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800 Line

FEC Rules for National Convention Delegates

In recent weeks, the Commission has received a number of questions concerning the application of campaign finance laws to national convention delegates and individuals seeking selection as a delegate. The material that follows offers answers to frequently asked questions about FEC rules governing delegates to national nominating conventions.

To whom do these rules apply?

These rules apply to any individual who is seeking selection as a delegate, or who has already been selected as a delegate, at any level of the delegate selection process (local, state or national). 11 CFR 110.14(b) (1).

Do delegates have to file reports with the FEC?

No. Individual delegates are not required to register or file regular reports of the funds they raise and spend for their personal delegate activity. 11 CFR 110.14(d)(3) and (e)(2). However, delegates acting as a group may have to file reports as a delegate committee. See "Do delegate committees have to file FEC reports?" below.

(continued on page 9)

Compliance

MUR 5895: Personal Use and Prohibited Contributions

The Commission has entered into a conciliation agreement with Congressman Gregory W. Meeks (NY/6) and his campaign committee, Meeks for Congress (Committee), in which the Committee agreed to pay a \$63,000 civil penalty to resolve violations of the Federal Election Campaign Act (the Act). In the agreement, Congressman Meeks' campaign committee admitted to violating the Act by:

- Using campaign funds to pay for personal expenses of the Congressman;
- Misstating financial activity;
- Receiving contributions that exceeded the Act's limits and source prohibitions; and
- Failing to keep proper records of operating expenditures and contributions made to other political committees.

Congressman Meeks also agreed to refund, using personal funds, \$9,812 to his committee for vehicle expenses, in addition to \$6,230 for personal trainer expenses and \$916 for miscellaneous undocumented credit card expenses previously refunded by the Congressman to the committee during the audit.

(continued on page 2)

Compliance

(continued from page 1)

Background

This enforcement matter was based on an FEC audit report, approved by the Commission on August 17, 2006, covering Meeks for Congress' financial activity from January 1, 2003, through December 31, 2004. The audit concluded that:

- Meeks for Congress used \$16,958 of campaign funds for the personal expenses of Congressman Meeks, in violation of the Act. These expenses included personal trainer expenses (\$6,230), miscellaneous undocumented credit card expenses (\$916) and vehicle lease payments and repairs (\$9,812). The Act prohibits any person from converting campaign funds to personal use. Commission regulations define personal use as the use of campaign funds to pay for any expense of any person that would exist irrespective of the candidate's campaign or duties as a federal officeholder. The Congressman reimbursed the Com-

mittee for the miscellaneous credit card expenses and the personal trainer expenses after they were identified in the Commission's audit of the Committee.

- Meeks for Congress violated the Act by misstating its cash on hand, receipts and disbursements in the aggregate amount of \$278,636 on its disclosure reports filed with the Commission in the years 2003 and 2004.
- During the 2004 election cycle, the Committee received contributions from various individuals totaling \$22,900 in excess of their primary election limit and disclosed these funds as general election contributions, in violation of the Act. Since the commencement of the Commission's enforcement action, the Committee has refunded the excessive contributions.
- The Committee received contributions totaling \$7,070 from the treasury funds of various corporations and limited liability companies (LLCs) during the 2004 election cycle, in violation of the Act. The Committee failed to ascertain whether the LLC contributions were permissible, as required by Commission regulations.
- The Committee also failed to keep proper records of its operating expenditures and its contributions to other political committees, in violation of the Act.

The Commission's investigation revealed that a contribution to Meeks for Congress from Advent Capital Management LLC was permissible under FEC regulations. As a result, the Commission took no further action against Advent Capital.

Under the law, the FEC must attempt to resolve its enforcement cases, or Matters Under Review (MURs), through a confidential investigative process that may lead to a negotiated conciliation agreement between the Commission and the individual or group the Commission determines has violated the law. The Commission voted to approve the

outcome in this matter on November 28, 2007. Additional information regarding MURs can be found on the FEC web site at <http://www.fec.gov/em/mur.shtml>.

—Meredith Metzler

Commission

New Vice Chair Elected

On January 24, 2008, the Commission elected Ellen Weintraub as Vice Chair for 2008. Vice Chair Weintraub was appointed to the Commission on December 6, 2002, renominated on January 9, 2003, and confirmed by unanimous consent of the U.S. Senate on March 18, 2003. She is the third woman to serve on the Commission.

Prior to her appointment, Vice Chair Weintraub was Of Counsel to Perkins Coie LLP and a member of its Political Law group. At Perkins Coie, she counseled clients on federal and state campaign finance laws, political ethics, nonprofit law and lobbying regulation. Her tenure with Perkins Coie represented her second stint in private practice, having previously practiced as a litigator with the New York firm of Cahill Gordon & Reindel. Before joining Perkins Coie, Vice Chair Weintraub was Counsel to the Committee on Standards of Official Conduct for the U.S. House of Representatives, where she served as editor-in-chief of the House Ethics Manual and as a principal contributor to the Senate Ethics Manual.

Vice Chair Weintraub received her bachelor's degree, *cum laude*, from Yale College and her law degree from Harvard Law School. A native New Yorker, she is a member of the New York and District of Columbia bars and the Supreme Court bar.

—Meredith Metzler

Federal Election Commission 999 E Street, N.W. Washington, DC 20463

800/424-9530
202/694-1100
202/501-3413 (FEC Faxline)
202/219-3336 (TDD for the
hearing impaired)

David M. Mason, Chairman
Ellen L. Weintraub, Vice Chair

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Communications

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Amy L. Kort, Deputy Assistant
Staff Director

Meredith E. Metzler, Editor

<http://www.fec.gov>

Commission Amends Rules that Govern its Procedures

On December 20, 2007, the Commission amended its written rules for conducting its meetings to provide for circumstances when the Commission has fewer than four members. The Commission published the entire document, entitled "Directive 10," in the *Federal Register* on January 30, 2008.

Background

The Federal Election Campaign Act (the Act) requires the Commission to prepare written rules for the conduct of its activities, including how it runs its meetings. The Commission first published these rules, set forth in Directive 10, in 1978. The Act additionally requires the affirmative vote of at least four Commissioners to undertake many agency actions, including various actions related to regulations, advisory opinions, enforcement matters and public financing.

The Commission currently has only two members. The 2007 revisions to Directive 10 add a new section "L," which addresses the Commission's rules of procedure when the Commission has less than four sitting members and is applicable only when the Commission is operating under these circumstances. Thus, the new section L is now in effect. Other than the new section L, Directive 10 is unchanged.

Additions to Directive 10

When it is in effect, Section L of Directive 10 defines a "meeting" as the "collegiate deliberation" of two or more Commissioners and states that all Commissioners must be present to have a quorum. Approval of a proper motion before the Commission while section L is in effect will require the affirmative vote of a majority of the Commissioners. If the majority is composed only of Commissioners from the same political party, the motion will not be considered approved. Section H

of Directive 10 (recording votes of Commissioners absent when a vote is taken) will not apply when the Commission is operating under these circumstances.

Additionally, when the special rules are in effect, the Commissioners may discuss any matter but may not act on any matter except:

- Approval of documents such as campaign guides, brochures and other public education materials customarily voted on by the Commission;
- Notices of filing dates, including special elections;
- Actions related to FEC conferences and other invitations for public appearances;
- Election of the Chairman and Vice Chair for the period when the Commission has less than four members, as long as there is a member eligible to hold the position;
- Appointment of an acting general counsel, acting staff director, acting chief financial officer or acting inspector general, approval of temporary personnel actions at the GS-15 level and above and other personnel actions;
- Budget estimates or requests for concurrent submission to the President and Congress, or other budget-related matters requiring Commission approval;
- Minutes of previous Commission meetings;
- Non-filer notices (see 2 U.S.C. §438(a)(7));
- Debt settlement plans under 11 CFR 116;
- Administrative terminations pursuant to 11 CFR 102.4 and Commission Directive 45;
- Systems of Records Notices pursuant to the Privacy Act;
- Policies, procedures and directives pursuant to the Privacy Act or Section 522 of the Consolidated Appropriations Act, 2005;
- Agency head review of labor management agreements;

- Any other action where a statute imposes a duty of "agency head review" on the Commission;
- Appeals under the Freedom of Information and Privacy Acts;
- Sunshine Act recommendations for agenda items;
- Contracts;
- The FEC Management Plan, pursuant to the OMB Circular A-123 and the Federal Managers' Financial Integrity Act;
- Corrective action plans prepared in response to audits, both financial and non-financial, pursuant to the FEC Directive 50 and/or the Accountability of Tax Dollars Act; or
- EEO-related *Federal Register* notices.

The complete text of Directive 10 was published in the *Federal Register* on January 30, 2008 (73 FR 5569), and is available on the FEC web site at http://www.fec.gov/law/cfr/ej_compilation/2008/notice_2008-01.pdf.

—Meredith Metzler

Federal Register

Federal Register notices are available from the FEC's Public Records Office, on the web site at http://www.fec.gov/law/law_rulemakings.shtml and from the FEC Faxline, 202/501-3413.

Notice 2008-1

Rules of Procedure (73 FR 5568, January 30, 2008)

Notice 2008-3

Filing Dates for the Louisiana Special Election in the 6th Congressional District (73 FR 6968, February 6, 2008)

Notice 2008-4

Price Index Increases for Expenditure Limitations (73 FR 8696, February 14, 2008)

Alternative Dispute Resolution

ADR Program Update

During the last six months of 2007, the Alternative Dispute Resolution (ADR) program resolved and made public 44 campaign finance enforcement matters.

Nineteen of the matters resulted in civil penalties totaling \$65,700. The Commission dismissed the allegations against 14 committees. As part of the resolution of the enforcement matters, many committees agreed to modify their practices by reassigning staff, conducting internal audits and attending FEC conferences to improve their recordkeeping and reporting practices.

Since its inception in 2000, the ADR program has resolved 385 cases. The purpose of the ADR program is to reach a faster resolution with a settlement that complies with the Federal Election Campaign Act and is agreeable to both the Commission and the respondents. For a case to be considered for ADR, the respondent must express a willingness to engage in the ADR process, agree to set aside the statute of limitations on the violations while the case is being resolved and participate in mediation, if appropriate. Settlements reached through the ADR program are submitted to the Commission for final approval. Completed ADR negotiated settlement summaries are available on the FEC's web site and through the Public Records Office.

Summaries of the 44 cases closed in late 2007 are available on the FEC web site at <http://www.fec.gov/press/press2008/011808ADRcases.shtml>.

—Meredith Metzler

Nonfilers

Congressional Committees Fail to File Reports

The following principal campaign committees failed to file required 12 Day Pre-Primary reports:

- Citizens for Joe Armino (MD/1)¹; and
- Friends to Elect George Mitchell for Congress (MD/4).²

The 12 Day Pre-Primary report for the February 12 Maryland Primary was due on January 31, 2008. The Commission notified committees of their filing obligations prior to this reporting deadline. 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 election-sensitive reports. 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

¹ *Citizens for Joe Armino filed a paper 12 Day Pre-Primary report that exceeds the e-filing threshold and is therefore required to be filed electronically.*

² *The 2007 Year End Report was waived for candidates in the 2008 Maryland primaries. Primary candidates and their committees were required to file a 12 Day Pre-Primary Report covering October 1, 2007, through January 23, 2008. Friends to Elect George Mitchell for Congress filed a standard 2007 Year End Report on paper, but is required to file electronically. The committee also mailed in a CD containing its entire database, which was rejected by the Electronic Filing Office.*

Reporting

California Special Election Reporting: 12th District

The Special General Election to fill the U.S. House seat in California's 12th Congressional District formerly held by the late Representative Tom Lantos will be April 8, 2008. Under California law, a majority winner in a special election is declared elected. Should no candidate achieve a majority vote, a Special Runoff Election will be held on June 3, 2008, among the top vote-getters of each qualified party, including qualified independent candidates.

Candidate committees involved in these elections must follow the reporting schedule on page 5. Please note that the reporting period for the Post-General report (or Post-Runoff election report, if necessary) spans two election cycles. For this report only, authorized committees must use the Post-Election Detailed Summary Page rather than the normal Detailed Summary Page.

PACs and party committees that file on a quarterly schedule and participate in this election must also follow this schedule. PACs and party committees that file monthly should continue to file according to their regular filing schedule.

Filing Electronically

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the applicable filing deadline.

Electronic filers who instead file on paper or submit an electronic report that does not pass the Commission's validation program by the filing deadline will be considered nonfilers and may be subject to enforcement actions, including administrative fines.

Timely Filing for Paper Filers

Registered and Certified Mail.

Reports sent by registered or certified mail must be postmarked on or before the mailing deadline to be considered timely filed. A committee sending its reports by certified or registered mail should keep its mailing receipt with the U.S. Postal Service (USPS) postmark as proof of filing because the USPS does not keep complete records of items sent by certified mail.

Overnight Mail. Reports filed via overnight mail¹ will be considered timely filed if the report is received by the delivery service on or before the mailing deadline. A committee sending its reports by Express or Priority Mail, or by an overnight delivery service, should keep its proof of mailing or other means of transmittal of its reports.

Other Means of Filing. Reports sent by other means—including first class mail and courier—must be received by the FEC before the Commission’s close of business on the filing deadline. 2 U.S.C. §434(a)(5) and 11 CFR 104.5(e). Forms are available for downloading and printing at the FEC’s web site (<http://www.fec.gov/info/forms.shtml>) and from FEC Faxline, the agency’s automated fax system (202/501-3413).

48-Hour Contribution Notices

Note that 48-hour notices are required of the participating candidate’s principal campaign committee if it receives any contribution of \$1,000 or more per source between March 20 and April 5, 2008, for the Special General Election; and between May 15 and May 31, 2008, for the Special Runoff Election, if that election is held.

¹ “Overnight mail” includes Priority or Express Mail having a delivery confirmation, or an overnight service with which the report is scheduled for next business day delivery and is recorded in the service’s on-line tracking system.

California 12th District Special Election Reporting

If Only the Special General Is Held, Committees Must File:

	Close of Books ¹	Reg./Cert./Overnight Mailing Deadline	Filing Deadline
Pre-General	March 19	March 24	March 27
April Quarterly	March 31	April 15	April 15
Post-General	April 28	May 8	May 8
July Quarterly	June 30	July 15	July 15

Committees Involved in Both the Special Primary and the Special General Must File:

	Close of Books ¹	Reg./Cert./Overnight Mailing Deadline	Filing Deadline
Pre-General	March 19	March 24	March 27
April Quarterly	March 31	April 15	April 15
Pre-Runoff	May 14	May 19	May 22
Post-Runoff	June 23	July 3	July 3
July Quarterly	June 30	July 15	July 15

If Two Elections Are Held, Committees Involved in Only the Special General Must File:

	Close of Books ¹	Reg./Cert./Overnight Mailing Deadline	Filing Deadline
Pre-General	March 19	March 24	March 27
April Quarterly	March 31	April 15	April 15

¹ This date indicates the end of a reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

24- and 48-Hour Reports of Independent Expenditures

Political committees and other persons must file 24-hour reports of independent expenditures that aggregate at or above \$1,000 between March 20 and April 6, 2008, for the Special General, and between May 15 and June 1, 2008, for the Special Runoff, if that election is held. This requirement is in addition to that of filing 48-hour reports of independent expenditures that aggregate \$10,000 or more at other times during a calendar year.

Electioneering Communications

The 60-day electioneering communications period in connection with the Special General Election runs from February 8 through April 8, 2008. The electioneering communications period for the Special Runoff Election, if that election is held, runs from April 4 through June 3, 2008.

—Elizabeth Kurland

Party Activities

2008 Coordinated Party Expenditure Limits

The 2008 coordinated party expenditure limits are now available.

The limits are:

- \$19,151,200 for Presidential nominees;
- \$84,100 for House nominees in states that have only one U.S. House Representative;
- \$42,100 for House nominees in states that have more than one U.S. House Representative; and
- A range from \$84,100 to \$2,284,900 for Senate nominees, depending on each state's voting age population.

Party committees may make these special expenditures on behalf of their 2008 general election nominees. National party committees have a separate limit for each nominee.¹ Each state party committee has a separate limit for each House and Senate nominee in its state. Local party committees do not have their own separate limit. One party committee may authorize another party committee to make an expenditure against its limit. Local committees may only make coordinated party expenditures with advance authorization from another committee.

Coordinated party expenditure limits are separate from the contribution limits; they also differ from contributions in that the party committee must spend the funds on behalf of the candidate rather than give the money directly to the campaign. Although these expenditures

¹ The national Senatorial and Congressional committees do not have separate coordinated party expenditure limits, but may receive authorization to spend against the national limit or state party limits.

Authority to Make Coordinated Party Expenditures on Behalf of House and Senate Nominees

National Party Committee	May make expenditures on behalf of House and Senate nominees. May authorize ¹ other party committees to make expenditures against its own spending limits. National Congressional and Senatorial campaign committees do not have separate limits.
State Party Committee	May make expenditures on behalf of House and Senate nominees seeking election in the committee's state. May authorize ¹ other party committees to make expenditures against its own spending limits.
Local Party Committee	May be authorized ¹ by national or state party committee to make expenditures against its limits.

Calculating 2008 Coordinated Party Expenditure Limits

	Amount	Formula
Senate Nominee	See table on page 7	The greater of: \$20,000 x COLA or 2¢ x state VAP ² x COLA ³
House Nominee in States with Only One Representative	\$84,100	\$20,000 x COLA
House Nominee in Other States	\$42,100	\$10,000 x COLA
Nominee for Delegate or Resident Commissioner⁴	\$42,100	\$10,000 x COLA

¹ The authorizing committee must provide prior authorization specifying the amount the committee may spend.

² VAP means voting age population.

³ COLA means cost-of-living adjustment. The applicable COLA is 4.205.

⁴ American Samoa, the District of Columbia, Guam and the Virgin Islands elect Delegates; Puerto Rico elects a Resident Commissioner.

may be made in consultation with the candidate, only the party committee making the expenditure—not the candidate committee—must report them. (Coordinated party expenditures are reported on FEC Form 3X, line 25, and are always itemized on Schedule F, regardless of amount.)

The accompanying tables on pages 6 and 7 include:

- Information on which party committees have the authority to make coordinated party expenditures;
- The formula used to calculate the coordinated party expenditure limits; and
- A listing of the state-by-state coordinated party expenditure limits.

—Elizabeth Kurland

Statistics

Number of PACs Increases Slightly in 2007

The number of federally registered political action committees (PACs) increased by 1.5 percent during the second half of 2007, from 4,168 on July 1, 2007, to 4,234 by January 1, 2008. The number of registered PACs has remained relatively constant over the last 20 years, ranging from about 3,800 to 4,200 registered PACs.

Corporate PACs remain the largest category, with 1,601 committees, followed by nonconnected PACs, with 1,300. In addition, there were 925 trade/membership/health PACs, 273 labor PACs, 97 for corporations without stock and 38 PACs for cooperatives. The chart on page 8 details the number of PACs in existence since 2000.

—Meredith Metzler

Coordinated Party Expenditure Limits for 2008 General Election Senate Nominees

State	Voting Age Population (in thousands)	Expenditure Limit
Alabama	3,504	\$294,700
Alaska*	501	\$84,100
Arizona	4,669	\$392,700
Arkansas	2,134	\$179,500
California	27,169	\$2,284,900
Colorado	3,669	\$308,600
Connecticut	2,682	\$225,600
Delaware*	659	\$84,100
Florida	14,208	\$1,194,900
Georgia	7,013	\$589,800
Hawaii	998	\$84,100
Idaho	1,092	\$91,800
Illinois	9,653	\$811,800
Indiana	4,759	\$400,200
Iowa	2,277	\$191,500
Kansas	2,080	\$174,900
Kentucky	3,238	\$272,300
Louisiana	3,214	\$270,300
Maine	1,038	\$87,300
Maryland	4,260	\$358,300
Massachusetts	5,017	\$421,900
Michigan	7,625	\$641,300
Minnesota	3,937	\$331,100
Mississippi	2,150	\$180,800
Missouri	4,454	\$374,600
Montana*	738	\$84,100
Nebraska	1,328	\$111,700
Nevada	1,905	\$160,200
New Hampshire	1,018	\$85,600
New Jersey	6,622	\$556,900
New Mexico	1,470	\$123,600
New York	14,884	\$1,251,700
North Carolina	6,843	\$575,500
North Dakota*	497	\$84,100
Ohio	8,715	\$732,900
Oklahoma	2,718	\$228,600
Oregon	2,885	\$242,600
Pennsylvania	9,646	\$811,200
Rhode Island	825	\$84,100
South Carolina	3,348	\$281,600
South Dakota*	599	\$84,100
Tennessee	4,685	\$394,000
Texas	17,281	\$1,453,300
Utah	1,829	\$153,800
Vermont*	490	\$84,100
Virginia	5,886	\$495,000
Washington	4,932	\$414,800
West Virginia	1,425	\$119,800
Wisconsin	4,280	\$359,900
Wyoming*	397	\$84,100

* In these states, which have only one U.S. House Representative, the spending limit for the House nominee is \$84,100. In other states, the limit for each House nominee is \$42,100.

Advisory Opinions

AO 2007-32 Political Committee Status of Independent Expenditure Organization

The Commission released for public comment, but did not approve, a draft advisory opinion concerning the political committee status of an organization soliciting funds and making independent expenditures. The two members of the Commission discussed the draft advisory opinion and voted 1-1 on a motion to approve the draft. The Commission was unable to render an opinion in this matter, as issuance of an advisory opinion requires the

affirmative vote of four members of the Commission. Chairman David M. Mason issued a dissenting opinion on the draft.

—Meredith Metzler

AO 2007-35 Internet Toolbar Affinity Program for Political Committees

The Commission released for public comment, but did not approve, a draft advisory opinion concerning an affinity program between a corporation and political committees to provide Internet toolbars. The two members of the Commission discussed the draft advisory opinion and voted 2-0 in favor of a motion to approve the draft. The Commission was unable to render an opinion in

this matter, as approval of an advisory opinion requires the affirmative vote of four members of the Commission.

—Meredith Metzler

Alternative Disposition of Advisory Opinion Request AOR 2007-36

On January 23, 2008, the requester withdrew its request for an advisory opinion. People for Pete Domenici had sought guidance concerning the use of campaign funds to defray the legal expenses of a federal officeholder and members of his staff.

Commission Calendar Always Up-to-Date

Between issues of the *Record*, you can stay up-to-date on the latest FEC activity by visiting the Commission Calendar on our web site at <http://www.fec.gov/calendar/calendar.shtml>. The Calendar lists Commission meetings, reporting deadlines, conferences and outreach events, advisory opinion and rulemaking comment periods and other useful information. Each calendar entry links directly to the relevant documents, so you can quickly access detailed information on the subjects that interest you.

While you're visiting www.fec.gov, be sure to explore the rest of our site to review the latest campaign finance reports and data, research enforcement actions and litigation, read press releases and get help complying with the law. Visit today and add our site to your favorites.

Semiannual PAC Count 2000-Present

	Corporate	Labor	Trade/ Member/ Health	Coop- erative	Corp. w/o Capital Stock	Non- connected ¹	Total
Jan. 00	1,548	318	844	38	115	972	3,835
Jul. 00	1,523	316	812	39	114	902	3,706
Jan. 01	1,545	317	860	41	118	1,026	3,907
Jul. 01	1,525	314	872	41	118	1,007	3,877
Jan. 02	1,508	316	891	41	116	1,019	3,891
Jul. 02	1,514	313	882	40	110	1,006	3,865
Jan. 03	1,528	320	975	39	110	1,055	4,027
Jul. 03	1,534	320	902	39	110	1,040	3,945
Jan. 04	1,538	310	884	35	102	999	3,868
Jul. 04	1,555	306	877	34	97	1,174	4,040
Jan. 05	1,622	306	900	34	99	1,223	4,184
Jul. 05 ²	1,646	302	936	37	103	1,267	4,291
Jan. 06	1,622	290	925	37	103	1,233	4,210
Jul. 06	1,621	283	935	40	105	1,233	4,217
Jan. 07	1,582	273	937	37	100	1,254	4,183
Jul. 07	1,586	273	926	37	99	1,247	4,168
Jan. 08	1,601	273	925	38	97	1,300	4,234

¹ Nonconnected PACs must use their own funds to pay fundraising and administrative expenses, while the other categories of PACs have corporate or labor "connected organizations" that are permitted to pay those expenses for their PACs. On the other hand, nonconnected PACs may solicit contributions from the general public, while solicitations by corporate and labor PACs are restricted.

² During the second six months of 2005, 189 PACs were administratively terminated for inactivity.

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(continued from page 1)

How are funds raised and spent for delegate activity treated under federal campaign finance law?

Funds raised and spent for delegate selection are considered “contributions” and “expenditures” made for the purpose of influencing a federal election¹ and are therefore subject to the federal law’s prohibitions.² 11 CFR 110.14(c)(1) and (2). Although the law generally does not limit contributions per delegate (see 11 CFR 110.1(m)(1) and 110.14(d)), certain other contribution limits apply. See, e.g., 11 CFR 110.5(e). Please note that these prohibitions and limits apply to contributions of goods and services (in-kind contributions) as well as to monetary contributions. 11 CFR 100.52(d).

Who is prohibited from contributing to a delegate?

Individual delegates may not accept any contributions from sources prohibited from making contributions in connection with federal elections. 11 CFR 110.14(c)(2). These sources include:

- Corporations (including banks and nonprofit corporations);
- Labor organizations;
- Foreign nationals or businesses (except “green card” holders—those admitted to the United States for permanent residence); and

¹ A national nominating convention is considered a federal election. 11 CFR 100.2(e).

² Ballot access fees paid by an individual delegate to a political party are not considered contributions or expenditures; nor are administrative payments made by a party committee (including an unregistered organization) for sponsoring a convention or caucus to select delegates. Nevertheless, the funds used to pay these expenses are subject to the law’s prohibitions and limits. 11 CFR 110.14(c)(1)(i) and (ii) and (c)(2).

- Federal government contractors (such as partnerships and sole proprietors with federal contracts).

11 CFR 110.20; 114.2; 115.2, 115.4 and 115.5.

What are the limits on contributions to delegates?

Although contributions to an individual delegate are not subject to any per delegate limit, they do count against an individual contributor’s biennial contribution limit of \$108,200. 11 CFR 110.1(m); 110.5(e) and 110.14(d)(1).³

Do these rules apply if I, as a delegate, am only raising money to pay for travel to the convention?

Yes. Travel and subsistence expenses related to the delegate selection process and the national nominating convention are considered “expenditures.” 11 CFR 110.14(e). Thus, a delegate may not use prohibited funds to pay for travel to attend the national convention and related food and lodging expenses. Advisory Opinions 2000-38 and 1980-64.

I’m a federal officeholder who will serve as a delegate. May I use my campaign funds to pay for my travel to the convention?

Special rules apply to federal candidates or officeholders who attend the convention as delegates. While campaign funds may not be used to pay for anyone’s personal expenses (i.e., expenses that would exist irrespective of the candidate’s campaign or his/her duties as a federal officeholder), candidates who attend the convention as delegates may use campaign funds to pay for their own convention-related travel, food and lodging expenses. 11 CFR 110.14(c) and (e); Advisory Opinion 1995-47 n.4. The Commission has issued ad-

³ Presidential primary candidates receiving public funding must comply with an overall spending limit and a spending limit in each state. 11 CFR 9035.1.

visory opinions clarifying that such candidates may also use campaign funds to pay the travel and subsistence expenses of other individuals (e.g., spouse, child, Congressional staff person) in connection with the convention if the individual will be engaging in significant campaign-related or officeholder-related activity on the candidate’s behalf during the convention. 11 CFR 113.1(g); Advisory Opinions 1996-20, 1996-19 and 1995-47.

Although the use of campaign funds to pay someone’s personal expenses is a violation of the personal use prohibition, when travel involves both personal activities and campaign (or officeholder) activities, campaign funds may be used to pay the personal portion of travel and subsistence costs if the individual reimburses the campaign within 30 days. 11 CFR 113.1(g)(1)(ii)(C); Advisory Opinion 2000-12.

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FEC Accepts Credit Cards

The Federal Election Commission now accepts American Express, Diners Club and Discover Cards in addition to Visa and MasterCard. While most FEC materials are available free of charge, some campaign finance reports and statements, statistical compilations, indexes and directories require payment.

Walk-in visitors and those placing requests by telephone may use any of the above-listed credit cards, cash or checks. Individuals and organizations may also place funds on deposit with the office to purchase these items. Since prepayment is required, using a credit card or funds placed on deposit can speed the process and delivery of orders. For further information, contact the Public Records Office at 800/424-9530 or 202/694-1120.

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Do expenditures I, as a delegate, make for my own selection and travel count as contributions to a candidate?

No. Expenditures made by delegates or delegate committees solely to further their selection are not considered contributions to any candidate and are not chargeable to a publicly funded candidate's spending limits. Examples of such expenditures include, for example:

- A communication which advocates the selection of delegates only; and
- Travel and subsistence expenses related to the delegate selection process and the national nominating convention. 11 CFR 110.14(e)(1) and (h)(1).

AO Search System Available

The FEC has an Advisory Opinion Search System available on its web site at www.fec.gov. This search function allows users to search for advisory opinions (AOs) by the AO number or name of requestor, or to enter search terms or perform an advanced search for documents.

The system quickly provides relevant AOs, along with all related documents including advisory opinion requests, comments and any concurring or dissenting opinions issued by Commissioners. The search function also provides summary material and links to other AOs cited in the opinion.

When the search system was first launched, it included AOs issued from 1997 to the present. The system has now been updated to include AOs dating back to 1990. The AO search system is available at <http://saos.nictusa.com/saos/searchao>.

May delegates join together to raise and spend funds?

Yes. Under FEC regulations, they would be acting as a delegate committee. A delegate committee is a group that raises or spends funds to influence the selection of one or more delegates. A delegate committee may be a group of delegates or a group that supports delegates. 11 CFR 110.14(b)(2).

Do delegate committees have to file FEC reports?

Possibly. A delegate committee becomes a "political committee" under federal law once it receives contributions or makes expenditures exceeding \$1,000 in a calendar year. 11 CFR 100.5(a) and (e)(5); 110.14(b)(2). At that point, the committee must register with the FEC within 10 days and begin filing periodic FEC reports to disclose its receipts and disbursements. 11 CFR 102.1(d) and 104.1(a). All pre-registration activity must be disclosed in the first report. 11 CFR 104.3(a) and (b). Note that a delegate committee that has triggered status as a federal political committee must include the word "delegate" or "delegates" in its name. It may also include the name of the Presidential candidate it supports. 11 CFR 102.14(b)(1).

Do contribution prohibitions and limits apply to delegate committees?

The same sources that are listed above as prohibited from making contributions to a delegate are also prohibited from making contributions to a delegate committee. 11 CFR 110.14(c)(2). The following limits apply to contributions made to delegate committees:

- Contributions from permissible sources to a delegate committee are subject to an aggregate limit of \$5,000 per calendar year. 11 CFR 110.1(d) and (m)(2); 110.14(g)(1). Note, however, that if the delegate committee is affiliated with a Presidential campaign, it will share the

limit applicable to the Presidential campaign. 11 CFR 110.3(a).

- Contributions by individuals to delegate committees count against an individual contributor's biennial contribution limit of \$108,200. 11 CFR 110.5(e).

Supporting Presidential Candidates

May a delegate or delegate committee make contributions to candidates?

A delegate or delegate committee may contribute a maximum of \$2,300 to a federal candidate, per election.⁴ 11 CFR 110.1(b)(1). The primary and general are considered separate elections but, in the case of Presidential candidates, the entire primary season is considered only one election. 11 CFR 100.2 and 11 CFR 110.1(j)(1).

Note that a contribution to a candidate must be reported by the candidate's committee. 11 CFR 104.1(a) and 104.3(a). For this reason, when making an in-kind contribution, a delegate or delegate committee should notify the candidate's committee of the monetary value. 11 CFR 104.13(a)(1). Note also that in-kind contributions generally count against a publicly funded Presidential candidate's expenditure limits. 11 CFR 9035.1(a)(3).

May a delegate or delegate committee put out a communication that promotes both the delegate(s) and the Presidential candidate supported?

Yes. An individual delegate or a delegate committee may pay for communications that both:

- Advocate the selection of that individual delegate or of the delegates promoted by the delegate committee; and

⁴ A federal candidate is a candidate seeking election to the Presidency, the Vice Presidency, the U.S. Senate or the U.S. House of Representatives. 11 CFR 100.4.

- Refer to, provide information on or expressly advocate the election or defeat of a Presidential candidate (or candidate for any public office). 11 CFR 110.14(f) and (i).

If such a communication meets the federal campaign finance law's definition of a "public communication," it will trigger certain election law provisions.⁵ 11 CFR 100.26. Moreover, depending on the circumstances, a portion of a dual-purpose expenditure may have to be allocated as an in-kind contribution or an independent expenditure on behalf of any federal candidate mentioned in the ad. 11 CFR 110.14(f)(2) and (i)(2). Finally, the communication must include a disclaimer notice. 11 CFR 110.11.

May delegates undertake some small grassroots dual-purpose communications that do not trigger contribution limits?

Dual-purpose expenditures for campaign materials such as pins, bumper stickers, handbills, brochures, posters and yard signs are not considered in-kind contributions on behalf of the federal candidate mentioned in the materials as long as the materials are used in connection with volunteer activities (i.e., are distributed by volunteers) and are

⁵ A public communication is a communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing (more than 500 pieces of mail or faxes of an identical or substantially similar nature within any 30-day period), telephone bank to the general public (meaning more than 500 telephone calls of an identical or substantially similar nature within any 30-day period) or any other form of general public political advertising. The term "general public political advertising" does not include communications over the Internet, except for communications placed for a fee on another person's web site. 11 CFR 100.26; 100.27 and 100.28.

not conveyed through public political advertising.⁶ 11 CFR 110.14(f)(1) and (i)(1).

When would a dual-purpose expenditure count against contribution limits to a candidate?

A portion of a dual-purpose expenditure is considered an in-kind contribution to the referenced candidate if the communication:

- Is conveyed through public political advertising (or is not distributed by volunteers); and
- Is a coordinated communication under 11 CFR 109.21.

11 CFR 110.14(f)(2)(i) and (i)(2)(i).

When would a dual-purpose expenditure be considered an independent expenditure?

A portion of a dual-purpose expenditure for a communication that is conveyed through public political advertising is considered an independent expenditure (rather than an in-kind contribution) on behalf of the candidate if the communication:

- Expressly advocates the election (or defeat) of a clearly identified candidate; and
- Is not a coordinated communication under 11 CFR 109.21.

11 CFR 110.14(f)(2)(ii) and (i)(2)(ii).

Note that an independent expenditure, whether done by a delegate or a delegate committee, must carry

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⁶ For purposes of the delegate selection regulations, public political advertising means political advertising conveyed through broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication. 11 CFR 110.14(f)(2) and (i)(2). Direct mail means mailings by commercial vendors or mailings made from lists not developed by the individual delegate or delegate committee. 11 CFR 110.14(f)(4) and (i)(4).

Enforcement Query System Available on FEC Web Site

The FEC continues to update and expand 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 <http://www.fec.gov>.

Currently, the EQS contains complete public case files for all MURs closed since January 1, 1999. In addition to adding all cases closed subsequently, staff is working to add cases closed prior to 1999. Within the past year, Alternative Dispute Resolution (ADR) cases were added to the system. All cases closed since the ADR program's October 2000 inception can be accessed through the system.

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a disclaimer notice and is subject to reporting requirements. For more information on independent expenditures, consult 11 CFR Part 109. For more information on disclaimers, consult 11 CFR 110.11.

How do you determine what amount of a dual-purpose expenditure to allocate to the Presidential candidate?

The amount of a dual-purpose expenditure allocated as an in-kind contribution or independent expenditure on behalf of a candidate must be in proportion to the benefit the candidate receives, based on factors such as the amount of space or time devoted to the candidate compared with total space or time. 11 CFR 106.1(a)(1).

What if a delegate or delegate committee simply distributes materials prepared by the Presidential campaign?

Expenditures by a delegate or delegate committee to reproduce (in whole or in part) or to disseminate materials prepared by a Presidential candidate's committee (or other federal candidate's committee) are considered in-kind contributions to the candidate. Although subject to contribution limits, this type of contribution is not chargeable to a publicly funded Presidential candidate's spending limits as long as the expenditure is not a coordinated communication under 11 CFR 109.21, 11 CFR 110.14(f)(3) and (i)(3). The materials must include a disclaimer notice. 11 CFR 110.11.

Affiliation

Is a delegate committee considered an affiliate of the Presidential campaign? If yes, what rules apply?

Possibly. Delegate committees—including unregistered committees—need to determine whether they are affiliated with another delegate

committee or a candidate's committee because affiliated committees are considered one political committee for purposes of the contribution limits, and thus, share the same limits on contributions received and made. 11 CFR 110.3(a)(1). (Affiliated committees, may, however, make unlimited transfers to one another. 11 CFR 102.6(a)(1)(i).) If a delegate committee is affiliated with the committee of a Presidential candidate receiving public funds, then all of the delegate committee's expenditures count against the Presidential candidate's expenditure limits.

What are the factors indicating affiliation?

In determining whether a delegate committee and a Presidential committee are affiliated, the Commission may consider, among other factors, whether:

- The Presidential campaign⁷ played a significant role in forming the delegate committee;
- Any delegate associated with a delegate committee has been or is on the staff of the Presidential committee;
- The committees have overlapping officers or employees;
- The Presidential committee provides funds or goods to the delegate committee in a significant amount or on an ongoing basis (not including a transfer of joint fundraising proceeds);
- The Presidential campaign suggests or arranges for contributions to be made to the delegate committee;
- The committees show similar patterns of contributions received;
- One committee provides a mailing list to the other committee;
- The Presidential campaign provides on going administrative support to the delegate committee;

- The Presidential campaign directs or organizes the campaign activities of the delegate committee; and/or
- The Presidential campaign files statements or reports on behalf of the delegate committee. 11 CFR 110.14(j). See also, for example, Advisory Opinion 1988-1.

Do affiliation rules apply to delegate committees that have a relationship with each other?

Possibly. Delegate committees established, financed, maintained or controlled by the same person or group are affiliated. Factors that indicate affiliation between delegate committees are found at 11 CFR 100.5(g)(4). 11 CFR 110.14(k).

Additional Information

For additional information on delegates and delegate committees, contact the FEC's Information Division at 1-800/424-9530 or 202/694-1100.
—Dorothy Yeager

Campaign Guides Available

For each type of committee, a *Campaign Guide* explains, in clear English, the complex regulations regarding the activity of political committees. It shows readers, for example, how to fill out FEC reports and illustrates how the law applies to practical situations.

The FEC publishes four *Campaign Guides*, each for a different type of committee, and we are happy to mail your committee as many copies as you need, free of charge. We encourage you to view them on our web site www.fec.gov.

If you would like to place an order for paper copies of the *Campaign Guides*, please call the Information Division at 800/424-9530.

⁷ Campaign refers to the candidate, his or her authorized committee and other persons associated with the committee.

Information

A Letter from the IRS on Prohibited Political Activity

Dear Candidates,

During this election season, the Internal Revenue Service (IRS) wants to remind candidates of the Federal law that prohibits organizations exempt from tax under Internal Revenue Code section 501(c)(3) from participating in campaigns for or against the election of candidates to public office.

The IRS is asking you and your staff to familiarize yourselves with the rules charitable organizations must follow with respect to political activity. With this knowledge, you can help ensure that your contacts with charitable organizations do not fall under this ban and you do not inadvertently jeopardize the tax-exempt status of a charitable organization.

Organizations described in section 501(c)(3) that are exempt from federal income tax are prohibited from directly or indirectly participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office. Charities, educational institutions and religious organizations, including churches,

are among those tax-exempt organizations restricted by this prohibition.

Examples of prohibited political activities include:

- Endorsing any candidate,
- Making donations to a candidate's campaign,
- Engaging in fund-raising,
- Distributing statements, or
- Becoming involved in any other activities that may be beneficial or detrimental to any candidate.

Certain activities may not be prohibited. Tax-exempt organizations can engage in advocacy for or against issues and, to a limited extent, ballot initiatives or other legislative activities. They also may encourage people to participate in the electoral process by sponsoring debates or forums to educate voters, distribute voter guides, or conduct voter registration or get-out-the-vote drives as long as none of these show a preference for or against a certain candidate or party.

For example, a charitable organization may invite political candidates to speak in their capacity as candidates if the organization takes steps to ensure that:

- It provides an equal opportunity to other political candidates seeking the same office,
- It does not indicate any support of or opposition to any candidate, and
- No political fund-raising occurs in conjunction with the speech.

The prohibition on political campaign activity applies only to tax-exempt charitable organizations, not to the activities of individuals in their private capacity. The political campaign activity prohibition is not intended to restrict free expression on political matters by leaders of charitable organizations, including churches, speaking for themselves, as *individuals*. Nor are leaders prohibited from speaking about important issues of public policy. However, for their organization to remain tax-exempt under section 501(c)(3), leaders cannot make partisan comments in

Back Issues of the Record Available on the Internet

This issue of the *Record* and all other issues of the *Record* starting with January 1996 are available on the FEC web site as PDF files. Visit the FEC web site at <http://www.fec.gov/pages/record.shtml> to find monthly *Record* issues.

The web site also provides copies of the *Annual Record Index* for each completed year of the *Record*, dating back to 1996. The *Annual Record Index* list *Record* articles for each year by topic, type of Commission action and, in the case of advisory opinions, the names of individuals requesting Commission action.

You will need Adobe® Acrobat® Reader software to view the publication. The FEC's web site has a link that will take you to Adobe's web site, where you can download the latest version of the software for free.

official organization publications or at official organization functions, including church publications and functions.

If the IRS finds a section 501(c)(3) organization has engaged in prohibited campaign activity, the organization could lose its tax-exempt status and it could be subject to an excise tax on the amount of money spent on that activity.

For more detailed information, including IRS Revenue Ruling 2007-41 that outlines a number of scenarios to help charities and churches understand the ban on political campaign activity and actions that may arise, see our web site at <http://www.irs.gov/eo>.

—Submitted by the Internal Revenue Service

Need FEC Material in a Hurry?

Use FEC Faxline to obtain FEC material fast. It operates 24 hours a day, 7 days a week. Hundreds of FEC documents—reporting forms, brochures, FEC regulations—can be faxed almost immediately.

Use a touch tone phone to dial 202/501-3413 and follow the instructions. To order a complete menu of Faxline documents, enter document number 411 at the prompt.

Outreach

Washington DC April Conference for Campaigns and Political Party Committees

The Commission will hold a conference in Washington, DC, on April 2-3, 2008, for House and Senate campaigns and political party committees. Commissioners and staff will conduct a variety of technical workshops on federal campaign finance law. Workshops are designed for those seeking an introduction to the basic provisions of the law as well as for those more experienced in campaign finance law. For additional information, to view the conference agenda or to register for the conference, please visit the conference web site at <http://www.fec.gov/info/conferences/2008/candparty08.shtml>.

Hotel Information. The conference will be held at the Omni Shoreham hotel in northwest Washington, DC, near the National Zoo and the Woodley-Park-National Zoo Metro

subway station. A room rate of \$239 (single or double) is available to conference attendees who make reservations on or before March 7, 2008. To make your hotel reservations and reserve this group rate, call 1-800-545-8700 and identify yourself as attending the Federal Election Commission conference or reserve your hotel room online at <http://www.omnihotels.com/FindAHotel/WashingtonDCShoreham/Meeting-Facilities/FederalElectionCommission4.aspx>. The FEC recommends that waiting to make hotel and air reservations until you have received confirmation of your conference registration from Sylvester Management Corporation.

Registration Information. The registration fee for this conference is \$475, which covers the cost of the conference, a reception, materials and meals. A \$25 late fee will be added to registrations received after March 7, 2008. Complete registration information is available online at <http://www.fec.gov/info/conferences/2008/candparty08.shtml>.

Washington DC March Conference for Corporations and their PACs

Registration continues for the FEC's conference in Washington, DC, on March 11-12, 2008, at the Westin City Center Hotel. For additional information, to view the conference agenda or to register for the conference, please visit the conference web site at <http://www.fec.gov/info/conferences/2008/corporate08.shtml>.

FEC Conference Questions

Please direct all questions about conference registration and fees to Sylvester Management Corporation (Phone: 1-800/246-7277; e-mail: tonis@sylvestermanagement.com). For questions about the conference program, or to receive e-mail notification of upcoming conferences and workshops in 2008, call the FEC's Information Division at 1-800/424-9530 (press 6) (locally at 202/694-1100), or send an e-mail to Conferences@fec.gov.

—Dorothy Yeager

FEC Conference Schedule for 2008:

Date	Program Information	Location
March 11-12, 2008	Conference for Corporations & their PACs	Westin City Center Hotel Washington, DC
April 2-3, 2008	Conference for House/Senate Campaigns and Political Party Committees	Omni Shoreham Hotel Washington, DC
May 14, 2008	Seminar for Nonconnected Committees	FEC Headquarters Washington, DC
June 23-24, 2008	Conference for Trade Associations, Labor Organizations, Membership Organizations and their PACs	Embassy Suites-Convention Center Washington, DC

To register, contact the FEC at 800/424-9530 (press 6) or visit <http://www.fec.gov/info/outreach.shtml#conferences>.

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In an effort to provide more information to the regulated community and the public, the Commission is making its open meetings and public hearings available as audio recordings through the FEC web site, as well as by podcasts. The audio files, and directions on how to subscribe to the podcasts are available under *Audio Recordings* through the *Commission Meetings* tab at <http://www.fec.gov>.

The audio files are divided into tracks corresponding to each portion of the agenda for ease of use. To listen to the open meeting without subscribing to the podcasts, click the icon next to each agenda item. Although the service is free, anyone interested in listening to podcasts must download the appropriate software listed on the web site. Podcast subscribers will automatically receive the files as soon as they become available—typically a day or two after the meeting.

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