Record

October 1995 *Federal Election Commission* *Volume 21, Number 10*

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Commissioners

Commissioner Potter Announces Resignation

On August 18, Commissioner Trevor Potter announced that he is resigning from the FEC. He cited an offer to teach at Oxford University, England, this fall as the reason for his departure.

Reflecting the sentiments of his colleagues, Commission Chairman Danny L. McDonald said, "Commissioner Potter's energy and determination will be sorely missed. His commitment to addressing difficult campaign finance issues has been a great help during his tenure on the Commission. We wish Commissioner Potter continued success in his new endeavor."

Commissioner Potter has served four years as an FEC Commissioner. He began his term in 1991. During 1992 he served as the Vice Chairman of the Commission's Finance Committee and Chairman of its Regulations Task Force. He was elected by his fellow Commissioners to first serve as FEC Vice Chairman during 1993 and then as FEC Chairman during 1994.

In an August 18 memorandum to FEC staff, Commissioner Potter said, "It has been an enormous honor to serve as a Commissioner of the

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Compliance

Contribution Limits and Civil Penalties

The MURs summarized below deal with cases in which individual contributors exceeded contribution limits, including their annual limits. See page 1 of the April 1995 *Record* for a discussion of the $25,000 annual limit for individual contributors. A brochure on the $25,000 annual limit is available through the FEC's Information Division; call 800/424-9530 or 202/219-3420 to order a free copy.

MUR 3886

Mr. Herbert F. Collins contributed $48,500 attributed to 1992, exceeding his $25,000 annual limit by $23,500. Mr. Collins contended that some of the contributions he made in 1992 were intended as joint contributions from his wife and him. The contributions, however, lacked Mrs. Collins's signature. Without her signature, they could not be attributed to her. A joint contribution requires the signature of both contributors, either on the face of the checks or on a letter submitted with the checks. 11 CFR 110.1(k)(1). Otherwise, a contribution is attributed to the sole signer, as happened in this case.

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Commissioners

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Federal Election Commission. . . . It has been a pleasure to serve with each of you, and I know that this agency will continue to do its job with vigor and distinction."

Commissioner Potter will be teaching American Law and Comparative Political Science while at Oxford University. ✦

Publications

Eleventh Edition of Court Case Abstracts Now Available

The eleventh edition of *Selected Court Case Abstracts* is now available. This publication is a compilation of summaries of court cases involving issues relevant to federal campaign finance law. Legal citations and name and subject indexes make this a valuable research tool.

Abstract summaries are based on past *Record* articles; the eleventh edition includes cases covered through the February 1995 *Record.*

Free copies of this publication are available from the FEC's Information Division: call 800/424-9530 (press 1 if using a touch tone phone) or 202/219-3420. ✦

Updated Index to PAC Abbreviations

The Commission recently published the 1995 edition of *Pacronyms*, an alphabetical compilation of acronyms, abbreviations and common names of political action committees (PACs).

For each PAC listed, the index provides the full name of the PAC, its city, state, FEC identification number and, if not identifiable from the full name, its connected, sponsoring or affiliated organization.

The index is helpful in identifying PACs that are not readily identified in their reports and statements on file with the FEC.[1]

To order a free copy of *Pacronyms*, call the Office of Public Records at 800/424-9530 (press 3 if using a touch tone phone) or 202/219-4140.

Other PAC indexes, described below, may also be ordered from the Office of Public Records. The cost of these indexes is shown in parentheses. Prepayment is required for these indexes.

- An alphabetical list of all registered PACs shows each PAC's identification number, address, treasurer and connected organization ($13.25).
- A list of registered PACs arranged by state provides the same information as above ($13.25).
- An alphabetical list of organizations sponsoring PACs shows the PAC's name and identification number ($7.50). ✦

[1] *Under FEC regulations, the name of a corporate or labor PAC must include the full, official name of the connected organization. A PAC may use an abbreviated name on checks and letterhead if it is a clearly recognized abbreviation or acronym by which the connected organization is commonly known. However, both the full, official PAC name and the abbreviated name must be disclosed in all reports, statements and disclaimers. 11 CFR 102.14(c).*

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Reports

Reports Due in October

Committees of 1996 Presidential candidates that have opted to file quarterly rather than monthly must file the Third Quarter report by October 15. This report covers activity from July 1 through September 30.

Monthly filers must submit their reports, covering activity from September 1 through September 30, by October 20.

These are the only types of committees that are required to file this October.

The next monthly report is due on November 20. The next report due for nonmonthly filers is the Year-End report, which must be filed by all committees, including monthly filers, by January 31, 1996. ✦

Compliance

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When Mr. Collins became aware that he had made excessive contributions, he took steps to have the excessive contributions either reattributed to his wife or refunded to him, but these remedial steps were not timely pursuant to 11 CFR 103.3(b) and 110.1(k).

In addition to exceeding his annual limit, Mr. Collins exceeded his $20,000 per year limit for national party committees and his $5,000 per year limit for other political committees. Again, his efforts to reattribute the funds or seek a refund were not timely.

All of these activities caused Mr. Collins to incur a $20,000 civil penalty.

MUR 3929

Mrs. Elsie H. Hillman exceeded her $25,000 annual limit by $16,670 in 1990, by $10,000 in 1991 and by $12,600 in 1992.

In addition, Mrs. Hillman violated her $1,000 per election limit for 1990 Senate candidate Lynn Martin. In April 1990, Mrs. Hillman contributed $500 to the Lynn Martin for Senate Committee. In August 1990, she contributed $2,500 to the National Republican Women's Senatorial Fund. The Fund allocated $700 of that amount to the Lynn Martin for Senate Committee and reported it as a contribution made by Mrs. Hillman through the Fund. This had the effect of placing Mrs. Hillman $200 over her limit for candidate Lynn Martin.

Mrs. Hillman also exceeded her $5,000 per year limit for state party committees by contributing $10,000 to the Federal Republican Committee of Pennsylvania in 1991 and $10,000 to the Western Pennsylvania Victory '92 Committee in 1992.

All of these activities caused Mrs. Hillman to incur a $32,000 civil penalty. ✦

MURs Released to the Public

Listed below are summaries of FEC enforcement cases (Matters Under Review or MURs) recently released for public review. This listing is based on the FEC press releases of August 11 and September 1, but it does not include the three MURs in which the Commission took no action. Files on closed MURs are available for review in the Public Records Office.

MUR 2582/Pre-MUR 189
Respondents: (a) David C. Owen (KS); (b) Robert and Betty Owens and various other individuals (KS, GA and MO); (c) Birdview Satellite Communications, Inc., Charles A. Ross, David K. Hamilton and Roger Mason, President, Birdview Satellite Communications, Inc. (all in KS); (d) Martha J. Hamilton and various other individuals (all in KS)
Complainants: FEC initiated (MUR 2582); Dole for Senate Committee, Charles L. Clinkenbeard, treasurer (KS) (Pre-MUR 189)
Subject: Corporate contributions; contributions in name of others
Disposition: (a) $13,000 civil penalty; (b) civil penalties totaling $6,800 and ranging from $100 to $1,150; (c) knowing and willful probable cause to believe, but took no further action; (d) reason to believe, but took no further action

MUR 2715/2652
Respondents: (a) Dukakis/Bentsen Committee, Inc. (MA); (b) Senator Lloyd Bentsen Election Committee, Marc L. Irvin, treasurer (TX); (c) The Houston Chamber of Commerce (TX)
Complainants: National Republican Senatorial Committee, Jann L. Olsten, Executive Director (DC); Representative Beau Boulter (TX)
Subject: Excessive contributions/ acceptance of in-kind contributions by fully federally funded campaign; sharing of personnel and facilities; failure to allocate certain expenses properly; nonpartisan communications
Disposition: (a) $15,000 civil penalty and waiver of claims for attorney's fees in *Dukakis v. FEC* (joint conciliation agreement for MURs 2715/2652, 3089, 3449 and 3562); (b) probable cause to believe, but took no further action in some instances; no probable cause to believe in other instances; (c) no reason to believe

MUR 2984/Pre-MUR 220/2593
Respondents: (a) Robert G. Johnson (AZ);* (b) International Real Estate Institute, Inc. (a.k.a. International Institute of Valuers, Inc.) (MN); (c) Todd Publishing, Inc. (MN); (d) National Association of Real Estate Appraisers, Inc. (AZ); (e) National Association of Review Appraisers and Mortgage Underwriters, Inc. (MN); (f) Professional Women's Appraisal Association, Inc. (MN); (g) E. Kenneth Twichell (AZ);* (h) Timothy Cloud (AZ)* and various individuals; (i) International Association Managers, Inc. (MN); (j) Vice President George Bush and George Bush for President, Stan Huckaby, treasurer (DC)
Complainants: John R. Lair (AR) (MUR 2593); U.S. Department of Labor (AZ) (MUR 2984/PreMUR 220)
Subject: Corporate contributions; contributions in the names of others; disclaimers
Disposition: (a-f) Knowing and willful probable cause to believe,

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* *On September 13, 1993, Robert G. Johnson pleaded guilty to committing perjury during the Commission's investigation and to making corporate contributions in violation of 2 U.S.C. §441b. E. Kenneth Twichell pleaded guilty to obstructing the Commission's investigation. Timothy Cloud pleaded guilty to allowing another to use his name in violation of 2 U.S.C. §441f.*

Compliance

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referred to Department of Justice, therefore took no further action; (g) no probable cause to believe (excessive contributions); knowing and willful probable cause to believe, referred to Department of Justice, therefore took no further action (corporate contributions; contributions in the names of others); (h-i) reason to believe, but took no further action; (j) took no action

MUR 3089
Respondents: (a) Dukakis for President Committee, Inc., Leonard Aronson, current treasurer (MA); (b) Hector Martinez Franco and various individuals (in PR and NY)
Complainant: FEC initiated (1988 Presidential Audit)
Subject: Contributions in the names of others; excessive cash contributions
Disposition: (a) $15,000 civil penalty and waiver of claims for attorney's fees in *Dukakis v. FEC* (joint conciliation agreement for MURs 2715/2652, 3089, 3449 and 3562); (b) reason to believe, but took no further action

MUR 3109
Respondents: (a) Affiliated National Abortion Rights Action League organizations, Kate Michelman, Executive Director (DC); Ruth Ziegler, treasurer (NC); Shelley Bain, state director (IA); (b) Harvey Gantt for Senate Campaign Committee, Bobby T. Martin, treasurer (NC); (c) National Abortion Rights Action League PAC, and its treasurer (DC); (d) National Abortion Rights Action League Foundation, Kate Michelman, Executive Director (DC)
Complainant: North Carolina Republican Party, Jack Hawke, Chairman (NC); FEC initiated (RAD)
Subject: Failure to register and report; corporate contributions; excessive contributions; failure to report contributions
Disposition: (a-b) Reason to believe, but took no further action; (c-d) took no action

MUR 3228
Respondents: (a) Dahlson for Congress, Alfred L. Nilsson, treasurer (CA); (b) Roy Dahlson (CA); (c) Jack Mayesh Wholesale Florist, Inc. (CA)
Complainant: FEC initiated (RAD)
Subject: Corporate contributions; misreporting
Disposition: (a-c) Reason to believe, but took no further action

MUR 3241
Respondents: (a) The Honorable Thomas Lantos (CA); (b) Tom Lantos for Congress Committee, Katrina Lantos-Swett, treasurer (CA); (c) Dick Swett for Congress Committee, Katrina Lantos-Swett, treasurer (NH); (d) Democratic National Committee, Robert T. Matsui, treasurer (DC); (e) New Hampshire Democratic State Committee, Robert M. Walsh, treasurer (NH); (f) Michael Rowan Group, Inc. (NY) and various individuals; (g) Feinstein for Governor, Henry E. Berman, treasurer (CA); (h) Timber Dick (CA) and Phil Swett, Jr. (VT); (i) The Honorable Richard Swett (NH); (j) Katrina Lantos-Swett (NH)
Complainant: G. M. (Bill) Quraishi (CA)
Subject: Personal use of campaign funds; failure to continuously report debts; excessive contributions; corporate contributions; failure to report earmarked contributions; failure to report expenditures accurately; failure to allocate federal/nonfederal expenses accurately
Disposition: (a-f) Reason to believe, but took no further action; (g-h) no reason to believe; (i-j) took no action

MUR 3426
Respondents: (a) Murray for Congress, Lenora K. Drossman, treasurer (OH); (b) Third National Bank of Sandusky (OH); (c) UAW V CAP, Bill Casstevens, treasurer (MI)
Complainant: FEC initiated (Audit)
Subject: Contributions by national bank; excessive contributions; failure to disclose candidate loans; failure to identify loans from the candidate; failure to disclose loans as outstanding debts; failure to itemize contributions and expenditures; misstating financial activity; failure to fully report disbursements; excessive contribution
Disposition: (a-c) Reason to believe, but took no further action

MUR 3449
Respondents: (a) Dukakis/Bentsen Committee, Inc. (MA); (b) Dukakis/Bentsen General Election Legal and Accounting Compliance Fund, Leonard Aronson,treasurer (MA); (c) Fried, Frank, Harris, Shriver and Jacobson (NY)
Complainant: FEC initiated (1988 Presidential Audit)
Subject: Failure to report disbursements timely; excessive contribution/corporate contribution/acceptance of prohibited in-kind contribution by fully federally funded campaign; contributions in the name of another; excessive cash contributions; improper use of compliance funds
Disposition: (a-b) $15,000 civil penalty and waiver of claims for attorney's fees in *Dukakis v. FEC* (joint conciliation agreement for MURs 2715/2652, 3089, 3449 and 3562); (c) reason to believe, but took no further action

MUR 3562
Respondents: (a) Dukakis for President Committee, Inc., Leonard Aronson, current treasurer (MA); (b) American Federation of State, County, and Municipal Employees (DC)

Complainant: FEC initiated (1988 Presidential Audit)
Subject: Exceeded state expenditure limits (IA & NH); labor union contributions; failure to report contributions timely; excessive contributions
Disposition: (a) $15,000 civil penalty and waiver of claims for attorney's fees in *Dukakis v. FEC* (joint agreement for MURs 2715/2652, 3089, 3449 and 3562); (b) reason to believe, but took no further action

MUR 4193
Respondent: Democratic Party of Hawaii Federal Campaign Committee, Jane Sugimura, treasurer (HI)
Complainant: FEC initiated (RAD)
Subject: Excessive transfers of nonfederal funds; corporate contributions
Disposition: $30,000 civil penalty; respondents must reimburse nonfederal account $74,547.08 for the excessive transfers ✦

Audits

Parker for Congress Audit Report

An FEC audit of the Parker for Congress committee (the committee) found that the committee:

- Improperly attributed contributions, resulting in excessive contributions;
- Failed to disclose the required contributor information for 31 percent of its supporters; and
- Improperly reported a payment to vendors as a transfer between committee accounts.

The committee served as the principal campaign committee for Mr. Wayne Parker, Jr.'s 1994 bid for the office of U.S. Congressman from Alabama.

This audit was conducted pursuant to 2 U.S.C. §438(b), which authorizes the Commission to conduct audits of any political committee that files reports that fail to meet the threshold level of compliance set by the Commission. Subsequent to a final audit report, the FEC may choose to pursue unresolved issues in an enforcement matter.

Excessive Contributions

The committee's erroneous practice of attributing contributions between the account holders listed on a check, rather than to the individual who actually signed it, resulted in a total of $5,435 in excessive contributions by 19 individual contributors.

The committee, in compliance with the recommendation of the FEC, refunded this amount.

Contributor Information

The committee failed to disclose required contributor information; the occupation and/or name of employer were not reported for 31 percent of its individual supporters. When a contributor does not submit this information with his or her contribution, the committee must undertake best efforts to obtain it. The Parker committee failed to demonstrate that it had undertaken best efforts in these instances.

The committee, in compliance with the recommendation of the FEC, obtained the missing contributor information in some cases and undertook best efforts to do so in the others. The committee submitted letters documenting these best efforts.

Disbursement Itemized As Transfer

The committee itemized $51,288 in payments to vendors as $52,000 in transfers between the committee's accounts.

The committee, in compliance with the recommendation of the FEC, amended its 1994 Pre-General report to correct this error. ✦

Lynn Yeakel for Senate Audit Report

An FEC audit of the Lynn Yeakel for Senate committee (the committee) found that the committee had:

- Understated its receipts by $94,881 and its disbursements by $94,649, largely as a result of failing to disclose activity related to a telemarketing fundraising program (the committee filed amended reports to correct this);
- Failed to report and itemize $104,325 in telemarketing disbursements, to itemize $355,500 in loan receipts and $86,800 in loan repayments, and to report or itemize offsets and contributions, including in-kind activity, constituting lesser amounts (the committee filed amended reports to correct this);
- Failed to include in its reports complete address information for a number of disbursements and adequate information on a number of contributors (the committee filed amended reports to correct this);
- Failed to either disgorge or document the source of a $6,878 cash receipt that the committee deposited into its federal account;
- Failed to adequately document the purpose and ultimate payees of $7,000 in disbursements made by two checks payable to cash; and
- Accepted contributions which exceeded the donors' limits by $59,276 ($20,699 of this amount was either redesignated or reattributed by the donor or refunded to the donor, albeit not within the required time limits; the committee is treating the remaining amount as a debt it owes to the donors).

This audit was conducted pursuant to 2 U.S.C. §438(b), which authorizes the Commission to conduct audits of any political committee whose reports fail to

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Statistics

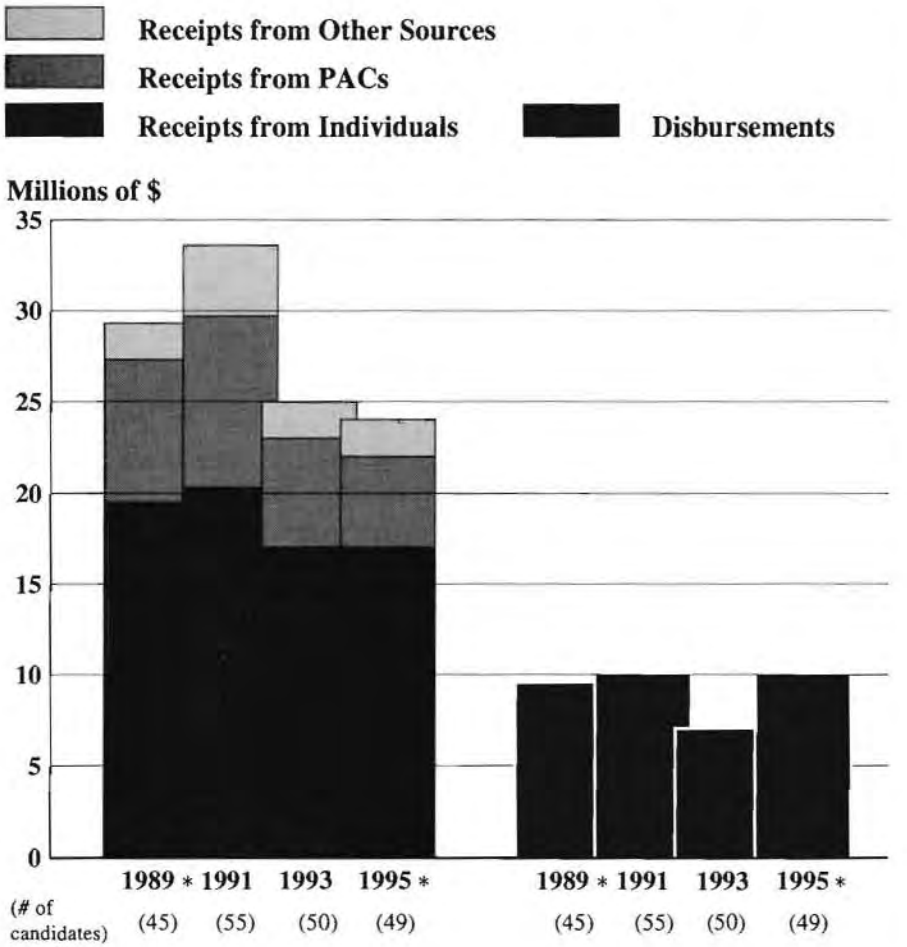
'96 Senate Campaigns Report Less Financial Activity Than Their Predecessors

The 49 candidates seeking the 33 U.S. Senate seats up for election in 1996 have reported raising $24 million and spending $10 million during the first six months of 1995. Comparisons among Senate races are difficult to make because of the diversity among campaigns. Even so, these figures indicate that the 1996 Senate candidates have raised less money over a similar period of time than did their counterparts in the last three election cycles.

An August 18 FEC press release contains candidate-by-candidate financial information. A copy of this release may be obtained via the Flashfax system as part of a packet on House and Senate fundraising in the first six months of 1995. Just dial 202/501-3413 and request document number 630 at the prompt. Alternatively, request a copy from the Public Disclosure Office either in person or by dialing 800/424-9530. ✦

Senate Campaign Fundraising in the First Half of 1995

This data is provided here as a supplement to the August 18 press release.



* *The same Senate seats that were up for election in 1990 are up for election again in 1996.*

Audits

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meet the threshold level of compliance set by the Commission. Subsequent to a final audit report, the FEC may choose to pursue unresolved issues in an enforcement matter. ✦

Advisory Opinions

AO 1995-22 Reporting Reimbursements of Allocated Expenses

The Democratic Congressional Campaign Committee (DCCC) may report reimbursements of allocated expenses as negative disbursements on its FEC disclosure reports. The DCCC's proposed reporting practice is explained below.

Background

The DCCC pays shared expenses from an allocation account in which funds from its federal and nonfederal accounts are deposited. This is one of the permissible methods for paying shared expenses under 11 CFR 106.5(g).

Under this method of payment, each disbursement is itemized, with the appropriate federal and nonfederal breakdown, on Schedule H4. The DCCC must also report the sum of all disbursements from the allocation account on its Detailed Summary Page; this sum is reported on line 21, "Operating Expenditures," with the appropriate federal and nonfederal breakdown reported on lines 21a(i) and (ii).

Reporting Reimbursements

Normally, political committees report refunds as receipts under the category "Offsets to Operating

Expenditures (Refunds, Rebates, etc.)" on the Detailed Summary Page.

The DCCC's proposed reporting, however, is also permissible. Under the proposal, a reimbursement is treated as a negative disbursement. It is itemized as such, along with its breakdown into federal and nonfederal portions, on Schedule H4. These portions are subtracted correspondingly from lines 21a(i) and (ii) ("Shared Federal/Nonfederal Activity") of the Detailed Summary Page. These adjustments, in turn, affect the total for "Operating Expenditures," line 21 of the Detailed Summary Page.

Date Issued: August 4, 1995; Length: 3 pages. ✦

AO 1995-24
Proceeds From Sale of Candidate's Book Used for Debt Retirement

Robert Palmer, 1990 Congressional candidate from California, may sell copies of a self-published book to his principal campaign committee, which in turn may sell the books and use the proceeds to repay a loan made by Dr. Palmer to his campaign committee. This arrangement raises some issues, as discussed below.

Selling to the Committee

The books are Dr. Palmer's property, and he may donate them to the committee without being subject to contribution limits because, under 11 CFR 110.10(a), a candidate may make unlimited contributions to his or her campaign. If Dr. Palmer sells the books to the committee at a price below the present market value, then he will be making an in-kind contribution in the amount of the price break he is giving the committee. 11 CFR 100.7(a)(1)(iii)(B).

The candidate and the campaign committee may not convert excess campaign funds to the personal use of the candidate or anyone else. 2 U.S.C. §439a; 11 CFR 113.2(d). If the price the committee pays the candidate for the books is greater than the market value of the books, then such excess payments would constitute converting campaign funds to the candidate's personal use, unless the excess amount were deducted from the amount of the debt that the committee owes Dr. Palmer.

Selling by the Committee

The committee may sell the books at any price. The entire amount paid by a purchaser will be a contribution to the committee subject to contribution limitations. No person prohibited by the Act from making contributions may purchase the book from the committee. 2 U.S.C. §§441a, 441b, 441c, 441e and 441f.

When soliciting purchases, the committee must inform buyers they will be making a contribution. Solicitations made through direct mail or other form of general public political advertising should carry proper disclaimers stating the committee's name and who paid for the solicitations. 2 U.S.C. §441(d)(a)(1); 11 CFR 110.11(a)(1)(i).

Purchasers should indicate on their checks that a contribution is being made to retire the committee's 1990 debt, for either the primary or the general election. The specific election must be designated. Alternatively, the campaign could provide contributors with a form on which they would designate the contribution for a particular election. 2 U.S.C. §431(2); 11 CFR 100.3(a) and 110.1(b)(2) and (4). Contributions may be made with respect to a past election only to the extent that the contribution does not exceed net debts outstanding for that election. 11 CFR 110.1(b)(3).

Payment of solicitation costs by the candidate would be an in-kind contribution or, if he so chooses, a loan from him. Payment by others would be subject to the limits and prohibitions of the Act.

If the committee's sale of the books generates more funds than it owes Dr. Palmer, the committee may not pay him more than it owes him. The maximum amount the campaign may pay him is the sum of the loan, his charge to the committee for the books and any solicitation costs he covers, as a further loan to the campaign. An overpayment would constitute a prohibited conversion of campaign funds to the candidate's personal use. 2 U.S.C. §439a and 11 CFR 113.2(d).

Date Issued: August 17, 1995; Length: 4 pages. ✦

AO 1995-25
Allocation of Costs for Ads in Support of Party's Agenda

During a non-Presidential election year, the Republican National Committee (RNC) must use its federal account monies to pay at least 60 percent of the costs associated with advertisements in support of the party's legislative agenda. The remaining 40 percent may be paid with nonfederal account monies. Should the RNC wish to run these types of ads during a Presidential election year, federal monies would have to be used to pay at least 65 percent of the costs. Nonfederal monies could be used to pay the remaining 35 percent.

Background

The RNC plans to run ads in 1995 in support of its legislative agenda. The ads will focus on issues before Congress, such as the balanced budget amendment and welfare reform.

According to the RNC, some of its intended ads might mention a federal officeholder who is seeking reelection, but the reference would not be coupled with language expressly advocating that officeholder's election or defeat, nor

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Advisory Opinions

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would an electioneering message be contained in the ad.[1] Further, the proposed ads would contain no call for action other than urging the public to contact the mentioned officeholder (should there be one) and voice support for or opposition to a particular piece of legislation.

Allocating the Cost of Ads

Ads that focus on legislative activity and promote the GOP should be considered expenditures made in connection with both federal and nonfederal elections. Although the requester stated that the ads at hand would not mention federal elections or contain an electioneering message, the requester also stated that their purpose would be to influence the public's view of Republicans and the GOP's agenda. The ads would thus encompass the related goal of electing Republican candidates to federal office. The costs of such ads, therefore, would have to be allocated between the committee's federal and nonfederal accounts, unless the ads qualified as coordinated party expenditures on behalf of a general election candidate, in which case they would have to be paid entirely with federal monies. 2 U.S.C. §441a(d).

The ads in question may be classified as either administrative expenses or generic voter drive costs, depending on content. Generic voter drive costs, defined at 11 CFR 106.5(a)(2)(iv), include costs of "activities that urge the general public to . . . support candidates . . . associated with a particular issue, without mentioning a specific candidate." Under 11 CFR 106.5(b)(2) both administrative expenses and generic voter drive costs incurred during a non-Presidential election year are allocated 60 percent to the federal account and 40 percent to the nonfederal account. Should they be incurred during a Presidential election year, the proper allocation would be 65 percent to the federal account and 35 percent to the nonfederal account.

Date Issued: August 24, 1995; Length: 5 pages. ✦

AO 1995-26
Campaign Funds May Not Be Used for Club Dues

Senator Frank H. Murkowski, candidate in Alaska's 1998 Senate election, may not use campaign funds to pay membership dues at the Washington Athletic Club, where he has regularly held campaign fundraising events during previous campaigns. Payment of dues would constitute personal use of campaign funds. However, Senator Murkowski's campaign may pay his meal and lodging expenses at the club so long as they are separate from dues and associated with a campaign fundraising event.

While campaigns have wide discretion in spending their funds, they may not convert them to personal use. 2 U.S.C. §§431(9) and 439a; 11 CFR 113.1(g) and 113.2.[1] New regulations define "personal use" as the use of campaign funds to pay expenses "that would exist irrespective of the candidate's campaign or duties as a Federal officeholder." 11 CFR 113.1 (g). Personal use includes but is not limited to the use of funds in a campaign account for dues, fees or gratuities at a country club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event taking place on the organization's premises.

The Explanation and Justification[2] that accompanied these rules when they were submitted to Congress stated that the exception "does not cover payments made to maintain unlimited access to such a facility, even if access is maintained to facilitate fundraising activity." 60 FR 7862. Applying this rule, the Commission concluded that the use of funds to pay for club membership dues would constitute personal use under 2 U.S.C. §439a and 11 CFR 113.1(g).

However, the committee may use campaign funds for any costs that are separate and distinct from membership dues and are associated with the use of club facilities for specific campaign fundraising events. For example, the committee may pay for meals and lodging expenses incurred at the club by the Senator to attend a campaign event. Those costs should be reported as operating expenditures.

Date issued: August 17, 1995; Length: 5 pages. ✦

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[1] *The Commission, relying on this assertion by the RNC, did not express any opinion as to what constitutes an electioneering message by a political party committee. This question has been addressed in AOs 1984-15 and 1985-14 and in the Court of Appeals decision in* FEC v. Colorado Republican Federal Campaign Committee *(see page 1 of the August 1995* Record *for a summary of this case).*

[1] *These regulations became effective April 5, 1995. Reprints of the final rules (60 FR 7862) are available through the FEC automated flashfax system: Dial 202/501-3412 and request document #228. Alternatively, call the FEC's Information Division at 800/424-9530.*

[2] *The Commission submits an Explanation and Justification to Congress whenever it submits a new regulation or an amendment to an existing one. The Explanation and Justification details the basis for a proposed change in regulations.*

Public Funding

Final Repayments for Buchanan and Bush-Quayle

In early August 1995, the Commission issued final repayment determinations for: Mr. Patrick J. Buchanan's 1992 Presidential primary election committee, Buchanan for President ($293,925); for President George Bush's 1992 Presidential campaigns, the Bush-Quayle '92 Primary committee ($343,026) and the Bush-Quayle '92 General committee ($21,109); and President Bush's 1992 Compliance fund ($8,666).[1]

These figures are broken down in the accompanying chart, which also includes a breakdown of the initial repayment determinations for the sake of comparison.

These repayments arise from the committees' participation in the Presidential Public Funding Program, which is funded by the taxpayers through the voluntary $3 checkoff found on all U.S. income tax return forms.[2] Candidates participating in the Program agree to abide by overall and state-by-state spending limits and to undergo an FEC audit at campaign's end.

The conclusions of the FEC's audit, as well as the initial repayment determination, are contained in a Final Audit Report. Following the issuance of this report, a committee may submit a written response and request a public hearing to offer explanations and further information for the Commission's consideration. The Commission then examines all pertinent information and arrives at a final repayment determination, which is issued in a Statement of Reasons. Final Audit Reports and Statements of Reasons are available in the FEC's Office of Public Disclosure located at 999 E Street, NW, Washington, DC, 20463; telephone 800/424-9530. ✦

Committee Name & Election Type & Date	Repayments Initial	Final
Buchanan for President ('92 GOP primary)		
Total Repayment* due U.S. Treasury	**$558,589**	**$293,925**
Matching funds in excess of entitlement	$532,827	$274,423
Nonqualified campaign expenses	$ 25,151	$ 18,891
Stale-dated checks	$ 611	$ 611
Bush-Quayle '92 Primary ('92 GOP primary)		
Total Repayment* due U.S. Treasury	**$700,049**	**$343,026**
Matching funds in excess of entitlement	$485,631	$216,853
Nonqualified campaign expenses	$195,224	$106,979
Stale-dated checks	$ 19,194	$ 19,194
Bush-Quayle '92 General ('92 general)		
Total Repayment due U.S. Treasury	**$ 21,109**	**$ 21,109**
Income earned on federal funds	$ 2,086	$ 2,086
Stale-dated checks	$ 19,023	$ 19,023
Bush-Quayle '92 Compliance ('92 general)		
Total Repayment due U.S. Treasury	**$ 8,666**	**$ 8,666**
Stale-dated checks	$ 8,666	$ 8,666

[1] All four of these committees have filed petitions for review with the Court of Appeals for the District of Columbia.

[2] Brochures and a report on the Public Funding Program are available free of charge from the FEC's Information Division; dial 800/424-9530.

** These repayment totals do not include the following amounts, which are not covered in the Statement of Reasons: for the Buchanan campaign, $61,925 for excessive and prohibited contributions and $4,632 for excessive travel reimbursements received from media personnel; for the Bush-Quayle '92 Primary campaign, $141,801 for excessive contributions.*

Advisory Opinions

(continued from page 7)

Advisory Opinion Requests

Advisory opinion requests (AORs) are available for review and comment in the Public Records Office.

AOR 1995-28
Requiring dues payments and granting voting rights to expand association's membership class (American Health Care Association; August 15, 1995; 4 pages plus 59-page attachment)

AOR 1995-29
Refunding to court-appointed receiver contributions made by convicted defrauder (Christopher Cox Congressional Committee; August 15, 1995; 1 page plus 11-page attachment)

AOR 1995-30
Allocation of costs of satellite broadcast time purchased by Presidential campaign (Arlen Specter '96 committee; August 18, 1995; 2 pages)

AOR 1995-31
Acceptance of contributions from bank and bank affiliates by Presidential nominating convention host committee (San Diego Host Committee; August 28, 1995; 3 pages)

AOR 1995-32
Acceptance of contributions from bank and bank affiliates by Presidential nominating convention host committee (Chicago's Committee for '96; August 28, 1995; 10 pages)

AOR 1995-33
Sending PAC solicitation to member of restricted class through electronic mail addressed to secretary (Coastal Employee Action Fund; August 29, 1995; 1 page)

AOR 1995-34
Providing 900-line telephone services to political committees (Politechs, Inc.; August 30, 1995; 7 pages)

AOR 1995-35
Soliciting campaign contributions via the Internet (Alexander for President; September 1, 1995; 2 pages plus 2-page attachment) ✦

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The first number in each citation refers to the "number" (month) of the 1995 *Record* issue in which the article appeared. The second number, following the colon, indicates the page number in that issue. For example, "1:4" means that the article is in the January issue on page 4.