FEDERAL ELECTION COMMISSION

RECORD

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REGULATIONS

FEC STAFF TO CONDUCT ALLOCATION TRAINING FOR PARTY COMMITTEES

In the next few months, Commission representatives will travel to several cities to conduct training sessions on the new allocation regulations.[1] The training program is designed to help state and local party committees comply with the new regulations,[2] which will have the most significant impact on party groups. The new rules specify methods for allocating disbursements for activities that jointly benefit federal and nonfederal candidates and elections. Under the new rules, which become effective January 1, 1991, committees that maintain federal and nonfederal accounts will be required to file new reporting schedules disclosing information on allocated activity.

Listed below are the cities where Commission staff will conduct the allocation training. Party committee staff wishing to attend a training session should call the Information Services Division, 800/424-9530 or 202/376-3120, and ask for the contact person.

Location	Date	Contact Person
Columbus, OH	1/7-8	Janet Hess
New York, NY	1/22-23	Kathene Martin
Boston, MA	1/24-25	Patricia Klein
Denver, CO	2/7	Dorothy Hutcheon
Des Moines, IA	2/20-21	Ian Stirton
Austin, TX	3/5-6	Greg Scott

[1] In late November and early December, the Commission held allocation workshops in Miami, Seattle and Los Angeles. These were scheduled on short notice, too late for advance announcement in the November Record.

[2] For a summary of the regulations, see the September 1990 Record, page 9. See the article that follows for other materials on the new allocation rules.

ALLOCATION MATERIALS SENT TO PACS, PARTY COMMITTEES

The FEC recently mailed the following materials on the new allocation rules to the treasurers of PACs and party committees:

- The Record Supplement on Allocation, a special November issue that explains the revised rules;
- The regulations and their explanation and justification, as printed in the Federal Register (55 Fed. Reg. 26058, June 26, 1990); and
- New reporting Schedules H1 through H4 (part of FEC Form 3X), which must be used to report allocable expenses after December 31, 1990.

Anyone interested in obtaining any of the above materials may order them from the Information Services Division, 800/424-9530 or 202/376-3120.

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PUBLIC HEARING ON PROPOSED FOREIGN NATIONAL REGULATIONS

On October 30 and 31, 1990, the Commission held a public hearing on a proposed change to the foreign national regulations at 11 CFR 110.4(a). The revision under consideration would treat a domestic corporation as a foreign national if the corporation's foreign ownership exceeded 50 percent. Under the proposal, a U.S. corporation that was majority-owned by a foreign national corporation or by foreign investors would be prohibited from establishing, and paying the administrative and solicitation costs of, a separate segregated fund (PAC). The proposal was outlined in a Notice of Proposed Rulemaking published on August 22, 1990 (55 Fed. Reg. 34280). The Commission also sought suggestions that would promote compliance with the law's ban on foreign national contributions (2 U.S.C. §441e).

The advance written comments submitted by the witnesses are available from the FEC's Public Records Office.

Proposed Change

Commission regulations at 11 CFR 110.4(a)(1), which implement 2 U.S.C. §441e, prohibit foreign nationals from making contributions or expenditures, either directly or through another person, in connection with any local, state or federal election. In a series of advisory opinions, the Commission has permitted domestic subsidiaries, either partially or totally owned by foreign nationals, to establish a PAC and pay for the PAC's administrative and solicitation expenses, as long as two basic conditions are met. First, the individuals who exercise decision-making authority for these activities must be U.S. citizens or individuals lawfully admitted for permanent residence (i.e., "green-card holders," who are not considered foreign nationals). Second, the funds used for election-related activities must not come from the foreign-national parent or from a foreign citizen.

By treating as foreign nationals those domestic corporations whose foreign ownership exceeds 50 percent, the proposed rule would supersede advisory opinions that now allow a foreign-owned or controlled U.S. corporation to establish and operate a PAC.

Testimony

All but one of the 13 witnesses who testified at the hearing were opposed to the proposed change. Nine of the witnesses represented domestic corporations owned by foreign nationals, while three others testified on behalf of the Association for International Investment, the National Association of Business Political Action Committees and the National Association of Manufacturers. The only witness testifying in support of the proposed rule was a representative of Senator Lloyd Bentsen.

Witnesses opposed to the change argued that:

- The proposal is unnecessary because the current regulation adequately protects against foreign-national influence in U.S. elections; moreover, there is no evidence that foreign-national parents control the separate segregated funds (PACs) established by their U.S. subsidiaries.
- The proposal exceeds the FEC's rulemaking authority; such a change to the definition of foreign national would require statutory amendment by Congress.
- The proposal would violate the First Amendment free speech and associational rights of U.S. citizens employed by domestic corporations whose foreign ownership exceeded 50 percent; the executive and administrative employees of such corporations would no longer have the right to pool their money together to make contributions through a company PAC.
- For similar reasons, the proposal would also unconstitutionally discriminate against such employees.
- The proposal would upset the balance between separate segregated funds sponsored by labor organizations and

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those sponsored by corporations, since union-member employees of affected corporations would still be permitted to participate in a union PAC, while non-union employees would be prohibited from participating in a corporate PAC.

- o The proposed rule would violate the spirit, if not the letter, of international treaties under which the U.S. has guaranteed "national treatment" to foreign nationals. "National treatment" means that foreign-owned corporations are treated the same as domestic corporations.
- o The proposed rule is arbitrary and unworkable because foreign ownership of a U.S. corporation in excess of 50 percent does not necessarily mean that the corporation is controlled by foreign nationals.

Senator Bentsen's legislative assistant, in supporting the proposed change, argued that:

- o The U.S. Senate favors a change in the current law; in a recent vote on a legislative proposal similar to the FEC's proposed rulemaking, 73 Senators voted in favor of the legislation.
- o Opposition to the proposed rule arises from those who are protecting their special interests rather than the American public's interest in keeping questionable money out of U.S. elections.
- o The proposal is consistent with the intent of the original legislation--to reduce foreign influence in U.S. elections.
- o Other nations place similar restrictions on American-owned companies operating in their countries.

PUBLIC APPEARANCES, 1991

1/20-23 National Association of Manufacturers
Marco Island, Florida
Commissioner Lee Ann Elliott

1/27-30 South Carolina Association of Registration and Election Officials
Charleston, South Carolina
Commissioner Thomas J. Josefiak

1/29 Public Affairs Council
Washington, DC
Commissioner Lee Ann Elliott
Dorothy Hutcheon, Public Affairs Specialist

AUDITS

LAROUCHE CAMPAIGN CONTESTS REPAYMENT DETERMINATION

On October 3, 1990, the Commission heard a presentation by the LaRouche Democratic Campaign contesting an FEC determination that the committee repay public funds. The campaign had received federal matching funds during Lyndon LaRouche's 1988 Presidential primary campaign.

The presentation was given in response to a final audit report in which the Commission determined that the campaign had received $109,149 in matching fund payments to which the candidate was not entitled.[1] On May 26, 1988--Mr. LaRouche's date of ineligibility[2]--the campaign was in a deficit position. The final audit report concluded that, by July 14, 1988, the campaign had received enough contributions and matching funds to eliminate the deficit. The campaign, however, continued to receive matching funds after July 14. The Commission determined that the campaign had to repay these matching funds, which totalled $109,149, since they were received after the campaign had sufficient funds to eliminate its deficit.

In its oral presentation, the LaRouche campaign contended that only public funding payments, and not private funds, should be applied to eliminate a campaign's deficit if the candidate choses to continue campaigning after the date of ineligibility. (Mr. LaRouche continued his campaign until the Democratic convention in late July 1988.) The campaign argued that a candidate who must divert all private funds to debt reduction cannot realistically continue his campaign and must therefore either terminate the campaign or abandon his claim to matching funds for purposes of retiring the deficit.

(continued)

[1] See the July 1990 Record for for a summary of other repayment determinations contained in the final audit report.

[2] The date of ineligibility is the date on which the candidate becomes ineligible to receive matching funds for the purpose of continuing the campaign. See 2 U.S.C. §9033(c) and 11 CFR 9033.5. After that date, the candidate may receive matching funds only to the extent he or she has net outstanding campaign obligations.

Before making its final determination on this repayment issue, the Commission will consider the LaRouche campaign's oral presentation as well as any additional written materials the campaign submits.

FINAL AUDIT REPORTS

Listed below are the final audit reports that have been released since April 1990. See the June 1990 Record for a list of audit reports released between January 1989 and March 1990. Copies of reports are available from the FEC's Public Records Office.

The Atlanta '88 Committee, Inc.
Date Released: September 28, 1990
Length: 2 pages

Louisiana Host Committee 1988, Inc.
Date Released: September 4, 1990
Length: 4 pages

LaRouche Democratic Campaign
Date Released: May 23, 1990
Length: 20 pages

COURT CASES

KRIPKE v. FEC

On October 26, 1990, the U.S. District Court for the District of Columbia granted the FEC's motion for summary judgment, thereby dismissing Dr. Daniel F. Kripke's suit against the agency. Dr. Kripke alleged that the FEC had acted contrary to law by failing to act on his administrative complaint within 120 days. See 2 U.S.C. §437g(a)(8)(A). The court stated that "[t]here is no statutory requirement that the Commission act within 120 days." The court went on to say that, in ruling on an action such as Dr. Kripke's, the court "must presume valid action, act deferentially and withhold its hand unless it appears that the Commission has been arbitrary and capricious. [citations deleted.]"

In this case, the court found that there had been no unreasonable delay and that the agency had not acted arbitrarily or capriciously in its handling of the matter. Accordingly, the court granted summary judgment to the FEC.

ADVISORY OPINIONS

ADVISORY OPINION REQUESTS

Recent requests for advisory opinions (AORs) are listed below. The full text of each AOR is available for public review and comment in the FEC's Public Records Office.

AOR 1990-25
Availability of corporation's twice-yearly solicitation method to labor union representing employees of subsidiary.
(Date Made Public: November 7, 1990; Length: 2 pages)

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUEST

AOR 1990-24: Candidate Committee's Reimbursement of European Travel Expenses of Candidate's Wife
AOR 1990-24 was withdrawn by the requester on October 19, 1990.

ADVISORY OPINION SUMMARIES

AO 1990-16: Transfer from State PAC to Affiliated Federal PAC; Multicandidate Status
Citizens for Thompson (CFT), formerly the campaign committee of Illinois Governor James R. Thompson but now organized to support other nonfederal candidates, may transfer funds to an affiliated federal committee, America 2000, subject to certain conditions set forth in the opinion. America 2000 may apply contributions contained in such transfers to the 51-contributor requirement for multicandidate committee status.

Transfers Between Affiliated Committees

Because CFT and America 2000 are both controlled by Governor Thompson, they are affiliated committees. 2 U.S.C. §441(a)(5); 11 CFR 100.5(g)(2), 100.5(g)(3)(v), 110.3(a)(1)(ii) and 110.3(a)(2)(v). CFT's transfers to America 2000 are therefore not subject to the contribution limits. 11 CFR 102.6(a)(1) and 110.3(c)(1).

CFT's Federal Committee Status

CFT will trigger political committee status if it transfers over $1,000 during a calendar year to America 2000. CFT may, however, qualify as a political committee even earlier if it: (1) spends over $1,000

per year to solicit funds that it intends to transfer to America 2000 or (2) receives over $1,000 per year in response to a solicitation informing donors that contributions may be transferred to America 2000 or otherwise used for federal purposes. 2 U.S.C. §431(4); 11 CFR 100.5(a).

Upon achieving political committee status, CFT must register and report as a political committee, disclosing on its first report the source of its cash on hand and itemizing contributions to the extent required under 2 U.S.C. §434(b) and 11 CFR 104.3(a). The cash on hand is presumed to be composed of those contributions most recently received by CFT. 11 CFR 104.12. CFT must exclude from its cash on hand (and from any transfers to America 2000):

- o Contributions not permissible under the Federal Election Campaign Act, i.e., funds from corporations, labor organizations and federal contractors;
- o Contributions exceeding the aggregate $5,000 per year limit on contributions to a PAC; and
- o Contributions from donors who have not been notified by CFR that their contributions will be subject to the limitations and prohibitions of the Act.

With regard to contributions included in the transfer, CFT must notify the contributors that their contributions will now be subject to the Act's limits and prohibitions. See 11 CFR 102.5(a)(2). To ensure that donors do not exceed the $5,000 per year limit on contributions to a PAC, CFT must aggregate contributions regardless of whether they were made in the year of the transfer or in previous years. Additionally, because CFT and America 2000 are affiliated, contributions transferred to America 2000 count against each contributor's $5,000 limit for America 2000.

Because CFT apparently intends to continue as a political committee, it must transfer out the impermissible funds within 10 days of becoming a political committee. See 11 CFR 103.3(b). (This requirement would not apply if CFT were transferring funds on a one-time basis and then terminating its political committee status.)

Further, if CFT wishes to continue as a federal political committee and also raise nonfederal funds outside the restrictions of the Act, CFT must segregate its federal and nonfederal funds using separate accounts. All federal election activity, including transfers to America 2000, must be conducted from the federal account; funds from nonfederal accounts may not be transferred into the federal account. Moreover, the federal account may accept only contributions that:

- o Are designated for the federal account;
- o Result from a solicitation expressly stating that contributions will be used in connection with federal elections; and
- o Are made by donors who are informed that contributions are subject to the Act's limits and prohibitions. 11 CFR 102.5(a)(1)(i) and (2).

Multicandidate Status

A multicandidate committee is a political committee that has been registered for at least six months, has received contributions from more than 50 persons and (except for a state party committee) has made contributions to at least five federal candidates. 2 U.S.C. §441a(a)(4); 11 CFR 100.5(e)(3). Multicandidate committees are subject to a $5,000 limit, per candidate, per election, rather than the $1,000 limit that applies to non-multicandidate committees. For purposes of achieving multicandidate status, two affiliated political committees may combine their contributions made and received. AO 1980-40. Persons who have been notified that their CFT contributions are subject to federal limits and prohibitions can be viewed as having made federal contributions. Accordingly, such persons may be counted toward the 51-contributor requirement for multicandidate committee status.

(Date issued: October 5, 1990; Length: 7 pages)

AO 1990-18: Federal Credit Union's Establishment of Separate Segregated Fund

The Oahu Educational Employees' Federal Credit Union, a federally chartered credit union incorporated within the United States, may establish a separate segregated fund and solicit contributions from its noncorporate members.

An incorporated membership organization may solicit contributions to its separate segregated fund from individual members and their families. 2 U.S.C. §441b(b)(4)(C); 11 CFR 114.7(a). Commission regulations define members to mean all persons who are currently satisfying the requirements for membership. 11 CFR 114.1(e). In setting out a standard for membership, the Supreme Court held that members of an incorporated membership organization, similar to stockholders in a business corporation, must have "some relatively enduring and independently significant financial or organi-

(continued)

zational attachment" in order to be eligible for solicitation. FEC v. National Right to Work Committee, 459 U.S. 197, 204 (1982). The Commission has determined that members possess the requisite attachment if they have: (1) some right to participate in the governance of the organization and (2) an obligation to make regular payments to help sustain the organization. See, for example, AO 1984-63.

In this case, the credit union's non-corporate members may be solicited because they fulfill both requirements. First, they have the right to vote for the board of directors and the right to sit on the board and other governing bodies. Second, they must buy at least one share of the credit union; a member who withdraws all shares thereby ceases to be a member.

The credit union may not, however, solicit any members who are prohibited from making contributions under the Federal Election Campaign Act (the Act), such as corporations or labor organizations. 11 CFR 114.7(b). In addition, although the Act and regulations permit trade associations to solicit contributions from corporate members' executive and administrative personnel and stockholders, these provisions do not generally extend to other types of membership organizations. See AOs 1981-23 and 1980-48.

Finally, although a membership organization may solicit the "immediate families" of members, the credit union must use the narrow definition of immediate family contained in AO 1980-102 rather than the broader definition contained in the credit union's bylaws. AO 1980-102 defines "immediate family" to include only the member's mother, father and children living in the same household.

(Date issued: October 5, 1990; Length: 5 pages)

AO 1990-20: Federal Contractor Status of Law Firm

The federal contractor status of Bradbury, Bliss & Riordan, a law partnership representing the Federal Deposit Insurance Corporation (FDIC) and the Resolution Trust Corporation (RTC), depends on whether these federal agencies compensate the firm from funds containing Congressional appropriations. If so, the firm would be considered a federal government contractor and would therefore be prohibited from making contributions to its PAC from general partnership funds.

A federal contractor is prohibited from making, directly or indirectly, any contribution or expenditure on behalf of a federal candidate or political committee. 2 U.S.C. §441c(a)(1); 11 CFR 115.2 A federal contractor is any person who has entered into a contract with the United States government (or any department or agency thereof) for the rendition of services and who is compensated, in whole or in part, from funds appropriated by Congress. 2 U.S.C. §441c(a)(1); 11 CFR 115.1(a)(1)(i) and (2).

The FDIC--which normally receives funds from such sources as insured banks and savings institutions--may receive appropriated funds under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRRE Act). The RTC partially operates on appropriated funds. The sources of funds used by these agencies to pay for services may depend upon the type of legal or financial action involved and the role the law firm assumes in the action.

If the FDIC and the RTC pay the firm exclusively from funds that are not appropriated by Congress, the firm would not be a federal contractor. Otherwise, the firm would fall under the definition of federal contractor and would be prohibited from making contributions to its PAC from general partnership funds. 11 CFR 115.4(a). (Individual partners may, however, make contributions in their own names, from their personal assets. 11 CFR 115.4(b).) This prohibition would also apply to the use of partnership funds for the PAC's establishment, administration and solicitation costs since the law does not extend to partnerships the right granted to corporations to set up a separate segregated fund. AOs 1982-63, 1981-56 and 1981-54; see also California Medical Association v. FEC, 453 U.S. 182 (1981).

(Date Issued: October 18, 1990; Length: 3 pages.)

AO 1990-23: Reapportionment Account Established by Principal Campaign Committee Prohibited

Representative Martin Frost's principal campaign committee may not set up a "separate segregated" account to receive funds prohibited under the Federal Election Campaign Act (the Act) to cover expenses related to redistricting and reapportionment matters. However, Mr. Frost may himself set up a reapportionment fund that is independent of his authorized committee; such a fund would not be subject to the requirements of the Act.

In order to protect his interests in the Congressional redistricting in Texas

following the 1990 census, Mr. Frost retained an attorney and proposed paying for legal services and other redistricting-related expenses through a separate account established by his authorized committee. Under the proposal, funds received in the redistricting account would not be subject to the limits or prohibitions of the Act.

Although past advisory opinions have stated that activity conducted solely for the purpose of influencing reapportionment decisions is not subject to the Act, Mr. Frost's proposal differs from those opinions. In AOs 1982-37 and 1981-35, the Commission permitted a candidate or officeholder to establish a separate entity exclusively for activity related to redistricting. In this case, however, Mr. Frost proposed that his authorized committee establish a separate reapportionment account.

The situation presented also differs from that of a committee (such as a state party committee) that establishes separate accounts for federal and nonfederal activities under 11 CFR 102.5(a)(1). That provision does not apply to an authorized committee, which by definition is established and operated only to receive funds for the purpose of influencing the election of the authorizing federal candidate. See 2 U.S.C. §432(e)(1) and (3). See also AO 1982-57 and 11 CFR 113.3.

Although the Frost committee may not set up a "segregated" reapportionment account to receive funds that are impermissible under the Act, the committee may use the contributions it lawfully receives for reapportionment expenses. It would report payments for such expenses as committee disbursements. Alternatively, nothing would prevent Mr. Frost himself from setting up a reapportionment fund independent of the Frost committee and therefore not subject to the Act's restrictions. The Commission cautioned, however, that references by such an independent entity to Congressman Frost's candidacy would be viewed as something of value to his federal campaign. Depending on the facts, other references to the Congressman could also result in a contribution to his campaign. See AO 1985-38.

The Commission expressed no opinion on the application of state law or House rules to the proposed activity, or on possible tax ramifications, since those issues are not within its purview. (Date issued: November 5, 1990; Length: 5 pages)

MUR 2764: Earmarking Unreported by Senate Campaign and Excessive Contributions by Senate Candidate

This enforcement action, resolved through pre-probable cause conciliation, concerned the failure of a 1988 Senate candidate's campaign to report the conduit of several thousand dollars in earmarked contributions.

A separate matter arising from the MUR concerned an excessive contribution by the same 1988 candidate (Candidate A) to the general election campaign of a 1986 candidate (Candidate B).

Background

MUR 2764 arose from a complaint filed by a national party committee against Candidate A and his principal campaign committee. The party committee based its allegations on investigative newspaper accounts.

The complainant alleged that Candidate A's campaign had violated FEC rules by failing to identify in its reports a nonconnected committee (PAC A) that had acted as a conduit for several thousand dollars in earmarked contributions to the campaign. PAC A had disclosed the earmarked contributions and its role as the conduit in its own reports, but the Senate campaign had reported the earmarked receipts as direct contributions from individuals.

The complainant also asked the FEC to investigate whether any coordination had occurred between Candidate A's campaign and another nonconnected committee (PAC B) that had made independent expenditures on Candidate A's behalf.

Finally, the complainant alleged that in 1986 Candidate A had made excessive contributions to the general election campaign of Candidate B, another Senate candidate.

After receiving responses to the complaint, the Commission found reason to believe that Candidate A's campaign had violated 11 CFR 110.6(c)(3) by failing to report the conduit of $7,248 in earmarked contributions. The Commission also found reason to believe that Candidate A had made excessive contributions to Candidate B, in violation of 2 U.S.C. §441a, and that Candidate B's campaign had violated sections 441a and 434, respectively, by knowingly accepting the excessive contribution and by misreporting the source of the money.

(continued)

With regard to the independent expenditures, the Commission found no reason to believe that PAC B had violated the law.

General Counsel's Report

Reporting of Earmarked Contributions. The Commission's investigation verified that Candidate A's campaign had received $7,248 in earmarked contributions that had been raised by PAC A in a direct mail effort coordinated with the campaign (another committee also received contributions as a result of the same mailing). PAC A had solicited checks written out to the candidate's campaign, bundled them together and forwarded them to the campaign without depositing them in its own account. The campaign's disclosure reports failed to report those receipts as earmarked contributions and thus did not identify PAC A as a conduit.

Candidate A's campaign argued that it was not required to disclose the conduit of those contributions because the campaign had paid its share of PAC A's costs for soliciting and collecting them. The General Counsel pointed out, however, that under FEC rules the conduit of an earmarked contribution must be identified regardless of who pays for the solicitation. 11 CFR 110.6(c)(3).

Candidate A's Excessive Contribution. Under the election law, an individual may contribute up to $1,000 each to a candidate's primary and general election campaigns. 2 U.S.C. §441a(a)(1)(A). In addition, a candidate's campaign may not knowingly accept a contribution from an individual that exceeds $1,000. 2 U.S.C. §441a(f). The committee must also accurately report the identity of each person who gives more than $200. 2 U.S.C. §434(b)(3)(A).

The FEC's investigation revealed that Candidate A had made two contributions totaling $1,900 to Candidate B's 1986 campaign. The contributions were both made before the general election but after Candidate B's primary. In its disclosure reports, Candidate B's campaign attributed $1,000 of the contributions to Candidate A's spouse. Candidate A, however, had never been married and had not instructed Candidate B's campaign to make such an attribution.

Candidate B's disclosure reports also showed both contributions as designated for the general election. Under FEC rules, a post-primary contribution automatically counts toward the general election limit, unless the recipient campaign has a primary election debt and the contributor has designated the gift in writing for the retirement of that debt. 11 CFR 110.1(a)(2)(i) and (ii) (1986); 11 CFR 110.1(b)(2)(ii) and (3)(i) (1990). In his response to the FEC's inquiry, Candidate A claimed that he had assumed one of his contributions would count toward the primary limit and the other toward the general limit. However, he had not made that designation in writing. Furthermore, Candidate B had no outstanding debts from his primary campaign, so he could not have accepted post-election contributions for the primary election.

During the Commission's investigation of this matter, Candidate B's campaign refunded to Candidate A the $900 excessive portion of his contribution and amended its 1986 reports.

Commission Determination

The Commission entered into conciliation agreements with the two Senate campaigns prior to finding probable cause.

In a joint agreement, Candidate A and his campaign admitted their violations of the earmarking disclosure rules and the candidate's violation of the contribution limits. The respondents agreed to pay a civil penalty of $1,500 and to amend the committee's reports.

In a separate agreement, Candidate B's campaign agreed to pay a civil penalty of $500 for knowingly accepting an excessive contribution and for the reporting violation.

MURS RELEASED TO THE PUBLIC

Listed below are MURs (FEC enforcement cases) recently released for public review. The list is based on the FEC press release of October 19, 1990. Files on closed MURs are available for review in the Public Records Office.

Unless otherwise noted, civil penalties resulted from conciliation agreements reached between the respondents and the Commission.

MUR 1840
Respondents: (a) Ted Haley Congressional Committee, Ted Haley, treasurer (WA); et al., (b)-(g)
Complainant: FEC initiated
Subject: Excessive contributions in the form of post-election loan guarantees
Disposition: U.S. court of appeals affirmed violation as alleged by FEC

MUR 2002
Respondents: (a) Committee to Elect Bennie O. Batts, Evelyn Batts, treasurer (NY); (b) Mrs. Evelyn Batts (NY); (c) Dr. Arlene Alveranga (NY)
Complainant: FEC initiated
Subject: Failure to amend Statement of Organization; commingling of funds; use of nondesignated campaign depository; excessive contributions
Disposition: (a) U.S. district court judgment: $100 civil penalty; (b) U.S. district court judgment: $1 civil penalty; (c) no probable cause to believe

MUR 2461
Respondents: (a) Michigan Republican State Committee, Ronald D. Dahlke, treasurer; (b) Friends of Jim Dunn, Pauline Dunn, treasurer (MI); (c) Jim Dunn (MI); (d) National Republican Congressional Committee, Jack McDonald, treasurer (DC)
Complainant: Robert F. Bauer, Counsel, Democratic Congressional Campaign Committee (DC)
Subject: Excessive expenditures; disbursements from nonfederal account; failure to amend disclosure report on time
Disposition: (a) $10,000 civil penalty; (b) and (c) no reason to believe; (d) rejected General Counsel's recommendation to find reason to believe

MUR 2816
Respondents: (a) Cryts for Congress Committee, Carol-Gay Eikermann, treasurer (MO); (b) Missouri Democratic State Committee (Federal Account/Non-Federal Account), Douglas Brooks, treasurer
Complainant: Tony Feather, Executive Director, Missouri Republican Party
Subject: (1) Failure to disclose contribution; (2) excessive contribution; (3) contribution by nonfederal account
Disposition: (1) and (2) Declined to find probable cause to believe; (3) no probable cause to believe

MUR 3058
Respondents: Gene Taylor for Congress Committee, Charles B. Benvenutti, treasurer (MS)
Complainant: FEC initiated
Subject: Failure to file 48-hour contribution notices; erroneous disclosure
Disposition: $1,500 civil penalty

MUR 3061
Respondents: Congressman Murphy Campaign Committee, Karen V. Mollenauer, treasurer (PA)
Complainant: William A. Nicolella (PA)
Subject: (1) Erroneous disclosure; (2) improper campaign expenditures
Disposition: (1) Reason to believe but take no further action; (2) no reason to believe

MUR 3066
Respondents: (a) Bruce Vorhauer for U.S. Senate Committee, James Cowan, treasurer (MT); (b) First Valley Bank, James Cowan, President (MT)
COMPLAINANT: Alice Tully (MT)
Subject: (1) Corporate contributions and expenditures; (2) contributions by government contractors; (3) disclaimer
Disposition: (1) Failed to find reason to believe; (2) no reason to believe; (3) reason to believe but took no further action

MUR 3130
Respondents: Democratic State Central Committee of California Federal Account, Cathy Calfo, treasurer
Complainant: FEC initiated
Subject: Failure to transfer out impermissible funds on time
Disposition: Reason to believe but took no further action

FEC PUBLISHES NONFILERS

The Commission recently published the names of authorized committees that failed to file required financial disclosure reports. See chart below.

Nonfilers are published pursuant to 2 U.S.C. §438(a)(7). Enforcement actions against nonfilers are pursued on a case-by-case basis.

Nonfiler	Office Sought	Report Not Filed
Allen, B.	House-FL/19	Third Quarter
Anderson, B.	House-MN/06	Pre-election
Bellitto, G.	House-NY/20	Pre-election
Boerum, B.	House-CA/06	Pre-election
Delay, T.	House-TX/22	Pre-election
Erney, T.	House-OH/15	Pre-election
Gelpi, M.	House-OH/12	Pre-election
Hayes, J.	House-LA/07	Pre-election
Holloway, C.	House-LA/08	Pre-election
Horvath, J.	House-IN/10	Third Quarter
Horvath, J.	House-IN/10	Pre-election
Huckaby, J.	House-LA/05	Pre-election
Krieger, S.	House-NY/28	Pre-election
McCrery, J.	House-LA/04	Pre-election
McGinn, M.	House-TX/12	Pre-election
Moye, H.	House-NC/01	Pre-election
Peyton, B.	House-IL/01	Pre-election
Russo, P.	House-NJ/09	Pre-election

CLEARINGHOUSE

CONTESTED ELECTIONS AND RECOUNTS

The National Clearinghouse on Election Administration recently published a two-volume report, Contested Elections and Recounts, which describes methods of processing challenges to federal elections and addresses the major policy issues involved.

The introduction to the report states that, while contested elections and recounts are the exception--99 percent of federal elections are firmly decided on election day--the remaining one percent have included three Presidential elections, over 500 contests for House seats and about two dozen Senate races since the direct election of Senators in 1913. The fairly steady occurrence of contested federal elections has not, however, led to a "standard, routine, expeditious method of resolving them. All too often, contested election and recount procedures come into question only when there is a crisis involving them--with the result that new laws and procedures are hastily adopted according to the chemistry of the moment...." The Clearinghouse report, therefore, "is directed primarily to policy makers at the State level...to assist them in conducting a comprehensive, dispassionate, step-by-step review of their own contested election and recount procedures."

The first volume of the report, Issues and Options in Resolving Disputed Federal Elections, provides a legal background and explains procedures for handling contested elections. Volume 2, A Summary of State Procedures for Resolving Disputed Federal Elections, describes the procedures followed by each state in contested elections and recounts. These volumes are intended as general reference tools only; candidates and other parties interested in contesting an election should refer to the state authority.

Volumes 1 and 2 may be purchased from the Government Printing office.

- o Contested Elections and Recounts, Vol. 1
  Stock Number: 052-006-00049-0
  Price: $4.25
- o Contested Elections and Recounts, Vol. 2
  Stock Number: 052-006-00050-3
  Price: $9.00

When ordering, include the title, stock number and a check for the correct amount made payable to the Superintendent of Documents. Mail to: Superintendent of Documents, Government Printing Office, Washington, DC 20402.

Note that the report has been distributed throughout the United States to libraries participating in the Federal Depository Library Program.

INFORMATION

SOVIET DELEGATION VISITS FEC

A six-member delegation from the Central Electoral Commission of the Soviet Union visited the Federal Election Commission on November 2, 1990. The delegation, headed by Vladimir P. Orlov, Chairman of the Central Electoral Commission of the USSR, attended a seminar designed to give the Soviets background information on two aspects of the United States electoral system: private sector involvement in elections and the role of the courts in campaigns and elections. Guest speakers at the seminar included William Schweitzer of Baker & Hostetler, Steven Stockmeyer of the National Association of Business Political Action Committees and Lawrence Noble, the FEC's General Counsel.

This visit was the fourth in a series of exchanges between the USSR Commission and the FEC. In June 1989, the six FEC Commissioners and several senior staff members visited the Soviet Union. Chairman Orlov and other members of the Central Electoral Commission returned the visit in November 1989, when the Soviet delegation observed the Virginia gubernatorial and New York mayoral elections. In March 1990, FEC Commissioners and staff again visited the Soviet Union, observing election activity in the Moscow area and the Republic of Kazakstan.

All of the Soviet exchange visits were funded by the International Foundation for Electoral Systems, a nonprofit organization designed to promote worldwide understanding of democratic processes and elections. No federal funds were used for these exchanges.

FEDERAL REGISTER

FEDERAL REGISTER NOTICES

Copies of Federal Register notices are available from the Public Records Office.

1990-18

11 CFR Parts 109 and 114: Corporate and Labor Organization Expenditures (MCFL issues); Extension of Comment Period to November 30, 1990 (55 Fed. Reg. 45809, October 31, 1990)

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