for committees filing pre-primary reports. See the tables of reporting dates on page 3.

**Pennsylvania Special Election**

Pennsylvania has scheduled a special general election for November 5, 1991, to fill the seat held by the late Senator John Heinz. See the tables of reporting dates on page 4.

The Republican and Democratic nominating conventions are scheduled to be held in June 1991. The Commission has decided not to require pre-primary reports for these conventions. Instead, committees will include convention activity in their mid-year reports due July 31.

**Authorized Committees:****48-Hour Notices on Contributions**

Authorized committees must file special notices on contributions of \$1,000 that are received after the 20th day, but more than 48 hours, before an election. The dates that apply to the 48-hour notice requirement for the special elections are shown below.

- o Arizona Primary: 7/25-8/10
- o Arizona General: 9/5-9/21
- o Pennsylvania General: 10/17-11/2

Please note that this special notice requirement applies to all types of contributions, including:

- o In-kind contributions;
- o Loans (other than bank loans);
- o Guarantees and endorsements of bank loans; and
- o Contributions, personal loans and endorsements of bank loans made by the candidate.

The notice must reach the appropriate federal and state filing offices within 48

hours after the committee's receipt of the contribution. Note that notices may be faxed to the Secretary of the Senate and the Clerk of the House. Fax numbers are: Senate--202/224-1851; House--202/225-7781. Note also that only 48-hour notices may be submitted by fax machine because they do not require the treasurer's signature; other reports and statements may not be faxed. AO 1988-32.

For information on the content of the notice, see 11 CFR 104.5(f).

**Information for PACs and Party Committees**

**Seniannual Filers.** A PAC or party committee that reports on a semiannual basis during 1991 must file special election reports if it makes contributions or expenditures in connection with a special election during the coverage periods shown in the tables. PACs may also have to file 24-hour reports on independent expenditures.

**Monthly Filers.** PACs and party committees that file monthly during 1991 do not have to file special election reports, but PACs may have to file 24-hour reports on independent expenditures.

**24-Hour Reports on Independent Expenditures.** Any PAC (including a monthly filer) that makes independent expenditures in connection with a special election may have to file a 24-hour report. This reporting requirement will be triggered if the committee makes independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the election. The dates that apply to the 24-hour reporting requirement for independent expenditures are shown below.

- o Arizona Primary: 7/25-8/11
- o Arizona General: 9/5-9/22
- o Pennsylvania General: 10/17-11/3

The report must be filed with the appropriate federal and state filing offices within 24 hours after the expenditure

Federal Election Commission, 999 E Street, NW, Washington, DC 20463  
800/424-9530 202/376-3120 202/376-3136 (TDD)

John Warren McGarry, Chairman  
Joan D. Aikens, Vice Chairman  
Lee Ann Elliott  
Thomas J. Josefiak  
Danny L. McDonald  
Scott E. Thomas

Walter J. Stewart, Secretary of the Senate,  
Ex Officio Commissioner  
Donald K. Anderson, Clerk of the House of  
Representatives, Ex Officio Commissioner

is made. For more information on this reporting requirement, see 11 CFR 104.4(b) and (c) and 104.5(g).

**State Filing**

In addition to filing with the appropriate federal office--the Clerk of the House, the Secretary of the Senate or the FEC--committees filing Arizona and Pennsylvania special election reports must also file copies of reports with the appropriate state office.

- o Arizona: Office of the Secretary of State, State Capitol, West Wing, 7th Floor, 1700 West Washington, Phoenix, AZ 85007.
- o Pennsylvania: Pennsylvania Bureau of Commissions, Elections and Legislation, 305 North Office Building, Harrisburg, PA 17120-0029.

Authorized committees of candidates must file the entire report; other committees must file only the portion of the report that is applicable to the candidate (for example, the Form 3X Summary Page and any schedules that disclose contributions or expenditures on behalf of the candidate). 2 U.S.C. §439(a); 11 CFR 108.3.

**Coordinated Party Spending Limits**

The coordinated party spending limits for Arizona and Pennsylvania are:

- o Arizona House Seat: \$26,500
- o Pennsylvania Senate Seat: \$481,602.

These amounts may be spent by the party's national committee on behalf of the party's nominees in the Arizona and Pennsylvania special general elections. State party committees in Arizona and Pennsylvania may also spend up to the appropriate limit on behalf of the party's nominee. 11 CFR 110.7(b).

**ARIZONA SPECIAL ELECTION REPORTING DATES<sup>1</sup>**

**Committees That Support Candidates in the 8/13 Primary Only**

Report	Period Covered <sup>2</sup>	Reg/Cert Mailing Date <sup>3</sup>	Filing Date
Mid-year		waived	
Pre-primary	1/1-7/24	7/29	8/1

**Committees That Support Candidates in the 9/24 General Only**

Report	Period Covered <sup>2</sup>	Reg/Cert Mailing Date <sup>3</sup>	Filing Date
Mid-year	1/1-6/30	7/31	7/31
Pre-general	7/1-9/4	9/9	9/12
Post-general	9/5-10/14	10/24	10/24

**Committees That Support Candidates in Both the 8/13 Primary and the 9/24 General**

Report	Period Covered <sup>2</sup>	Reg/Cert Mailing Date <sup>3</sup>	Filing Date
Mid-year		waived	
Pre-primary	1/1-7/24	7/29	8/1
Pre-general	7/25-9/4	9/9	9/12
Post-general	9/5-10/14	10/24	10/24

<sup>1</sup>These tables do not apply to PACs or party committees that file on a monthly basis, since they are not required to file special election reports. They may, however, have to file 24-hour reports on independent expenditures. See page 2.

<sup>2</sup>A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered and before the individual became a candidate.

<sup>3</sup>Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

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**PENNSYLVANIA SPECIAL ELECTION  
REPORTING DATES<sup>1</sup>**


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**Committees That Support Candidates in  
Connection with the June Republican and  
Democratic Nominating Conventions**


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Report	Period Covered <sup>2</sup>	Reg/Cert Mailing Date <sup>3</sup>	Filing Date
Mid-year	1/1-6/30	7/31	7/31

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**Committees That Support Candidates in the  
11/5 General Election**


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Report	Period Covered <sup>2</sup>	Reg/Cert Mailing Date <sup>3</sup>	Filing Date
Pre-general	7/1-10/16	10/21	10/24
Post-general	10/17-11/25	12/5	12/5

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<sup>1</sup>These tables do not apply to PACs or party committees that file on a monthly basis, since they are not required to file special election reports. They may, however, have to file 24-hour reports on independent expenditures. See page 2.

<sup>2</sup>A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered and before the individual became a candidate.

<sup>3</sup>Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.



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compliance with the Federal Election Campaign Act and FEC rules. The nonfederal account is used solely for state and local election activity.

PACs with two accounts must allocate certain expenses that are shared between the two accounts (see page 5). 11 CFR 102.5(a) (1)(i) and 106.6(a).

**Nonconnected PACs That Do Not Maintain a Federal Account.** If a nonconnected PAC maintains only a nonfederal account, it must nevertheless allocate expenses if it conducts any activity to influence a federal election. In that case, it must make sure that its federal activity—including the federal portion of its administrative expenses—is paid from funds that comply with the federal law's limits and prohibitions.<sup>1</sup> 11 CFR 102.5(b) and 106.6(a). (If the PAC's federal activity exceeds \$1,000 in a calendar year, it must register and report as a federal account. 11 CFR 100.5(a) and 102.1(d).)

NOTE: The above paragraph does not apply to nonfederal accounts of corporations and labor organizations.

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<sup>1</sup>If an unregistered group makes any expenditures to influence federal elections, it must either: (1) be able to demonstrate through a reasonable accounting method that it has sufficient funds permissible under federal law to cover the allocated federal portion of the expense; or (2) use a separate account containing only funds permissible under federal law. 11 CFR 102.5(b).

<sup>2</sup>A corporate or labor nonfederal account must register as a federal account if it conducts any activity—regardless of amount—to influence a federal election. 11 CFR 100.5(b) and 102.1(c). Because these accounts are likely to contain funds that were not solicited in compliance with federal rules, the nonfederal account should avoid federal activity. There is one exception: If the nonfederal account is affiliated with a federal account, it may act as a collecting agent for contributions to the federal account. This activity will not trigger federal status, but special rules apply. See 11 CFR 102.6(b) and (c).

**Who Does NOT Have to Allocate?**

If a PAC does not have a nonfederal account but, instead, conducts all of its activity (including any nonfederal activity) from an account that is federally registered, then allocation is unnecessary.

Moreover, under certain circumstances, an SSF may not have to allocate even though the corporation or labor organization maintains a nonfederal account. This exception is explained more fully below.

**Exception for SSFs**

If the connected organization (i.e., the sponsoring corporation or labor organization) pays all of the SSF's administrative expenses and solicitation costs, allocation of those expenses is not necessary. 11 CFR 106.6(b)(1)(i) and (ii).

Note that no allocation is required if:

- o The connected organization pays for all the administrative and solicitation costs; and
- o The federal and nonfederal accounts do not engage in activities that jointly benefit federal and nonfederal candidates. (See items 3 and 4 under "What Expenses Must Be Allocated.")

**What Expenses Must Be Allocated?**

The following mixed federal/nonfederal expenses must be allocated:

1. Administrative expenses, including rent, utilities, office supplies and salaries (but see exception for SSFs, above);
2. Expenses for fundraising through which the committee collects both federal and nonfederal funds (but see exception for SSFs, above);
3. Expenses for direct support of specific federal and nonfederal candidates (such as media communications and fundraising on behalf of specific federal and nonfederal candidates);<sup>3</sup>
4. Expenses for generic voter drives, which are activities that urge the public to register, vote or support candidates associated with a particular party or a particular issue but which do

not mention specific candidates.<sup>4</sup>  
11 CFR 106.1(a)(2) and 106.6(b).

**More Information on Allocation**

This article is intended to explain when allocation is necessary. For more information on allocation, including allocation formulas, payment procedures and reporting requirements, order a free copy of the Record Supplement on Allocation from the FEC (800/424-9530; 202/376-3120).

## FEDERAL REGISTER

**FEDERAL REGISTER NOTICES**

Copies of Federal Register notices are available from the Public Records Office.

**1991-3**

Filing Dates for Texas Special Elections (56 FR 12732, March 27, 1991)

**1991-4**

Filing Dates for Illinois Special Elections (56 FR 12731, March 27, 1991)

**1991-5**

11 CFR Parts 107, 114 and 9008: Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions; Suspension of Rulemaking (56 FR 14319, April 9, 1991)

**1991-6**

11 CFR Parts 102 and 113: Use of Excess Funds; Notice of Proposed Rulemaking (56 FR 18777, April 24, 1991)

**1991-7**

11 CFR Parts 104 and 106: Rulemaking Petition: Association of State Democratic Chairs; Notice of Availability (56 FR 18780, April 24, 1991)

<sup>3</sup> Direct support of specific federal candidates (e.g., fundraising or communications) results in in-kind contributions or independent expenditures. 11 CFR 106.1(a)(1).

<sup>4</sup> Allocation of federal/nonfederal expenses is unnecessary if a corporation or labor organization uses general treasury funds to pay for partisan and nonpartisan voter drives conducted in accordance with 11 CFR 114.3(c)(4) and 114.4(c).

## ADVISORY OPINIONS

### ADVISORY OPINION REQUESTS

Recent requests for advisory opinions (AORs) are listed below. The full text of each AOR is available for review and comment in the FEC's Public Records Office.

#### AOR 1991-14

State party committee's use of tax funds designated by individuals on state check-off. (Date Made Public: April 17, 1991; Length: 4 pages)

#### AOR 1991-15

Transfer from party committee's nonfederal account to federal account to correct federal account's overpayment of allocated expenses. (Date Made Public: May 2, 1991; Length: 3 pages)

#### AOR 1991-16

Commercial use of contributor information filed under Indiana state law but on FEC forms. (Date Made Public: May 3, 1991; Length: 20 pages)

#### AOR 1991-17

Corporate payment of educational video tape featuring House Member. (Date Made Public: May 3, 1991; Length: 7 pages)

### ALTERNATE DISPOSITION OF ADVISORY OPINION REQUEST

#### AOR 1991-7: Corporate In-Kind Donation Applied to Nonfederal Portion of National Party Committee's Administrative Expense

This AOR was withdrawn by the requester on April 24, 1991.

### ADVISORY OPINION SUMMARIES

#### AO 1991-3: PAC Newsletter Distributed Outside Restricted Class

TEX/CON PAC, the separate segregated fund of TEX/CON Oil & Gas Company, may distribute its newsletter outside the restricted class because the newsletter's content--information and commentary related to issues and legislation in the oil and gas industry, and occasional listings of candidates supported by the PAC--does not constitute a solicitation.

In the past, the Commission has concluded that a communication concerning a

PAC was not a solicitation when the information neither:

- o Encouraged support of the PAC; nor
- o Provided information on how to contribute. AOs 1988-2, 1983-38, 1982-65, 1980-65, and 1979-66; compare AO 1979-13.

In this case, the Commission reached a similar conclusion based on a sample of the newsletter and TEX/CON's representation that the newsletter will refrain from:

- o Discussing fundraising;
- o Discussing employee monetary involvement (i.e., contributions to the PAC); or
- o Encouraging employee support of the PAC.

In its newsletter, TEX/CON PAC plans to present its views on policy issues, often identifying the officeholder or legislator proposing a course of action. If such articles discuss candidates who have been listed as receiving support from the PAC, the wording must not imply that support of the PAC would help elect or defeat those candidates. (The Commission also noted that, because the corporation pays the newsletter costs, the publication must not contain partisan communications, since it will reach those outside the restricted class. 11 CFR 114.3(a)(1).)

The PAC also plans to include a disclaimer in each issue stating that only employees of the company may contribute to the PAC and that other contributions will be returned. The disclaimer itself does not constitute a solicitation, but the PAC must amend the notice to clarify that the only type of employees that may make contributions are executive and administrative personnel. 2 U.S.C. §441b(b)(4)(A)(i); 11 CFR 114.5(g)(1).

Commissioners Danny L. McDonald and Scott E. Thomas filed a dissenting opinion. (Date Issued: April 15, 1991; Length: 16 pages, including the dissent)

#### AO 1991-6: Calculating the Ballot Composition Ratio; Allocating Expenses Incurred Before 1991

In calculating its ballot composition ratio, the California Democratic Party (CDP) may include one nonfederal point for "nonpartisan" local candidates because, under current California law, party committees may actively support or endorse local candidates even though their party affiliation does not appear on the ballot.

Because there will be two U.S. Senate seats on the California ballot in 1992, CDP must count each seat as one federal point in the ratio.

With respect to administrative and fundraising expenses incurred in 1990 but

still outstanding in 1991, CDP may continue to use the allocation ratios calculated for its 1990 activity. Although the new allocation rules now specify the formulas that committees must use, the rules did not become effective until January 1, 1991. Similarly, the payment procedures and reporting requirements contained in the new allocation rules are also inapplicable to pre-1991 expenses, even if paid in 1991.

#### Allocation Ratio

Under the new rules, state and local party committees with separate federal and nonfederal accounts must allocate their administrative expenses and generic voter drive costs between those accounts using the "ballot composition method." 11 CFR 106.5(d). This ratio is based on the number of federal offices compared with the total number of federal and nonfederal offices expected to be on the ballot in the next general election held in the committee's state or geographic area. 11 CFR 106.5(d)(1)(i).

**Nonpartisan Local Candidates.** The ballot composition method permits state party committees to include a maximum of one nonfederal point for all "partisan local candidates" on the ballot.<sup>1</sup> 11 CFR 106.5(d)(1)(ii). Under the California Constitution, however, elections for local office are "nonpartisan." CDP may nevertheless count one nonfederal point for these candidates in its ballot ratio because, under current California law, CDP may actively support, endorse or oppose nonpartisan candidates. A 1986 constitutional amendment that had prohibited such activity was recently held unconstitutional by a U.S. court of appeals (Geary v. Renne). The Commission noted, however, that the Supreme Court has agreed to hear this case, and should the Court reverse the appeals court decision, the Commission would have to reconsider its conclusion.

**U.S. Senate Seats.** California will be holding elections to fill two U.S. Senate seats in 1992. (One election will fill the seat currently held by Senator Alan Cranston, who will be retiring at the end of his term. The other election will fill the seat vacated by Governor Pete Wilson following his gubernatorial election.)

<sup>1</sup>Local party committees may count one nonfederal point for one partisan local office or a maximum of two nonfederal points for two or more offices. 11 CFR 106.5(d)(1)(ii).

Normally, only one U.S. Senate seat is on the ballot in any one year. For the 1992 election cycle, however, CDP must count each Senate seat as one federal point when calculating its ballot composition ratio rather than treating the two together as one point.

Counting each seat as one federal point is consistent with the "average ballot" concept in which the number of federal offices counted in the ratio corresponds to the number of federal candidates the average voter can cast ballots for in the general election. Moreover, the situation is comparable to an example noted in the Explanation and Justification (E&J) for section 106.5(d). The E&J explains that, in states (such as California) where the governor and lieutenant governor are elected independently instead of on one ticket, a party committee may count the office of lieutenant governor separately because voters cast a separate ballot for that office.

**Rounding the Ratio.** The Commission noted that, when a ratio does not result in a whole number, the committee may round to the nearest whole number. For example, CDP's ballot composition ratio is 57.14 (federal) and 42.86 (nonfederal). After rounding the numbers, the ratio is 57 percent federal and 43 percent nonfederal.

#### Pre-1991 Expenses

**Administrative Expenses.** CDP may continue to apply its 1990 allocation ratio to administrative expenses incurred before 1991. The new allocation rules, effective January 1, 1991, do not apply to debts for goods or services provided during the previous year. Those expenses are subject to the rules in place in 1990, which did not provide specific allocation methods for different types of expenses. (In future election cycles, committees must apply the allocation ratio for the election cycle in which goods and services are received even if the contract for the goods or services is signed, and a debt thereby incurred, during the previous cycle.)

(continued)

<sup>2</sup>A party's candidate for lieutenant governor, if elected separately from the governor, is included in the ballot ratio category "other partisan statewide executive candidates." A maximum of two nonfederal points may be counted in this category. 11 CFR 106.5(d)(1)(ii).

**Fundraising Expenses.** Similarly, fundraising expenses incurred for solicitations made before 1991 should be allocated and paid according to the ratio in place in 1990. Contributions received in 1991, but which relate to a 1990 solicitation, may be included when determining the allocation formula applied to the 1990 fundraising effort.

**Payment and Reporting.** CDP need not apply the new rules on payment procedures and reporting to the payment of its pre-1991 expenses. However, when reporting payments for such expenses, CDP should note that the payment relates to an administrative or fundraising expense for goods or services provided in 1990.

(Date Issued: April 25, 1991; Length: 8 pages)

**AO 1991-8: Payment to Senator for Radio Series**

Payments to Senator Thomas A. Daschle for participating in a series of radio debates are considered stipends, rather than honoraria, because he will receive payment for services provided on a continuing basis and pursuant to a written contract. As stipends, the payments are not subject to the \$2,000 per appearance honorarium limit.<sup>1</sup>

FEC rules exclude stipends from the definition of honorarium. Stipends are payments for services provided on a continuing basis and include compensation paid by news media for commentary on events other than the election campaign of the person compensated. 11 CFR 110.12(c)(3). The circumstances in Senator Daschle's request are materially indistinguishable from past advisory opinions in which the Commission concluded that certain payments constituted stipends rather than honoraria. See AOs 1991-4, 1989-30, 1985-4, 1980-140 and 1980-76. In this case, the Senator entered into a written contract with the producer of the series to prepare and record debate scripts over a six-month period. The contract stipulates the compensation to be paid by the producer.

<sup>1</sup>As a result of the Ethics Reform Act of 1989, the Commission's authority to regulate honoraria under 2 U.S.C. §441i is now limited to U.S. Senators and Senate officers and employees. The Ethics Reform Act prohibits all other federal officers and employees--including Members and staff of the House of Representatives--from accepting honoraria.

The Commission noted that application of Senate Rules to the activity and possible tax ramifications were outside the FEC's jurisdiction. (Date Issued: April 26, 1991; Length: 4 pages)

**AO 1991-10: Candidate's Use of Assets Jointly Held with Spouse**

Sherwood Guernsey's wife will not make a contribution to his Congressional campaign by cosigning a bank loan because the circumstances described in the opinion qualify for a specific exemption in FEC regulations. Mr. Guernsey may also withdraw half of the assets held in an investment account held jointly with his wife without causing her to become a contributor.

Generally, a person makes a contribution, subject to the limits, when he or she endorses or guarantees a bank loan that will be used for campaign purposes. 2 U.S.C. §431(8)(A)(i) and (vii)(I); 11 CFR 100.7(a)(1) and 100.7(a)(1)(i)(C). An exception to this rule applies to bank loans obtained by the candidate but needing the signature of his or her spouse when jointly owned assets are used as collateral for the loan. Under these circumstances, the spouse does not make a contribution by cosigning the loan as long as the candidate's share in the property equals or exceeds the amount of the loan. 11 CFR 100.7(a)(1)(i)(D).

The candidate's share of assets jointly held with a spouse is the portion indicated in the instrument of conveyance or ownership. If a specific share is not indicated, then one-half the value of the asset is considered the candidate's share. That share constitutes the candidate's personal funds. 11 CFR 110.10(b)(3). See also 11 CFR 110.10(b)(1). (Unlike other contributors, including family members, candidates may make unlimited contributions of personal funds to their own campaigns. 11 CFR 110.10(a).)

In this case, Mr. Guernsey is using the family home as collateral for the loan. Half the value of the equity held in the home is considered Mr. Guernsey's personal funds. Because this amount, about \$115,000, is greater than the loan for the campaign (\$110,000), Mrs. Guernsey may cosign the loan without becoming a contributor.

With respect to the investment account, Mr. Guernsey appears to lack legal right of access to or control over the account without his wife's signature. See 11 CFR 110.10(b)(1). As a joint tenant with his wife, however, he may use up to half the assets for his campaign without Mrs. Guern-



sey's being a contributor. Those assets are considered his personal funds. (The Commission assumed the assets were not otherwise encumbered and expressed no opinion on such encumbrance.)

Commissioner Lee Ann Elliott filed a concurring opinion. (Date Issued: April 12, 1991; Length: 7 pages, including the concurrence)

## REGULATIONS

### PROPOSED RULEMAKING ON "GRANDFATHERED" CANDIDATES' PERSONAL USE OF EXCESS FUNDS

On April 24, 1991, the Commission published a Notice of Proposed Rulemaking that sought comments on draft changes to the rules on the conversion of excess campaign funds to the candidate's personal use. The proposed rules at 11 CFR 113.1 and 113.2 would apply only to "grandfathered" candidates—Members of Congress who held office on January 8, 1980. Written comments were due on May 24, 1991. See 56 FR 18777.

Candidates who are not "grandfathered" continue to be prohibited from converting excess funds to personal use. "Grandfathered" Members, who were previously allowed to convert unlimited amounts to personal use, can no longer do so. This change is contained in the Ethics Reform Act of 1989, enacted on November 30, 1989. That Act amended 2 U.S.C. §439a in two respects:

- o "Grandfathered" Members of Congress who serve in the 103rd or a later Congress will be unable to convert any excess funds to personal use once the 103rd Congress convenes on January 3, 1993.
- o In the meantime, "grandfathered" Members may convert only an amount equal to the campaign's unobligated balance as of November 30, 1989.

The Notice of Proposed Rulemaking reflects the Ethics Reform Act amendments and proposes two alternative methods of calculating the November 30, 1989, campaign balance.

Under the first method, the campaign of a "qualified" (i.e., "grandfathered") Member would simply determine its cash on hand as of the November 1989 date and subtract total outstanding debts as of that date. The second method would permit the campaign to include noncash campaign assets and committee receivables in its November 30, 1989, balance, but additional reporting would be required. These methods follow the Commission's determination in AO 1990-26, summarized in the March 1991 Record.

## COURT CASES

### DOLE v. INTERNATIONAL ASSOCIATION MANAGERS, INC.

On February 14, 1991,<sup>1</sup> the U.S. District Court for the District of Arizona granted the FEC's motion for leave to intervene in the case. (Civil Action No. CIV 90-0129 PHX RCB.)

The suit was filed by the Department of Labor and its Secretary, Elizabeth Dole. They alleged that defendants failed to pay overtime wages in violation of the Fair Labor Standards Act. International Association Managers, Inc. (IAM) and two of its officers were named as defendants. Counsel for the defense took depositions from two former IAM employees who defendants believe are involved in the Department of Labor investigation and in an ongoing investigation by the FEC. When questioned about their communications with the two agencies, the employees refused to answer, citing the "government informant's privilege." Defendants then filed a motion to compel the employees to respond to these questions.

In response to the defendants' motion, the FEC filed a motion to intervene in the case or to file an amicus response to defendants' motion to compel. The court granted the motion, stating: "The interest of the FEC in protecting against disclosure of the identity of informants and the nature of informants' communications with the FEC is similar to the interest the Department of Labor seeks to protect...The interest of the two agencies may not be identical, however, and the court can see no reason for requiring the FEC to rely on another agency to protect its interest."

The court also denied defendants' motion to compel the testimony of the two employees. Further, it granted the FEC's motion for a protective order to prohibit defendants from questioning any witness to learn the identity of persons communicating with the FEC and the nature of those communications. The court granted a motion for a similar order requested by the Department of Labor to protect that agency's communications.

<sup>1</sup>The order was amended on April 1, 1991, to correct a typographical error.

**FEC v. LAWSON**

On April 8, 1991, the U.S. District Court for the District of South Carolina, Greenville Division, granted the FEC's motion for default judgment. (Civil Action No. 6:90-2116-9.) The Commission claimed that Mark Lawson knowingly permitted his name to be used to effect a contribution made in the name of another, a violation of 2 U.S.C. §441f. The FEC alleged that, in 1982, Mr. Lawson received a \$1,500 bonus from his employer, Robin's Mens Store, in order to make a \$1,000 contribution two days later to the House campaign of Robin Tallon, Jr.

The court decreed that Mr. Lawson had violated §441f and ordered him to pay a \$5,000 civil penalty within 10 days. The court also permanently enjoined Mr. Lawson from future violations of §441f.

**FEC v. NATIONAL REPUBLICAN SENATORIAL COMMITTEE**

On April 9, 1991, the U.S. District Court for the District of Columbia ruled that the National Republican Senatorial Committee (NRSC) and its treasurer made \$2.3 million in excessive contributions by exercising "direction and control" over earmarked contributions. (Civil Action No. 90-2055(GAG).) The court imposed a \$24,000 civil penalty.

**Background<sup>1</sup>**

In its suit, the Commission alleged that NRSC had made \$2.3 million in excessive contributions to 12 Senate candidates in violation of 2 U.S.C. §441a(h). These contributions were the result of a series of direct mail solicitations in which NRSC asked contributors to write checks to benefit 1986 Republican Senate candidates in four states. In the fall of 1986, NRSC mailed several versions of the solicitation letter, varying the four states mentioned in the letter according to the geographic area of the recipients. None of the 12 candidates involved in the Senate races was named in the letters. Recipients were asked to write checks payable to NRSC or different accounts controlled by NRSC (such

as the "Inner Circle"). The solicitation letter said that the amount an individual contributed would be divided equally among the four campaigns mentioned in the letter.

The Commission alleged that the contributions counted against NRSC's limits for the 12 candidates because the committee exercised "direction or control" over the choice of the recipient candidates. FEC rules at 110.6(d) provide that, if an entity acts as a conduit for earmarked contributions, the contributions count against the conduit's contribution limits (as well as the original contributor's) if the conduit exercises "any direction or control" over the choice of the recipient candidate.

The Commission also alleged that, by failing to report the contributions paid to the 12 candidates as contributions from NRSC, the committee violated the reporting requirements of 2 U.S.C. §434(b) and 11 CFR 110.6(d)(2). (The contributions were reported by NRSC and the candidates' committees as contributions from the individual donors.)

**District Court Decision**

The court declared that NRSC exercised "direction or control" over the choice of the recipient candidates "because NRSC devised the solicitation; matched subgroups of the twelve candidates with groups of donors; presented donors with a pre-selected division of contributions among pre-selected candidates; did not identify the candidates by name; requested checks payable to NRSC and associated entities and not to the individual campaign committees; failed to inform donors, as required by law, that the individual campaign committees had authorized and helped pay for the mailings; and merged and confused the general needs of the Republican Party with the needs of the individual Senate candidates."

**NRSC's Arguments.** The court rejected NRSC's argument that the "direction or control" provision in FEC rules (11 CFR 110.6(d)) was not authorized by the Federal Election Campaign Act. The court found that the regulation conforms to legislative intent: A conduit may not use earmarked contributions as a means to circumvent the contribution limits. Adopting an approach suggested in the legislative history, the FEC's "direction or control" regulation defines when an earmarked contribution applies to the conduit's limit.

The court also rejected NRSC's argument that the "direction or control" provision unconstitutionally limits political speech. The court found that the provision does not impose any new restrictions on the contri-

<sup>1</sup>This suit emanated from another suit, *Common Cause v. FEC*, in which the court ordered the FEC to reopen an administrative complaint (MUR 2282) that Common Cause had filed against NRSC. For a summary of that court case and MUR, which provide further background to this case, see the October 1990 issue.

bution limits, which the courts have consistently upheld as a means of preventing corruption or the appearance of corruption.

Finally, the court rejected NRSC's argument that the "direction or control" regulation cannot constitutionally be applied to a political party committee. NRSC had argued that the government's anti-corruption concern in limiting contributions does not apply in the case of a political party's contributions to a candidate affiliated with the party. The court disagreed, stating that "political party committees do not have an exalted constitutional status that would automatically exempt them from limits imposed on other political committees." Accordingly, because the contribution limits for party committees are constitutional, the court also found the "direction and control" provision constitutional.

**Penalty.** The FEC requested a substantial civil penalty. The maximum civil penalty the court could have imposed was over \$4.6 million. However, because the record did not suggest that NRSC had intentionally violated the law, the court imposed a \$24,000 penalty.

#### NEW LITIGATION

##### **Spannaus v. FEC (91-0681)**

Edward W. Spannaus, as treasurer of the LaRouche Democratic Campaign, asks the court to find that the FEC's dismissal of his administrative complaint was contrary to law. In his administrative complaint (MUR 2163), Mr. Spannaus alleged that the the American Jewish Committee and the Anti-Defamation League of the B'nai B'rith had violated the law by failing to register and report as political committees. He claimed that the organizations triggered political committee status in 1986 when they allegedly opposed the Presidential candidacy of Lyndon LaRouche and other "LaRouche Democrats" campaigning for federal office. The Commission found probable cause to believe that the Committee and the League, as non-profit corporations, had made prohibited expenditures but, because of the "relatively low dollar amount," decided to take no further action.

U.S. District Court for the District of Columbia, Civil Action No. 91-0681, April 2, 1991.

##### **Schaefer v. FEC**

J. Michael Schaefer asks the bankruptcy court to declare that the FEC has no claims against him with respect to an FEC administrative complaint that is still unresolved. Mr. Schaefer, a 1986 Maryland Senatorial candidate, and his principal campaign committee were named as respondents in the administrative complaint and would be responsible for paying any civil penalties that might be imposed. Mr. Schaefer has filed for Chapter 11 bankruptcy.

U.S. Bankruptcy Court for the Southern District of California, Adversary Proceeding No. 91-90240 (related to Bankruptcy Case No. 87-05174-LM11), April 19, 1991.

## AUDITS

#### **FEC RELEASES DOLE AUDIT REPORT**

On April 30, 1991, the Commission released the final audit report on the Dole for President Committee. Senator Dole received \$7.618 million in primary matching funds for his 1988 Presidential campaign. Based on the results of the audit, the Commission made an initial determination that the Committee repay a total of \$245,534 to the U.S. Treasury. The repayment total is based on the audit findings summarized below.

If the Committee does not dispute the initial determination within 30 days, the repayment amount becomes final and is payable within 90 days of the initial determination. 11 CFR 9038.2(c) and (d).

Final audit reports are available for review in the Public Records Office.

#### **Expenditures in Excess of the Iowa and New Hampshire Spending Limits**

The Commission determined that the Dole Committee had exceeded the Iowa and New Hampshire spending limits by a total of \$609,679:

	State Spending Limit	Amount Spent Over Limit
Iowa	\$775,218	\$306,730
New Hampshire	\$461,000	\$302,949

Using a formula to determine what portion of the \$609,679 in excessive expenditures was paid with public funds (rather  
(continued)

than private contributions), the Commission initially determined that the Committee spent \$170,044 in public funds on excessive expenditures and must pay that amount to the Treasury. (The formula is explained at 11 CFR 9038.2(b)(2)(iii).)

In determining the amounts spent in excess of the Iowa and New Hampshire limits, the Commission disallowed certain exemptions claimed by the Dole Committee. Moreover, in several categories of expenses, the Commission increased the amounts that should have been allocated to the two states. The audit report also found that Campaign America, a PAC associated with Senator Dole, had made testing-the-waters expenditures on behalf of the Dole Committee that should have been allocated to Iowa and New Hampshire.

**Expenses That Were Not Exempt.** The Dole Committee claimed that 25 percent of expenses for travel and appearances by Senator Dole and his wife did not have to be allocated to the state spending limits because they qualified as exempt fundraising expenditures under 11 CFR 100.8(b)(21) and 106.2(c)(5)(ii). Applying this exemption, the Committee excluded \$28,450 and \$13,997 from the Iowa and New Hampshire limits, respectively. The audit report, however, disallowed the exemption because the Committee failed to provide any documentation to show that the events were related to a fundraising appeal. The expenses therefore counted against the state limits.

The audit report also excluded from the fundraising exemption certain expenses for mailings that could not be verified as fundraising activity (i.e., mailings for which the Committee failed to provide documentation that they contained a solicitation). The report therefore allocated the amounts for the unverified mailings to the state limits: \$51,936 to Iowa \$43,619 to New Hampshire.

Finally, the audit report disagreed with the Committee's application of the 10 percent compliance exemption to its media costs. Under the compliance exemption at 106.2(c)(5)(i), legal and accounting costs incurred solely to ensure compliance with the law are exempt from the spending limits. Ten percent of staff salaries and overhead expenses may be treated as exempt compliance costs not subject to state allocation. The Committee applied this 10 percent exemption to its media costs, contending that the costs of producing the required disclaimer message were compliance related. The Committee excluded \$16,061 and \$13,961 from the Iowa and New Hampshire

limits, respectively. The audit report, however, said that the 10 percent exemption is "very specific and narrowly drawn." It does not apply to costs for disclaimer notices. The excluded costs were therefore allocated to the state limits.

**Expenses That Were Under Allocated.** The Commission determined that, for several categories of expenses, the Committee failed to allocate the correct amount to the state limits.

Because the Committee's New England regional office functioned primarily as the New Hampshire office, the Commission did not accept the Committee's regional allocation of office expenses. Instead, the agency determined that the Committee should have allocated an additional \$54,342 to the state spending limit.

The Commission also determined that, because phone banks set up in Kansas and Nebraska were not exclusively targeted to Iowa, the charges for Iowa calls were not allocable to the state spending limit. Other costs associated with the phone banks, however, were allocable (a proportion of salary and overhead charges). The resulting change to the existing allocation was immaterial.

The Committee failed to allocate \$21,497 and \$31,637 in polling expenses to the Iowa and New Hampshire limits, respectively. The Committee also paid a pollster \$30,898 to conduct focus groups held in Iowa and New Hampshire. The Committee contended that focus groups were not targeted to Iowa and New Hampshire voters but were held to assess commercials for the national media. The Commission determined that the Committee did not have to allocate costs for focus groups.

The Commission found that the following additional costs should have been allocated to Iowa (IA) and New Hampshire (NH):

- o Phone calls: \$23,280 (IA) and \$1,696 (NH)
- o Broadcast media: \$2,596 (IA) and \$37,296 (NH)
- o Media commissions: \$2,665 (IA) and \$2,988 (NH)
- o Staff travel and salaries while on travel: \$73,162 (IA) and \$66,349 (NH)
- o Non-travel salaries and miscellaneous costs (e.g., meeting and event expenses): \$35,180 (IA) and \$31,085 (NH).

**Campaign America's Testing-the-Waters Expenditures.** Campaign America had spent money to determine whether Senator Dole should seek the Presidential nomination. These "testing-the-waters" expenditures became campaign expenditures once he became

a Presidential candidate. 11 CFR 100.8(b) (1). As such, they should have been allocated to the state spending limits. 11 CFR 9034.4(a)(2). The Commission determined that \$33,889 spent by Campaign America should have been allocated to the Iowa limit. These expenditures represented costs related to the use of telephone survey results; staff salaries and expenses; and meetings and events attended by Senator Dole. The Commission also determined that \$4,517 in Campaign America expenditures for telephone costs and voter lists were allocable to the New Hampshire limit.

**Delegate Committee's Undocumented Expenditures**

The audit report found that delegate committees affiliated with the Dole Committee had made \$13,470 in expenditures that lacked any documentation. See 11 CFR 9038.2(b) (3). Applying the repayment formula to these expenses, the Commission made an initial determination that the Dole Committee repay \$3,757, to the Treasury.

**Stale-Dated Checks**




Audit staff identified \$71,733 in stale-dated Committee checks that had never been cashed by the payees. The Commission made an initial determination that the Committee repay the entire amount under 11 CFR 9038.6.

The FEC press release of March 31, 1991, offers summary figures for each category of PAC as well as historical statistics comparing PAC activity over the last six election cycles. The study also lists the "top 50" PACs in each category--those that raised and spent the most money during the 1990 cycle. The accompanying tables and graphs (pp. 13-15) are taken from the study. To order a copy of the statistical press release, call the Public Records Office at 800/424-9530 or, locally, 202/376-3140.

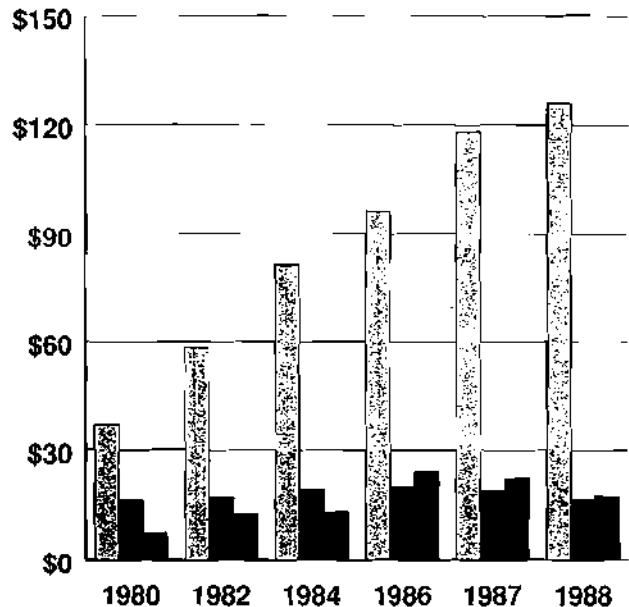
**Summary of PAC Activity 1980-1990 Election Cycles (millions of dollars)**

Cycle	Total PACs	Funds Raised	Funds Spent	Cash on Hand	Debts
1990	4,681	\$372.4	\$358.1	\$103.1	\$10.7
1988	4,832	\$384.6	\$364.2	\$ 89.0	\$12.0
1986	4,596	\$353.4	\$340.0	\$ 69.1	\$11.6
1984	4,347	\$288.7	\$266.8	\$ 55.1	\$ 9.4
1982	3,722	\$199.5	\$190.2	\$ 31.5	\$ 5.2
1980	2,785	\$137.7	\$131.2	\$ 22.0	\$ 2.3

**PAC Contributions by Candidate Status 1980 - 1990 Election Cycles**

-  Incumbents
-  Challengers
-  Open Seats

Millions of Dollars



**STATISTICS**

**NONCONNECTED PAC ACTIVITY DROPS DURING 1989-90 ELECTION CYCLE**

Largely as the result of a decrease in activity by nonconnected PACs, total funds raised and spent by all PACs for the 1990 election cycle declined by 3 percent and 2 percent, respectively, compared with the 1987-88 cycle. As shown in the summary table below, PAC activity had previously increased each election cycle.

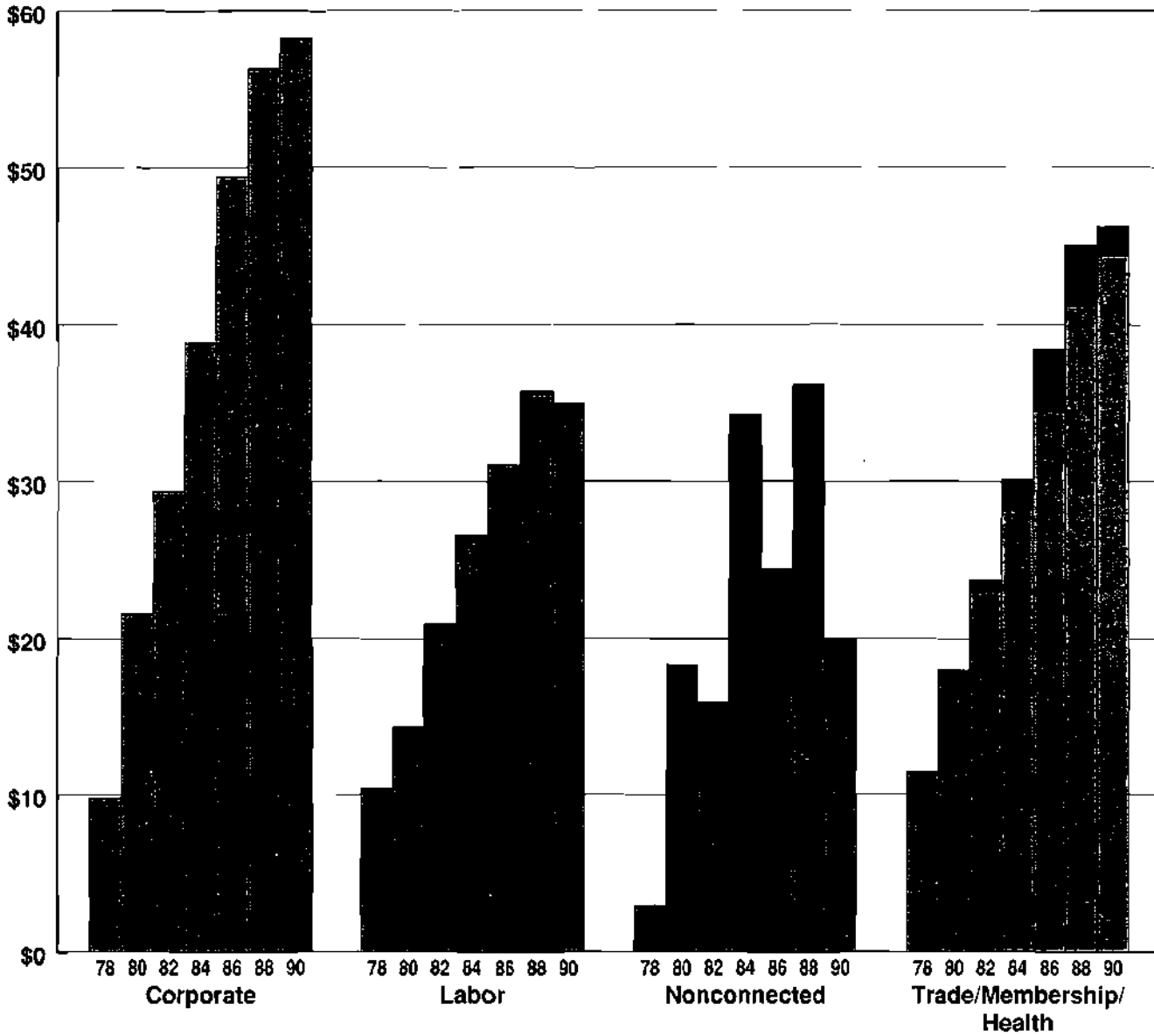
While the activity of most categories of PACs increased during the 1990 cycle, total receipts for nonconnected PACs fell 32 percent, from \$106.3 million for the 1988 cycle to \$72.4 for the 1990 cycle. Disbursements made by nonconnected PACs declined 31 percent, from \$104.9 million in the 1988 cycle to \$72.4 million in the 1990 cycle. By contrast, corporate PAC receipts increased by 10 percent, and labor PAC receipts increased by 13 percent.

(continued)

**PAC Support of Candidates <sup>1</sup>**  
**1978 – 1990 Election Cycles**

**■ Independent Expenditures**  
**■ Contributions to Candidates**

Millions of Dollars



<sup>1</sup> Chart does not include activity by PACs of incorporated cooperatives and corporations without capital stock.

## PACs Grouped by Amounts Contributed to Candidates<sup>1</sup> 1990 Election Cycle

Range of Contributions:	\$0	\$1   \$5,000	\$5,001   \$50,000	\$50,001   \$100,000	\$100,001   \$250,000	\$250,001   \$500,000	\$500,001   \$1,000,000	\$1,000,001   and over	Totals
<b>Corporate</b>									
Number of PACs	437	552	671	140	126	33	5	1	1,965
% of PACs	22%	28%	34%	7%	6%	2%	<1%	<1%	
Dollars (in millions)	\$0	\$1.08	\$12.74	\$9.91	\$18.83	\$10.95	\$3.22	\$1.46	\$58.19
% of Dollars	0%	2%	22%	17%	32%	19%	6%	3%	
<b>Labor</b>									
Number of PACs	143	109	62	8	17	10	12	11	372
% of PACs	38%	29%	17%	2%	5%	3%	3%	3%	
Dollars (in millions)	\$0	\$0.17	\$0.95	\$0.63	\$3.19	\$3.37	\$9.20	\$17.28	\$34.79
% of Dollars	0%	<1%	3%	2%	9%	10%	26%	50%	
<b>Nonconnected</b>									
Number of PACs	833	254	173	32	34	8	3	0	1,337
% of PACs	62%	19%	13%	2%	3%	<1%	<1%	0%	
Dollars (in millions)	\$0	\$0.47	\$3.09	\$2.37	\$4.78	\$2.66	\$2.21	\$0	\$15.58
% of Dollars	0%	3%	20%	15%	31%	17%	14%	0%	
<b>Trade/Member/Health</b>									
Number of PACs	195	208	257	57	44	14	12	9	796
% of PACs	25%	26%	32%	7%	6%	2%	2%	1%	
Dollars (in millions)	\$0	\$0.38	\$4.82	\$3.96	\$7.29	\$4.54	\$8.31	\$15.10	\$44.40
% of Dollars	0%	<1%	11%	9%	16%	10%	19%	34%	
<b>Other<sup>2</sup></b>									
Number of PACs	46	75	60	18	6	4	2	0	211
% of PACs	22%	36%	28%	9%	3%	2%	<1%	0%	
Dollars (in millions)	\$0	\$0.12	\$1.09	\$1.29	\$0.98	\$1.63	\$1.18	\$0	\$6.29
% of Dollars	0%	2%	17%	21%	16%	26%	19%	0%	
<b>Total</b>									
Number of PACs	1,654	1,198	1,223	255	227	69	34	21	4,681
% of PACs	35%	26%	26%	5%	5%	1%	<1%	<1%	
Dollars (in millions)	\$0	\$2.22	\$22.69	\$18.16	\$35.07	\$23.15	\$24.12	\$33.84	\$159.25
% of Dollars	0%	1%	14%	11%	22%	15%	15%	21%	

<sup>1</sup> For each PAC category, the first row lists the number of PACs whose contributions fell within a given dollar range. The second row shows the percentage of all PACs in that category which made contributions in that range. The third row shows the total dollars (in millions) contributed by PACs in that dollar range. The fourth row shows the percentage of total contributions for that category of PAC that were made by the PACs in the dollar range. For example, 140 corporate PACs made contributions of between \$50,001 and \$100,000 to candidates during 1989-90. These 140 PACs represented 7 percent of the total number of corporate PACs (1,965). They contributed \$9.91 million dollars, which was 17 percent of the total contributions made by corporate PACs (\$58.19).

<sup>2</sup> "Other" category consists of PACs formed by corporations without capital stock and PACs formed by incorporated cooperatives.

## COMPLIANCE

### MURS RELEASED TO THE PUBLIC

Listed below are MURs (FEC enforcement cases) recently released for public review. The list is based on the FEC press releases of March 5 and 26, and April 8, 16 and 21, 1991. Files on closed MURs are available for review in the Public Records Office.

Unless otherwise noted, civil penalties resulted from conciliation agreements reached between the respondents and the Commission.

#### MUR 1610

**Respondents:** (a) Americans for Jesse Jackson (MD); (b) Americans in Support of the President Committee, Jesse Witherspoon, Jr., treasurer (MD)

**Complainant:** Jesse Jackson for President Committee (DC)

**Subject:** Failure to register and file reports; improper use of candidate's name; disclaimer

**Disposition:** (a) U.S. District Court Consent Order: \$500 civil penalty; (b) \$200 civil penalty (case was closed in 1987)

#### MUR 2163

**Respondents:** (a) Anti-Defamation League of B'nai B'rith, Abraham Foxman, National Director (NY); (b) American Jewish Committee, Jonathan Levine, Director (IL)

**Complainant:** Edward Spannaus, treasurer, LaRouche Democratic Campaign (DC)

**Subject:** Corporate expenditures

**Disposition:** (a) and (b) Probable cause to believe but took no further action

#### MUR 2302/2283/2274

**Respondents:** (a) Sisseton-Wahpeton Sioux Tribe (SD); (b) Russell Hawkins, Chairman of the tribe (SD); (c) Gerald Heminger, Sr. (SD); (d) David Selvage (SD); (e) John Two Stars, Sr. (SD); (f) Edward Williams (SD); (g) Jerry Flute (SD); (h) Felix Renville, Jr. (SD); (i) Grady Renville (SD); (j) Michael Simon (SD); et al. (k)-(m)

**Complainant:** South Dakota Democratic Party (MUR 2274); North Dakota Democratic Party (MUR 2283); Edward D. Seaboy (SD) (MUR 2302)

**Subject:** Contributions in the name of another; excessive contributions; failure to register as a political committee and to file reports

**Disposition:** (a)-(b) \$6,500 civil penalty (joint conciliation agreement); (c)-(j) reason to believe but took no further action; (k)-(m) no reason to believe

#### MUR 2335

**Respondents:** (a) Democratic State Central Committee, Connecticut (federal and non-federal accounts), Maureen G. Satti, treasurer; (b) Congressman Bruce A. Morrison Re-Election Committee, Eric Malchodi, treasurer (CT); (c) Jane Morrison (CT)

**Complainant:** FEC initiated

**Subject:** Excessive contributions and expenditures; failure to report accurately; improper transfer

**Disposition:** (a) \$5,000 civil penalty; (b) \$2,250 civil penalty; (c) \$1,000 civil penalty

#### MUR 2559

**Respondents:** Oregon Republican Party, Rachel Gerber, treasurer

**Complainant:** FEC initiated

**Subject:** Excessive contribution and expenditure; failure to amend Statement of Organization

**Disposition:** \$4,500 civil penalty

#### MUR 2560

**Respondents:** (a) Fifth Congressional District Democratic Committee, Donald Riger, treasurer (MI); (b) Michigan Democratic State Central Committee, Lawrence B. Deitch, treasurer

**Complainant:** FEC initiated

**Subject:** Transfer of prohibited funds; failure to designate treasurer; failure to file reports; failure to file and amend Statement of Organization

**Disposition:** (a) \$250 civil penalty; (b)(1) no probable cause to believe (re transfer); (b)(2) reason to believe but took no further action (re Statement of Organization and reports)

#### MUR 2615

**Respondents:** (a) Friends of Harriett Wieder, Gregory N. Weiler, treasurer (CA); (b) Committee to Elect Harriett Wieder Supervisor, Frank P. Uehle, treasurer (CA); (c) Harriett Wieder

**Complainant:** Robert Graham, Chairman, Steve Horn for Congress (CA)

**Subject:** Failure to file statement of candidacy, statement of organization and reports on time; failure to disclose all required financial information

**Disposition:** (a)-(c) \$2,800 civil penalty (joint conciliation agreement)



**MUR 2632**

**Respondents:** (a) National Action Committee-NACPAC, Charles Citrin, treasurer (FL); (b) Idaho State Democratic Party-Federal Account, Joe Berenter, treasurer; (c) St. Louisians for Better Government, Bernard Pasternak, treasurer (MO)

**Complainant:** FEC initiated

**Subject:** Excessive contribution; failure to report earmarked contribution

**Disposition:** (a) \$750 civil penalty; (b) \$2,700 civil penalty; (c) \$900 civil penalty

**MUR 2677**

**Respondents:** (a) Rosemary Pooler (NY); (b) Friends of Rosemary Pooler, Sharon Sherman, treasurer (NY); (c) Friends of Rosemary Pooler '88, James M. Hanley, treasurer (NY); (d) Eagan Real Estate Co. (NY); (e) Lumbermens Mutual Casualty Co. (IL)

**Complainant:** National Republican Congressional Committee, Joseph Gaylord, Executive Director (DC)

**Subject:** In-kind corporate contributions; personal use of campaign funds

**Disposition:** (a)(1) Reason to believe but took no further action (re contributions); (a)(2) no reason to believe (re personal use); (b)-(e) reason to believe but took no further action

**MUR 2876**

**Respondents:** (a) Representative Don Ritter (PA); (b) Lehigh Valley Citizens for Don Ritter, Betty S. Gates, treasurer (PA)

**Complainant:** Richard J. Orloski (PA)

**Subject:** Failure to disclose bank account and contribution identification

**Disposition:** (a) No action; (b) reason to believe but took no further action; no reason to believe on basis of amendment to complaint

**MUR 2939**

**Respondents:** (a) Keep Hope Alive Political Action Committee, Dr. Mary Berry, treasurer (DC); (b) Friends of Jesse Jackson, Joseph Beavers, acting treasurer (MD)

**Complainant:** FEC initiated

**Subject:** Contributions containing prohibited funds made by unregistered organizations; failure to register as a political committee

**Disposition:** (a) Reason to believe but took no further action; (b) probable cause to believe but took no further action

**MUR 3002**

**Respondents:** Pete du Pont for President, Inc., Frank A. Ursomarso, treasurer (DE)

**Complainant:** FEC initiated

**Subject:** Exceeding Iowa expenditure limit

**Disposition:** \$2,500 civil penalty

**MUR 3008**

**Respondents:** (a) Gallegly for Congress, D. Frank Norton, Jr., treasurer (CA);

(b) Erringer Professional Building (CA);

(c) Janice Gallegly (CA); (d) Marcie

Schweitzer (CA); (e) Mike Schweitzer (CA)

**Complainant:** Sua sponte

**Subject:** Excessive contributions

**Disposition:** (a)-(e) Reason to believe but took no further action

**MUR 3044**

**Respondents:** Richman for Congress Committee, Gerald F. Richman, treasurer (FL)

**Complainant:** FEC initiated

**Subject:** Failure to file 48-hour contribution reports on time; failure to disclose required contribution information

**Disposition:** \$3,000 civil penalty

**MUR 3057**

**Respondents:** Craig Washington for Congress Committee, Walter Davis, treasurer (TX)

**Complainant:** FEC initiated

**Subject:** Failure to file 48-hour reports

**Disposition:** \$3,000 civil penalty

**MUR 3075**

**Respondents:** Pacific PAC, Carl Rheuban, treasurer (CA)

**Complainant:** FEC initiated

**Subject:** Failure to file report on time

**Disposition:** Reason to believe but took no further action

**MUR 3096**

**Respondents:** (a) Democratic Party of Oregon, Annabelle Jaramillo, treasurer,

Judy Carnahan, chairman; et al. (b)-(d)

**Complainant:** Rick Campbell (OR)

**Subject:** Improper absentee ballot mailing; impermissible transfer of funds

**Disposition:** (a)-(d) No reason to believe

**MUR 3101**

**Respondents:** (a) Ronald L. Wilson (IN);

(b) Badell and Wilson, P.C. (IN);

(c) Friends of Phil Sharp, Inc., Dr. Joseph B. Black, treasurer (IN)

**Complainant:** Samuel O. Dawson, Political Director, National Republican Congressional Committee (DC)

**Subject:** Corporate expenditure

**Disposition:** (a)-(c) No reason to believe

(continued)

**MUR 3117/3011**

**Respondents:** (a) Congressman Wright Appreciation Committee, Henry Kerry, treasurer (TX); (b) Majority Congress Committee, Robert N. Reeves, treasurer (DC); (c) Wright Appreciation Fund, W. Edwin Youngblood, treasurer (TX)

**Complainant:** FEC initiated

**Subject:** Excessive and prohibited contributions; failure to file complete reports on joint fundraising proceeds

**Disposition:** (a)-(c) \$15,000 civil penalty (joint conciliation agreement)

**MUR 3125**

**Respondents:** (a) Robert S. Montgomery, Jr.; (b) Willard George Maxwell (AL); (c) Anthony Del Grosso; (d) CAE-Link Corporation (NY); (e) Bicoastal Corporation PAC, David L. Redmond, treasurer

**Complainant:** Sua sponte

**Subject:** Knowingly making contribution in name of another

**Disposition:** (a) \$100 civil penalty; (b) \$100 civil penalty; (c) no probable cause to believe; (d)-(e) took no action

**MUR 3126**

**Respondents:** San Bernadino County Republican Central Committee, Harold L. Boring, treasurer (CA)

**Complainant:** FEC initiated

**Subject:** Failure to file report on time

**Disposition:** \$500 civil penalty

**MUR 3136**

**Respondents:** Salomon Brothers Inc. Political Action Committee, William J. Jennings, treasurer (NY)

**Complainant:** FEC initiated

**Subject:** Excessive contributions; inaccurate reporting

**Disposition:** \$1,250 civil penalty

**MUR 3160**

**Respondents:** Persons unknown

**Complainant:** Carper for Congress Committee, Vincent P. Meconi, Campaign Manager (DE)

**Subject:** Failure to register and report; excessive expenditures; impermissible funds

**Disposition:** No reason to believe

**MUR 3190**

**Respondents:** Mark Blankenship for U.S. Congress, Frederick J. Weil, treasurer (CA)

**Complainant:** FEC initiated

**Subject:** Failure to file 48-hour reports

**Disposition:** \$1,700 civil penalty

**MUR 3195**

**Respondents:** Friends of Larry Pressler, Paul Arneson, treasurer (SD)

**Complainant:** FEC initiated

**Subject:** Failure to file 48-hour reports

**Disposition:** Reason to believe but took no further action

**MUR 3201**

**Respondents:** (a) Volunteers for Vento, John J. Costello, treasurer (MN);

(b) District 77 of the International Association of Machinists (MN)

**Complainant:** Ian Maitland (MN)

**Subject:** Union contribution

**Disposition:** (a) No reason to believe; (b) reason to believe but took no further action

**PUBLIC APPEARANCES**

6/3	Columbia College of Chicago Washington, DC Kent C. Cooper Assistant Staff Director for Public Disclosure
6/10	Free Congress Foundation Washington, DC Commissioner Danny L. McDonald Michael G. Dickerson Chief, Public Records
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