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June 2004

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Legislation

Commission Sends Annual Legislative Recommendations to President and Congress

On April 29, 2004, the Commission transmitted to Congress and the President its annual recommendations for changes to the Federal Election Campaign Act (the Act). Of the 12 recommendations transmitted, the Commission identified four as high priority:

- Restoring “any lawful purpose” as a permissible use of campaign funds under 2 U.S.C. §439a, including specifically the donation of federal campaign funds to state and local races (subject to state law);
- Increasing the contribution limit under 2 U.S.C. §432(e)(3)(B) that authorized committees may give to authorized committees of other candidates, from \$1,000 per election, to \$2,000 per election;
- Replacing the “reason to believe” terminology used in the Act to describe the Commission’s decision to open an investigation with terminology that sounds less accusatory; and
- Requiring Senate campaign committees to file electronically at

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Regulations

Commission to Address Proposed Rulemaking on the Definition of “Political Committee” in August

On May 13, 2004, the Commission voted to extend for 90 days its consideration of proposed rules concerning the definition of “political committee.” By the end of this period, the Commission may decide to:

- Issue final rules;
- Issue a second Notice of Proposed Rulemaking to offer commenters a more focused proposal; or
- Defer or close the rulemaking and instead look for guidance from Congress.

The Commission published a Notice of Proposed Rulemaking (NPRM) on March 11, 2004, seeking comments on whether to amend the definition of “political committee” applicable to nonconnected committees. As part of that proposal, the Commission is considering revising its regulations to address whether and when disbursements for certain election activity should be treated as expenditures. The NPRM includes proposed rules to implement both of these changes, as well as related

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Regulations

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amendments to the allocation regulations for nonconnected committees and separate segregated funds. See the April 2004 *Record*, page 1.

The full text of the NPRM was published in the *Federal Register* (68 FR 11736) and is available on the FEC web site at <http://www.fec.gov/register.htm>, along with public comments on the NRPM. The Commission held a public hearing on the proposed rules in April. See the *May 2004 Record*, page 3.

—Amy Kort

Legislation

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the same thresholds as House and Presidential campaign committees.

Among the other eight recommendations transmitted this year are the following new recommendations:

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Director

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- Revising the prohibitions on fraudulent misrepresentation of campaign authority to capture all persons falsely purporting to act on behalf of candidates and real or fictitious political committees and organizations;
- Revisiting the pay levels for the Commission's General Counsel and permitting the Commission to create Senior Executive Service positions to help recruit and retain key personnel;
- Modifying the definition of federal election activity at 2 U.S.C. §431(20)(A)(iv) to allow state, district and local party committees to determine each pay period (rather than each month) whether employees must be paid using federal or nonfederal funds; and
- Clarifying the circumstances under which federal candidates may solicit, receive or spend funds for nonfederal candidates and other types of political accounts, including recall elections, referenda and initiatives, legal defense funds and related activities.

Additionally, the Commission updated four recommendations that have been put forward in past years:

- Harmonizing the limits for multicandidate political committees with those of non-multicandidate committees by indexing the multicandidate limits for inflation;
- Stabilizing the Presidential public funding program to avert possible shortfalls in future election cycles;
- Increasing and indexing for inflation all pre-BCRA registration and reporting thresholds to ease the registration and reporting burdens on smaller political committees that may lack the resources and expertise to comply with the Act; and
- Making permanent the Administrative Fine program for violations of the law requiring timely reporting of receipts and disbursements.

The full text of the Commission's 2004 legislative recommendations

is available on the FEC web site at http://www.fec.gov/pages/legislative_recommendations_2004.htm.

—Dorothy Yeager

Compliance

MUR 4919: Fraudulent Scheme to Deceive Voters

The FEC recently entered into conciliation agreements with Adrian Plesha and Charles Ball for Congress (Ball for Congress) resulting from their fraudulent misrepresentation of their opponent's party and a Congressman from a neighboring district in mailings and phone calls during the 1998 campaign. The Commission found probable cause to believe that Mr. Plesha and Ball for Congress had knowingly and willfully violated the Federal Election Campaign Act (the Act).¹

Shortly before the 1998 general election, Ball for Congress, acting through its campaign manager Adrian Plesha, covertly arranged and financed the dissemination of approximately 40,000 letters and 10,000 phone calls that urged registered Democrats not to vote for Representative Ellen Tauscher. The letters and phone calls came from the "East Bay Democratic Committee," a fictitious organization created by Mr. Plesha and Ball for Congress. The letters contained a false address and falsely used neighboring Democratic Congressman George Miller's name as the signatory.

The Act prohibits federal candidates or their agents from fraudulently misrepresenting any committee under their control as speaking or writing on behalf of any other candidate or political party

¹ *The Act explicitly provides that the Commission may find that violations are knowing and willful. 2 U.S.C. §437g(a)(5)(B). The knowing and willful standard requires knowledge that one is violating the law.*

on a matter that is damaging to that other candidate or party. 2 U.S.C. §441h, 11 CFR 110.9(b).² Additionally, the law requires any person who expressly advocates the election or defeat of a federal candidate through a mass mailing to include a disclaimer stating who paid for and authorized the mailing. 2 U.S.C. §441d(a), 11 CFR 110.11(a).

Mr. Plesha knowingly made false statements to the FEC, denying involvement in or knowledge of this scheme when in fact he had created, authorized and distributed the fabricated letters and calls. To avoid being identified as the true sponsor of the communications, Ball for Congress and Mr. Plesha omitted the required disclaimers, created phony invoices, used stamps rather than the committee's postal meter and asked vendors to hide any links between the communications and Ball for Congress.

Charles Ball for Congress has paid a \$24,000 civil penalty and also has agreed to cease and desist from further violations of sections 441d(a) and 441h of the Act.

Mr. Plesha will pay a \$60,000 civil penalty and also has agreed to cease and desist from further violations of section 441h of the Act. Additionally, the FEC referred Mr. Plesha to the Department of Justice for criminal prosecution. Mr. Plesha pled guilty to making false statements to the FEC and was sentenced to three years of probation, a \$5,000 fine and 160 hours of community service.

² All of the facts recounted in this case occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 (BCRA). Accordingly, unless noted otherwise, all citations are to the Act as it read prior to the effective date of the BCRA. Likewise, all citations to the Commission's regulations are to the 2002 edition of Title 11 Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under the BCRA.

Additional information on this case is available from the Commission's Public Records Office and through the [Enforcement Query System](#) on the FEC's web site. Search for case number 4919.

—Jim Wilson

MUR 4953: Party Misuse of Soft Money

As part of a conciliation agreement with the Commission, the National Republican Congressional Committee (NRCC/the Committee) has agreed to pay a \$280,000 civil penalty stemming from its 1999 transfer of \$500,000 in nonfederal funds or "soft money" to the U.S. Family Network (USFN).

Background

Under the law in effect at the time, national party committees, such as the NRCC, that made disbursements in connection with federal and nonfederal elections were required to allocate the costs of certain allocable activities, including so-called party issue advertisements, between their federal and nonfederal accounts. 11 CFR 106.5(a). Additionally, a party committee was required to allocate a donation to a third party if it gave nonfederal funds to that party with the knowledge that all or part of the funds would be used to conduct activities that would be allocable if engaged in directly by the party committee.¹

NRCC

In October of 1999, more than a year before the November 7, 2000, general election, House Republicans inaugurated a multi-pronged project

¹ The regulations that governed the ability of national party committees to raise soft money have changed since 1999. As a result of the Bipartisan Campaign Reform Act, national party committees have been prohibited from soliciting, receiving, directing to another person or spending nonfederal funds since November 6, 2002.

called "Stop the Raid!" As part of this project, the NRCC sponsored television advertisements in the districts of eight to ten Democratic federal candidates who were viewed as vulnerable to an electoral challenge in 2000. These advertisements accused the Democrats of planning to raid the Social Security Trust Fund surplus in the Fiscal Year 2000 budget for "more big government programs." The NRCC allocated the costs of these advertisements between its federal and nonfederal funds.

The USFN solicited the NRCC for \$500,000 in nonfederal funds for "media and grassroots" during the week of October 4, 1999, and again during the week of October 11, 1999. After initially denying both these requests, the NRCC transferred \$500,000 in nonfederal funds to the USFN on October 20, 1999. The donation was made without following the NRCC's usual procedures to approve and process substantial donations.

The founder of the USFN, Ed Buckham, had previously agreed with Jim Ellis, who was affiliated with Americans for Economic Growth (AEG), that AEG would broadcast radio ads relating to the issue of Social Security. After receipt of the NRCC's \$500,000 donation, the USFN transferred \$300,000 to AEG. A portion of that money was subsequently used to pay for radio ads that criticized alleged Democratic efforts to spend portions of the Social Security surplus for "foreign aid and big government programs."

Agents of the NRCC had knowledge of the USFN's intention to forward all or part of the \$500,000 donation to a third party to pay for issue advertisements. Therefore, the Committee violated the Federal Election Campaign Act by using nonfederal funds to pay for an activity that should have been allocated between its federal and nonfederal accounts.

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Compliance

(continued from page 3)

Conciliation

The NRCC and its treasurer, Christopher J. Ward, agreed to pay a \$280,000 civil penalty as part of its conciliation agreement with the Commission.

For additional information on this case, please visit the Commission's Public Records Office or consult the [Enforcement Query System](#) on the FEC's web site and enter case number 4953.

—Michelle Ryan

MUR 5199: Campaign Committee's Failure to Report Recount Activities

The Commission recently entered into a conciliation agreement with Bush-Cheney 2000, Inc. resulting in a \$90,000 civil penalty. The conciliation agreement resolves violations of the Federal Election Campaign Act (the Act) stemming from Bush-Cheney 2000's failure to report to the FEC receipts and disbursements associated with its recount activities.

Background

The Act requires authorized committees of candidates for federal office to report the total amount of all receipts and disbursements, and to itemize certain transactions when the aggregate amount or value exceeds \$200 in an election cycle. In Advisory Opinions 1998-26 and 1978-92, the Commission held that while separate organizations established solely to fund a recount effort would not be required to file disclosure reports, a federal political committee establishing a bank account for recount purposes must report those receipts and disbursements.

Conciliation Agreement

On April 19, 2004, the Commission entered into a conciliation agreement with Bush-Cheney 2000, Inc. According to the agreement, Bush-Cheney 2000 held a bank

account designated "Bush-Cheney 2000, Inc.—Media." After the November 7, 2000, Presidential election, the Committee redesignated this bank account "Bush-Cheney 2000, Inc.—Recount Fund." The account was used to raise funds and pay costs associated with the recount; however, the Committee failed to include that activity in disclosure reports filed with the Commission. Filings submitted to the IRS in 2002 and 2003 suggest that the recount account raised approximately \$11 million and spent approximately \$13 million.

Bush-Cheney 2000 admitted that the failure to report the receipts and disbursements associated with its recount activity and to properly itemize them where appropriate violated the Act. In addition to paying the \$90,000 civil penalty, the Committee agreed to cease and desist from violating these sections of the Act and agreed to disclose its recount receipts and disbursements to the FEC.

Additional information on this case is available from the Commission's Public Records Office and through the [Enforcement Query System](#) on the FEC's web site. Search for case number 5199.

—Meredith Trimble

Advisory Opinions

[AO 2004-8](#)

Severance Pay Awarded to Employee Who Resigns To Run for Congress

In keeping with its past practice, the American Sugar Cane League (ASCL) may provide severance pay and health insurance benefits to a former executive who is running for Congress without violating the Federal Election Campaign Act's (the Act) prohibition on contributions by corporations.

Enforcement Query System Now Available on FEC Web Site

The FEC recently launched its Enforcement Query System (EQS), a web-based search tool that allows users to find and examine public documents regarding closed Commission enforcement matters. Using current scanning, optical character recognition and text search technologies, the system permits intuitive and flexible searches of case documents and other materials.

Users of the system can search for specific words or phrases from the text of all public case documents. They can also identify single matters under review (MURs) or groups of cases by searching additional identifying information about cases prepared as part of the Case Management System. Included among these criteria are case names and numbers, complainants and respondents, timeframes, dispositions, legal issues and penalty amounts. The [Enforcement Query System](#) may be accessed on the Commission's web site at www.fec.gov.

Currently, the EQS contains complete public case files for all MURs closed since January 1, 2002. In addition to adding all cases closed subsequently, staff is working to add cases closed prior to 2002. All MURs closed in 2001 will be included in the system by July 2004, and cases closed in 2000 will be available by the end of 2004. Other FEC compliance actions (Alternative Dispute Resolution cases and Administrative Fines) will also be included in the system at a later date.

Background

ASCL, a nonprofit corporation representing Louisiana sugar cane growers and processors, plans to provide Charles Melancon, its former President and General Manager, a proposed severance package of full salary and full health insurance coverage for one year. Mr. Melancon, who held his position with ASCL for 11 years, resigned on February 20, 2004, in order to become a candidate for the U.S. House of Representatives.

ASCL has offered severance benefits to certain former employees since 1987. While there is no written policy for offering severance benefits and no formula for the calculation of those benefits, ASCL considers such factors as the position held, the length of time employed and the evaluation of job performance in determining whether to offer severance benefits and the size of those benefits. The content of severance packages granted to employees in the past varies. For example, a Vice President and General Manager with 15 years tenure received 3 months pay without continuation of health benefits; more recently, an employee with a total of 24 years of service, including 16 years as Vice President and Director of Research, received one year's full pay and health benefits coverage, his company-owned computer and the option to purchase his company owned car for its "Blue Book" value. In its request, ASCL noted that the severance package it is prepared to offer Mr. Melancon is identical to the package individual board members considered for him in 2001 when there was no prospect of his becoming a federal candidate.

Analysis

As an incorporated entity, ASCL is prohibited from making any "contribution or expenditure" in connection with a federal election 2 U.S.C. §441b(a); 11 C.F.R. 114.2(b)(1). The term "contribution" includes "any gift, loan, advance or deposit

of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. §431(8)(A). Thus, ASCL may only provide Mr. Melancon with the proposed severance package if it does not constitute a contribution under the Act or Commission regulations.

The Act also prohibits the conversion of campaign funds to any "personal use." If a third party pays a candidate's expenses that would otherwise be deemed "personal use" expenses, the payments are considered contributions unless the third party would have made the payments "irrespective of the candidacy." 11 CFR 113.1(g)(6). For example, compensation payments are considered contributions unless:

- The compensation results from *bona fide* employment that is genuinely independent of the candidacy;
- The compensation is exclusively in consideration of services provided by the employee as a part of this employment; and
- The compensation does not exceed the amount that would be paid to any other similarly qualified person for the same work over the same period of time.

Applying these criteria, ASCL's proposed severance package will not result in a prohibited corporate contribution. ASCL has a sufficient corporate record of providing severance packages to departing employees to demonstrate that the package for Mr. Melancon relates exclusively to services rendered in his *bona fide* employment with ASCL. Additionally, the proposed package appears to be proportionate to past severance packages offered by ASCL.

Mr. Melancon's proposed severance package differs from a proposal for partial paid leave considered in AO 2000-1, where the Commission determined that partial paid leave for a federal candidate would not be compensation "irrespective of the candidacy" because the decision

to grant the request was solely at the discretion of the firm and based on factors not exclusively tied to services provided by the employee. In contrast, while the determination by ASCL was discretionary in part, it focused on factors related solely to Mr. Melancon's service, such as length of service, position and job performance. Moreover, the fact that a similar package was proposed for Mr. Melancon years before he considered running for office is additional evidence that ASCL's proposed package is compensation "irrespective of the candidacy."

Concurring Opinion

Commissioner McDonald issued a concurring opinion on May 6, 2004.

Date Issued: April 30, 2004;
Length: 5 pages.

— Amy Pike

AO 2004-10

"Stand By Your Ad" Disclaimer Requirements for Radio Advertisements

A ten-second message sponsored by a federal candidate and read live on the air by a Metro Networks reporter must include the disclaimer statement required for candidate-sponsored radio ads; however, as an exception to the general rule, a Metro Networks reporter may read the required "stand by your ad" statement, rather than the federal candidate authorizing the sponsorship message.

Background

Under the Bipartisan Campaign Reform Act's so-called "stand by your ad" requirement, radio advertisements authorized by a federal candidate must include "an audio statement by the candidate" that identifies the candidate and states that he or she has approved the communication. 11 CFR 110.11(c)(3)(i).

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Advisory Opinions

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The message need not be read live in real time by the candidate, but the candidate must speak the required authorization statement.

Metro Networks is a national company that provides more than 2,000 radio stations throughout the United States with live traffic, news, sports and weather reports. Metro Networks generates revenue by selling ten-second “live read” sponsorship messages that the company’s reporters read at the end of their reports. An “opening mention” precedes the actual report and also identifies the person purchasing the sponsorship message.

Metro Networks intends to market the ten-second sponsorship messages to federal candidates. However, Metro Networks stated that the live nature of the reports and limitations of their broadcasting equipment make it “physically impossible” for them to include any statement spoken by a candidate himself or herself. The reports are produced live in Metro Networks studios and from mobile units and aircrafts with Metro Networks reporters interacting live in real time with radio station personnel. Therefore, Metro Networks asserted that its reporter would be able to read a statement for a sponsoring candidate, but Metro Networks would not be equipped to play a recorded voice of a candidate.

Analysis

The Commission has long recognized that in certain circumstances it is impracticable to provide a full disclosure statement in the prescribed manner. For example, an exception in Commission regulations covers skywriting, water towers, wearing apparel or other means of displaying an advertisement when full application of the disclaimer requirement would be “impracticable.” 11 CFR 110.11(f)(1)(ii)

In this case, the specific physical and technological limitations Metro Networks describes make it impracticable to require the approving candidate to speak the “stand by your ad” statement himself or herself. Thus, while the disclaimer is required, it is permissible for a Metro Networks reporter to speak for the candidate, or candidates, who authorized the advertisement.¹ This approach is practical and as faithful as possible to the “stand by your ad” statute, while avoiding unnecessary burdens on political speech that could result from a rigid application of all disclaimer provisions in all instances. See AO 2004-1.²

An appropriate disclaimer statement to be read by the Metro Networks reporter would be, “Paid for by the committee to re-elect candidate ABC. ABC approved this message.”

—Kathy Carothers

Alternate Disposition of Advisory Opinion Request

AOR 2004-13

This request was closed without issuance of an opinion because it did not qualify as an advisory opinion request. The request posed a hypothetical situation rather than setting forth a specific transaction or activity as required under 11 CFR 112.1(b).

Submitted by Allyson Schwartz for Congress, the request asked

¹ *The Commission assumes for the purposes of this request that the federal candidate would not be physically present with the reporter, and thus would not be available to read the statement.*

² *AO 2004-1 addressed the “stand by your ad” requirement for a television communication authorized by two federal candidates. The Commission permitted one candidate to speak for both candidates so long as the approval statement conveyed that both candidates approved the advertisement.*

whether any candidate-contributed funds carried over from her opposing candidate’s primary election to her general election campaign would be considered an “expenditure from personal funds” in the general election for purposes of the “Millionaires’ Amendment.”

Advisory Opinion Requests

AOR 2004-14

Federal candidate’s appearance in public service announcement (U.S. Representative Tom Davis, April 23, 2004)

AOR 2004-15

Permissibility of corporate-sponsored radio and television ads referring to federal candidates aired within 30 days of Presidential primary to promote DVD sales (David T. Hardy and Bill of Rights Educational Foundation, March 15, 2004)

AOR 2004-16

Corporation’s purchase of advertising space to publish political party committees’ positions on campaign-issues (Altria Group, Inc. and Altria Corporate Services, Inc., May 11, 2004)

AOR 2004-17

Compensation for federal candidate’s part-time consulting work as possible contribution to campaign (Becky Armendariz Klein, May 11, 2004)

Court Cases

New Litigation

Shawn O’Hara v. FEC

On March 29, 2004, the National Committee of the Reform Party of the USA (RPUSA) and its Chairman, Shawn O’Hara, petitioned the U.S. Court of Appeals for the District of Columbia Circuit to review the Commission’s final deter-

mination that the Committee repay \$333,558, plus interest, to the United States Treasury.

Background. On September 26, 2002, the Commission issued the Final Report of the Audit Division on the Reform Party 2000 Convention Committee, which included a determination that the RPUSA repay to the U.S. Treasury \$333,558 of the federal funding it received for the RPUSA's 2000 Presidential nominating convention. The Commission based its determination on audit findings that the RPUSA spent a portion of its public funds on expenditures not considered permissible under the Presidential Election Campaign Fund Act. The RPUSA was notified of the Commission's repayment determination and provided with a copy of the Final Audit Report on September 30, 2002.

On November 26, 2002, the RPUSA submitted a written request for administrative review of the repayment determination. On October 8, 2003, the Commission issued its Post-Administrative Review Repayment Determination, ordering the \$333,558 repayment to the U.S. Treasury. The RPUSA was

notified of this action on October 14, 2003, and provided with a copy of the Commission's Statement of Reasons.

In a letter dated November 14, 2003, the RPUSA requested that the Commission rehear its repayment determination; the request was denied on February 18, 2004.

Court Action. On March 31, 2004, the U.S. Court of Appeals for the District of Columbia Circuit ordered on its own motion that the RPUSA show cause why its petition for review should not be dismissed for lack of jurisdiction for failure to timely file.

U.S. Court of Appeals for the District of Columbia Circuit, 04-1106.

—Elizabeth Kurland

LaRouche's Committee for a New Bretton Woods v FEC

On April 9, 2004, LaRouche's Committee for a New Bretton Woods (LCNBW) asked the U.S. Court of Appeals for the District of Columbia to review the FEC's determination requiring the committee to repay to the U.S. Treasury a portion of the Presidential primary matching funds it received for the 2000 Presidential election. The March 1, 2004, repayment determination resulted from LCNBW's non-qualified campaign expenses and its receipt of funds in excess of its entitlement. See the May 2004 issue of the *Record*, page 15.

On April 27, 2004, the Commission moved to dismiss this case on the ground that the court lacked jurisdiction because LCNBW is also concurrently seeking an administrative reconsideration from the Commission.

—Amy Kort

Nonfilers

Congressional Committees Fail to File Reports

The following Congressional campaign committees failed to file required disclosure reports:

- Bryan S. Coffman Congressional Campaign Committee (12-Day Pre-Primary report for Kentucky primary election);
- Jim Holt for U.S. Senate (12-Day Pre-Primary report for Arkansas primary election);
- Hoosiers for Hardy (12-Day Pre-Primary report for Indiana primary election);
- Kannensohn for Congress (April Quarterly report and 12-Day Pre-Primary report for Kentucky primary election); and
- Swint for Congress Committee (12-Day Pre-Primary report for West Virginia Primary)

Prior to the reporting deadlines, the Commission notified committees of their filing obligations. Committees that failed to file the required reports were subsequently notified that their reports had not been received and that their names would be published if they did not respond within four business days.

The Federal Election Campaign Act requires the Commission to publish the names of principal campaign committees if they fail to file 12 day pre-election reports or the quarterly report due before the candidate's election. 2 U.S.C. §437g(b). The agency may also pursue enforcement actions against nonfilers and late filers on a case-by-case basis.

—Amy Kort

Correction

FEC v. Malenick, et al.

The [May 2004 Record](#) incorrectly stated that under *FEC v.*

Massachusetts Citizens for Life, 479 U.S. 238 (1986), and *Buckley v. Valeo*, 424 U.S.1, 79 (1976), "An organization that is regulated under the Act as a 'political committee' must also have as its major purpose the nomination or election of a federal candidate" (emphasis added). The statement should have read, "An organization that is regulated under the Act as a 'political committee' must also have as its major purpose the nomination or election of a candidate."

Public Funding

Commission Certifies Matching Funds for Presidential Candidates

On April 30, 2004, the Commission certified \$810,755.13 in federal matching funds to five Presidential candidates for the 2004 election. The U.S. Treasury Department made the payments on May 3, 2004. Thus far, the seven eligible candidates have been certified \$27,013,495.51.

Presidential Matching Payment Account

Under the Presidential Primary Matching Payment Account Act, the federal government will match up to \$250 of an individual's total contributions to an eligible Presidential primary candidate. A candidate must establish eligibility to receive matching payments by raising in excess of \$5,000 in each of at least 20 states (i.e., over \$100,000). Although an individual may contribute up to \$2,000 to a primary candidate, only a maximum of \$250 per individual applies toward the \$5,000 threshold in each state. Candidates who receive matching payments must agree to limit their committee's spending, limit their personal spending for the campaign to \$50,000 and submit to an audit by the Commission. 26 U.S.C. §§9033(a) and (b) and 9035; 11 CFR 9033.1, 9033.2, 9035.1(a)(2) and 9035.2(a)(1).

Candidates may submit requests for matching funds once each month. The Commission will certify an amount to be paid by the U.S. Treasury the following month. 26 CFR 702.9037-2. Only contributions from individuals in amounts of \$250 or less are matchable.

The chart at right lists the amount most recently certified to each eligible candidate who has elected to participate in the matching fund program, along with the cumulative amount that each candidate has been certified to date.

Sharpton—Suspension of Public Funds

On March 11, 2004, the Commission determined Reverend Alfred C. Sharpton eligible to receive matching funds. At the same time, the Commission opened an investigation to resolve whether Reverend Sharpton had exceeded his \$50,000 personal expenditure limitation. See 11 CFR 9039.3. On March 29, the Commission made an initial determination to suspend matching payments to Reverend Sharpton based on his committee's March 2004 monthly report, which showed that he had made expenditures from his personal funds that were more than

double the \$50,000 limit. 11 CFR 9033.9(a).

On April 21, 2004, Reverend Sharpton and his principal campaign committee submitted materials in response to the Commission's subpoena and initial determination to suspend funds. 11 CFR 9033.9(b) and 9033.10(b). The information showed that Reverend Sharpton knowingly and substantially exceeded his \$50,000 personal expenditure limitation. Therefore, on April 29, 2004, the Commission made a final determination to suspend matching fund payments to Reverend Sharpton and Sharpton 2004. The Commission had certified

Matching Funds for 2004 Presidential Candidates: April Certification

Candidate	Certification April 2004	Cumulative Certifications
Wesley K. Clark (D) ¹	\$62,789.71	\$7,615,360.39
John R. Edwards (D) ²	\$412,963.51	\$6,521,338.88
Richard A. Gephardt (D) ³	\$0	\$4,104,319.82
Dennis J. Kucinich (D) ⁴	\$248,001.09 ⁵	\$3,075,300.72
Lyndon H. LaRouche, Jr. (D) ⁶	\$62,879.82	\$1,339,344.85
Joseph Lieberman (D) ⁷	\$24,121.00	\$4,257,830.85
Alfred C. Sharpton (D) ⁸	\$0	\$100,000.00

¹ General Clark publicly withdrew from the Presidential race on February 11, 2004.

² Senator Edwards publicly withdrew from the Presidential race on March 3, 2004.

³ Congressman Gephardt publicly withdrew from the Presidential race on January 2, 2004.

⁴ Congressman Kucinich became ineligible to receive matching funds on March 4, 2004.

⁵ This certification was part of a prior certification that had not been fully paid. The Commission recertified the candidate for this amount on April 30, 2004. Thus, this amount is not included in the candidate's cumulative certifications.

⁶ Mr. LaRouche became ineligible to receive matching funds on March 4, 2004.

⁷ Senator Lieberman publicly withdrew from the Presidential race on February 3, 2004.

⁸ Reverend Sharpton became ineligible to receive matching funds on March 15, 2004.

\$79,708.99 in matching payments to Reverend Sharpton on April 1. The U.S. Treasury was scheduled to pay these funds on May 1. See 26 CFR 702.9037-2. However, as a result of the Commission's April 29 final determination, the Commission notified the Treasury not to pay this amount. See 11 CFR 9033.9(d)(2). A candidate whose payments are suspended for exceeding the expenditure limitation is not entitled to receive any further matching payments. 11 CFR 9033.9(d)(2).

—Amy Kort

Administrative Fines

Committees Fined for Nonfiled and Late Reports

The Commission recently publicized its final action on 25 new Administrative Fine cases, bringing the total number of cases released to the public to 943, with \$1,239,644 in fines collected by the FEC.

Civil money penalties for late reports are determined by the number of days the report was late, the amount of financial activity involved and any prior penalties for violations under the administrative fines regulations. Penalties for nonfiled reports—and for reports filed so late as to be considered nonfiled—are also determined by the financial activity for the reporting period and any prior violations. Election sensitive reports, which include reports and notices filed prior to an election (i.e., 12-day pre-election, October quarterly and October monthly reports), receive higher penalties. Penalties for 48-hour notices that are filed late or not at all are determined by the amount of the contribution(s) not timely reported and any prior violations.

The committee and the treasurer are assessed civil money penalties when the Commission makes its

Committees Fined and Penalties Assessed

1. American Nursery and Landscape Association—PAC 12 Day Pre-General 2002	\$1,000
2. American Nursery and Landscape Association—PAC 30 Day Post General 2002	\$906
3. Campaign for America's Future	\$145
4. Committee to Elect Frank W. Ballance Jr.	\$0 ¹
5. DeLay for Congress	\$3,500 ²
6. Friends of Jim Farrin	\$1,100
7. Gay and Lesbian Victory Fund	\$3,100
8. Jones, Walker, Waechter, Poitevent, Carrere & Denegre PAC	\$1,000
9. Local 617 COPE Committee	\$700 ³
10. Louisville & Jefferson County Republican Executive Committee	\$2,850
11. Mel Watt for Congress Committee	\$0 ¹
12. Mike Greene for Congress Committee	\$7,875 ²
13. Monterey County Republican Central Committee Fed	\$580
14. NEWSTAR PAC (FKA The New Century Federal PAC)	\$750
15. Old National Bank In Evansville OLBANK PAC	\$900
16. Patriot PAC	\$1,350
17. Philip Lowe for Congress	\$19,000 ²
18. Salem Communications Corporation PAC	\$1,100
19. Select Milk Producers PAC	\$2,250
20. Sheet Metal Workers International, Association Local 28 PAC	\$2,175
21. Snyder for Congress Campaign Committee	\$2,000
22. Stace Williams for US Congress	\$4,500 ²
23. Sutton for Congress	\$25 ³
24. Van Auken for Congress Committee	\$2,000
25. White Mountain PAC	\$4,550

¹The Commission waived this civil money penalty because the respondents have demonstrated the existence of extraordinary circumstances that were beyond their control and that were for a duration of at least 48 hours.

²This civil money penalty has not been collected.

³This civil money penalty was reduced due to the level of activity on the report.

final determination. Unpaid civil penalties are referred to the Department of the Treasury for collection.

The committees listed in the chart above, along with their treasurers, were assessed civil money penalties under the administrative fines regulations.

Closed Administrative Fine case files are available through the FEC Press Office and Public Records Office at 800/424-9530.

—Amy Kort

Outreach

Reporting Roundtables

On July 7, 2004, the Commission will host two roundtable sessions on election year reporting, including new disclosure requirements under the Bipartisan Campaign Reform Act of 2002 (BCRA). See the chart below for details. Both sessions will be followed by a half-hour reception at which each attendee will have an opportunity to meet the campaign finance analyst who reviews his/her committee's reports. Representatives from the FEC's Electronic Filing Office will also be available to meet with attendees.

Attendance is limited to 30 people per session, and registration is accepted on a first-come, first-served basis. Please call the FEC before registering or sending money to ensure that openings remain. The registration form is available on the FEC web site at <http://www.fec.gov/pages/infosvc.htm> and from Faxline, the FEC's automated fax system (202/501-3413, request document 590). For more information, call the Information Division at 800/424-9530, or locally at 202/694-1100.

—Amy Kort

Roundtable Schedule

Date	Subject	Intended Audience
July 7 9:30-11 a.m. Reception 11-11:30 a.m.	Election Year Reporting for Candidates and Their Committees, plus "Meet Your Analyst" reception	Individuals responsible for filing FEC reports for Candidate Committees (Up to 30 may Attend)
July 7 1:30-3 p.m. Reception 3-3:30 p.m.	Election Year Reporting for PACs and Party Committees, plus "Meet Your Analyst" reception	Individuals responsible for filing FEC reports for PACs and Party Committees (Up to 30 may Attend)

Publications

FEC Annual Report 2003 Available Online

The Commission's *Annual Report 2003* is now available online at <http://www.fec.gov/pages/anreport.htm>. Printed copies of the report will also be available in June. To order a free copy, contact the Information Division at 800/424-9530, or locally at 202/694-1100.

—Amy Kort

New Campaign Guide for Congressional Candidates and Committees Available Online

A revised version of the *Campaign Guide for Congressional Candidates and Committees* is now available on the FEC web site at <http://www.fec.gov/pages/cand-guide2004/contents.htm>. The new guide provides Congressional candidates and their committees with clear explanations of the Federal Election Campaign Act, as amended by the Bipartisan Campaign Reform Act of 2002, and Commission regu-

lations and advisory opinions. The guide also provides clear reporting advice, along with examples of how to report common transactions.

A printed version of the *Campaign Guide for Congressional Candidates and Committees* will be available later this summer and will be sent immediately to all registered candidate committees. The availability of the printed version will be announced in a future issue of the *Record*.

—Amy Kort

Public Appearances

June 9, 2004
University of Pennsylvania
Washington, DC
Chairman Smith
Jason Bucelato

June 9, 2004
Aspin Center
Washington, DC
Commissioner McDonald

June 11-13, 2004
California Political Attorneys
Association
Indian Wells, CA
Chairman Smith

June 14, 2004
State Department/Foreign Service
Nationals
Washington, DC
Vice-Chair Weintraub

June 18-20, 2004
American Constitution Society
Washington, DC
Chairman Smith

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