

RECORD

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Washington DC

20463

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PUBLICATIONS

REVISED CORPORATE/LABOR CAMPAIGN GUIDE NOW AVAILABLE

The Commission recently published a completely revised edition of the Campaign Guide for Corporations and Labor Organizations. The 1992 Guide reflects advisory opinions and regulations issued since the previous Guide was published in 1986. More comprehensive than the old Guide, the new edition includes an expanded reporting section illustrated with examples of how to report specific transactions. It also offers a subject index.

The Guide explains how corporations and labor organization may set up and operate a separate segregated fund (SSF) in compliance with the federal campaign finance law. The Guide also provides information on other election-related activities that a corporation or labor organization may finance with its treasury funds.

Copies of the Guide will automatically be sent to treasurers of SSFs during June (delivery may take up to three weeks). The FEC encourages treasurers to order extra copies for other SSF staff—such as bookkeeping, reporting and fundraising personnel. The Guide is also useful for anyone with an interest in the campaign finance law's provisions on corporations and labor organizations.

To order free copies, use the order form on the back page of this issue.

1992 EDITION OF FEC REGULATIONS (11 CFR)

The 1992 edition of FEC regulations, the 11 CFR, was recently published by the Office of the Federal Register. The updated edition includes all changes and amendments to FEC regulations that became effective during 1991 as well as the new bank loan regulations, which became effective April 2, 1992.¹

¹The new bank loan regulations appear at 11 CFR 100.7(b)(11)(i)-(ii), 100.8(b)(12)(i)-(ii) and 104.3(d)(1)-(3).

The FEC will automatically send the 1992 11 CFR to treasurers of registered political committees during June (delivery may take up to three weeks). Anyone may order free copies by mailing the form on the back page of this issue.

Not reflected in the 1992 edition is the repeal of the honoraria regulations effective January 15, 1992. (11 CFR 100.7(b)(19), 110.12 and 114.1(a)(2)(iv) were repealed.) Also not reflected are changes to the allocation regulations which, though final, will not become effective until the legislative review period has expired.

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REPORTS**JULY REPORTING**

Committees filing on a quarterly basis must file their second quarter report by July 15; those filing on a monthly basis must report their June activity by July 20.

The tables on this page show 1992 reporting dates starting with July. (Not included are pre-primary and pre-runoff dates, which are available in a handout on 1992 reporting; call 800/424-9530 or 202/219-3420). The table on page 3 explains which reports a committee must file.

Candidate Committees: 48-Hour Notices on Last-Minute Contributions

Authorized committees of candidates must file 48-hour notices on contributions of \$1,000 or more received after the 20th day, but more than 48 hours, before the day of any election in which the candidate participates. See 11 CFR 104.5(f) and the January 1992 Record, page 18.

This requirement applies to all last-minute contributions of \$1,000 or more:

- o Contributions by check;
- o In-kind contributions;
- o Loans from personal funds;
- o Guarantees and endorsements of bank loans; and
- o Any of the above contributions made by the candidate.

PACs: 24-Hour Reports on Independent Expenditures

PACs—including monthly filers—are reminded of the special reporting requirement for independent expenditures made shortly before an election. A 24-hour report is required for independent expenditures aggregating \$1,000 or more that are made after the 20th day, but more than 24 hours, before the day of the election. The report must be filed within 24 hours after the expenditure is made. See 11 CFR 104.4 (b) and 104.5(g) for further information.

1992 QUARTERLY REPORTS

Report	Close of Books	Filing Date ¹
2nd Quarter	June 30	July 15
3rd Quarter	September 30	October 15
Year-End	December 31	Jan. 31, '93

1992 MONTHLY REPORTS

Report	Period Covered	Filing Date ¹
June	June 1-30	July 20
July	July 1-31	August 20
August	August 1-31	September 20
September	September 1-30	October 20
Pre-General ²	Oct. 1-Oct. 14	October 22
Post-General	Oct. 15-Nov. 23	December 3
Year-End	Nov. 24-Dec. 31	Jan. 31, '93

PRE- AND POST-ELECTION REPORTS FOR NOVEMBER 3 GENERAL ELECTION

Report	Close of Books	Filing Date ¹
Pre-General ²	October 14	October 22
Post-General	November 23	December 3

¹ Reports sent by registered or certified mail must be postmarked by the filing date (except for pre-election reports; see footnote 2). Reports sent by other means must be received by the filing date. 11 CFR 104.5(e).

² If sent registered or certified, the pre-general must be postmarked by October 19.

Federal Election Commission, 999 E Street, NW, Washington, DC 20463
800/424-9530 202/219-3420 202/219-3336 (TDD)

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

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

GUIDE TO 1992 REPORTING

Type of Filer	Required Reports					
	Semi-annual	Quarterly	Monthly	Pre-Primary ¹	Pre-General	Post-General
House and Senate Campaigns of 1992 Candidates		✓		✓	✓	✓
Other House and Senate Campaigns	✓					
1992 Presidential Campaigns Anticipating Activity of \$100,000 or Above			✓		✓	✓
1992 Presidential Campaigns With Activity Less Than \$100,000		✓		✓	✓	✓
Other Presidential Campaigns ³		✓—or—✓				
FACs and Party Committees Filing Monthly			✓		✓	✓
FACs and Party Committees Filing Quarterly ⁴		✓		✓	✓	✓
Corporations and Labor Organizations (Reports ⁵ on Partisan Communications)		✓			✓	

¹Includes pre-convention (if convention qualifies as election) and pre-runoff reports.

²Reports and 48-hour notices are required even if the candidate is unopposed or if the primary or general is not held because candidate is unopposed or received a majority of votes in the previous election. (However, a primary election not held because the candidate was nominated by caucus or convention is not considered a separate election for reporting purposes or for purposes of the contribution limits.) See 11 CFR 110.1(j).

³Presidential committees in this category that wish to change their filing frequency during 1992 should notify the Commission in writing.

⁴To avoid the need to file pre-primary and pre-runoff reports, these committees may change to monthly filing if they first notify the Commission in writing. 11 CFR 104.5(c).

⁵Required if the organization's aggregate costs exceed \$2,000 for internal communications expressly advocating the election or defeat of a clearly identified candidate. See 11 CFR 104.6 and page 24 of the Campaign Guide for Corporations and Labor Organizations.

REGULATIONS

COMMENTS SOUGHT ON PROPOSED RULES ON RULEMAKING PETITIONS

On May 13, 1992, the Commission published a Notice of Proposed Rulemaking seeking comments on new rules that would explain the procedures for submitting a petition for rulemaking for the agency's consideration (57 FR 20430). Comments are due on June 12 and should be addressed to Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW, Washington, DC 20463.

The proposed rules at 11 CFR Part 200:

- o Describe the information needed in a rulemaking petition;
- o Explain the steps the agency would take in responding to a petition (this proposed rule is based on current procedures);
- o List the factors the Commission might consider in deciding whether to initiate a rulemaking;
- o Provide for the reconsideration of petitions that were denied; and
- o Define the administrative record (i.e., the documents upon which the agency would base its decision on the petition).

The proposed rules would not limit the Commission's current authority to open a rulemaking on its own initiative, based on suggestions contained in advisory opinion requests, complaints and other documents that do not qualify as rulemaking petitions. However, in handling these rulemakings, the Commission would not be bound by the petition procedures. Also, the agency's decision not to open a rulemaking in such situations would not constitute the denial of a rulemaking petition.

PUBLIC APPEARANCES

6/5-7 American Bar Association
Standing Committee on
Election Law
Santa Fe, New Mexico
Chairman Joan D. Aikens
Commissioner John Warren
McGarry
Commissioner Trevor Potter

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 1992-15

Extension of 60-day deadline for contribution redesignations. (Requested by Russo for Congress Committee; Date Made Public: May 5, 1992; Length: 1 page)

AOR 1992-16

Nonfederal contributions by corporation owned by foreign national parent. (Requested on behalf of Nansay Hawaii, Inc.; Date Made Public: May 12, 1992; Length: 10 pages)

AOR 1992-17

Relationship between nonconnected PAC of partnership and SSFs of two corporations that jointly own partnership. (Requested on behalf of Du Pont Merck Program for Active Citizenship, Inc.; Date Made Public: May 14, 1992; Length: 11 pages plus attachments)

ADVISORY OPINION SUMMARIES

AO 1992-7: Corporate PAC's Solicitation of Franchise Personnel

Major and satellite franchises of H & R Block, Inc., are considered Block affiliates by virtue of the company's control over their operations. Because the franchises are considered affiliated organizations, H & R Block Political Action Committee (BLOCKPAC) may solicit contributions from their executive and administrative personnel (and families). 11 CFR 114.5(g) (1). BLOCKPAC may additionally solicit the franchisees (i.e., the franchise owners), if they are unincorporated, as well as the designated principals of incorporated franchisees.

In determining whether an organization is affiliated with a corporation, the Commission may consider several factors, including:

- o Whether the corporation has authority to direct or participate in the governance of the organization;
- o Whether the corporation has the authority to hire, demote or otherwise control the directors or other decisionmakers of the organization; and

o Whether the corporation had a significant role in forming the organization. 11 CFR 100.5(g)(4)(ii)(B), (C) and (I).

Past advisory opinions have determined that corporations were affiliated with licensees or franchisees based on factors similar to two of those listed above. See AOs 1988-46, 1979-38, 1978-61 and 1977-70. By contrast, see AO 1985-7.

Like the corporations in the first four opinions, Block has a substantial degree of control over the policies, practices and daily operations of both satellite and major franchises. For example, in addition to other restrictions, Block imposes requirements on franchises with respect to the accurate preparation of tax returns, the hours of operation, the condition of offices and the employment of trained personnel. Block also provides extensive training, guidance and oversight of franchisees. Furthermore, Block has some control over the selection of a franchise's decisionmakers through its authority to grant a franchise and its approval rights over any transfer of interest in a franchise. For these reasons, the franchises are considered to be affiliated with Block; BLOCKPAC may therefore solicit their executive and administrative personnel.

The PAC may also solicit the franchisees themselves if they are individuals, partnerships or other unincorporated entities. With regard to incorporated franchisees, BLOCKPAC may solicit their designated "principals," i.e., the individuals who assume the obligations of the franchise agreement.

Because some franchises are located in foreign countries, BLOCKPAC must be careful not to solicit or accept any contributions from foreign nationals, since such contributions are prohibited under 11 CFR 110.4 (a)(1) and (2). (Date Issued: April 10, 1992; Length: 7 pages)

AO 1992-9: Cooperative's Twice-Yearly Solicitation Through Raffle at Annual Meeting

KAMO Power, an incorporated cooperative, proposes to raise money for its separate segregated fund by conducting a twice-yearly solicitation that would involve the sale of raffle tickets at KAMO's annual meeting. However, the proposed activity would not meet the requirements for twice-yearly solicitations under 11 CFR 114.6 and, furthermore, would result in the illegal solicitation of outsiders attending the event.

Twice-Yearly Solicitations

Section 114.6 allows a corporation to solicit employees outside the restricted class twice each year, but the solicitations must be written and mailed to the employees' residences in order to protect their anonymity. As part of its twice-yearly solicitation, the company proposes to send a letter stating that "all KAMO employees (and their immediate families) will be eligible to purchase raffle tickets." The letter itself is a permissible solicitation.

However, KAMO plans to set up a booth for raffle ticket sales and promote the raffle at the meeting. Both these activities would constitute a solicitation (see AO 1979-13), with the result that KAMO would be directing the solicitation to non-restricted employees at the meeting site rather than at their residences

Solicitation of Non-Employees

KAMO anticipates that individuals who are not KAMO employees will also attend the annual meeting. The proposed raffle activities would therefore result in the improper solicitation of those individuals, who may not be solicited by KAMO at any time. See AO 1981-41.

Solicitation of Board of Trustees

Members of KAMO's board of trustees and alternate, nonvoting board members are a formal part of KAMO's governing structure and thus would qualify as solicitable executive or administrative personnel under 11 CFR 114.1(c) if they receive stipends from KAMO.

Chairman Joan D. Aikens filed a concurring opinion. (Date Issued: April 10, 1992; Length: 12 pages, including concurrence)

AO 1992-10: Committee's Disbursement to Nonprofit Voter Organization

The Committee for a Democratic Consensus, a multicandidate committee registered with the FEC, proposes to disburse funds to the Center for Participation in Democracy (CPD), a nonprofit voter registration organization. CPD will use the funds to defray its own legal expenses and those of Senator Alan Cranston's son, a board member, in connection with an investigation involving the Senator, Charles Keating and CPD's activities in general. The Committee may make the proposed disbursements to CPD; however, this conclusion is based on certain assumptions.

(continued)

Although the Senator, who is the honorary chairman of the Committee, does not serve on its board or otherwise control the Committee, individuals associated with the Senator, including his chief of staff, have served on the Committee's board. According to its Statement of Organization, however, the Committee is neither authorized by Senator Cranston nor affiliated with his campaign. Assuming that is the case, the Committee would not be subject to the restrictions on the use of funds that apply to an authorized committee (e.g., the personal use restrictions at 11 CFR 113.2) and may expend its funds for any lawful purpose. AOs 1991-21, 1986-32, 1985-34 and 1983-4. The Committee may therefore make the proposed disbursements to CDP.

This conclusion is based on CDP's continuing qualification as a tax-exempt organization under 26 U.S.C. §501(c)(3) and on the assumption that neither its past nor its future activities would qualify it as a political committee under the Federal Election Campaign Act.

The opinion did not address any tax ramifications of the proposed activity since those issues are outside the FEC's jurisdiction. (Date Issued: April 24, 1992; Length: 3 pages)

AO 1992-11: Computer-Generated Summary Page and Detailed Summary Page

In preparing FEC reports for political committees, Coopers & Lybrand may use a computer-generated Form 3X Summary Page and Detailed Summary Page as long as the pages are an accurate and exact reproduction of the original FEC forms. Commission regulations permit committees to reproduce FEC forms provided they are not reduced in size. 11 CFR 104.2(c). The term "reproduce" means that the "resulting product... is identical in every respect to an original FEC Form 3X." AO 1982-7. Accordingly, Coopers & Lybrand must modify its computer-produced forms to correct certain deviations from the original form. The changes will ensure that reports filed on the reproduced forms will be easy to read and review.

Anyone else seeking approval of computer-produced forms should submit them to the FEC's Reports Analysis Division, 999 E Street, NW, Washington, DC 20463. (Computer-produced forms may be used only after they receive FEC approval.) (Date Issued: April 24, 1992; Length: 2 pages)

COURT CASES

SPANNAUS v. FEC (91-0681(BEG))

On March 25, 1992, the U.S. District Court for the District of Columbia dismissed this suit because it was filed late.

Edward W. Spannaus sought judicial review of the FEC's decision to dismiss his administrative complaint. Under the statute, he had to file his petition within "60 days after the date of the dismissal." 2 U.S.C. §437g(a)(8). The complaint was dismissed on January 9, 1991, when the Commission voted on the decision, but Mr. Spannaus did not file his court petition until April 2, 1991—83 days after the dismissal date.

Mr. Spannaus argued that the 60-day period should begin on the date he received notice of the FEC's decision (notice was received at his post office box on January 28 and was claimed on February 2). The court, however, said that this interpretation "would be in direct contravention of the plain words of the statute," which "may not be superseded by policy goals that cannot be found in the statute..." The court also rejected plaintiff's contention that, because the 60-day period had already begun by the time he received notice, he was denied fair notice and, consequently, due process. The court pointed out that when he received notice on February 2, he still had several weeks to file his petition within the deadline.

**FEC v. FRIENDS OF SCHAEFER (91-0650)
SCHAEFER v. FEC (91-90240)**

These suits arose from an FEC enforcement proceeding against Friends of Schaefer and J. Michael Schaefer, as treasurer. Mr. Schaefer was a 1986 Senatorial candidate in Maryland. Mr. Schaefer and his committee were respondents in an administrative complaint which the Commission had been unable to resolve through informal conciliation efforts. The agency filed suit against the respondents on May 15, 1991.

Penalty Claims Against Schaefer

On April 19, 1991 (after the FEC had notified him of its intention to file suit), Mr. Schaefer filed an adversary proceeding against the FEC in the U.S. Bankruptcy Court for the Southern District of California, where he had filed for bankruptcy. In Schaefer v. FEC, he argued that the FEC had failed to file a proof of claim with the court and therefore could not make

a claim against him with respect to the payment of any civil penalty that might result from the agency's enforcement efforts.

The FEC asked the court to dismiss Mr. Schaefer's adversary proceeding or, alternatively, to refer the matter to the federal district court, which was the proper forum to litigate campaign finance issues. On July 2, 1991, the bankruptcy court denied the FEC's motion to dismiss and also denied the alternative motion, stating that it should be brought before the district court. The FEC then asked the U.S. District Court for the Southern District of California to take jurisdiction over this issue. (FEC v. Friends of Schaefer was then pending in that court.)

The district court accepted jurisdiction over Mr. Schaefer's adversary proceeding and consolidated the two cases. In a November 25, 1991, ruling, the court held that, because a civil penalty is a non-dischargeable debt, the FEC could enforce a civil penalty against Mr. Schaefer, regardless of the agency's failure to file a claim in bankruptcy court. (Judgment was entered April 3, 1992.)

Contempt Motion

On May 16, 1991, claiming that the Bankruptcy Code barred the FEC from filing suit against him, Mr. Schaefer moved that the bankruptcy court hold then FEC Chairman John Warren McGarry in contempt of court and incarcerate him until the FEC's district court case was dismissed. The FEC opposed the motion, arguing that the provision cited by Mr. Schaefer did not apply to a government agency enforcing its regulatory power. The bankruptcy court agreed with the FEC and, on October 28, 1991, ordered Mr. Schaefer to pay the FEC \$750 in sanctions for filing a frivolous motion.

FECA Violations

On April 7, 1992, the district court entered a final judgment in FEC v. Friends of Schaefer and ordered defendant Schaefer to pay a \$3,000 civil penalty. The court found that Mr. Schaefer and his committee had violated the Federal Election Campaign Act by:

- o Failing to file a Statement of Candidacy and Statement of Organization on time;
- o Accepting an excessive contribution (Mr. Schaefer received a \$30,000 loan from an individual, deposited the money in his personal account and then loaned the money to his committee);
- o Failing to continuously report the loan until it was extinguished;

- o Knowingly accepting a \$28,000 loan from a corporation (Mr. Schaefer obtained a \$28,000 margin loan drawn on his account with Charles Schwab & Co. and then loaned the funds to his committee); and
- o Failing to file three reports on time (they were filed between 2 months and over one year late).

Based upon Mr. Schaefer's continuing refusal to remedy several of the violations, the court enjoined him from committing similar violations for one year, unless the FEC demonstrates that an extension is necessary.

THE FREEDOM REPUBLICANS, INC. v. FEC

On April 7, 1992, the U.S. District Court for the District of Columbia remanded this case to the FEC, ordering the agency "with all deliberate speed...[to] begin rulemaking proceedings designed to consider the means through which the FEC will ensure compliance with Title VI of the Civil Rights Act..." Title VI bars racial discrimination in any program receiving federal funds.

In response to the FEC's motion to amend judgment, and over the objection of plaintiffs, the court revised its order on May 4, 1992, to make clear that the order referred to a rulemaking governing the delegate selection process of federally funded national party conventions. The amended order also made clear that the court did not impose a deadline for the promulgation of the rules.

Background

The plaintiffs in this case--The Freedom Republicans, Inc., and its President, Lugenia Gordon--alleged that the Republican Party's delegate selection process discriminated against African Americans in violation of Title VI. (Plaintiffs had made similar allegations in an administrative complaint, which FEC staff dismissed for lack of jurisdiction.) Claiming that the FEC was responsible for ensuring that the convention funding program complied with Title VI, plaintiffs asked the court to order the agency to conduct an investigation of the Republican Party's delegate selection procedures and to adopt Title VI regulations on delegate selection.

Plaintiffs additionally claimed that Title VI prohibited the FEC from providing any public funds to the Republican Party for its 1992 national convention because of the Party's alleged discriminatory delegate process. In moving for partial summary judgment, however, plaintiffs asked the

(continued)

court to consider only their request for a rulemaking.

The FEC asked the court to dismiss the case, arguing, among other things, that plaintiffs lacked standing to bring suit; that they had not exhausted administrative remedies; that Title VI did not apply to the public funding programs the FEC administers; and that the FEC did not have authority to issue delegate selection regulations under Title VI.

Plaintiffs' Standing to Bring Suit

The agency first argued that plaintiffs lacked standing to bring suit. (The FEC contended that the jurisdiction of the courts can be invoked only when an individual plaintiff has suffered actual injury and that plaintiff Gordon made no such allegation. The FEC similarly argued that Freedom Republicans failed to allege injury to its members sufficient to invoke the court's jurisdiction.)

The court, however, held that Freedom Republicans had standing to sue on behalf of its members because the organization satisfied the three criteria set forth in Hunt v. Washington State Apple Advertising Commission 1/.

First, the individual members of the group could themselves have brought action under Title VI, which "entitles the Plaintiffs to a private right of action against the agency for dereliction of its enforcement duties."

Second, the interests Freedom Republicans sought to protect were germane to its purpose, namely, "advancing the interests of African Americans through, and within, the Republican Party."

And third, "the presence of individuals who have actually been denied delegate status on the basis of racial discrimination is not necessary" when an organization challenges an agency's interpretation of law, "such as the FEC's interpretation of the applicability of Title VI."

Administrative Remedies Pursued by Plaintiffs

The FEC contended that the plaintiffs' suit was barred because they failed to pursue an administrative remedy still open to them: to petition the agency to issue a rulemaking on Title VI.

The court, however, pointed out that the administrative complaint plaintiffs had filed with the agency "put the FEC on sufficient notice of Plaintiffs' desire for a rulemaking."

Application of Title VI to Convention Funding

The FEC contended that Title VI² was not applicable to the public funding of nominating conventions because of First Amendment concerns (i.e., government control over the selection of delegates to the party conventions). The court, however, said that there were numerous cases in which First Amendment rights were overridden "by the need to prevent state-sponsored discrimination."

The court also rejected the FEC's argument that the convention funding does not qualify as "federal financial assistance" because Title VI applies only to programs where funding is provided to a nonfederal entity, which then provides the assistance to the ultimate beneficiaries. In the court's view, convention funding meets this test because the funds "enable the party to provide a platform for other, ultimate beneficiaries, such as Republican candidates and party members."

Responding to the FEC's argument that Congress never intended for the agency to have any control over the internal workings of the parties, the court said that there was nothing in the legislative history suggestive of Congress's desire to prevent the FEC from enforcing Title VI.

Summary Judgment

Finding that Title VI applies "to the FEC as well as to both major political parties and other recipients of federal funds," the court granted plaintiffs' motion for partial summary judgment and denied the FEC's motion to dismiss. The court held that the FEC was obligated to adopt rules that would ensure enforcement of Title VI in the delegate selection process.

²Title VI states: "Each Federal agency... which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract... is authorized and directed to effectuate the provisions of section 2000d of this title... by issuing rules, regulations or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance." 42 U.S.C. §2000d-1.

¹432 U.S. 333, 97 S.Ct. 2434 (1977).

PUBLIC FUNDING

MAY MATCHING FUND PAYMENTS; AGRAN QUALIFIES FOR MATCHING FUNDS

On April 28, the Commission certified \$5.6 million in matching fund payments to eight 1992 Presidential candidates. The U.S. Treasury made the payments early in May. As of the May payment, primary candidates have received \$22.4 million in matching funds, as shown in the table. Candidates have requested \$5.8 million for the June payment.

Included in this figure is a \$100,000 payment requested by Larry Agran, a Democratic candidate whose eligibility for matching funds was approved by the Commission on May 14. Mr. Agran is the tenth Presidential candidate to qualify for 1992 matching funds.

Matching Fund Payments

	May Payment	Cumulative Total
Republicans		
Patrick Buchanan	\$ 786,465	\$ 2,877,501
George Bush	1,884,092	6,785,189
Democrats		
Jerry Brown	1,159,539	2,017,045
Bill Clinton	\$1,070,846	4,240,649
*Tom Harkin	76,088	1,810,495
*Bob Kerrey	159,299	1,783,680
*Paul Tsongas	349,557	1,442,946
*Douglas Wilder	0	289,027
New Alliance Party		
Lenora Fulani	141,235	1,174,329
Totals	\$5,627,121	\$22,420,860

*These candidates have withdrawn from the Presidential race. Governor Wilder withdrew on January 8, Senator Kerrey on March 6, Senator Harkin on March 9 and former Senator Tsongas on March 19.

AUDITS

FINAL AUDIT REPORT ON 1988 JACKSON CAMPAIGN

On April 9, 1992, the Commission approved the final audit report on the Jesse Jackson for President '88 Committee (the Jackson Committee) and two other committees authorized by the candidate for his 1988 primary campaign (the California and New York Committees). Based on the initial repayment determinations listed below, the Committees must repay a total of \$310,906 in public funds to the U.S. Treasury. The candidate had received over \$8 million in matching funds for his 1988 campaign.

Based on audit findings, the Commission made initial determinations that the Jackson campaign had to repay the following amounts:

Nonqualified Campaign Expenses¹/

- o \$18,953, the pro rata portion of \$61,127 in tax penalties paid by the Jackson Committee.
- o \$159,161, the pro rata portion of \$513,329 in disbursements insufficiently documented by the Jackson Committee.
- o \$57,509, the pro rata portion of \$185,479 apparently overpaid to a vendor by the Jackson Committee.
- o \$36,930, the pro rata portion of \$119,108 in disbursements insufficiently documented by the California Committee.
- o \$23,042, the pro rata portion of \$74,316 in disbursements insufficiently documented by the New York Committee.

Matching Funds Received for Excessive or Refunded Contributions

- o \$9,524, representing excessive contributions submitted for matching funds by the Jackson Committee.
- o \$672, representing contributions submitted for matching funds and then later refunded by the California Committee.

Stale-Dated Checks

- o \$5,115 in checks written by the New York Committee that were never negotiated.

¹A ratio formula is used to calculate what portion of a nonqualified campaign expense represented the payment of public funds as opposed to private contributions. That amount (the pro rata portion) is subject to repayment.

800 LINE

CONTRIBUTIONS: RECEIPT AND DEPOSIT

This article explains what date should be reported as the "date of receipt." It also covers the forwarding and deposit of contributions.

Note that this article does not cover earmarked contributions.

Date of Receipt vs. Date of Deposit

When reporting an itemized contribution's date of receipt, the committee should not use the date the contribution was deposited. Instead, the committee must use the date the treasurer or committee agent obtained possession of the contribution for the committee. 11 CFR 102.8 and 104.3(a)(4)(i) and (ii). An agent of the committee may be, for example, the candidate, a committee employee or volunteer, a commercial firm hired to raise funds, a joint fundraising representative, or, in the case of a separate segregated fund, a collecting agent.

Date of Receipt: In-Kind Contributions

With respect to in-kind contributions, the date of receipt is the date that the goods or services are provided to the committee. See 11 CFR 110.1(b)(6).

Forwarding Contributions and Records

When an agent not located at committee headquarters receives a contribution on behalf of the committee, the agent must forward it to the committee treasurer within 10 days from the date of receipt (i.e., the date the agent obtained possession).¹ **Exception:** Contributions of \$50 or less received for a party committee, PAC or other unauthorized committee must be forwarded within 30 days from the date of receipt.

The following records must be forwarded at the same time as the contribution:

- o For contributions exceeding \$200, the amount, the date of receipt and the complete identification of the contributor (name, address, occupation and employer).
- o For contributions exceeding \$50, the amount, the date of receipt and the contributor's name and address. 11 CFR 102.8.

¹ Joint fundraising proceeds do not have to be transferred to participants within any specified time period. See 11 CFR 102.17.

- o For contributions of \$50 or less, the same records as those required for contributions that exceed \$50 or, in the case of small contributions collected at a fundraising event (such as cash contributions collected at a bake sale or gate receipts for a picnic), the name and date of the event, and the total amount of contributions received on each day of the event. AO 1980-99; see also AO 1981-48.

Deposit of Contribution

Once the committee treasurer receives a contribution (either a contribution forwarded by an agent or one received directly), he or she has 10 days to deposit it. 11 CFR 103.3(a).

COMPLIANCE

FEC PUBLISHES NONFILER

The Commission recently cited the committee of Thomas M. Foglietta (Pennsylvania House candidate, 1st Congressional District) for failing to file its pre-primary report. The names of authorized committees that fail to file reports are published pursuant to 2 U.S.C. §438(a)(7). Enforcement actions against nonfilers are pursued on a case-by-case basis.

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 February 5 and 28, March 6, and April 16, 17 and 24, 1992. 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.

Pre-MUR 227

Respondents: Re-Elect Stangeland to Congress Committee, Wayne E. Puppe, treasurer (MN)

Complainant: Sua sponte

Subject: Disclaimer

Disposition: Declined to open a MUR

Pre-MUR 235

Respondents: National Republican Senatorial Committee, James L. Hagen, treasurer (DC)

Complainant: Referral by Deputy Secretary of State, Maine

Subject: Contribution solicitations
Disposition: Declined to open a MUR

MUR 1600

Respondents: (a) Rhoads for Congress Committee, William E. Naegel, treasurer (IL); (b) Mid-America Conservative PAC, Leroy Corey, treasurer (IA); (c) Mary Rhoads (IL)
Complainant: FEC initiated
Subject: Excessive contributions
Disposition: (a) and (c) U.S. District Court consent order: \$2,000 civil penalty; (b) \$250 civil penalty (case was closed following litigation in 1986)

MUR 2293

Respondents: (a) Working Names, Inc., Meyer T. Cohen (MD); et al. (b)-(q)
Complainant: Sue Elsenbrook (TX)
Subject: Commercial use of contribution information
Disposition: (a) U.S. District Court stipulation and order: \$15,000 civil penalty; (b)-(e) reason to believe but took no further action; (f)-(q) no reason to believe

MUR 2344

Respondents: (a) Friends of Isaiah Fletcher, Isaiah Fletcher, Sr., treasurer (MD); (b) Fannie E.C. Alston as treasurer of Friends of Isaiah Fletcher
Complainant: FEC initiated
Subject: Failure to file reports
Disposition: (a) U.S. District Court judgment: \$5,000 civil penalty; (b) probable cause to believe but took no further action

MUR 2590

Respondents: (a) Fields for Congress Committee, Barbara Shaw, treasurer (MO); (b) Officer Campaign Committee (MO)
Complainant: Mike Mansfield (MO)
Subject: Failure to register and report; inadequate disclosure
Disposition: (a)-(b) Reason to believe but took no further action

MUR 2696/2675

Respondents (all in OH): (a) James Kassouf; (b) Michael DeGrandis; (c) James Dietz
Complainants: The Honorable Edward F. Feighan (OH) (2675); James M. Ruvolo, Chairman, Ohio Democratic Party (2696)
Subject: Disclaimer; failure to register and report
Disposition: (a)-(c) Reason to believe but took no further action

MUR 2743

Respondents (all in NY): (a) Swarts for Congress, Inc., Lawrence H. Levin, treasurer; (b) Friends of Dave Swarts, Mary Suto, treasurer; (c) Dave Swarts
Complainant: Joseph R. Gaylord, Executive Director, National Republican Congressional Committee (DC)
Subject: Failure to register and report; corporate contributions
Disposition: (a) and (b) \$500 joint civil penalty; (c) no reason to believe

MUR 2761

Respondents: (a) Sevier Heights Baptist Church (TN); (b) Hollie Miller (TN); (c) Presidential Biblical Scoreboard (CA); (d) Tim LaHaye (DC); (e) Family Life Seminars (DC)
Complainant: Robert Lawson, Cumberland Baptist Church (TN)
Subject: Corporate contributions; failure to report independent expenditures; disclaimers
Disposition: (a)-(b) Insufficient number of votes to find reason to believe; (c) no reason to believe; (d)-(e) reason to believe but took no further action

MUR 2926/2822

Respondents: (a) Donald M. Hiner (VA); (b) Hiner and Associates, Inc. (VA); et al. (c)-(o)
Complainant: National Republican Congressional Committee (DC)
Subject: Use of FEC reports for commercial purposes
Disposition: (a)-(b) \$5,000 joint civil penalty; (c)-(o) reason to believe but took no further action

MUR 3013

Respondents (both in DC): (a) National Conservative Congressional Committee, L. William Bonsib, Jr., treasurer; (b) Bonsib, Inc., L. William Bonsib, Jr., chairman
Complainant: FEC initiated
Subject: Corporate contributions; failure to maintain proper checking account; failure to file reports on time
Disposition: (a)-(b) Probable cause to believe but took no further action

MUR 3054

Respondents: (a) Ileana Ros-Lehtinen for Congress Committee, Jose M. Martinez-Armesto, treasurer (FL); (b) Republican National Committee, William J. McManus, treasurer (DC); (c) National Republican Congressional Committee, Nancy S. Marshall, assistant treasurer (DC); (d) Republican Party of Florida, Shirlee Bowne, treasurer
 (continued)

(FL); (e) Republican Party of Dade County, Ernesto Martinez, treasurer (FL)
Complainant: FEC initiated
Subject: Excessive contributions; failure to file 48-hour notices; inaccurate disclosure of financial activity
Disposition: (a) \$4,000 civil penalty; (b)-(d) reason to believe but took no further action; (e) \$1,000 civil penalty

MUR 3081

Respondents: Iowans for Powell, M. Craig McIntyre, treasurer (IA)
Complainant: Judith Reinhart, Bluegrass Associates, Inc. (IA)
Subject: Inaccurate disclosure of debts
Disposition: Reason to believe but took no further action

MUR 3155/3078

Respondents: Margaret Mueller for Congress Committee, Gerald Wolanin, treasurer (OH)
Complainant: Richard Bates, Executive Director, Democratic Congressional Committee (DC)
Subject: Failure to file reports on time; improper disclosure; disclaimer
Disposition: \$5,000 civil penalty

MUR 3176/3167

Respondents: (a) Christian Coalition, Ralph Reed, executive director (VA); (b) American Family Association Foundation, Don Wildmon, executive director (MS); (c) Montana Family Forum, Ron Oberlander, state director (MT)
Complainants: Democratic Congressional Campaign Committee (DC) (3167); Montana Democratic Party (3176)
Subject: Corporate contributions; disclaimers; express advocacy; failure to register and report
Disposition: Insufficient number of votes to find either reason to believe or no reason to believe

MUR 3261

Respondents: Keep George Brown in Congress, Eugene P. Basinger, treasurer (CA)
Complainant: FEC initiated
Subject: Failure to file 48-hour notices
Disposition: \$750 civil penalty

MUR 3284

Respondents: Corporate Citizenship Committee (ITF), Charles M. Wurst, treasurer (NY)
Complainant: FEC initiated
Subject: Failure to file report on time
Disposition: \$275 civil penalty

MUR 3315

Respondents: Josie Heath for U.S. Senate, Inc., Tim Atkeson, treasurer (CO)
Complainant: FEC initiated
Subject: Failure to file 48-hour notices
Disposition: \$3,000 civil penalty

MUR 3324

Respondents: National Freedom Political Action Committee, Kendall McBriar, treasurer (WA)
Complainant: FEC initiated
Subject: Failure to file reports on time
Disposition: \$250 civil penalty

MUR 3349

Respondents: Pete Peterson Campaign Fund, Mary K. Vancore, treasurer (FL)
Complainant: FEC initiated
Subject: Excessive contributions; contributions from unregistered organizations
Disposition: \$900 civil penalty (excessive contributions); no probable cause to believe (unregistered organizations)

MUR 3353

Respondents: Richard E. Neal for Congress Committee, Michael Hall, treasurer (NC)
Complainant: FEC initiated
Subject: Failure to file 48-hour notices
Disposition: \$2,000 civil penalty

MUR 3358

Respondents (all in PA): (a) Don L. Ritter; (b) Lehigh Valley Citizens for Don Ritter, Betty S. Gates, treasurer
Complainant: Richard J. Orloski (PA)
Subject: Inaccurate disclosure; committee depositories; excess funds
Disposition: (a) and (b) No reason to believe

MUR 3361

Respondents: (a) Stevens for Congress, Stephen W. Woody, treasurer (NC); et al. (b)-(j)
Complainant: Jack Hawke, chairman, North Carolina Republican Party
Subject: Disclaimer; failure to register and report
Disposition: (a) Reason to believe but took no further action; (b)-(j) no reason to believe

MUR 3363

Respondents: Glassco for Congress Committee, Chris Economou, treasurer (OK)
Complainant: FEC initiated
Subject: Excessive contributions; contributions from unregistered organization
Disposition: \$800 civil penalty

MUR 3376

Respondents (both in MA): (a) Congressman Gerry E. Studds; (b) Studds for Congress Committee, Edwin M. Martin, treasurer
Complainant: Jon L. Bryan (MA)
Subject: Disclaimer
Disposition: Insufficient number of votes to find either reason to believe or no reason to believe

MUR 3387

Respondents: Wine Institute Political Action Committee, John A. DeLuca, treasurer (CA)
Complainant: FEC initiated
Subject: Failure to file report on time
Disposition: \$1,000 civil penalty

MUR 3415

Respondents: United Egg Association Political Action Committee, Albert E. Pope, treasurer (GA)
Complainant: FEC initiated
Subject: Failure to file report on time
Disposition: \$500 civil penalty

MUR 3424

Respondents: People for Carlos Lucero, Inc., Carolyn E. Daniels, treasurer (CO)
Complainant: FEC initiated
Subject: Failure to file 48-hour notice
Disposition: \$750 civil penalty

MUR 3433

Respondents: Friends of Sam Johnson, Lyndon Bozeman, treasurer (TX)
Complainant: FEC initiated
Subject: Failure to file 48-hour notices
Disposition: \$3,000 civil penalty

MUR 3434

Respondents: Anita for Congress, Virginia R. Patterson, treasurer (CA)
Complainant: FEC initiated
Subject: Failure to file 48-hour notices
Disposition: \$2,000 civil penalty

MUR 3438

Respondents (both in MA): (a) Congressman Gerry E. Studds; (b) Studds for Congress Committee, Edwin M. Martin, treasurer
Complainant: Jon L. Bryan (MA)
Subject: Disclaimer; failure to itemize contributions
Disposition: (a)-(b) No reason to believe

MUR 3443

Respondents: (a) National Republican Senatorial Committee, James L. Hagen, treasurer (DC); (b) Bill Grant (FL)
Complainant: Anthony R. Martin (FL)

Subject: Failure to disclose transactions properly
Disposition: Dismissed

MUR 3451

Respondents (both in NV): (a) Marrou for President, James A. Lewis, treasurer; (b) Michael L. Emerling
Complainant: FEC initiated
Subject: Excessive contributions
Disposition: (a) \$3,000 civil penalty; (b) \$1,600 civil penalty

MUR 3459

Respondents: Quillen for Congress Committee, Herbert W. Hoover, treasurer (TN)
Complainant: FEC initiated
Subject: Failure to file 48-hour notices
Disposition: \$2,600 civil penalty

MUR 3462

Respondents: Pilzer for Congress, Franklin L. Casey, treasurer (TX)
Complainant: FEC initiated
Subject: Failure to file 48-hour notices
Disposition: \$1,000 civil penalty

MUR 3463

Respondents: Durkin for U.S. Senate, James Connelly, treasurer (NH)
Complainant: FEC initiated
Subject: Failure to file 48-hour notices
Disposition: \$1,000 civil penalty

MUR 3464

Respondents: Dan Branch for Congress Committee, R. Byron Carlock, Jr., treasurer
Complainant: FEC initiated
Subject: Failure to file 48-hour notices
Disposition: \$1,000 civil penalty

MUR 3469

Respondents: Bush-Quayle '92 Primary Committee, Inc., J. Stanley Huckaby, treasurer (DC)
Complainant: Endicott Peabody (NH)
Subject: Misleading committee name
Disposition: No reason to believe

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