FEDERAL ELECTION COMMISSION

RECORD

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FEC COMMENTS ON TREASURY RULES CONCERNING PUBLIC FUNDING PAYMENTS

In written comments and oral testimony, the Commission responded to a Notice of Proposed Rulemaking on the financing of Presidential elections published by the Department of Treasury, Internal Revenue Service (55 FR 51303, December 13, 1990). The proposed rules explain how the Treasury Department would handle payments from the Presidential Election Campaign Fund in the event of a shortfall of checkoff dollars in the Fund. The Commission submitted its written comments on January 22, 1991. Following up on this, Chairman John Warren McGarry testified at an IRS hearing held on February 11.

Under the checkoff law, funding for the conventions and the general election nominees has priority over funding for primary candidates. The Commission anticipates that a shortage of public funds for the 1992 Presidential election will jeopardize the funding of primary campaigns.

Treasury Proposal: Full Set-Aside

The Treasury Department proposes a payment system under which the projected amount needed to pay for the conventions and the general election would be set aside by January 1 of the Presidential election year. The remaining amount in the Fund--and additional monthly deposits of checkoff dollars--would then be used for matching payments to primary candidates.

Specifically, under the proposed rules, the Secretary of the Treasury would set aside funds for the conventions and general election by transferring moneys from the Presidential Election Campaign Fund to a Nominating Convention Account (first priority) and to a General Election Account (second priority). The Treasury, in consultation with the FEC, would determine the estimated amount needed for these two accounts.

The dollars remaining in the Fund after the full set-aside would be deposited into the Primary Account. Future checkoff dollars would also be transferred from the Fund to the Primary Account. (The transfer of additional funds into the Primary Account could take place only through September 30 of the year following the Presidential election; checkoff dollars deposited into the Fund after that date would have to be reserved for the next Presidential election.)

If a shortfall were to occur--i.e., if the amount of matching funds certified by the Commission in one month exceeded the total dollars in the Primary Account as of the last day of that month--the amount paid to each candidate would be reduced. The candidate would receive a payment based on his or her pro rata share of the total

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FOCUS GROUPS DISCUSS TAX CHECKOFF

On January 4, 1991, the Commission received a report on the general public's awareness of the dollar tax checkoff on IRS forms and how the checkoff relates to the Presidential public funding system. The contractor, Market Decisions Corporation of Portland, Oregon, prepared the report after holding focus groups in three cities during November and December 1990: Portland, Oregon; Fort Lee, New Jersey; and Chattanooga, Tennessee. Two focus groups met in each city: one composed of indviduals who checked "yes" to the dollar checkoff on their last tax return, the other consisting of individuals who checked "no." Each group comprised from seven to eleven men and women representing an assortment of demographic characteristics. The group sessions were designed to collect data on the participants' understanding of Presidential public funding, their attitude towards the public funding program and why, as individuals, they checked yes or no.

The report concluded that the public funding program is obscure--most citizens don't understand why it was implemented and how it works. When making the decision to contribute--or not to contribute--one dollar of their taxes to the Presidential Election Campaign Fund, the general public is not making an informed choice. Although the report noted that creating an informed populace may not alter existing patterns of participation in the dollar checkoff, the report did recommend a public education program that would address three key points:

- o The purpose of the Presidential public funding program;
- o How much money is collected and spent on the program; and
- o How the public funds are allocated and spent.

To this end, the Commission plans to conduct a broadcast media program in March and April to educate the public. The agency has also developed written materials: a handout for tax preparers and taxpayers (see next page) and a new brochure explaining the dollar checkoff and how the public funding program works. Both items are available free from the FEC's Information Services Division (800/424-9530; 202/376-3120).

Copies of the report are available from the Public Records Office. To order the report, call 800/424-9530 and ask for Public Records, or dial the office directly: 202/376-3140.

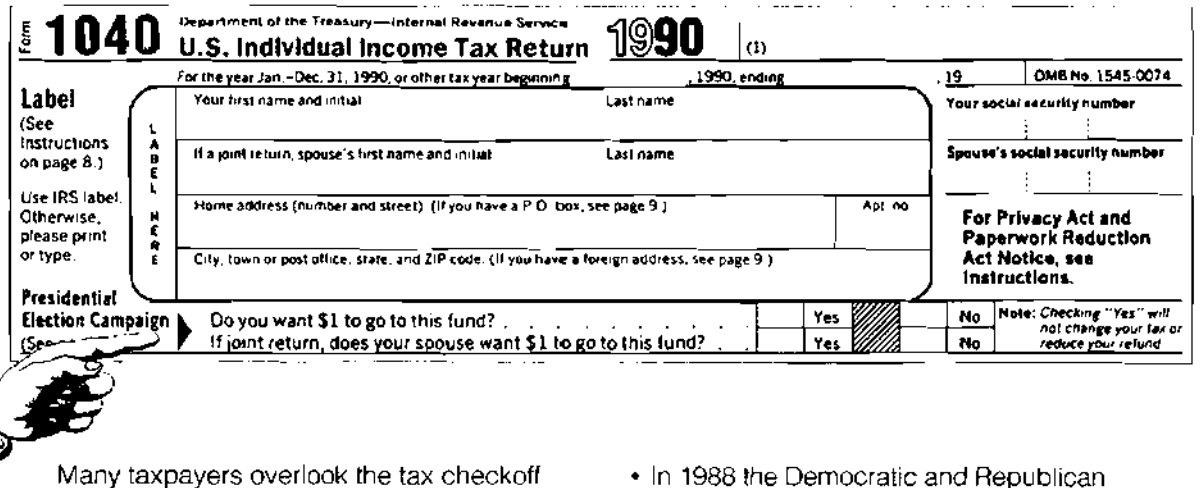
Federal Election Commission, 999 E Street, NW, Washington, DC 20463
800/424-9530 202/376-3120 202/376-3136 (TDD)

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
Donnald K. Anderson, Clerk of the House of Representatives, Ex Officio Commissioner

Copies of this handout are available free of charge from the Commission. Additionally, if your organization would like to print large quantities of the handout, camera-ready copy is available at no charge. Call 800/424-9530 or 202/376-3120.

The Taxpayer's Choice



Form **1040** Department of the Treasury—Internal Revenue Service **U.S. Individual Income Tax Return** **1990** (1)

For the year Jan.–Dec. 31, 1990, or other tax year beginning , 1990, ending , 19 OMB No. 1545-0074

Label (See instructions on page 8.) Use IRS label. Otherwise, please print or type.

LABEL HERE

Your first name and initial Last name — Your social security number

If a joint return, spouse's first name and initial Last name — Spouse's social security number

Home address (number and street) (If you have a P.O. box, see page 9.) Apt. no

City, town or post office, state, and ZIP code. (If you have a foreign address, see page 9.)

For Privacy Act and Paperwork Reduction Act Notice, see Instructions.

Presidential Election Campaign (See

Do you want $1 to go to this fund? Yes No

If joint return, does your spouse want $1 to go to this fund? Yes No

Note: *Checking "Yes" will not change your tax or reduce your refund*

Many taxpayers overlook the tax checkoff line. That line asks taxpayers to make a choice, to indicate whether they want $1 of their taxes to be set aside for the Presidential Election Campaign Fund. To help taxpayers exercise that choice, here are the essential facts:

- The dollar checkoff does not increase the taxes an individual owes.
- Checkoff dollars go directly to qualified Presidential candidates (regardless of party) to fund their primary and general election campaigns. The Republican and Democratic nominating conventions are also funded.
- The purpose of using federal dollars to fund Presidential campaigns is to reduce candidates' dependence on large contributions from individuals and groups and to place candidates on an equal financial footing in the general election.
- In 1988 the Democratic and Republican Presidential nominees each received $46.1 million; 15 primary candidates received a total of $67.5 million; and each convention received $9.2 million.
- Presidential candidates use the checkoff dollars to pay for t.v. ads, campaign staff, campaign travel, fundraising and other campaign expenses, but not personal expenses.
- None of the money is used for Senate or House elections.
- After the election, the Commission audits every campaign that received federal funds, and any surplus or improperly used federal funds must be repaid to the Fund.
- Taxpayers check off about $33 million annually

Help taxpayers exercise their choice by sharing these facts. For more information, write the Federal Election Commission, 999 E Street, NW, Washington, DC 20463.

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amount certified for that month. For example, if, in a given month, certifications totaled $1,000,000 (two candidates, $500,000 each) and only $200,000 was available for payment, each candidate would be paid $100,000, based on the following calculation:

$$\frac{\$\ 500,000}{\$1,000,000} \times \$200,000 = \$100,000$$

The difference between the amount certified and the amount actually paid to the candidate would be carried over to the next month and considered with other certifications for payment that month.

Commission's Comments and Testimoney

Treasury's Full Set-Aside. The Commission disagreed with the Treasury proposal to set aside--before making any payments to primary candidates--100 percent of the estimated funds needed to cover payments to the conventions and general election nominees. Under this proposal, primary candidates might not receive significant amounts of their entitlements until after the crucial early primaries. The delay and uncertainty might make it difficult for candidates to obtain campaign loans. Moreover, because candidates would receive only a fraction of their entitlement at the most critical period of the campaign, the full set-aside system would distort the campaign process and might even induce some primary candidates to decline public funding entirely.

FEC's Partial Set-Aside. The Commission recommended that the Treasury consider a method that would take into account anticipated receipts to the Fund. In the Commission's view, the public funding statutes allow the Secretary to consider reasonable estimates of future receipts to the Fund when calculating the set-aside amount.[1] The statute provides that the Primary Account contain "the amount available after the Secretary determines that amounts for [convention and general election] payments...are available for such payments." 26 U.S.C. §9037(a). The Commission interprets "available" to mean available when the funds are needed to make payments to the convention committees and general election candidates.[2] This "partial set-aside" approach would, in effect, increase by about $28 million the pool of funds available for the Primary Account during the early months of the election year. This $28 million represents estimated checkoff deposits expected during January through July 1992 (prior to any general election payouts).

The Commission recommended a system under which primary candidates would receive a predetermined percentage of their certifications each month. The agency's most recent estimates indicate that, under this system, primary candidates would be able to receive as much as 95 percent of their monthly entitlements in the early months of 1992. This approach would:

- Provide maximum funds at the most critical period in the campaign;
- Create some certainty in the amount of matching funds primary candidates could expect and thereby make it easier for candidates to obtain campaign loans; and
- Ensure an equitable distribution of funds among the candidates.

In summary, the Commission urged Treasury to consider a system that takes into account an estimate of anticipated receipts from the 1992 checkoff and to adopt a payment system least disruptive to the public financing of primary campaigns.

[1] This position is consistent with that taken by Treasury and the Commission with respect to the 1976 election cycle, when a less severe shortfall was projected. See page 13 of FEC Agenda Document #91-04.

[2] The Commission's most recent projections indicate that the 1992 payments to convention committees and general election candidates will total $112.24 million. Under a full set-aside, this would leave only $14.5 million to pay primary candidates on January 2, 1992. The Commission estimates that January certifications for matching funds will equal $20 to $25 million, depending on the payment schedule used (once a month or more frequently).

CONFERENCES

CANDIDATE AND PAC CONFERENCES; ALLOCATION TRAINING

The Commission is planning the following conferences as well as an allocation training. For more information, call the Information Services Division, 800/424-9530 or 202/376-3120, and ask for the contact person listed below.

Conference for Candidate Committees
Washington, DC, April 19
Bobby Werfel, Chief, Information Services

This one-day conference will focus on winding down the 1990 campaign and gearing up for the 1992 elections.

Conference for PACs
Washington, DC, May
Bobby Werfel

This one-and-one-half-day conference will cover the campaign finance law's requirements for corporations, labor organizations, membership groups and their respective PACs. The new allocation rules will also be discussed. The conference date will be announced in a future Record.

Allocation Training for Party Committees
Columbus, Ohio, March 19-20
Janet Hess

This training is recommended for state and local party committees that are located in Ohio and surrounding states and that conduct both federal and nonfederal activity.

PUBLIC APPEARANCES

3/22 Association of State Democratic Chairs
Washington, DC
Chairman John Warren McGarry
Louise D. Wides, Assistant Staff Director, Information Services
Bobby Werfel, Chief, Information Services

REPORTS

1991 REPORTING REMINDER

PACs, party committees and House and Senate candidate committees that filed on a quarterly basis in 1990 now file on a semiannual basis. The next report these committees must file is the July 31 semiannual report (covering January through June 1991). Committees filing semiannually do not file an April 15 quarterly report.

PACs and party committees that filed on a monthly basis in 1990 must continue to file on that basis unless they notify the Commission, in writing, that they wish to change to semiannual filing in 1991. 11 CFR 104.5(c).

Presidential candidate committees have the option of filing quarterly or monthly reports during 1991. If they wish to change their current filing frequency, however, they should notify the Commission.

For complete information on reporting, including 1991 deadlines, see the January 1991 Record.

FEC LETTER TO STATE OFFICERS ON ALLOCATION REPORTING RULES

In early February, the Commission sent a letter to Secretaries of State (or equivalent state officers) to notify them that new federal regulations on allocation may affect the content of state disclosure reports. Under the allocation rules, which became effective on January 1, 1991, political committees with federal and nonfederal accounts must use the federal account to pay for joint federal/nonfederal transactions. The nonfederal account transfers its portion of a payment for a joint expense to the federal account; the federal account reports the receipt of the transfer and the ultimate disbursement of funds to the vendor. In light of these new regulations, the Commission pointed out that state officials may wish to consider whether the nonfederal account's report, merely showing a transfer to the federal account for a joint expense instead of showing a payment to the vendor, will satisfy state disclosure requirements.

SPECIAL ELECTIONS

MASSACHUSETTS SPECIAL ELECTIONS

Massachusetts will hold special elections in the 1st Congressional District to fill the seat held by the late Congressman Silvio Conte. The special primary election will be held April 30, and the general election, June 4. Reporting information is given below.

Authorized Committees

Authorized committees of candidates running in the special elections must file reports according to the schedule given in the tables below. All candidates known to be on the ballot are automatically sent FEC reporting forms.

Note that an authorized committee must file notices on contributions of $1,000 or more received after the close of books for a pre-election report but more than 48 hours before the election. The notice must reach the appropriate federal and state filing offices within 48 hours after the committee's receipt of the contribution. For information on the content of the notice, see 11 CFR 104.5(f).

PACs and Party Committees

Semiannual Filers. PACs and party committees that report on a semiannual basis during 1991 may have to file pre- and post-election reports if the committee makes contributions or expenditures in connection with a special election during the coverage dates shown in the tables. 11 CFR 104.5(h).

Monthly Filers. PACs and party committees that file monthly during 1991 do not have to file pre- and post-election reports, but PACs may have to file 24-hour reports on independent expenditures, as explained below.

PAC 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 is triggered when a committee makes independent expenditures aggregating $1,000 or more between 2 and 20 days before an election. The report must be filed with the appropriate federal and state filing offices within 24 hours after the expenditure is made. For more information on this reporting requirement, see 11 CFR 104.4(b) and 104.5(g).

State Filing

In addition to filing with the appropriate federal office--the Clerk of the House or the FEC--committees filing Massachusetts special election reports must simultaneously file copies of reports with the Massachusetts state office: Division of Public Records, Office of the Secretary of State, One Ashburton Place, Room 1719, Boston, MA 02108.

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.

COMMITTEES THAT SUPPORT CANDIDATES IN THE SPECIAL PRIMARY ONLY (APRIL 30)

Report	Period Covered[1]	Reg/Cert Mailing Date[2]	Filing Date
Pre-primary	1/1-4/10	4/15	4/18
Mid-year	4/11-6/30	7/31	7/31

COMMITTEES THAT SUPPORT CANDIDATES IN BOTH THE SPECIAL PRIMARY (APRIL 30) AND THE SPECIAL GENERAL (JUNE 4)

Report	Period Covered[1]	Reg/Cert Mailing Date[2]	Filing Date
Pre-primary	1/1-4/10	4/15	4/18
Pre-general	4/11-5/15	5/20	5/23
Post-general	5/16-6/24	7/5	7/5
Mid-year	6/25-6/30	7/31	7/31

[1] If the pre-primary report is the first report filed by the committee, the report must disclose all activity that occurred before the committee registered and before the individual became a candidate.

[2] Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

STATISTICS

SEMIANNUAL PAC COUNT

At the close of 1990, the number of political action committees (PACs) registered with the FEC dropped to 4,172, a decrease of 21 PACs since the last semiannual survey (July 1990). The category of nonconnected PACs lost the most PACs--53--while the number of trade/membership/health PACs increased by 21, as shown in the table below. For statistics of semianual PAC counts taken since 1975, order the FEC press release of January 11, 1991 (800/424-9530 or 202/376-3140).

Category of PAC	Number of PACs as of 12/31/90	Gain or Loss Since 7/1/90
Corporate	1,795	+13
Labor	346	0
Trade/membership/health	774	+21
Nonconnected	1,062	-53
Other[1]	195	-2
Total	**4,172**	**-21**

[1] "Other" category consists of PACs formed by corporations without capital stock and PACs formed by incorporated cooperatives.

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 1991-1
Employees' advance authorization for periodic credit card contributions to partnership PAC. (Date Made Public: January 24, 1991; Length: 17 pages)

AOR 1991-2
Disposition of possibly illegal contributions raised through 900-line services. (Date Made Public: February 5, 1991; Length: 16 pages plus attachments)

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUEST

AOR 1990-28: Telphone Service Bureau's Provision of 900-line Services to Candidates and Political Committees

On January 31, 1991, the Commission failed to approve a draft advisory opinion by the required four votes. The vote was 2-2, with Commissioners Aikens and Thomas recusing themselves. (See Agenda Documents 90-08 and 91-08-A.)

ADVISORY OPINION SUMMARIES

AO 1990-26: Sale of Campaign Asset; Personal Use of Excess Funds After November 30, 1989

The Committee to Re-Elect Virginia Smith to Congress, the 1988 principal campaign committee of a "grandfathered" Member of Congress, now retired, may sell the committee's computer without a contribution resulting, as long as the price does not exceed the usual and normal charge. The committee may follow one of two methods to determine its cash-on-hand balance as of November 30, 1989--i.e., the maximum amount that may be converted to the former Member's personal use--and to determine whether the proceeds from the sale of the computer may be converted to personal use.

Sale of Campaign Asset

Under the following circumstances, described by the Smith Committee, the pro

(continued)

posed sale of the computer will not result in a contribution from the purchaser:

- The committee purchased the computer for its own particular use (rather than as a fundraising item);
- The computer has an ascertainable market value; and
- The committee is apparently contemplating termination. See AOs 1989-4 and 1985-1.

In order not to be considered a contribution, however, the purchase price of the computer must not exceed the usual and normal charge on the retail market at the time of sale. See 11 CFR 100.7(a)(1)(iii) (B).

If the committee sells the computer at the usual and normal charge (and therefore no contribution results), the committee must report the money it receives under the "Other Receipts" category on the Detailed Summary Page, itemizing the entry if the transaction exceeds $200. 2 U.S.C. §434(b)(2)(J); 11 CFR 104.3(a)(3)(x).

Personal Use of Proceeds

Because Mrs. Smith is "grandfathered," i.e., she was a Member of Congress on January 8, 1980, she may convert excess campaign funds to personal use under 2 U.S.C. §439a. (See also 11 CFR 113.2.) (Candidates who are not "grandfathered" are prohibited from doing so.) In November 1989, Congress amended section 439a to phase out the personal use exception for grandfathered members. See the section 504 of the Ethics Reform Act of 1989, P.L. No. 101-194.

The amendment placed a limit on the amount of excess campaign funds that may be converted to a "grandfathered" candidate's personal use: "the amount equal to the [campaign's] unobligated balance on hand on the date of the enactment of this Act [November 30, 1989]."[1]

The Smith Committee asked whether proceeds from the sale of the computer could be included in the Committee's November 30, 1989, unobligated balance for purposes of converting the proceeds to Mrs. Smith's personal use. The Commission offered two options for determining the Committee's November 30 balance. Under Method A, only cash assets may be included in the balance. Method B permits the fair market value of the committee's noncash assets to be included in the balance, but additional reporting is required under this method.

Method A: Cash Assets Only. This method construes the balance to be the committee's cash on hand, as defined under 11 CFR 104.3(a)(1), on November 30, 1989, minus any debts and obligations owed by the committee. (Section 104.3(a)(1) defines cash on hand to include currency; the balance on deposit in banks and other institutions; traveler's checks; certificates of deposit, treasury bills and any other committee investments.) The amount of excess campaign funds converted to the candidate's personal use may not exceed this balance. If, however, the committee's unobligated balance drops below the November 30 amount, noncash assets (such as the computer) may be liquidated and added to the current balance up to the November ceiling.

For example, based on the Smith Committee's 1989 year-end report, the Committee's unobligated balance on November 30, 1989--its net cash-on-hand amount--was $32,775 under Method A.[2] If the Committee's balance falls below this figure, the funds received from the sale of the computer may be added to the current balance in order to bring the excess funds available for personal use back to the November 30, 1989, amount.

Under this method, unliquidated campaign assets--for example, a car--may be directly converted to the candidate's personal use (i.e., given to the candidate) as long as the value of the asset, when combined with other outlays of personal use, does not exceed the November 30 balance.

Any personal use of committee funds or assets after November 30, 1989, will count as a drawdown on the ceiling. If, for example, the Smith Committee had converted $2,000 to personal use after November 1989, the unused ceiling balance would drop to $30,775. This would also be true under Method B.

Method B: Cash and Noncash Assets. The second method permits a committee to include in the November 30, 1989, figure not only the committee's net cash-on-hand balance but also the fair market value of noncash assets held by the committee on

[1]The amendment further provided that the personal use exception will completely expire for grandfathered officeholders serving after the 102nd Congress, which ends on January 3, 1993.

[2]This figure was derived by determining the Committee's net cash on hand at the end of 1989 (cash on hand of $32,551.52 minus $0 debts and obligations owed by the Committee) and backing out December activity, i.e., subtracting receipts received in December ($230.13) and adding disbursements made in December 1989 ($453.84).

that date. Noncash assets would include items purchased by the committee (e.g., cars, computers) as well as any unliquidated in-kind contributions received by November 30, 1989, such as contributions of stocks, bonds and art objects. However, under this method, the committee must file, as an amendment to its 1989 year-end report, a separate memo entry Schedule A itemizing each asset (date acquired; fair market value as of November 30, 1989; and an explanation of the basis used to ascertain the asset's value). Moreover, in the report covering the period when an asset is disposed of (e.g., sold or given to the candidate for personal use), the committee must disclose the asset's fair market value on that date.

Under Method B, certain committee receivables may also be treated as assets and included in the November 30, 1989, unobligated balance: debts and loans reported as owed to the committee as of November 30, 1989 (as long as the committee actually collects on the debts) and credits or refunds payable to the committee by vendors. These types of receivables, however, must be itemized on Schedule C or D of the committee's 1989 year-end report (or an amendment thereto).

Under Method B, if the Smith Committee adds the fair market value of the computer (for illustration purposes, $700) to the Committee's net cash-on-hand balance as of November 30, 1989, the addition will increase the ceiling on funds and assets convertible to personal use to $33,475 ($32,775 plus the $700 computer). The Committee must amend its 1989 year-end report to itemize the computer on a memo entry Schedule A.

Tax Ramifications

The Commission expressed no opinion as to any tax ramifications concerning the use of excess campaign funds because such issues are outside its jurisdiction.

Commissioner Thomas J. Josefiak filed a concurring opinion. (Date Issued: January 18, 1991; Length, 8 pages, including concurring opinion)

AO 1990-27: Transfer to Party's Federal Account of Funds Mistakenly Deposited in State Account

Based on the unique factors in this situation, the Connecticut Republican Party may transfer to its federal account certain escrowed funds that were originally transferred to the Party from a federal candidate committee but that were mistakenly deposited in the Party's nonfederal account.

In anticipation of terminating, Congressman John Rowland's principal campaign committee transferred $103,765 in excess funds to the Connecticut Republican Party (the Party Committee), which deposited the funds in a nonfederal account. The State Elections Enforcement Commission of Connecticut determined that the deposit of the Rowland funds in the Party's nonfederal account violated a provision of state law. In compliance with a conciliation agreement resulting from the state violation, the Party Committee transferred $71,565 from the state account to an escrow account; the other $32,200 in misdeposited funds, which the nonfederal account had contributed to Mr. Rowland's gubernatorial committee, were returned to the Party Committee and also deposited in the escrow account. The state conciliation agreement provided that the Party Committee would transfer the escrowed funds to the federal account if the Federal Election Commission approved such a transfer.

Commission regulations prohibit the transfer of funds from a committee's nonfederal account to its federal account (except for payment of allocated expenses). 11 CFR 102.5(a)(1)(i). In this case, however, the Party Committee may transfer funds from the escrow account to its federal account, given the unique combination of factors presented in the advisory opinion request:

- The original transfer of excess campaign funds was lawful, since the Federal Election Campaign Act (the Act) and FEC rules permit a candidate committee to transfer unlimited excess campaign funds to a party committee (2 U.S.C. §439a; 11 CFR 113.1(e) and 113.2(c));
- The funds could have been deposited in the federal account at the time of the transfer, and the failure to do so was "in honest clerical error";
- In most significant respects, the contribution limits and prohibitions of Connecticut law are consistent with those of the Act; and
- The transfer of funds to the escrow account, and the proposed transfer to the federal account, were prescribed by a state election agency enforcing applicable state law (rather than being proposed by the Party Committee to seek an exemption from the transfer prohibition).

(Date Issued: January 18, 1991; Length: 4 pages)

FEC v. DRAMESI FOR CONGRESS COMMITTEE

Having previously found Russell E. Paul, as treasurer of the committee, in contempt of court for failing to pay a $5,000 civil penalty,[1] the U.S. District Court for the District of New Jersey issued an order on January 2, 1991, in which Mr. Paul agreed to pay a total of $5,317 to the FEC. (Civil Action No. 85-4093.) That amount represents the original $5,000 penalty, $91 in interest charges and $226 in FEC costs. The Commission agreed to waive the contempt penalties of $50 a day, which had been accumulating since the September 5, 1990, contempt order. However, if Mr. Paul does not pay the FEC the $5,317 stipulated in the current order by March 1, 1991, the contempt penalties (accruing from October 10, 1990) will be immediately due.

FEC v. WEST VIRGINIA REPUBLICAN STATE EXECUTIVE COMMITTEE

On January 18, 1991, the U.S. District Court for the Southern District of West Virginia entered a judgment that was agreed to by the FEC and the defendant committee. (Civil Action No. 2:90-0898.) The parties agreed to the following points:

- In conducting a phone bank voter drive on behalf of the Presidential ticket--an exempt party activity--the committee also mentioned the names of House and Senate candidates but failed to report any part of the phone bank expenditures as contributions allocated to the House and Senate candidates, in violation of 2 U.S.C. §434(b).
- The committee incorrectly reported as "operating expenditures" certain disbursements for newspaper advertisements that advocated the defeat of a federal candidate, a second violation of 2 U.S.C. §434(b).
- The committee used its nonfederal account to make the phone bank and newspaper ad expenditures described above, a violation of 11 CFR 102.5(a).
- The committee failed to itemize certain contributions and transfers it received and failed to disclose year-to-date totals, a third violation of 2 U.S.C. §434(b).

The court issued a consent order imposing a $2,000 civil penalty against the committee and permanently enjoining it from future similar violations.

FEC v. SPEELMAN

On January 28, 1991, the U.S. District Court for the District of Maryland issued a consent order and judgment in which the FEC and Harry Speelman agreed that defendant Speelman exceeded the contribution limits of the Federal Election Campaign Act by making a total of $11,470 in contributions to American Citizens for Political Action during 1987. These contributions exceeded the $5,000 per year limit under 2 U.S.C. §441a(a)(1)(C). The court permanently enjoined Mr. Speelman from future similar violations of the Act. Because of extenuating circumstances that came to the agency's attention after it had filed this suit, the Commission agreed to drop its request for a civil penalty and court costs. (Civil Action No. 90-2190.)

NEW LITIGATION

FEC v. NRA Political Victory Fund

The FEC asks the district court to declare that the NRA Political Victory Fund, the separate segregated fund of the National Rifle Association, and its treasurer violated 2 U.S.C. §441b(a) by accepting a corporate contribution totaling $415,745 from the National Rifle Association-Institute for Legislative Action (ILA), a lobbying arm of the NRA that operates from a corporate account. Specifically, the FEC alleges that in 1988 ILA initially paid that amount in solicitation expenses for two Victory Fund fundraisers held in March and July 1988. The Victory Fund, on August 1, 1988, reimbursed ILA for these expenses. On October 20, 1988, ILA paid $415,745 to the Victory Fund. Under 11 CFR 114.5(b)(3), a corporation may reimburse its separate segregated fund (SSF) for expenses that the corporation could lawfully have paid as an administrative expense, but reimbursement must be made no later than 30 days after the expense was paid by the SSF. The FEC also asks the court to declare that ILA violated 2 U.S.C. §441b(a) by making a $415,745 corporate contribution to the Victory Fund.

Finally, the FEC requests that the court impose civil penalties against the Victory Fund and ILA in the amount involved in the violation; permanently enjoin them from future violations; and award the FEC its costs.

[1] A summary of the contempt order appears in the November 1990 Record.

(U.S. District Court for the District of Columbia, Civil Action No. 90-3090, December 20, 1990.)

FEC v. Legi-Tech, Inc.

The FEC asks the district court to declare that Legi-Tech, Inc. (LTI) violated 2 U.S.C. §438(a)(4) by using contributor information copied from FEC reports for commercial purposes. The FEC alleges that LTI marketed a data base composed of information on individual contributors copied from reports. At least one firm subscribing to this data base used the data for commercial purposes. The FEC also asks the court to assess a civil penalty against LTI, permanently enjoin LTI from further violations of section 438(a)(4) and award the FEC its court costs.

(U.S. District Court for the District of Columbia, Civil Action No. 91-0213, January 30, 1991.)

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 January 7 and 11, 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 2750
Respondents: (a) Friends of Voinovich, Vincent M. Panichi, treasurer (OH); (b) Bush/Quayle '88, J. Stanley Huckaby, treasurer (DC)
Complainant: James M. Ruvolo, Chairman, Ohio Democratic Party (OH)
Subject: Excessive in-kind contributions; failure to report in-kind contributions; disclaimer
Disposition: (a) $3,500 civil penalty; (b) reason to believe but took no further action

MUR 3082
Respondents: (a) Scott for Congress, Marc J. Zanghi, treasurer (CT); (b) Thomas Scott (CT)
Complainant: Richard M. Bates, Executive Director, Democratic Congressional Campaign Committee (DC)
Subject: Failure to file report on time
Disposition: (a) Reason to believe but took no further action; (b) no reason to believe

MUR 3086
Respondents: Williamette Citizen, Abner Linwood Holton, III, treasurer (OR)
Complainant: Oregon Republican Party, Richard B. Noonan, Executive Director
Subject: Disclaimer (newspaer advertisement and flier)
Disposition: Reason to believe but took no further action (newspaper); no reason to believe (flier)

MUR 3149
Respondents: (a) National Republican Senatorial Committee, James L. Hagen, treasurer (DC); (b) Larry E. Craig (ID); (c) Craig for U.S. Senate, Richard W. Jackson, treasurer (ID)
Complainant: Robert F. Bauer, General Counsel, Democratic Senatorial Campaign Committee (DC)
Subject: Excessive contribution
Disposition: (a)-(c) No reason to believe

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The first number in each citation refers to the "number" (month) of the 1991 Record issue in which the article appeared; the second number, following the colon, indicates the page number in that issue.

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