

RECORD

April 1991

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REGULATIONS

TECHNICAL AMENDMENT TO HONORARIUM RULES

The Commission recently amended its honorarium rules (11 CFR 110.12) to limit their application to Senators and officers and employees of the Senate. Previously, the rules applied to all officers and employees of the federal government, including Members and employees of the House of Representatives. The Ethics Reform Act of 1989 (Pub. L. 101-194) amended section 441i of the Federal Election Campaign Act and thereby limited the Commission's jurisdiction over honoraria to the acceptance of honoraria by Senators and Senate officers and employees.¹ (The limit on honoraria remains the same--\$2,000 per appearance, speech or article.)

The technical amendments to the Ethics Reform Act of 1989 (Pub. L. 101-280) further amended section 441i by excluding from the definition of honorarium any amounts accepted for the travel and subsistence expenses of a child accompanying the honorarium recipient. Thus, the exemption applies to the honorarium recipient and to a child or spouse or aide accompanying the recipient. Revised FEC rules at 11 CFR 110.12(b) now reflect this change as well.

The technical amendments to 11 CFR 110.12 became effective upon their publication in the Federal Register on March 6, 1991 (56 FR 9275).

¹The Ethics Reform Act of 1989 prohibits Members of the House of Representatives and all other federal officers and employees except those from the Senate from accepting honoraria.

CANDIDATE AND PAC CONFERENCES

For more information on the conferences listed below, call 800/424-9530 or 202/376-3120.

Conference for Candidate Committees Washington, DC, April 19

This one-day conference will focus on winding down the 1990 campaign and gearing up for the 1992 elections.

Conference for PACs Washington, DC, May 2-3

This conference will cover the campaign finance law's requirements for corporations, labor organizations, trade associations and their PACs. The new allocation rules will also be discussed.

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FEC LAUNCHES EDUCATION PROGRAM ON TAX CHECKOFF

On March 5, 1991, the Commission launched a nationwide public information program to educate citizens about the dollar tax checkoff for the Presidential Election Campaign Fund. The education program featured television and radio public service announcements in English and Spanish. The media announcements urged taxpayers to make "an informed choice" when deciding whether to designate one dollar of their taxes for the Presidential public funding program. Citizens respond to this question on their 1040 federal income tax forms. The FEC's education program was timed to reach the public at the height of the tax season.

The percentage of 1040 forms on which taxpayers checked "yes" to the one dollar designation has steadily dropped since 1980 from a high of 28.7 percent to 19.9 percent for 1989 tax returns. Moreover, according to an Internal Revenue Service sample survey, taxpayers left the checkoff blank on 15 percent of the 1989 tax returns. The decline in taxpayer participation has contributed to a projected shortfall in the Presidential Fund of \$3 million in 1992 and well over \$100 million in 1996. A research project funded by the Commission late last year concluded that there is a widespread lack of knowledge about the checkoff. The study also concluded that people are interested in knowing more about the Presidential Fund.¹

In his statement to the press, FEC Chairman John Warren McGarry said that the public education program is but one element in the Commission's effort to salvage

Presidential public funding. The FEC has also asked the Treasury Department to adopt a rule to "more fairly allocate limited dollars" to 1992 primary candidates² and has urged Congress to consider legislation to correct a "structural flaw" in the program that may cause a massive shortfall in 1996.

The FEC was joined by the League of Women Voters, the American Association of Retired Persons and the National Society of Public Accountants to kick off the multi-media program. In addition to the public service spots, the FEC developed a new flyer (published in the March 1991 Record) and a new brochure: The \$1 Tax Checkoff (see order form on page 14).

FEDERAL REGISTER NOTICES

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

1991-1

Filing Dates for Massachusetts Special Elections (56 FR 9359, March 6, 1991)

1991-2

11 CFR Part 110: Honoraria; Final Rule; Technical Amendment (56 FR 9275, March 6, 1991)

¹See "Focus Groups Discuss Tax Checkoff," page 2 of the March 1991 Record.

²See "FEC Comments on Treasury Rules," page 1 of the March 1991 Record.

Federal Election Commission, 999 E Street, NW, Washington, DC 20463
800/424-9530 202/376-3120 202/376-3136 (TDD)

John Warren McGarry, Chairman
Joan D. Aikens, Vice Chairman
Lee Ann Elliott
Thomas J. Josefiek
Danny L. McDonald
Scott E. Thomas

Walter J. Stewart, Secretary of the Senate,
Ex Officio Commissioner
Donald K. Anderson, Clerk of the House of
Representatives, Ex Officio Commissioner

SPECIAL ELECTIONS

TEXAS AND ILLINOIS SPECIAL ELECTIONS

Texas and Illinois have scheduled special elections to fill recently vacated House seats. Political committees authorized by candidates participating in these elections must file the appropriate pre- and post-election reports according to the schedules that appear on page 4. PACs and party committees may also have to report their special election activity, as explained below.

Texas Special Election

Texas will hold a special election on May 4, 1991, to fill the 3rd Congressional District seat formerly held by Congressman Steve Bartlett, who resigned on March 11 to run for mayor of Dallas.

If no candidate wins a majority of the votes in the May 4 election, a special runoff election will be held on May 18. Only the two top vote-getters in the previous election—regardless of party affiliation—will participate in the second election.

See the tables of reporting dates on page 4.

Illinois Special Elections

Illinois has scheduled special elections to fill the 15th Congressional District seat of Congressman Edward R. Madigan, who resigned on March 8 to become Secretary of Agriculture. The special primary will be held May 21, 1991; the special general will be held July 2.

See the tables of reporting dates on page 4.

Authorized Committees

Authorized committees of candidates running in the special elections must file reports according to the schedule given in the tables below. All candidates known to be on the ballot are automatically sent FEC reporting forms.

Authorized committees must additionally file special notices on contributions of \$1,000 or more received after the close of books for a report but more than 48 hours before the election. The notice must reach the appropriate federal and state filing offices within 48 hours after the committee's receipt of the contribution. Please note that this special notice requirement applies to all types of contributions, including:

o In-kind contributions;

- o Loans (other than bank loans);
- o Guarantees and endorsements of bank loans; and
- o Contributions and loans from the candidate.

For information on the content of the notice, see 11 CFR 104.5(f).

PACs and Party Committees

Semiannual Filers. A PAC or party committee that reports on a semiannual basis during 1991 may have to file special election reports if it makes contributions or expenditures in connection with a special election during the coverage dates shown in the tables. 11 CFR 104.5(h).

Monthly Filers. PACs and party committees that file monthly during 1991 do not have to file special election reports, but PACs may have to file 24-hour reports on independent expenditures, as explained below.

PAC Reports on Independent Expenditures. Any PAC (including a monthly filer) that makes independent expenditures in connection with a special election may have to file a 24-hour report. This reporting requirement is triggered when a committee makes independent expenditures aggregating \$1,000 or more between 2 and 20 days before an election. The report must be filed with the appropriate federal and state filing offices within 24 hours after the expenditure is made. For more information on this reporting requirement, see 11 CFR 104.4(b), (c) and 104.5(g).

State Filing

In addition to filing with the appropriate federal office—the Clerk of the House or the FEC—committees filing Texas or Illinois special election reports must also file copies of reports with the appropriate state office.

- o **Texas:** Disclosure Filing Division, Office of the Secretary of State, P.O. Box 12070, Austin, TX 78711.
- o **Illinois:** State Board of Elections, P.O. Box 4187, Springfield, IL 62708.

Authorized committees of candidates must file the entire report; other committees must file only the portion of the report that is applicable to the candidate (for example, the Form 3X Summary Page and any schedules that disclose contributions or expenditures on behalf of the candidate). 2 U.S.C. §439(a); 11 CFR 108.3.

(continued)

**TEXAS SPECIAL ELECTION
REPORTING DATES**

**Only One Election Held:
Committees That Support Candidates
in the 5/4 Special**

Report	Period Covered ¹	Reg/Cert Mailing Date ²	Filing Date
Pre-special	1/1-4/14	4/19	4/22
Post-special	4/15-5/24	6/3	6/3
Mid-year	5/25-6/30	7/31	7/31

**Two Elections Held:
Committees That Support Candidates in Both
the Special (5/4) and the Runoff (5/18)**

Report	Period Covered ¹	Reg/Cert Mailing Date ²	Filing Date
Pre-special	1/1-4/14	4/19	4/22
Pre-runoff	4/15-4/28	5/3	5/6
Post-runoff	4/29-6/7	6/17	6/17
Mid-year	6/8-6/30	7/31	7/31

**Two Elections Held:
Committees That Support Candidates in the
5/4 Special Only (not the runoff)**

Report	Period Covered ¹	Reg/Cert Mailing Date ²	Filing Date
Pre-special	1/1-4/14	4/19	4/22
Mid-year	4/15-6/30	7/31	7/31

**ILLINOIS SPECIAL ELECTION
REPORTING DATES**

**Committees That Support Candidates
in the 5/21 Primary Only**

Report	Period Covered ¹	Reg/Cert Mailing Date ²	Filing Date
Pre-primary	1/1-5/1	5/6	5/9
Mid-year	5/2-6/30	7/31	7/31

**Committees That Support Candidates in Both
the 5/21 Primary and the 7/2 General**

Report	Period Covered ¹	Reg/Cert Mailing Date ²	Filing Date
Pre-primary	1/1-5/1	5/6	5/9
Pre-general	5/2-6/12	6/17	6/20
Mid-year ³	-----waived-----		
Post-general	6/13-7/22	8/1	8/1

¹If the pre-special report is the first report filed by the committee, the report must disclose all activity that occurred before the committee registered and before the individual became a candidate.

²Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

¹If the pre-primary report is the first report filed by the committee, the report must disclose all activity that occurred before the committee registered and before the individual became a candidate.

²Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

³A regularly scheduled report may be waived if it is due within 10 days of the filing date of a special election report. 11 CFR 104.5(h)(2). Therefore, the mid-year report is waived for those committees required to file the Illinois pre-general election report.

MASSACHUSETTS SPECIAL ELECTIONS

Massachusetts will hold special elections in the 1st Congressional District of Massachusetts to fill the seat held by the late Congressman Silvio Conte. The special primary will be held April 30, the special general election, June 4. The reporting dates were published in the March 1991 Record and the Federal Register (56 FR 9359, March 6, 1991).

The FEC has sent notices of the reporting dates to all candidates on the ballot for the primary election.

PACs and party committees that plan to make contributions or expenditures in connection with these special elections should call the FEC to find out if they are required to file any special election reports (800/424-9530; 202/376-3120).

PARTY EXPENDITURE LIMITS FOR SPECIAL ELECTIONS

The coordinated party expenditure limit for the Massachusetts, Texas and Illinois special elections is \$26,500 (\$10,000 multiplied by 2.650, the 1990 cost-of-living adjustment). This amount may be spent by the party's national committee in connection with the each state's special election. The party's Massachusetts, Texas and Illinois state committees may also each spend up to \$26,500 in connection with the special election in their state.

Please note, however, that the coordinated party expenditure limit is applied differently in the Texas specials than in Massachusetts and Illinois elections. In Massachusetts and Illinois, the national and state party committees may each spend up to \$26,500 on behalf of the party's candidate running in the special general election (that is, the nominee selected in the special primary).

In Texas, however, both the May 4 election and the May 28 election (if held) are considered general elections; the second election is considered a continuation of the first. AO 1983-16. The national and Texas state party committees may therefore make coordinated party expenditures on behalf of candidates running in both those elections. Note, however, that each committee has only one limit (\$26,500), regardless of whether the second election is held.

ADVISORY OPINIONS**ADVISORY OPINION REQUESTS**

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

AOR 1991-3

Distribution of corporate PAC newsletter outside restricted class. (Date Made Public: February 21, 1991; Length: 5 pages)

AOR 1991-4

Payment to Senate employee as guest lecturer at university. (Date Made Public: February 22, 1991; Length: 8 pages)

AOR 1991-5

Corporate contributions to building fund account established by state party committee. (Date Made Public: February 26, 1991; Length: 6 pages)

AOR 1991-6

Calculation of allocation ratio (ballot composition method) by California state party committee. (Date Made Public: February 26, 1991; Length: 9 pages plus attachments and supplement)

AOR 1991-7

Corporate in-kind donation applied to nonfederal portion of national party committee's administrative expense. (Date Made Public: March 11, 1991; Length: 2 pages)

AOR 1991-8

Payment to Senator for series of radio programs (Date Made Public: March 12, 1991; Length: 3 pages)

ADVISORY OPINION SUMMARIES**AO 1990-29: Return to Federal Account of Funds Transferred to State Account**

Given the special circumstances set forth in the advisory opinion request, Joseph E. Seagram & Sons, Inc. Political Action Committee (the federal account) may accept funds that are now being held in escrow but were previously transferred from the federal account to an affiliated nonfederal account.

In late 1989, Seagram transferred \$5,000 from the federal account to an

(continued)

affiliated nonfederal PAC formed by Seagram under Arizona law (the state account). In August 1990, the office of the Arizona Secretary of State established a new policy precluding such transfers (i.e., transfers from an out-of-state committee to a committee established under Arizona law). Arizona and Seagram officials agreed that "the most prudent and efficient means of assuring compliance" with the new policy was for Seagram to seek a refund of the one contribution the state account had made (\$2,000) and then close the account. The contribution was duly refunded in October 1990. The state account then terminated in November, transferring its \$4,979 cash balance--\$5,000 minus a \$21 payment for checks--to the federal account. On December 10, after consulting with the FEC, Seagram transferred the funds to a separate escrow account.

Commission regulations prohibit the transfer of funds from a committee's non-federal account to its federal account (except for payment of allocated expenses under Part 106). 11 CFR 102.5(a)(1)(i). The Commission has, however, in specific situations, permitted nonfederal accounts or lobbying accounts to transfer funds to the federal account when the funds so transferred were legal under the Federal Election Campaign Act. See AOs 1984-31 and 1981-34.

In this case, the funds originally transferred to the state account were legal under the Act (i.e., they were raised for federal-election purposes under solicitations subject to the Act and, presumably, from sources permissible under the Act). The state account received no other funds except the return of a \$2,000 contribution within four months after it had been made. It is unlikely that funds making up the refund were impermissible under federal law since they were raised under Arizona law, whose limits and prohibitions are largely consistent with those of the Act. Given these circumstances--and the fact that the funds were disqualified by the state for use in Arizona State elections subsequent to their transfer--Seagram may transfer the \$4,979 balance from the escrow account to the federal account.

(Date Issued: February 15, 1991;
Length: 5 pages)

AO 1990-30: Designation of Post-Election Contributions to Retire Debts

Even if solicitations by the Helms for Senate committee clearly inform potential donors that all contributions will be used to retire 1990 general election debts, the

contributions will not be properly designated as post-election contributions unless a signed designation accompanies the contribution. The contributor may note the designation on the check itself or may attach a separate, signed statement.

The Helms Committee proposed satisfying the written-designation requirement for post-election contributions by stating in the solicitation that contributions would be used to pay off the committee's 1990 general election debt. The committee also planned to repeat similar information on contributor slips and in the disclaimer. In order to confirm donor intent, however, FEC regulations require that the contributor's signature appear on the same document that contains the words of designation (in this case, "1990 general election debt"). 11 CFR 110.1(b)(4)(i) and (ii). Any contributions received by the committee that are not properly designated for the 1990 general election debt must be treated as contributions for the 1996 primary campaign. 11 CFR 110.1(b)(2)(ii). (Date Issued: February 11, 1990; Length: 4 pages)



FEC v. FRIENDS OF ISALAH FLETCHER

On February 5, 1991, the U.S. District Court for the District of Maryland held the Fletcher committee and its treasurer, Isaiah Fletcher, Sr., in civil contempt of court for failing to comply with past court orders issued in 1989 and 1990. (Civil Action No. PN 88-2323.)

On April 24, 1989, the court ordered defendants to pay (1) a \$5,000 civil penalty for failing to file the committee's 1986 October quarterly report and (2) the FEC's court costs. On May 18, 1990, after defendants failed to pay the penalties, the court ordered them to begin paying in monthly installments.

In its current contempt action, the court ordered defendants to pay:

- o An additional penalty of \$100 per day until they fully comply with the previous orders;
- o Interest charges on the unpaid court costs owed to the FEC; and
- o The FEC's costs in prosecuting the contempt proceeding.



DEBT RETIREMENT BY CANDIDATE COMMITTEES

At the end of an election cycle, the Commission receives questions from candidate committees on how to deal with campaign debts. This article responds to those questions. For additional information, call the FEC's Information Services Division at 800/424-9530 or 202/376-3120.

Continuous Reporting of Debts

Does an authorized committee have to keep reporting even if its only activity is debt retirement? Yes. Committees must continue reporting until all debts and obligations have been extinguished and the committee has terminated. 11 CFR 102.3 and 104.11(a). (Termination is discussed later in this article.)

Accepting Post-Election Contributions

May an authorized committee accept contributions after an election to retire debts for that election? Yes, campaigns may receive contributions after the election to retire debts, but they should remember three general rules:

- o First, such contributions are still subject to the limits and the prohibitions of the Federal Election Campaign Act (the Act), even if the candidate lost the election and does not plan to run for a future federal office. This means that the contributions must come from permissible sources and, when added to other contributions from the same donor for that election, the contributions may not exceed the donor's contribution limit. 11 CFR 110.1(b)(1), 110.2(b)(1), 110.4(a), 110.9(a), 114.2(b) and 115.2.
- o Second, contributions made after an election to retire debts must be specifically designated for that election by the contributor, who may note the election (e.g., "1990 general") right on the check or in a signed statement accompanying the contribution. 11 CFR 110.1(b)(2)(i) and (b)(4); 110.2(b)(2)(i) and (b)(4). See also AO 1990-30, a summary of which appears in this issue.
- o Finally, contributions designated for debt retirement may not exceed the campaign's net debts outstanding for that election. 11 CFR 110.1(b)(3); 110.2(b)(3). If a contribution exceeds the amount of net debts, the committee must

either refund it or ask the contributor to redesignate it for another election.

How do we calculate the campaign's net debts outstanding?

Net debts outstanding consist of unpaid debts incurred with respect to the election minus cash on hand.

- o Total unpaid debts include the estimated cost of raising funds to liquidate outstanding debts and, in the case of a terminating committee, estimated winding-down costs.
- o Cash on hand consists of currency, deposited funds, traveler's checks, certificates of deposit, treasury bills and amounts owed to the committee in the form of credits, refunds, returns and receivables (or a reasonable estimate of the collectible amount). 11 CFR 110.1(b)(3)(ii).

A campaign must keep adjusting its net debts outstanding as additional funds are received and spent.¹ 11 CFR 110.1(b)(3)(iii).

Selling Assets

May a committee sell off its assets in order to raise money to pay its debts?

Yes. However, the entire amount paid is usually considered a contribution, subject to the prohibitions and limits of the Act. 11 CFR 100.7(a)(2); AOs 1989-4 and 1988-12. The Commission has, however, recognized narrow exceptions to this general rule.

What are these exceptions? Under the circumstances described below, the sale of a committee asset does not result in a contribution, and the proceeds are not subject to the Act's limits and prohibitions, as long as the item is sold at the "usual and normal charge":

- o The isolated sale of a committee asset if the asset was purchased or developed for the committee's own particular use, rather than as a fundraising item, and the asset has an ascertainable market value. A mailing list developed by the committee might be considered such an asset.
- o The sale of campaign equipment or left-over campaign supplies by candidate committees that wish to terminate and plan to use the proceeds for debt retirement. See AO 1990-26.

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¹See illustration in the Explanation and Justification to the cited regulations, 52 FR 762, January 9, 1987.

Remember that, under either of these exceptions, a contribution is avoided only if the purchaser pays no more than the "usual and normal charge," as defined under 11 CFR 100.7(a)(1)(iii).

Receiving Outside Support

May a party committee help pay a committee's campaign debts? Yes, a party committee may contribute directly to the campaign (subject to the contribution limits, of course). If the contributions are made after the election, they must be properly designated. 11 CFR 110.1(b)(4) and 110.2(b)(4). Alternatively, the party committee may pay the candidate's creditors. Payments to creditors may be considered in-kind contributions to the candidate (subject to the contribution limits) or, in the case of general election candidates, the payments may be regarded as coordinated party expenditures on behalf of the candidate (subject to the special limits of 2 U.S.C. §441a(d).)² 11 CFR 110.7.

May a committee join with other committees in an effort to retire debts? Yes. Committees that want to retire their debts may form a joint fundraising committee. Committees should follow the joint fundraising regulations at 11 CFR 102.17 or, in the case of Presidential primary campaigns receiving matching funds, 11 CFR 9034.8.

May a corporation pay for a fundraising event designed to retire a debt from a past campaign? No. Payments to sponsor a fundraising event for a candidate are considered contributions to the candidate. Contributions and expenditures by corporations are prohibited, even if made to help retire campaign debts.

Using the Candidate's Personal Funds

May candidates use their personal funds to help pay off debts? Yes. House and Senate candidates are not limited in the amount of personal funds they may spend on their own campaigns. 11 CFR 110.10(a). A Presidential candidate receiving public funds, however, may contribute no more than \$50,000 to his or her own campaign. 11 CFR 9003.2(c) and 9035.2.

²Local party committees may not make coordinated party expenditures without the prior, written authorization of the national or state committee. 11 CFR 110.7(a)(4) and (c).

May the campaign repay the candidate for personal funds loaned to the campaign? Yes, but only if the funds were originally reported as loans from the candidate. As a general rule, personal funds that are donated by the candidate (as distinct from loaned) may not later be converted to a loan. A refund of such a donation would represent the conversion of excess campaign funds to the candidate's personal use, which is prohibited (except for "grandfathered" candidates). 2 U.S.C. §439a; 11 CFR 113.2(d); AOs 1987-1, 1986-45 and 1977-58.

Using Funds from Another Committee Established by the Candidate

May a candidate transfer funds from his or her nonfederal campaign committee to his or her federal campaign committee to retire debts? Yes, provided that none of the funds transferred violate the limits or prohibitions of the Act. Moreover, such transfers may trigger registration and reporting obligations for the nonfederal campaign committee. See 11 CFR 110.3(c)(6) for further information.

May a candidate committee retire debts by using funds transferred from another federal committee authorized by the same candidate for a different election cycle? Yes, as long as:

- o The candidate is not actively seeking election to more than one federal office; and
- o The committee making the transfer has no net debts outstanding. 11 CFR 116.2(c)(2).

For further information, including the application of contribution limits to funds contained in such transfers, see 11 CFR 110.3(c)(4) and (5). Note also that publicly funded Presidential campaigns are subject to further restrictions. See AOs 1990-11 and 1988-5.

Assigning Debts

May one authorized committee assign its debts to another authorized committee of the same candidate in order to terminate? Yes, under certain conditions.

- o First, the committee assigning the debts must qualify as a "terminating committee," that is, a committee that receives contributions and makes expenditures only for the purpose of paying debts and winding-down costs.
- o Second, the assigning committee must not have any cash on hand or assets to pay any part of its debts and must have been

organized for an election already held.³ 11 CFR 116.1(a) and 116.2(c)(3).

Moreover, both the assigning committee and the committee receiving the debts must follow special notification rules.

What are these special rules? The assigning committee must notify each creditor in writing of the name and address of the committee that will receive the debts. This notification must be made at least 30 days before the assignment takes place. Once the debts are assigned, the committee may terminate.

The committee that receives the assigned debts must notify the Commission in writing that it has assumed the obligation to pay the debts and to report both the debts and the contributions received to retire them. 11 CFR 116.2(c)(3)(i) and (ii).

Terminating the Committee; Settling Debts

When may a committee terminate and stop filing reports? A committee may file a termination report if:

- o It has paid, settled or otherwise extinguished all its debts;
- o Has ceased raising or spending funds; and
- o Does not have any funds or assets available to pay debts owed by a committee authorized by the same candidate if that committee is unable to pay its debts.⁴ 11 CFR 102.3, 116.1(a), 116.2(c) and 116.7.

A committee that plans to extinguish its debts by settling them for less than the amount owed must file a debt settlement plan that is subject to Commission review. 11 CFR 116.7. The committee may not terminate until after the Commission has completed review of all debt settlements.

What is a debt settlement plan? A debt settlement plan gives pertinent information on all of the committee's debts and its agreements with creditors to settle some or all of them for less than the amount owed. The committee must postpone paying

³Special rules apply to Presidential candidate committees receiving public funds. See 11 CFR 116.2(c)(3).

⁴Note that if a candidate has authorized more than one committee for the same election, the principal campaign committee may not terminate until the other authorized committees have also met the qualifications for termination. 11 CFR 102.3(b).

creditors the agree-upon amounts for debts that are being settled until after the Commission has reviewed the debt settlement plan. See 11 CFR 116.7 for procedures on filing debt settlement plans on FEC Form 8.

Once the committee has settled or otherwise extinguished all of its outstanding debts and the Commission has reviewed all debt settlement plans, the committee may pay the creditors the settlement amounts and then file its termination report.

Note that only "terminating committees" are permitted to settle debts for less than the amount owed. 11 CFR 116.2(a) and (b). As previously explained, a "terminating committee" is one that receives contributions and makes expenditures only for the purpose of paying debts and winding-down costs. 11 CFR 116.1(a).

Does the unpaid amount of a settled debt result in a contribution from the commercial vendor?⁵ Not under the following conditions:

- o Credit was initially extended by the vendor in the ordinary course of business with terms substantially the same as those extended to nonpolitical debtors of similar risk and with debts of similar size;
- o The committee undertook all reasonable efforts to satisfy the outstanding debt (e.g., through fundraising, reducing overhead costs and liquidation of assets);
- o The commercial vendor made the same efforts to collect on the debt as those made to collect from a nonpolitical debtor in similar circumstances (e.g., late fee charges, referral to a debt collection agency, litigation); and
- o The committee submitted a debt settlement statement on FEC Form 8 for Commission review in accordance with 11 CFR 116.7, 11 CFR 100.7(a)(4) and 116.4(a)-(c).

Bankruptcy

How should a committee handle debts discharged through bankruptcy? If a candidate or committee is released from debts through a bankruptcy court decree pursuant to Chapter 7, the committee must
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⁵A commercial vendor is any business or individual who provides the goods or services in question to a candidate or political committee in the usual and normal course of business. 11 CFR 116.1(c).

include in a debt settlement plan the court order as well as a list of the obligations from which the committee is released.

11 CFR 116.7(g). Although a political committee may not be eligible for a Chapter 7 discharge, the Commission will treat an authorized committee's debts as settled for purposes of the Federal Election Campaign Act if the candidate received a Chapter 7 discharge that applies to the committee's debts.

Disputed Debts

What should a committee do about disputed debts? Commission regulations define a disputed debt as a bona fide disagreement between the creditor and the committee as to the existence of a debt or the amount owed. If something of value was provided to the committee, the committee must continue to report the following information until the dispute is resolved:

- o The amount the committee admits it owes;
- o The amount the creditor claims is owed; and
- o Any amounts the committee has paid the creditor.

In the case of a "terminating committee," the committee must describe in its debt settlement plan any disputed debts and the committee's efforts to resolve them. 11 CFR 116.10.

Unpayable Debts

What if a committee cannot pay a debt because the creditor can't be located or has gone out of business? The committee must continue to report the debt until it has been outstanding at least two years. At that point, the committee may request a Commission determination that the debt is unpayable. The committee must submit its request in writing, following procedures described in 11 CFR 116.9. (A terminating committee must include the request in its debt settlement plan.) Once the committee receives FEC notification that the debt is unpayable, it may list the debt as unpayable on its next report and thereafter cease reporting the debt.

Debt Liability

May the candidate, treasurer or committee members be held personally liable for debts owed by the committee? The Act and FEC regulations do not govern personal liability for payment of committee debts. Debt claims and liabilities are generally governed by state law. AOs 1989-2, 1979-1 and 1975-102.



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 releases of January 16, 25 and 31, and February 4 and 19, 1991. 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 2557

Respondents: (a) Dick Ailanjian (CA); (b) Committee to Elect Robert B. (Rob) Scribner, Harrison W. Sommer, treasurer (CA); (c) Windsor Financial Company (CA); (d) Bayco Financial Company (CA); (e) Wilshire Westwood Financial Group (CA); (f) W.D. Hoag, Inc. (CA); (g) Bracy Plumbing (CA); (h) Hebson Agency, Inc. (CA); (i) C&M Transportation Company (CA); (j) Henry K. Hasserjian, M.D. (CA); (k) General Security Service, Inc. (CA); (l) Robert W. Boos & Company (CA)

Complainant: FEC initiated
Subject: Corporate and excessive contributions; failure to disclose contributor identities

Disposition: (a) \$150 civil penalty; (b) \$1,500 civil penalty; (c)-(e) no probable cause to believe; (f)-(l) reason to believe but took no further action

MUR 2719

Respondents: (a) Populist Party of the United States, Faye Miller, treasurer (AL); (b) William Shearer (CA); (c) Nancy Shearer (CA)

Complainant: FEC initiated
Subject: Failure to disclose contributions; failure to forward contributions

PUBLIC APPEARANCES

- | | |
|-----|--|
| 4/6 | The Council of State Governments
Santa Fe, New Mexico
John C. Surina, Staff Director |
| 5/3 | Reinsurance Association of
America
Naples, Florida
Commissioner Lee Ann Elliott |

properly; unauthorized disbursements
Disposition: (a) \$100 civil penalty;
 (b) \$1,000 civil penalty; (c) \$150 civil
 penalty

MUR 2762

Respondents: (a) Alamo Political Action
 Committee, James Meadow, treasurer (TX);
 (b) Bruce W. Eberle (VA); (c) Bruce W.
 Eberle and Associates, Inc. (VA); (d) Com-
 puter Communications, Inc. (VA); (e) Omega
 List Company (VA)
Complainant: Charles H. Damron (WV)
Subject: In-kind corporate contributions;
 failure to disclose debts and settlement
 statement
Disposition: (a) \$300 civil penalty;
 (b)-(e) no probable cause to believe

MUR 2784

Respondents: (a) Max Beacon for Congress
 Committee, William R. Compere, treasurer
 (MO); (b) Max Beacon (MO)
Complainant: Jean Paul Bradshaw, II,
 Chairman, Green County Republican Central
 Committee of Missouri
Subject: Disclaimers
Disposition: (a) and (b) Reason to believe
 but took no further action

MUR 2787

Respondents: (a) William M. Templeton
 (LA); (b) Paragon Resources, Inc. (LA);
 (c) Stan Tiner Campaign Committee, Bill
 Wene Smith, treasurer (LA); (d) Political
 Action Company (LA)
Complainant: FEC initiated
Subject: Excessive and corporate contribu-
 tions; failure to disclose contributions
 and debts on time
Disposition: (a) \$50,000 civil penalty
 (knowing and willful violations);
 (b) \$10,000 civil penalty (knowing and
 willful violations); (c) \$1,500 civil
 penalty; (d) reason to believe but took no
 further action

MUR 2837

Respondents: (a) Glenn David Lane and
 Cynthia Lane (TX); (b) Carl R. Channell;
 National Endowment for the Preservation of
 Liberty, et al. (DC)
Complainant: Referral from Election Crimes
 Branch, Public Integrity Section, Criminal
 Division, U.S. Department of Justice
Subject: Contributions in the name of
 another; corporate contributions
Disposition: (a) \$200 civil penalty;
 (b) reason to believe but closed the file
 following Mr. Channell's death

MUR 2891

Respondents: New Hampshire State Democra-
 tic Committee and treasurer
Complainant: FEC initiated
Subject: Failure to file disclosure
 reports and amend Statement of Organization
 on time
Disposition: \$1,900 civil penalty

MUR 2921/2671

Respondents: (a) Engel '88, Charlotte B.
 Friedman, treasurer [federal committee]
 (NY); (b) Friends of Eliot Engel, Charlotte
 B. Friedman, treasurer [nonfederal commit-
 tee] (NY); (c) Judith McGowan (NY)
Complainant: Vincent A. Marchiselli (NY);
 FEC initiated
Subject: Failure to register and file
 accurate disclosure reports; corporate and
 union contributions; excessive contribu-
 tions
DISPOSITION: (a) and (b) \$6,500 civil
 penalty (joint conciliation agreement);
 (c) \$800 civil penalty

MUR 2987

Respondents: (a) Committee to Re-Elect
 Senator Zorinsky, Michael N. Abramson,
 treasurer (NE); (b) CeCe Zorinsky for
 Congress, Alvin Abramson, treasurer (NE)
Complainant: FEC initiated
Subject: Excessive contribution; failure
 to file amendment to Statement of Organiza-
 tion on time
Disposition: (a) \$1,500 civil penalty;
 (b) \$500 civil penalty

MUR 2988

Respondents: The Arrangements Committee of
 the Republican National Committee for the
 1988 Republican National Convention,
 William J. McManus, treasurer (DC)
Complainant: FEC initiated
Subject: Expenditures in excess of
 spending limits
Disposition: Reason to believe but took no
 further action

MUR 2994

Respondents: Wyoming State Democratic
 Committee, John D. Sherman, treasurer
Complainant: FEC initiated
Subject: Excessive coordinated party
 expenditures
Disposition: \$3,000 civil penalty

MUR 3023

Respondents: (a) American Association of
 Museums, Edward H. Able, Jr., Executive
 Director (DC); (b) Edward H. Able, Jr.,
 (DC); (c) Geoffrey Platt, Jr., (MD);
 (d) Yates for Congress Committee, Sherman

(continued)

CAMPAIGN FINANCE BROCHURE SERIES

The FEC's Information Services Division distributes a series of free brochures to help candidates, political committees and the general public comply with the federal campaign finance law and get the most out of the agency's services. Each brochure summarizes a different aspect of the law or FEC resources. To order, fill out the form below and mail it to the FEC.

Name: _____
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 City/State _____
 & Zip Code: _____

Check the brochures you want and mail to: Federal Election Commission, ATTN: Patrick Parrish, 999 E Street, NW, Washington, DC 20463

- The \$1 Tax Checkoff** answers questions taxpayers may have when deciding whether to check "yes" or "no" to the 1040 tax-form question: Do you want \$1 of your federal tax to go to the Presidential Election Campaign Fund?
- Public Funding of Presidential Elections** gives a brief history of the Presidential public funding program--including the \$1 tax checkoff for the Presidential Election Campaign Fund--and an explanation of how the process works.
- Using FEC Campaign Finance Information** explains how to gather information about the financial activity of candidates and political committees. It describes the FEC's computer indexes and suggests ways to use them.
- Sale and Use of Campaign Finance Information** discusses the legal and illegal uses of information contained in reports and statements filed with the FEC. The brochure also explains what steps a committee may take to ensure that its individual contributors are not solicited illegally.
- 10 Questions from Candidates** answers questions on the law most frequently asked by candidates and candidate committees.
- Advisory Opinions** explains how individuals and committees may seek guidance from the Commission by requesting advisory opinions (AOs). An AO is an official Commission response to a question concerning the application of the law to a specific activity.
- Filing a Complaint** explains how to register a formal complaint with the Commission concerning a possible violation of the law. The brochure also describes how complaints are processed.
- | | |
|--|---|
| <input type="checkbox"/> Candidate Registration | <input type="checkbox"/> Local Party Activity |
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| <input type="checkbox"/> Contributions | <input type="checkbox"/> State Access to FEC Data |
| <input type="checkbox"/> Corporate/Labor Communications | <input type="checkbox"/> State/Local Elections and Federal Law |
| <input type="checkbox"/> Corporate/Labor Facilities | <input type="checkbox"/> Trade Associations |
| <input type="checkbox"/> Independent Expenditures | <input type="checkbox"/> Volunteer Activity |

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CHANGE OF ADDRESS**Political Committees**

Treasurers of registered political committees automatically receive the Record. A change of address by a political committee (or any change to information disclosed on the Statement of Organization) must, by law, be made in writing on FEC Form 1 or by letter. The treasurer must sign the amendment and file it with the Secretary of the Senate, the Clerk of the House or the FEC (as appropriate) and with the appropriate state office.

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- o Old address; and
- o New address.

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