

# RECORD

April 1988

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## PUBLIC FUNDING

### FEC CERTIFIES ADDITIONAL CONVENTION FUNDS FOR MAJOR PARTIES

On March 2, 1988, the Commission approved the certification of an additional \$328,000 in federal funds to both the Republican and Democratic parties for their 1988 national Presidential nominating conventions. On March 3, the Commission forwarded the certifications to the U.S. Treasury, which will issue actual payments to each party's convention committee.\* The additional certifications bring each major party's total grant to \$9,220,000, the maximum entitlement each party's convention committee may receive to finance the 1988 Presidential nominating convention.

Under the Presidential Election Campaign Fund Act, each major party is entitled to \$4 million (plus a cost-of-living adjustment\*\*) to finance its Presidential nominating convention. 26 U.S.C. §9008(b). Since each party's convention committee is eligible to receive its grant in the year preceding its convention, in July 1987, the Commission certified \$8,892,000 to each convention committee, based on the 1986 cost-of-living adjustment. During February 1988, when figures became available on the 1987 cost-of-living adjustment, the Commission certified the additional funds for each convention committee.

\*To establish eligibility for a convention grant, the national committee of each major party must file an application statement with the FEC and register a convention committee. See part 9008 of FEC regulations.

\*\*The cost-of-living adjustment (COLA) is calculated annually by the Secretary of Labor, using 1974 as the base year.

### KEMP CAMPAIGN MATCHING FUND SUBMISSIONS NOT MATCHABLE

On February 11, 1988, the Commission made a final determination that contribution checks made payable to "The Kemp Forum" may not be matched with federal funds for The Jack Kemp for President Committee (the Kemp Presidential Committee). (The Kemp Presidential Committee is Congressman Kemp's principal campaign committee for his publicly funded Presidential campaign in 1988.) Since the Committee purged its submissions of the contributions and made resubmissions, the FEC will not have to reduce future certifications for the Committee, based on the nonmatchable contributions.

#### Background

Prior to the 1988 election year, periodic meetings were held known as "Kemp Forums." In Spring 1987, the Kemp Presidential Committee asked members of The Kemp Forum to attend a

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dinner announcing Congressman Kemp's Presidential candidacy and to contribute to his Presidential campaign. Members of The Kemp Forum made their contributions for Congressman Kemp's 1988 Presidential campaign payable to The Kemp Forum. The Kemp Presidential Committee deposited the contributions. Subsequently, the Committee received affidavits from the contributors that verified that they had intended their contribution checks for the Kemp Presidential Committee.

On August 18, 1987, the Commission made an initial determination that "The Kemp Forum" contributions were not matchable. The Commission found the Committee had not provided evidence to demonstrate that "The Kemp Forum" was a function sponsored and authorized by the Jack Kemp for President Committee or the candidate himself as a Presidential candidate.

In its response to the FEC's initial determination, the Kemp Presidential Committee argued that "The Kemp Forum" contributions were matchable because the contributors had intended them for the Kemp Presidential Committee. Moreover, the Committee claimed that, in the past, Kemp's Congressional campaign committee had accepted checks made out to "The Kemp Forum" and that FEC rules allowed a Presidential committee to accept transfers from another campaign committee authorized by the same candidate. See 11 CFR 100.5(g).

**FEC Determination**

Under FEC regulations, contribution checks for a publicly funded primary candidate must be made payable to the candidate or one of his/her authorized committees for the Presidential campaign. See 11 CFR 9034.2(c). A narrow exception exists for checks made payable to a fundraiser for the candidate, as long as the candidate can document the event (i.e., submit solicitation materials that indicate contributions collected at the event will go to the candidate's Presidential committee). See Exception Code A-5 of the FEC's Guideline for Presentation in Good Order.

The Commission voted to accept the General Counsel's recommendation that contributions payable to The Kemp Forum did not meet these requirements and thus were not matchable. The Kemp Forum was not an authorized committee for Congressman Kemp's Presidential campaign.

Nor was The Kemp Forum a fundraiser sponsored and authorized by either Congressman Kemp as a Presidential candidate or the Kemp Presidential Committee.



**FEC PUBLISHES NONFILERS**

During February and early March, the Commission published the names of eight federal campaigns that had failed to file disclosure reports required by the election law. See chart below.

The election law requires the agency to publish the names of nonfiling candidates. Compliance actions against nonfilers are decided on a case-by-case basis. The law gives the Commission broad authority to initiate enforcement actions resulting from infractions of the law, including civil court enforcement and imposition of civil penalties.

**Nonfilers**

Candidate	Office Sought	State	Report Not Filed*
Babbitt, B.	President		Monthly
Duke, D.	President		Monthly
Fernandez, B.	President		Monthly
Haig, A.*	President		Monthly
Martin-Trigona, A.	President		Monthly
Cohlmlia, K.*	House	TX	Pre-Prim.
Davis, J.	House	IL	Yr.-End
"	"	"	Pre-Prim.
Reynolds, M.*	House	IL	Pre-Prim.
Roxborough, C.*	House	MD	Pre-Prim.

\*Report was subsequently filed.

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Thomas J. Josefiak, Chairman; Danny L. McDonald, Vice Chairman; Joan Aikens; Lee Ann Elliott; John Warren McGarry; Scott E. Thomas; Walter J. Stewart, Secretary of the Senate, Ex Officio; Donald K. Anderson, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530. (TDD For Hearing Impaired 202/376-3136)

## REPORTS

### APRIL REPORTING SCHEDULE

The following chart and paragraphs explain the reporting schedule for the various categories of filers.

Type of Filer	Report		
	Quarterly April 15	Pre-Primary	Monthly April 20
1988 Congressional Committees <sup>1</sup>	x	x	
1988 Presidential Committees/ \$100,000+			x
1988 Presidential Committees/ Under \$100,000	x	x	
1984 Presidential Committees <sup>2</sup>	x		
Parties and PACs/Monthly <sup>3</sup>			x
Parties and PACs/Quarterly	x	x <sup>4</sup>	
National Party Convention Committees <sup>5</sup>	x		
Connected Organizations/ Communications <sup>6</sup>	x		

<sup>1</sup>Congressional committees active in other years have only two reports covering 1988 activity: the semiannual report, due on July 31, 1988, and the 1988 year-end report, due on January 31, 1989.

<sup>2</sup>Presidential committees that are not active in 1988 elections may file on either a monthly or quarterly reporting schedule. See 11 CFR 104.5(b)(2). Presidential committees which have received contributions or made expenditures aggregating \$100,000 or more toward the 1988 Presidential cycle (or which anticipate this level of activity) must file monthly reports during 1988.

<sup>3</sup>All party committees and PACs (i.e., nonconnected committees and separate segregated funds) are required to file on either a monthly or quarterly basis in 1988.

<sup>4</sup>Required only if the unauthorized committee makes contributions or expenditures on behalf of candidates in the primary, which have not been previously disclosed.

<sup>5</sup>In the case of national party convention committees, the quarterly report is due April 10. 11 CFR 9008.12(b)(2).

<sup>6</sup>Report required if aggregate costs for partisan, internal communications for all 1988 primaries have exceeded \$2,000.

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**Quarterly Filers**

Due by April 15, the report should cover all activity from January 1 (or from the closing date of the last report filed in 1988 or from the date of registration,\* whichever is later) through March 31.

**Pre-Primary Filers**

The report is due 12 days before the primary election and must be complete as of the 20th day before the election. If sent by registered or certified mail, the report must be postmarked no later than the 15th day before the election.

**Monthly Filers**

The monthly report must be filed by April 20. It should cover all activity from March 1 (or from the closing date of the last report filed in 1988 or from the date of registration,\* whichever is later) through March 31.

**CHANGE IN FILING FREQUENCY**

PACs and party committees which plan to change their reporting schedule in 1988 (e.g., from quarterly to monthly) must notify the Commission by submitting a letter with the April report. A committee may not change its filing frequency more than once a year. 11 CFR 104.5(c). The FEC requests that Presidential committees also inform the Commission in writing if they change to a monthly reporting schedule because their respective campaigns receive or spend more than \$100,000 during 1988.

**WHERE REPORTS ARE FILED**

Committees must file all reports and statements simultaneously with the appropriate federal and state officials. 11 CFR 108.5.

**Filing with the Federal Government**

1. The principal campaign committees of House candidates and committees supporting or opposing only House candidates file with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515. 11 CFR 104.4(c)(3) and 105.1.

2. The principal campaign committees of Senate candidates and committees supporting or opposing only Senate candidates file with the Secretary of the Senate, Senate Public Records, Hart Senate Office Building, Room 232, Washington, D.C. 20510. 11 CFR 104.4(c)(2) and 105.2.

3. All other committees, including the principal campaign committees of Presidential candidates, file with the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. 11 CFR 105.3 and 105.4.

**Filing with State Governments**

1. The principal campaign committees of Congressional candidates must file a copy of every report and statement with the Secretary of State or the appropriate elections official of the state in which the candidate seeks federal office. 11 CFR 108.3.

2. The principal campaign committees of Presidential candidates must file copies of reports and statements with the Secretary of State or the appropriate elections official of the state in which the committee makes campaign expenditures. These reports must contain all financial transactions which apply to that state during the reporting period covered. 11 CFR 108.2.

3. PACs and party committees making contributions or expenditures in connection with House and Senate races file in the state in which the candidate seeks election. The law requires a copy only of that portion of the report applicable to the candidate(s) being supported. Committees supporting Presidential candidates must file in the state(s) in which the Presidential committee and donor committee have their respective headquarters.

**HOW TO OBTAIN MORE INFORMATION**

During 1988, reporting forms and additional information will be sent to registered committees. Questions and requests for additional forms should be addressed to Information Services, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463; or call 202/376-3120 or toll free 800/424-9530.

*\*In the case of an authorized candidate committee, from the date candidate status is established. The Committee must report all campaign finance activity incurred by the candidate before he/she authorized the committee. 11 CFR 101.3 (a) and 104.3(a) and (b). However, activity which occurred before 1988 must be reported separately.*

**VIRGINIA SPECIAL ELECTIONS**

On June 14, 1988, Virginia will hold a special election in its 5th Congressional District to fill the seat vacated by the death of Congressman Dan Daniels. The Democratic Party will hold a special nominating convention on March 26, 1988, to select a Democratic nominee for the special election. The Republican Party will select its nominee at a special convention held on April 9, 1988.

Political committees authorized by candidates (candidate committees) who are participating in these special elections must file the appropriate pre- and post-election reports. The separate reporting schedules for Democratic and Republican candidates are detailed in the charts below.

All other political committees which support candidates in the special elections (and which do not report on a monthly basis) must also follow the reporting schedule for the special election(s).

**DEMOCRATIC CANDIDATES****Chart I: Candidates Participating in the Democratic Convention**

Report	Period Covered	Registered/Certified Mailing Date*	Filing Date
Pre-convention	1/1-3/6	3/11	3/14
April Quarterly	3/7-3/31	4/15	4/15

**Chart II: Candidates Participating in the Democratic Convention and Special Election**

Report	Period Covered	Registered/Certified Mailing Date*	Filing Date
Pre-convention	1/1-3/6	3/11	3/14
April Quaterly	3/7-3/31	4/15	4/15
Pre-special	4/1-5/25	5/30	6/2
July Quarterly	WAIVED		
Post-special	5/26-7/4	7/14	7/14

**REPUBLICAN CANDIDATES****Chart III: Candidates Participating in the Republican Convention**

Report	Period Covered	Registered/Certified Mailing Date*	Filing Date
Pre-convention	1/1-3/20	3/25	3/28
April Quarterly	3/21-3/31	4/15	4/15

**Chart IV: Candidates Participating in the Republican Convention and Special Election**

Report	Period Covered	Registered/Certified Mailing Date*	Filing Date
Pre-convention	1/1-3/20	3/25	3/28
April Quarterly	3/21-3/31	4/15	4/15
Pre-special	4/1-5/25	5/30	6/2
July Quarterly	WAIVED		
Post-special	5/26-7/4	7/14	7/14

\* Reports sent by registered or certified mail must be postmarked by the mailing date (except in the case of the pre-election report). Reports mailed first class or hand delivered must be received by the filing date.

## OPINIONS

### ADVISORY OPINION REQUESTS

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

AOR	Subject
1988-6	Application of Presidential fundraising exemption to costs of tv ads that advocate candidate's election and solicit funds. (Date made public: February 11, 1988; Length: 5 pages)
1988-7	Individual's receipt and use of parents' monetary gifts for his 1988 campaign. (Date made public: February 17, 1988; Length: 1 page)
1988-8	PAC's receipt of bequest from trust and from escrow account. (Date made public: February 17, 1988; Length: 2 pages)
1988-9	Nonconnected PAC's allocation of expenditures for political/nonpolitical trips. (Date made public: February 25, 1988; Length: 6 pages)
1988-10	Individual and slate activities related to delegate selection. (Date made public: February 26, 1988; Length: 3 pages, plus 25-page supplement)
1988-11	Trade association PAC's solicitation of corporate members' employees. (Date made public: February 29, 1988; Length: 3 pages, plus 23-page supplement)
1988-12	National bank's reimbursements to party committee for supplying lists of potential credit card customers and using committee's name to solicit new customers. (Date made public: February 29, 1988; Length: 6 pages)

### ADVISORY OPINIONS: SUMMARIES

#### AO 1987-29: Partisan Communications by Incorporated Membership Organization

The Commission approved an alternative partisan communications program submitted by the Association of Advanced Life Underwriters (AALU), which would provide certain information on AALU-endorsed candidates to the organization's members but would not facilitate the making of member contributions to the candidates. (AALU is a governmental affairs division of the National Association of Life Underwriters [NALU], an incorporated membership organization for underwriters of health and life insurance.)

By a 3-3 split vote, the Commissioners failed to approve another proposed program whereby AALU would ask its members to contribute to AALU-endorsed candidates with checks made out to the candidates and transmitted to the candidates through LUPAC, the separate segregated fund of the parent, NALU.

#### Approved Plan

AALU may sponsor a partisan communications program directed to its members that will be limited to providing information on AALU-endorsed candidates. Specifically, AALU will provide members with the names and addresses of the endorsed candidates' campaign committees. However, AALU will not facilitate the actual making or delivery of contributions to candidates by, for example, providing members with pre-addressed envelopes or stamps. Further, AALU's communications will inform members that their contributions must be made directly to candidates; LUPAC will not accept or act as a conduit for contributions earmarked for AALU-endorsed candidates. If a member wishes an honorary membership in AALU's Legislative Circle as a result of making a \$1,000 contribution to a candidate, the member must inform AALU of his or her eligibility.

Under the election law and FEC regulations, corporations are permitted to engage in partisan communication programs targeted to their members. 2 U.S.C. §441b(b)(2)(A); 11 CFR 114.3. Since AALU's alternative program is limited to the communication of information to members and does not improperly facilitate contributions to AALU-endorsed candidates, the program is permissible under these provisions of the law and regulations. AALU's expenditures for the communications must, however, be reported on FEC Form 7, once they exceed \$2,000 per election. 2 U.S.C. §431(9)(B)(iii); 11 CFR 100.8(b)(4) and 104.6.

#### Unapproved Plan

Under the original proposal submitted by AALU, the organization's members would have re-

ceived approximately five or six communications during 1988 that encouraged them to: 1) contribute to AALU-endorsed candidates (some 20 to 100 candidates) and 2) make earmarked contributions to any of the endorsed candidates through LUPAC. Some of the communications would have recommended one specific candidate to the contributor. Thus, LUPAC would have been responsible for transmitting members' earmarked contributions to candidates.

To qualify for AALU's Legislative Circle, AALU members would have had to contribute to AALU-endorsed candidates and use LUPAC as the conduit for delivery of their contributions.

AALU and LUPAC, in their request for an advisory opinion, wanted to know whether AALU could finance the communications and whether LUPAC could accept and transmit the earmarked contributions without affecting LUPAC's contribution limits. (Date issued: March 7, 1988; Length: 5 pages)

#### **AO 1988-2: FEC Reports Posted on Security Exchange's Bulletin Boards**

The Chicago Board Options Exchange, Inc. (CBOE), a securities exchange, may post FEC reports of industry PAC receipts and disbursements (including reports of its own PAC, CBOEPAC) on employee bulletin boards. The Commission suggests that CBOE post a warning that information contained in the reports may not be used for commercial purposes, although such a notice is not required under these particular circumstances.

To protect individuals from being victimized by list brokering, the election law and FEC regulations prohibit persons from using or selling information copied from FEC reports for either contribution solicitations or for commercial purposes. 2 U.S.C. §438(a)(4); 11 CFR 104.15(a). However, the Commission has permitted the use of contributor information in limited cases, such as CBOE's proposed use, where the information will not serve commercial or solicitation purposes. See AOs 1981-5 and 1984-2.

Since CBOE's notice is purely informational and neither encourages nor facilitates the making of contributions, the notice is not considered a solicitation for contributions to CBOEPAC. (Date issued: February 26, 1988; Length: 4 pages)

#### **AO 1988-6: Allocation of Media Expenses to Presidential Campaign's Fundraising Exemption**

The Albert Gore, Jr., for President Committee, Inc. (the Gore campaign), Senator Gore's publicly funded 1988 Presidential primary campaign, plans to air a tv ad in Colorado before the state's April 4th caucuses. The ad will seek both political

support and contributions for his campaign. The Gore campaign may exclude a reasonable portion of broadcast costs for the ad (i.e., 50 percent) from its spending limits as exempt fundraising expenditures. Finally, under a provision of FEC Regulations--the 28-day rule--the dates when the ad is actually aired determine whether a portion of the costs for the ad may be allocated to the fundraising exclusion or whether the full cost must, instead, be allocated to the campaign's spending limit for Colorado.

#### **Application of Fundraising Exclusion**

Under the election law and public funding statutes, a publicly funded Presidential primary candidate is subject to both a national spending limit\* and state-by-state limits. 2 U.S.C. §441a-(b) and 26 U.S.C. §9035. A publicly funded primary campaign may, however, exclude from these limits fundraising costs amounting to 20 percent of the expenditure limits. This exclusion may be made from both its national and state spending limits. 2 U.S.C. §431(9)(B)(vi). Under FEC regulations, costs of broadcasting fundraising ads expressly qualify for this exclusion. 11 CFR 100.8(b)(21)(ii).

Since the regulations recognize that campaign expenditures may be made for multiple purposes, a portion of the expenditures for airing tv ads that include a fundraising solicitation may be reasonably allocated to the fundraising exclusion.

The Commission noted that the Gore campaign's tv ad included a solicitation for contributions: a video message in the final three seconds of the 60-second spot asks viewers for contributions to the campaign and a voice-over announcement repeats the request. These messages are reinforced by showing the campaign's telephone number for potential contributors. The Commission concluded that the Gore campaign could reasonably allocate 50 percent of the costs for broadcasting the ad in Colorado to its fundraising exclusion, provided the timing of the broadcasts complied with the 28-day rule.\*\*

#### **Application of 28-Day Rule**

Although FEC rules permit exclusion of up to 20 percent of a publicly funded Presidential primary candidate's fundraising expenses from the national and state spending limits, certain fund-

*continued*

\*As determined by statutory formulas, the national spending limit for 1988 is \$23,050,000. The spending limit for Colorado is \$893,233.60.

\*\*The Commission noted that previous advisory opinions had approved other methods for reasonably allocating fundraising expenditures. See AOs 1978-46, 1981-3 and 1982-5. However, these methods did not foreclose the reasonableness of a different allocation method.

raising expenditures do not qualify for the exclusion. Specifically, if fundraising expenditures are targeted to a particular state and are made within 28 days of the state's primary election, convention or caucus, no portion of the expenditures may be allocated to the fundraising exemption. 11 CFR 100.8(b)(21)(iii), 110.8(c)(2) and 106.2(c)(5). Further, in AO 1975-33, the Commission decided that the date of the fundraising activity—not the date the expenditure was made for the activity—governs the application of the 28-day rule. Thus, regardless of when the Gore campaign makes payments for airing its tv ad in Colorado, the campaign may apply the fundraising exclusion only if the ad is aired more than 28 days before the state's Presidential caucuses. (Date issued: March 1, 1988; Length: 6 pages)

## COURT CASES

### CONGRESSMAN STARK v. FEC (Second Suit)

On February 8, 1988, the U.S. District Court for the District of Columbia dismissed a complaint brought against the agency by Congressman Fortney H. ("Pete") Stark, a Democratic Congressman from California. (Congressman Stark v. FEC; Civil Action No. 87-1700) The court found that the FEC had not acted contrary to law in dismissing, in a deadlock vote, an administrative complaint which Congressman Stark had filed against his Republican opponent, and the opponent's supporters in a 1986. The court accordingly granted summary judgment in the Commission's favor.

#### Background

Shortly before election day in 1986, Congressman Stark filed an administrative complaint\* that alleged, among other things, that excessive contributions made to Daniel M. Williams' 1986 Congressional campaign by the American Medical Association Political Action Committee (AMPAC) resulted in violations of the election law by both parties. (AMPAC is the separate segregated fund of the American

\*Prior to filing his suit with the district court, Congressman Stark had filed a suit which sought a court order requiring the FEC to act on his administrative complaint within 120 days. (No. 87-1024) Since the FEC subsequently took final action on Congressman Stark's administrative complaint, the court dismissed this suit as moot on August 20, 1987. See the June and October issues of the 1987 Record.

Medical Association.) In the complaint, Congressman Stark also alleged other violations of the election law's contribution limits by the American Medical Association (AMA), AMPAC and certain state PACs affiliated with AMPAC.

After a preliminary investigation of the complaint as amended in February 1987, the General Counsel's Office recommended that the Commission find no reason to believe AMPAC's affiliates had violated the law.

With regard to the other allegation, the General Counsel recommended that the Commission find reason to believe that AMPAC had violated the law by making excessive contributions to the Williams campaign and that the Williams campaign had violated the law by accepting them. (See 2 U.S.C. §§441a(a) and (f).) In the preliminary investigation, the General Counsel's staff found that AMPAC had made three mailings to its membership describing Williams' position on certain issues and advocating Williams' election. One of the mailings had also solicited funds for Williams' campaign. The solicitation mailing included: 1) pre-addressed envelopes for donors to mail their contributions directly to candidates and 2) pledge cards pre-addressed to AMPAC, which AMPAC could use to verify donors' contributions.

AMPAC claimed that its spending for the mailings constituted independent expenditures. However, citing an advisory opinion that dealt with a similar situation (AO 1980-46), the General Counsel reasoned that AMPAC's spending for the solicitation mailing constituted in-kind contributions to the Williams campaign. (In AO 1980-46, the Commission decided that expenditures by a PAC to facilitate earmarked contributions to candidates constituted in-kind contributions to the candidates rather than independent expenditures on their behalf.)

Furthermore, the General Counsel found that, taken together, the circumstances of the mailings were sufficient to indicate that AMPAC and the Williams campaign might not have remained at arms length throughout the campaign. For example, the General Counsel found that AMPAC's substantial spending on behalf of the Williams campaign, when compared with the low spending by the campaign itself, raised questions concerning the independence of AMPAC's expenditures.

On June 9, 1987, the Commission voted to accept the General Counsel's recommendation to dismiss the allegation concerning excessive contributions by AMPAC's affiliates. However, the Commissioners were divided by a series of 3-3 votes on the General Counsel's recommendation concerning AMPAC's excessive in-kind contributions to the Williams campaign. Since the Commission can act only on "the affirmative vote of four members," the agency voted unanimously to close the enforcement file.



On June 22, 1987, Congressman Stark filed a complaint with the district court. He asked the court to find that the FEC's dismissal of his administrative complaint was contrary to law.

#### District Court Ruling

Following a decision by the U.S. Court of Appeals for the D.C. circuit in Democratic Congressional Campaign Committee v. FEC (831 F.2d 1131 (D.C. Cir. 1987)), the court held that it could review the case because the provision of the election law affording judicial review of dismissals "imposes neither vote count nor substantive-issue conditions on the right it confers." (See 2 U.S.C. S437g(a)(8)(A).)

The court noted, however, that, unlike the DCCC case, the Stark case included a statement from the dissenting Commissioners setting forth their reasons for voting against the General Counsel's recommendations.

The court observed that, in their statement, the dissenting Commissioners said, among other things, that they disagreed with the conclusion of AO 1980-46, the advisory opinion that the General Counsel had cited in arguing that AMPAC's solicitation expenditures might be in-kind contributions. Thus, concluded the three Commissioners, the rationale of that opinion should not be extended beyond the facts presented in that case. These Commissioners argued that independent expenditures (e.g., AMPAC's expenditures for contribution envelopes sent to candidate Williams' potential donors) did not lose their independence because the candidate subsequently derived indirect benefit from them.

Further, the dissenting Commissioners rejected the idea that a "dollar disparity" between AMPAC's spending and spending by the Williams campaign implied cooperation between the two committees. The Commissioners also rejected Congressman Stark's allegations concerning a "debate arrangement" made by AMPAC and the duplication of Williams' campaign materials by AMPAC for solicitation purposes.

In determining whether the dissenting Commissioners acted reasonably in voting to dismiss the Stark allegations, the Court found that the DCCC case required "that the same deference be accorded the reasoning of 'dissenting' Commissioners who prevent Commission action by voting to deadlock as is given the reasoning of the Commission when it acts [by at least four affirmative votes] as a body to dismiss a complaint."

Accordingly, the court concluded that the dissenting Commissioners' statement of reasons was "'sufficiently reasonable,' if not 'the only reasonable [decision] or even the [one] the court would have reached' on the General Counsel's Report on his findings...."

#### FEC v. CITIZENS TO ELECT JERALD WILSON

On February 8, 1988, pursuant to the FEC's notice of voluntary dismissal, the U.S. District Court for the Northern District of Illinois, Eastern Division, dismissed without prejudice a complaint filed by the FEC in October 1987. The Commission filed the complaint against the principal campaign committee for Jerald Wilson's 1986 Congressional campaign, Citizens to Elect Jerald Wilson, and the campaign's treasurer. (FEC v. Citizens to Elect Jerald Wilson; Civil Action No. 87 C 8855)

In the complaint, among other things, the FEC had asked the court to:

- o Declare that the Wilson campaign had violated the election law's reporting requirements by failing to file certain reports during 1986; and
- o Assess a civil penalty against the campaign for these violations.



#### PRESIDENTIAL ACTIVITY - 1987

Eighteen Presidential primary candidates raised \$103.5 million and spent \$91.6 million during 1987. Three candidates who have already withdrawn from the race raised and spent nearly \$6 million of this amount.

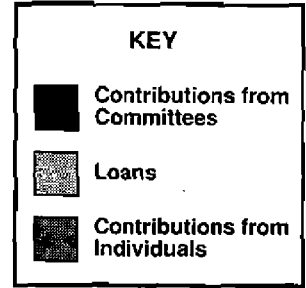
This information was included in summary figures for 1988 Presidential primary campaigns released by the FEC on February 11, 1988. The summary figures include the 14 Presidential primary campaigns which have been declared eligible to receive federal matching funds, as well as other Presidential campaigns which had activity exceeding \$500,000 during 1987.

The graphs on pages 10 and 11 describe the receipts of each candidate who, at year's end, was an active candidate and had spent more than \$1 million. Each graph depicts total receipts by quarterly reporting period and indicates the sources of each campaign's receipts.

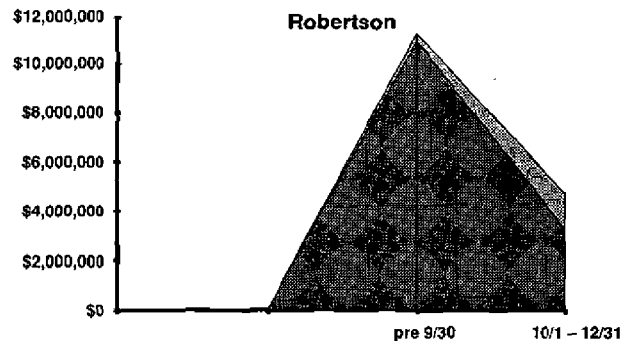
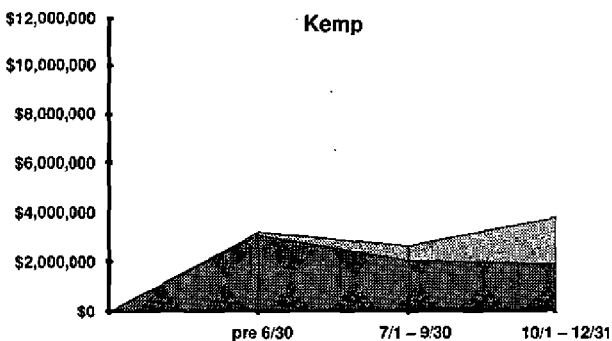
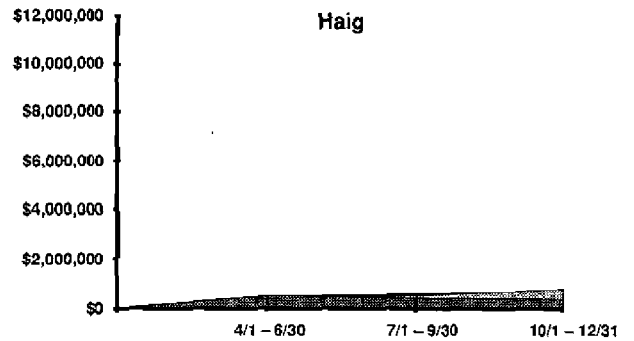
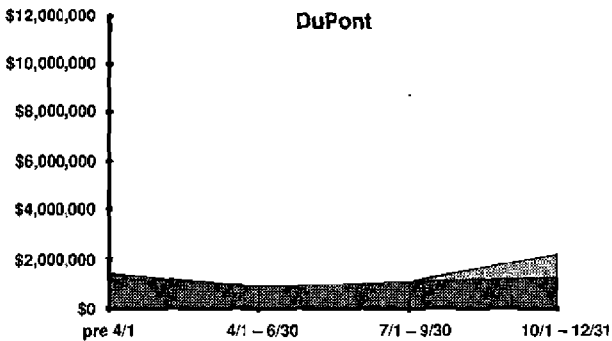
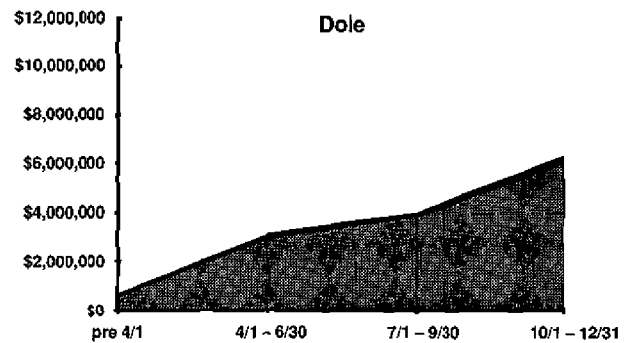
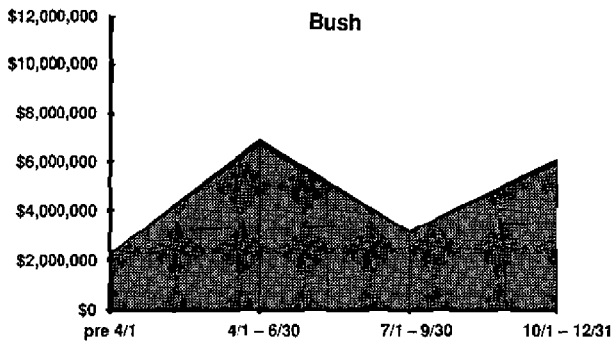
More detailed information on the activity of these Presidential campaigns is contained in the FEC's February 11, 1988, press release. To obtain a copy of the release, call the Public Records Office: 202/376-3120 or, toll free, 800/424-9530.

*continued*

**RECEIPTS OF PRESIDENTIAL CAMPAIGNS  
THROUGH 12/31/87<sup>1</sup>**

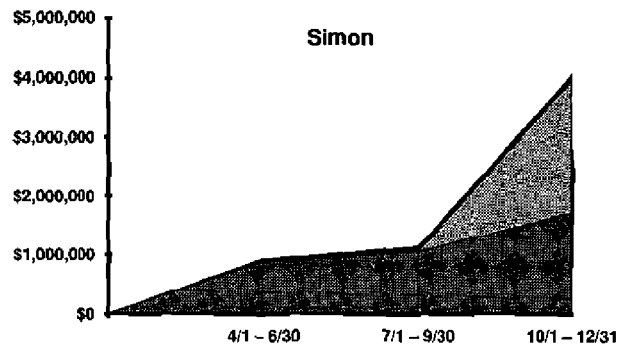
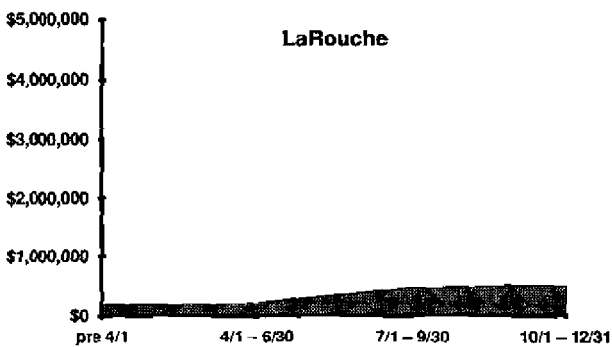
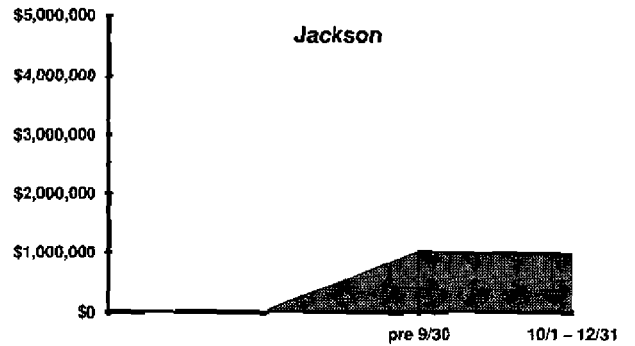
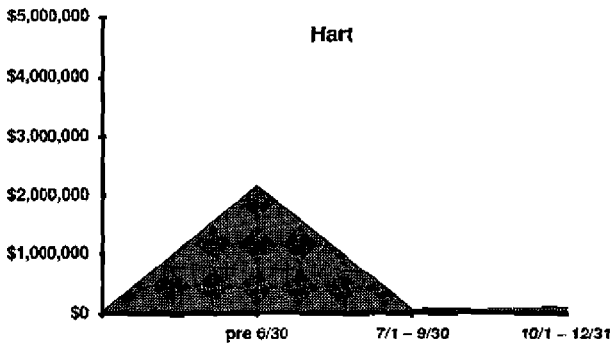
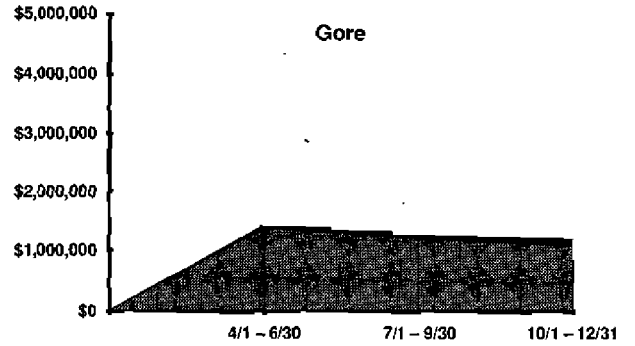
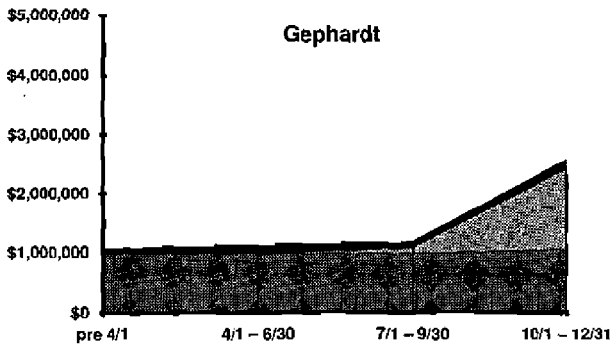
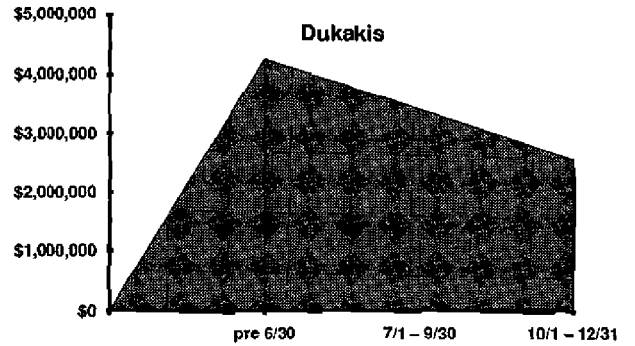
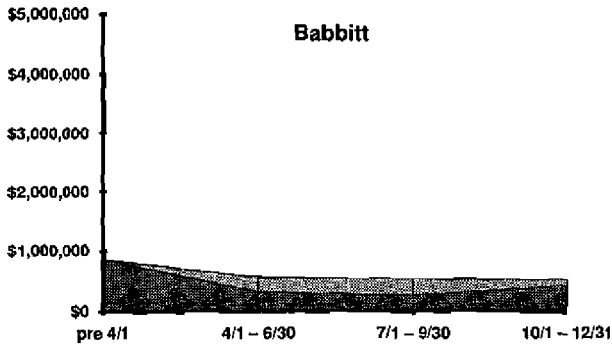


**REPUBLICAN CANDIDATES**



<sup>1</sup>Note that the figures for the Republican Candidates are plotted on a scale of \$12 million, and the figures for the Democratic Candidates are plotted on a scale of \$5 million.

DEMOCRATIC CANDIDATES



**SEATTLE CONFERENCE ON ELECTION LAWS**

On May 12 and 13, the Federal Election Commission will cosponsor a conference with Washington state's Public Disclosure Commission in Seattle. The conference will present workshops on candidate campaigns, party and PAC activity, contributions and reporting. For more information on the conference, contact the FEC's Information Services Division at: 202/376-3120 or toll-free 800/424-9530.

The Washington conference is the third in a series cosponsored by the FEC and state election offices during 1988. In February, the agency co-sponsored a conference with the Kentucky Registry of Election Finance and, in March, with the Ohio Secretary of State.

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