

RECORD

January 1983

1325 K Street NW Washington DC 20463

Volume 9, Number 1

COMMISSIONERS

NEW OFFICERS ELECTED

On December 16, 1982, the Federal Election Commission unanimously elected Danny Lee McDonald as Chairman and Lee Ann Elliott as Vice Chairman to serve one-year terms commencing January 1, 1983. Mr. McDonald succeeded Commissioner Frank P. Reiche in the chairmanship. Mrs. Elliott succeeded Mr. McDonald as Vice Chairman.

Mr. McDonald, a Democrat, has been a member of the Commission since December 17, 1981. Prior to his appointment to the Commission, he served as General Administrator of the Oklahoma Corporation Commission, responsible for the management of 10 regulatory divisions. He was Secretary of the Tulsa County Election Board from 1974 to 1979, and served as Chief Clerk of the Board in 1973. He has also served on the Advisory Panel to the FEC's National Clearinghouse on Election Administration. A native of Sand Springs, Oklahoma, Mr. McDonald is a graduate of Oklahoma State University and attended the John F. Kennedy School of Government at Harvard University. His term as FEC Commissioner is scheduled to expire on April 30, 1987.

Mrs. Elliott, a Republican, has also been a member of the Commission since December 17, 1981. Prior to her appointment to the Commission, she was Vice President of Bishop, Bryant & Associates, Inc., of Washington, D.C. From 1970 to 1979, she served as Associate Executive Director of the American Medical Political Action Committee, having served as Assistant Director from 1961 to 1970. Mrs. Elliott has also served on the Board of Directors of the American Association of Political Consultants and on the Board of the Chicago Area Public Affairs Group, of which she is a past president. She has been a member of the Public Affairs Committee of the Chamber of Commerce of the United States. A native of St. Louis, Missouri, Mrs. Elliott is a graduate of the University of Illinois and of the Northwestern Medical Association Management Executives Program. Her term as FEC Commissioner is scheduled to expire on April 30, 1987.

REPORTS

YEAR-END REPORT DUE

All political committees currently registered with the Commission must file a year-end report by January 31, 1983. The report must disclose financial information from the closing date of the last report filed through December 31, 1982. Committees must file the year-end report even if they have had no financial activity during this period. Reporting forms have been sent to all registered committees, alerting them to their reporting obligations. Questions and requests for additional forms should be addressed to the Office of Public Communications, FEC, 1325 K Street, N.W., Washington, D.C. 20463; or call 202/523-4068 or toll free 800/424-9530.

REPORTING SCHEDULE: NONELECTION YEAR

The following paragraphs explain the reporting schedule for the various categories of filers during the 1983 nonelection year. Accompanying charts list filing dates for reports required during 1983.

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RECORD SUBSCRIPTIONS UPDATED

Beginning with this issue, the Commission will begin to delete from the Record's mailing list those subscribers who no longer wish to receive the monthly newsletter. **Registered political committees, however, will continue to receive the Record.**

Each month, a special notice will be sent, as an insert to the Record, to those individuals who subscribed one year ago, asking them whether they wish to remain on the mailing list. (Registered political committees will not receive the notice.) Those who want their free subscription continued will be asked to peel the mailing label off of the last page of the Record, attach it to the notice and return the notice to the Commission. Watch for the special notice in upcoming issues of the Record.

Authorized Candidate Committees

All committees authorized by candidates for Congress must report semiannually: July 31, 1983, and January 31, 1984.

Authorized Presidential Filers

Authorized Presidential committees must report on either a monthly or a quarterly basis during 1983. The FEC's Reports Analysis Division requests that Presidential committees which change their reporting schedule during 1983 notify the Commission of their intention in writing.

Unauthorized Committees

All unauthorized committees (i.e., committees not authorized by candidates) are required to file on either a semiannual or monthly basis in 1983. Unauthorized committees that wish to change their reporting schedule (for example, from monthly to semiannual reports) must submit a letter with the report filed prior to the intended change, indicating that they will change their schedule starting with the next report. A committee may not change its filing frequency more than once a year. 11 CFR 104.5(c).

Forms and Information

During 1983, reporting forms and additional information will be sent to all registered committees. Questions and requests for forms should be addressed to the Office of Public Communications, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463; or call 202/523-4068 or toll free 800/424-9530.

MONTHLY REPORTS 1983

Report	Period Covered	Filing Date
February	1/1 - 1/31	2/20/83
March	2/1 - 2/28	3/20/83
April	3/1 - 3/31	4/20/83
May	4/1 - 4/30	5/20/83
June	5/1 - 5/31	6/20/83
July	6/1 - 6/30	7/20/83
August	7/1 - 7/31	8/20/83
September	8/1 - 8/31	9/20/83
October	9/1 - 9/30	10/20/83
November	10/1 - 10/31	11/20/83
December	11/1 - 11/30	12/20/83
Year-End	12/1 - 12/31	1/31/84

SEMIANNUAL REPORTS

Report	Period Covered	Filing Date
First	1/1 - 6/30	7/31/83
Second	7/1 - 12/31	1/31/84

QUARTERLY REPORTS

Report	Period Covered	Filing Date (and mailing date if sent by registered or certified mail)
First Q	1/1 - 3/31	4/15/83
Second Q	4/1 - 6/30	7/15/83
Third Q	7/1 - 9/30	10/15/83
Fourth Q (Year-End)	10/1 - 12/31	1/31/84

OPINIONS**ADVISORY OPINION REQUESTS**

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1982-60	Services provided by Congressional fellow to Congressman's legislative staff. (Date made public: December 14, 1982; Length: 1 page)

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUESTS

- AOR 1982-53 was withdrawn by its requester on December 1, 1982.
- AOR 1982-59 was withdrawn by its requester on November 17, 1982.

The Record is published by the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: Danny Lee McDonald, Chairman; Lee Ann Elliott, Vice Chairman; Joan D. Aikens; Thomas E. Harris; John Warren McGarry; Frank P. Reiche; William F. Hildenbrand, Secretary of the Senate, Ex Officio; Edmund L. Henshaw, Jr., Clerk of the House of Representatives, Ex Officio. For more information, call 202/523-4068 or toll-free 800/424-9530.

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1982-50: Status of Breakfast and Lunch Club as a Political Committee

A group of Floridians may sponsor a breakfast and lunch club (the Florida Breakfast and Lunch Bunch or BLB) to afford members of the Florida Congressional delegation an opportunity to address individuals invited to BLB sessions. BLB would attain political committee status under the Act if its activities were undertaken to influence federal elections, that is, if BLB solicited contributions for the speakers or expressly advocated the election or defeat of a federal candidate.

Under a proposed plan, BLB's principal sponsor would pay the costs of registering the club's trade name and having its stationery printed. He would pay the costs of each event and subsequently invoice each attendee for the cost of his or her meal. This individual would also select Congressional speakers. (Although the speaker's meal fee would be paid by the club, the speaker would receive no honorarium.) At the close of a BLB event, individuals could contribute individually to the speaker; no contributions would be pooled. BLB would not impose membership fees or maintain a bank account to finance its functions.

Under this proposal, BLB's functions would appear to qualify as election-influencing activities because sponsors of BLB would apprise attendees of their opportunity to contribute to a speaker before attending a session. This would constitute a solicitation for contributions. (A solicitation would occur regardless of when attendees were invited to contribute.) Payments to finance a given event would be expenditures by BLB; they would also represent in-kind contributions to the featured candidate. Accordingly, when aggregate expenditures for the events exceeded \$1,000 a year, BLB would be required to register and report as a political committee and would be subject to the Act's contribution limits and prohibitions. Moreover, any of BLB's general operating expenditures (e.g., costs of stationery and mailings) that were paid by the sponsor would constitute contributions to BLB. Meal fees paid by attendees would also be considered contributions

to BLB, regardless of whether the attendees reimbursed BLB or its sponsor or paid the fees directly to a commercial vendor.

The Commission expressed no opinion on the application of House and Senate rules since they are beyond its jurisdiction. Commissioner Joan D. Aikens filed a dissenting opinion. (Date issued: November 19, 1982; Length: 10 pages, including dissent)

REGULATIONS**FEC PROPOSES REVISIONS TO REGULATIONS ON TRADE ASSOCIATION AUTHORIZATIONS**

On November 17, 1982, the Commission decided to publish a notice of proposed rulemaking concerning the authorization that trade associations must obtain from their corporate members **before** soliciting the members' stockholders and executive and administrative personnel. (See 11 CFR Sections 114.8(c)(2) and 114.8(d)(4).) Under proposed revisions, a corporate member could grant its approval of a trade association solicitation, and a trade association could receive that approval, in the year **prior** to the calendar year in which the trade association actually conducted solicitations. Under the current regulations, a corporate member's authorization must be received by the trade association **during** the calendar year in which the trade association or its separate segregated fund conducts solicitations. The Commission noted that the proposed revisions are specifically limited to the issue described above and do not address other issues pertaining to trade association solicitations.

The notice of proposed rulemaking was published in the November 26, 1982, issue of the Federal Register (46 Fed. Reg. 53396). The deadline for commenting on the proposed revisions is December 30, 1982. Copies of the notice may be obtained by writing to the FEC's Office of Public Communications, 1325 K Street, N.W., Washington, D.C. 20463 or by calling 202/523-4068 or toll free 800/424-9530.

COMMISSION HEARS TESTIMONY ON REVISIONS TO ITS PRIMARY MATCHING FUND REGULATIONS

On December 7, 1982, the Honorable Angela M. Buchanan, former treasurer of President Reagan's 1980 Presidential campaign and current U.S. Treasurer, testified before the Commission on possible revisions to FEC Regulations gov-

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erning the Presidential Primary Matching Fund program. (See 11 CFR Parts 106 and 9031 et seq.) She was accompanied by Mr. Ron Robertson, General Counsel for the Reagan Committee. In her testimony, Ms. Buchanan commented on several areas of the regulations that were of practical concern to the Reagan Committee:

- Allocation of advance staff salaries to the candidate's state-by-state spending limits. 11 CFR 106.2.
- Five percent exemption for compliance expenditures.* 11 CFR 106.2(c)(4).
- Method of determining the value of capital assets. 11 CFR 9034.5(a)(2)(11).
- Requirements for alphabetizing documentation for matching fund submissions. 11 CFR 9036.2(b)(2).

In addition to hearing oral testimony on possible revisions to the primary matching fund regulations, the Commission received seven sets of written comments from 11 individuals and from the American Bar Association, the Republican National Committee and the White House.

After reviewing these comments and testimony, the Commission will draft and send to Congress final proposed revisions to the regulations. The Commission will prescribe them 30 legislative days after their transmittal to Congress, provided neither the House nor the Senate disapproves them.

FEDERAL REGISTER

FEDERAL REGISTER NOTICES

The items below identify FEC documents that appeared in the Federal Register during November. Copies of the notices are available in the Public Records Office.

Notice	Title
1982-9	11 CFR Part 114; Trade Association Solicitation Authorization; Notice of Proposed Rulemaking (47 <u>Fed. Reg.</u> 53396, November 26, 1982)
1982-10	11 CFR, Parts 106 and 9031-9039; Presidential Primary Matching Fund; Announcement of Public Hearing Date (47 <u>Fed. Reg.</u> 53030, November 24, 1982)

*Compliance expenditures are those made solely to ensure compliance with the Act and Commission Regulations.

800 LINE

DISPOSAL OF CAMPAIGN PROPERTY

The Public Communications Office has received inquiries from candidate committees who wish to sell or exchange campaign assets and property. In response to those questions, the following article discusses relevant Commission Regulations and advisory opinions. For further information, the reader should refer to the regulations and opinions cited, bearing in mind that an advisory opinion applies only to those in the same circumstances as the person requesting the opinion.

Are campaign assets and property remaining after an election considered excess funds?

Advisory Opinion 1977-1 states that property purchased by a candidate committee may be treated as surplus campaign funds. In AO 1980-14, a candidate was permitted to transfer campaign materials from a previous campaign to his present campaign as if they were surplus funds.

For what other purposes may a candidate committee use excess campaign funds?

- Excess funds may be:
- used to defray any ordinary and necessary expenses incurred in connection with the candidate's duties as a federal officeholder (House and Senate rules may also apply);
 - given to a charity;
 - transferred without limitation to a national, state or local party committee;
 - used for any other lawful purpose; or
 - converted to personal use if the candidate was a Member of Congress as of January 8, 1980. For example, in Advisory Opinion 1982-33, the Commission permitted an individual to convert a campaign automobile to personal use since he had been a Senator on January 8, 1980. (11 CFR 113.2)

May a committee use its assets to barter or trade for other items?

Yes. In Advisory Opinion 1980-125, the Commission said that a campaign committee could barter with an asset (in this case silver coins) that the committee had received as an in-kind contribution, provided that the asset was valued at its fair market value on the day the asset was received by the campaign committee. In Advisory Opinions 1981-46 and 1982-41, the Commission stated that a campaign committee could exchange mailing lists with another organization as long as the mailing lists were of "equal value," as determined by industry practice. The exchange would not be a contribution or expenditure, and thus would not have to be reported.

May campaign property previously purchased by a committee be sold to raise funds?

Yes. In Advisory Opinion 1979-24, the Commission allowed an indebted candidate's campaign committee to sell remaining campaign materials to a state PAC and to the candidate's state campaign committee for a future election. The purchase of these campaign materials was not considered a contribution to the committee because the materials were sold at the "usual and normal charge," as defined in 11 CFR 100.7(a)(1)(iii)(B). Similarly, in AO 1979-18, the Commission approved the sale of a contributor list to political committees and other organizations at the "usual and normal charge."

The Commission has said in other opinions that campaign assets and contributor lists which were used by political committees in the course of their normal activities, primarily for their own use, could be sold at the "usual and normal charge." No contributions or expenditures would result from these sales. See AO's 1981-46, 1982-53 and 1982-41.

May a Congressional campaign sell items, originally given away to contributors, to a commercial vendor?

The Commission has concluded that the purchase of a committee asset, originally used as a fundraising device, would result in a contribution to the committee.* In Advisory Opinion 1979-76, for example, the Commission prohibited a political committee from selling books to a corporation because the committee had used the books as fundraising items. The sale would, therefore, have resulted in a prohibited corporate contribution to the committee.

May a campaign sell the results of an opinion poll it has conducted?

The Commission has said that when a committee sells an item to recover the cost of it, but continues to derive benefit from the item even after the sale, the transaction is considered a contribution. In Advisory Opinion 1980-19, for example, the sale of an opinion poll by a campaign committee to a labor union was prohibited because the sale would have allowed the committee to recoup its costs for the poll, while still recovering the information from the poll. See also 11 CFR 106.4(f) and (g).

*This conclusion would also apply to Presidential primary candidates who have accepted public funding, with a narrow exception. See sections 9034.9(a) and (b) of proposed revisions to FEC Regulations governing the Primary Matching Fund program.

INFORMATION

COMMISSION ENGAGES IN EDUCATIONAL OUTREACH

During the past few months, the Commission has engaged in several educational outreach efforts including:

- A seminar for the fall conference of the National Association of Legislative and Political Specialists in Education, held in Washington, D.C., from November 16 through 17; and
- A series of presentations at the annual conferences of the Virginia Consortium of Social Studies Supervisors and College Educators and the Virginia Social Studies Teachers, held in Williamsburg, Virginia, in mid-November.

In addition, the Commission made available newly developed educational materials on federal election activity at the annual conference of the Council of State Social Studies Specialists, held in Boston on November 23 and 24. These materials, designed to assist students in researching campaign finance information and in understanding campaign finance laws, included: a brochure entitled Using FEC Campaign Finance Information; a slide show, which describes sources of campaign support available to federal candidates; and a guidebook, Voter Information and Education Programs, which outlines various curriculum programs on the electoral process.

Educators interested in obtaining copies of the FEC's information materials, or in using FEC research facilities, may contact its Office of Public Communications at 202/523-4068 or toll free 800/424-9530.

COURT CASES

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS v. FEC

On November 8, 1982, the Supreme Court issued a summary judgment affirming an April 6 decision by the U.S. Court of Appeals for the District of Columbia Circuit in International Association of Machinists and Aerospace Workers v. FEC (U.S. Supreme Court No. 82-284). In its opinion, the appeals court had rejected constitutional challenges brought by plaintiff to Sections 441b(a) and 441b(b)(2) of the election law, provisions which permit corporations to solicit executive and administrative personnel for contributions to their separate segregated funds. (For a detailed summary of the appeals court's decision, see p. 4 of the September 1982 Record.)

PUBLIC APPEARANCES

- 1/3 & 5 Washington Center for Learning Alternatives
Federal Election Commission
Washington, D.C.
Commissioner Frank P. Reiche
- 1/10 League of Republican Women of the District of Columbia
Washington, D.C.
Commissioner Frank P. Reiche
- 1/13 Hope College Washington Honors Seminar
Federal Election Commission
Chairman Danny L. McDonald
- 1/14 American Society of Association Executives
Chicago, Illinois
Paul Sullivan, Executive Assistant to Vice Chairman Lee Ann Elliott
- 1/27 Naval Academy
Federal Election Commission
Washington, D.C.
Chairman Danny L. McDonald

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