

Record

September 1993

Federal Election Commission

Volume 19, Number 9

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Public Funding

Congress Increases Tax Checkoff to \$3

An increase in the taxpayer checkoff from \$1 to \$3 will avert an estimated \$100 million public funding shortage for the 1996 Presidential elections, according to FEC projections.

The increase was included in the Omnibus Budget Reconciliation Act signed by President Clinton on August 10. The \$3 checkoff will mean increased deposits to the Presidential Election Campaign Fund starting in 1994, when taxpayers file their 1993 returns.

The tax checkoff—the sole source of funding for the Presidential public funding program—has never before been increased. The new legislation, in effect, adjusts the checkoff amount for inflation since 1973, when the checkoff was first implemented.

By contrast, public funding grants, which are indexed to inflation, have increased each election cycle since the first publicly funded election in 1976. This has caused a drain on the Presidential Election Campaign Fund, where the taxpayer dollars are deposited. The Fund has also been affected by a gradual decline in taxpayer participation in the checkoff program.

(continued on page 2)

Regulations

New Multicandidate Rules and Form Sent to Congress

The Commission recently approved new regulations that will make it easier to identify committees that have qualified as multicandidate committees. (Multicandidate committees may give up to \$5,000 to a candidate, per election;¹ other committees are subject to a \$1,000 per election limit.)

The regulations will not become effective until the legislative review period (30 legislative days) has expired. The Commission will then announce the effective date.

The new rules and their explanation and justification were published in the Federal Register on August 6 (58 FR 42172).

Initial Disclosure of Multicandidate Status on New Form 1M

Under 11 CFR 102.2(a)(3), a newly qualified multicandidate committee will have to file a new form, FEC Form 1M, before it contributes

(continued on page 2)

¹ Note that the conditions for qualifying as a multicandidate committee remain the same: Registration for at least 6 months, contributions from more than 50 persons and contributions to at least 5 candidates for federal office. (The last requirement does not apply to state party committees.)

Public Funding

(continued from page 1)

As a result, Presidential public funds almost ran short in 1992, and the Commission predicted a near collapse of the program in 1996 unless Congress took action.

FEC Chairman Scott E. Thomas said that the new legislation should ensure funding for 1996 and at least one additional Presidential election, based on FEC projections.

The agency estimates that payments for the 1996 Democratic and Republican nomination conventions will be \$25.5 million. General election grants are projected at \$128 million, leaving \$22 million available for primary matching fund payments in January 1996.

(By law, the convention committees receive first priority for public funding payments, then the general election nominees and, lastly, the primary candidates.)

The agency's projections are based on three assumptions:

- *Inflation*: a gradual rise from 3.4 percent in 1993 to 5 percent in 1998 and each year thereafter;
- *Checkoff participation*: a continued decline but an eventual stabilized level of taxpayer participation; and
- *Matching fund demand*: the average of payments made in 1988 (an unusually expensive campaign cycle) and 1992 (an unusually inexpensive campaign cycle), adjusted for inflation.

The rate of inflation is especially critical in determining how long the \$3 tax checkoff will allow the Fund to remain solvent. For example, an inflation rate of 4 percent or less in future years would likely permit full funding of Presidential elections through the year 2004. Ultimately, however, public funding payouts, indexed to inflation as they are, will outpace deposits to the Fund, causing a shortfall.

With respect to taxpayer participation, the Budget Reconciliation Act will initially shrink the pool of possible participants by raising the income threshold at which families incur tax liability. It is unknown whether taxpayer participation will be affected by the increased value of the checkoff.

The FEC press release of August 20 provides a year-by-year estimate of the Presidential Fund balance through the year 2008. To order a free copy, call 800/424-9530 (ask for Public Records) or 202/219-4140.

For a more comprehensive discussion of the tax checkoff and Presidential public funding, consult the FEC report released in April 1993: *The Presidential Public Funding Program* (see article on page 4). ♦

Regulations

(continued from page 1)

over \$1,000, per election, to a candidate. The committee will have to disclose the following information on the form:

- The date it registered;
- The date it received a contribution from its 51st contributor;
- A list of five federal candidates it has supported;² and
- The date it achieved multicandidate committee status.

The form also makes provision for new committees that automatically qualify as multicandidate committees on the date of registration by virtue of their affiliation with an existing multicandidate committee.

Continual Reporting of Multicandidate Status on Amended Form 3X

In another reporting change, the multicandidate checkoff box on Form 3X (line 3) will be amended. Committees that have qualified as multicandidate committees will be required to check the box on every report they file. Currently, committees check the box only once, in the first report filed after achieving multicandidate status.

The amended Form 3X will allow candidates and other interested parties to determine a committee's status at a glance.

Multicandidate Committee Notice to Candidates

Under a second new provision, 11 CFR 110.2(a)(2), when making contributions to candidate committees, multicandidate committees will be required to provide written notice of their multicandidate status to the recipient. The explanation and justification suggests that committees display the information on their checks or letterhead. The information may also be included in the body of an accompanying letter or other communication. ♦

(Regulations continued on page 8)

Federal Election Commission
999 E Street, NW
Washington, DC 20463

800/424-9530
202/219-3420
202/219-3336 (TDD)

Scott E. Thomas, Chairman
Trevor Potter, Vice Chairman
Joan D. Aikens, Commissioner
Lee Ann Elliott, Commissioner
Danny L. McDonald,
Commissioner
John Warren McGarry,
Commissioner
Walter J. Stewart, Secretary
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Donnald K. Anderson, Clerk
of the House of Representatives,
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John C. Surina, Staff Director
Lawrence M. Noble, General
Counsel

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Stephanie Fitzgerald, Editor
Blake Lange, Graphics Advisor

² Not applicable to state party committees.

Federal Register

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

1993-17

11 CFR Parts 102 and 110: Multi-candidate Political Committees; Final Rule; Transmittal to Congress (58 FR 42172, August 6, 1993)

1993-18

11 CFR Parts 107, 114 and 9008: Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions; Notice of Proposed Rule-making; (58 FR 43046, August 12, 1993)

Conferences

FEC to Hold PAC Conference in Washington, DC December 13 and 14

On December 13 and 14, a Monday and Tuesday, the FEC will hold a 1½ day conference in Washington, DC, for corporations, trade associations, labor organizations and their PACs. (The Record previously announced that the conference would take place in November, but the date had to be changed due to scheduling difficulties.)

The conference will be held at the Washington Hilton and Towers Conference Center, 1919 Connecticut Avenue, NW, Washington, DC 20009 (202/483-3000). To receive the group rate of \$120 per night for a single room, make your reservation by November 21 and notify the hotel that you will be attending the FEC conference.

For more information, or to place your name on the mailing list for registration materials, call the FEC: 800/424-9530 or 202/219-3420. ♦

Court Cases

LaRouche v. FEC (92-1100)

The Court of Appeals for the District of Columbia Circuit¹ recently directed the Commission to certify matching funds to Lyndon LaRouche, Jr., for his 1992 Presidential primary campaign. The court held that the Commission did not have statutory authority to deny matching funds based on its conviction that Mr. LaRouche would fail to keep his promise to comply with the law.

In February 1992, the agency determined that Mr. LaRouche's written agreement and certification to comply with the law—a requirement for receiving matching funds—were not made in good faith, based on his long record of noncompliance with the federal campaign law and his criminal indictments and convictions for fraud. The Commission therefore found he was not eligible for matching funds. Mr. LaRouche immediately challenged the decision in a suit filed with the D.C. Circuit.²

On July 2, 1993, the court reversed the FEC's decision, holding that the statute did not grant the agency the authority to evaluate the reliability of a candidate agreement.

Mr. LaRouche had argued that the law's enforcement provisions, which grant the FEC the authority to take action with respect to past or ongoing violations of the law, implied a Congressional intent to withhold FEC authority to assess a candidate's future likelihood of violating the law. The court agreed, observing that the voters should be the ones to judge a candidate's integrity.

The court further noted that Congress intended public funds to be

dispensed on a nondiscriminatory basis: "Any inquiry into the bona fides of candidates' promises would take the Commission into highly subjective territory that would imperil the assurance of even-handed treatment."

The FEC had argued that its position was supported by the court's decision in *Committee to Elect Lyndon LaRouche v. Federal Election Commission (CTEL)*,³ where the court allowed the agency to consult reports filed by the candidate's past campaign when deciding whether to accept his current threshold submission for matching funds. The court, however, said that *CTEL* stressed the need to apply objective standards when evaluating a matching fund submission, quite different from the use of subjective criteria "to evaluate a candidate's character."

The court also rejected the FEC's claim that its position was upheld in another suit, *In re Carter-Mondale Reelection Committee, Inc.*⁴ "We find nothing in *Carter-Mondale* to undermine *CTEL*'s general view that in the absence of an explicit authorization by Congress the Commission may not deny funds on the basis of its view of a candidate's subjective intent."

The majority opinion was filed by Judge Williams; an opinion concurring in part and dissenting in part was filed by Judge Wald. She said that the Commission had exceeded its statutory authority only in its consideration of Mr. LaRouche's criminal convictions (mail fraud and conspiring to defraud the IRS), since they were not directly related to his campaign. However, she also said: "I do not believe that the statute requires that the FEC, in determining a candidate's eligibility for public monies, disregard evidence in its own files that indicates that a candidate may well intend to defraud the Commission—and the American taxpayer." ♦

¹ The three-judge panel consisted of Judges Wald, Buckley and Williams.

² Commission actions under the Presidential public funding law are directly reviewable by this court. 2 U.S.C. §9041.

³ 613 F.2d 834 (D.C. Cir. 1979).

⁴ 642 F.2d 538 (D.C. Cir. 1980).

Publications

FEC Releases Report on Presidential Public Funding

Public financing of Presidential elections was intended to reduce the influence of wealthy contributors, eliminate financial barriers that might discourage potential candidates, and increase communication between candidates and the electorate. This program has been in place since 1974, but its merits and efficacy remain topics of debate. Many of the arguments for and against public funding are discussed in a recently released report, *The Presidential Public Funding Program*, a comprehensive study covering the program's history, its achievements and problems, and the long-standing concern

about a funding shortfall for the 1996 Presidential elections. (The report was published before the \$3 checkoff was legislated; see article on page 1.)

The study also reports on the Commission's role in administering the program and its suggestions for legislative changes.

The report addresses other policy matters, among them:

- The use of soft money and private money in the Presidential election period;
- The requirements that candidates must meet to qualify for public funding;
- The level of the spending ceilings for primary candidates; and
- The audit and enforcement process.

A wealth of statistical information is highlighted in over 20 graphs and

tables, some of which compare data over the five election cycles during which public funding has been in place. As a sample of those offered in the report, two graphs are reproduced here.

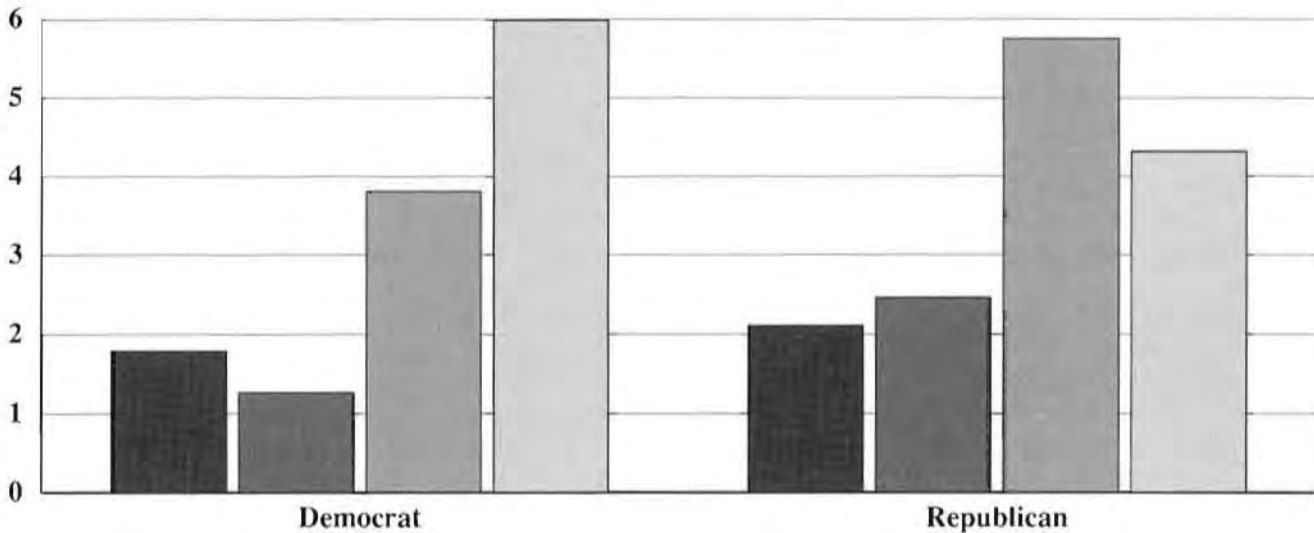
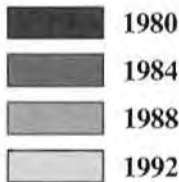
The appendices to the report provide additional material, including:

- A chronology highlighting significant dates in the administration of the public funding program;
- A series of tables listing the amount of public funds each candidate and party committee has received, starting with the first publicly funded Presidential election in 1976; and
- A short history of the federal campaign finance law.

To order a free copy of the report, use the form on page 11. ♦

General Election Compliance Account Receipts

Millions of Dollars



Explanation

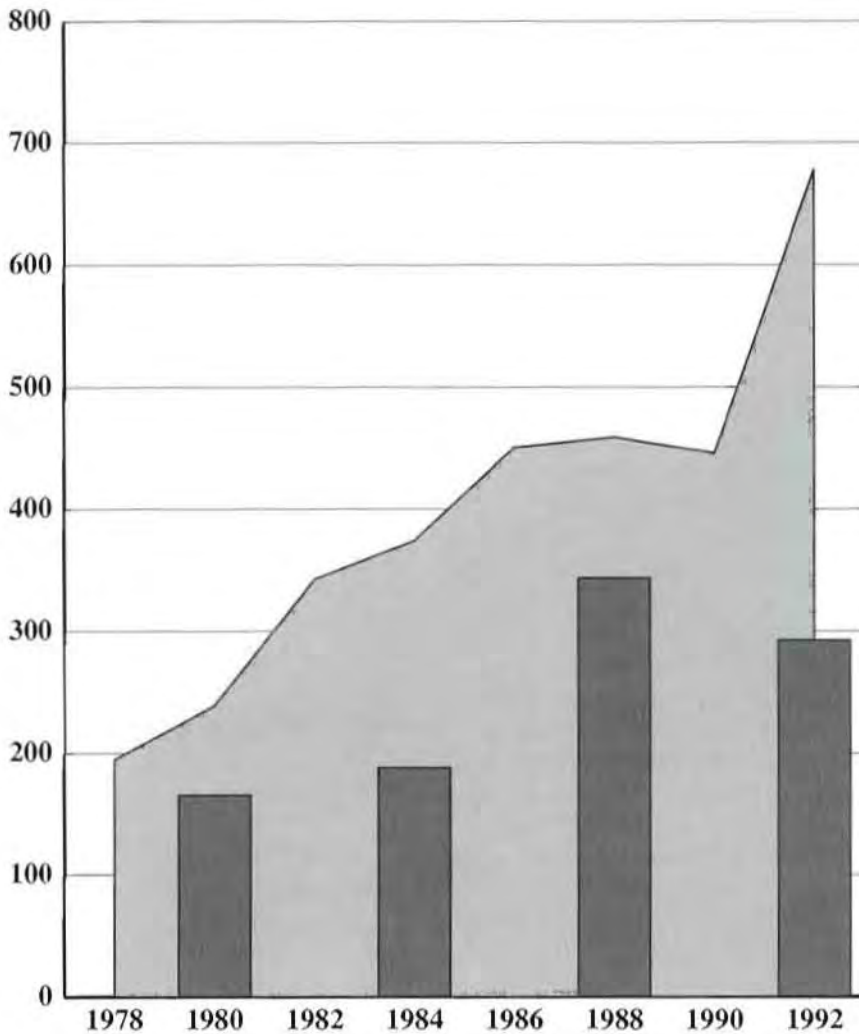
This graph tracks compliance fund receipts for the Democratic and Republican nominees over the last four election cycles. A compliance fund is an account used exclusively to pay the legal and accounting costs of complying with the campaign finance law. It is funded through private contributions. (A major party nominee may not, however, accept private contributions to the campaign account, which is funded entirely with the public funding grant.)

As shown in the graph, the victorious candidate in each instance received more compliance fund donations than his opponent. Overall, the 1988 and 1992 nominees raised more than twice as much compliance money as their 1980 and 1984 counterparts.

Comparison of Presidential and Congressional Spending

Congressional Spending
 Presidential Spending

Millions of Dollars



Explanation

This graph shows the growth in Presidential and Congressional spending over several election cycles.

The spending limits imposed on publicly funded Presidential campaigns seem to have kept spending under control, at least when compared with Congressional spending, which is not subject to limits. For example, Congressional spending increased 248 percent from 1978 to 1992, while Presidential spending increased 174 percent from 1976 to 1992.

1992 Election Results Released

According to the recently released *Federal Elections 92*, over 104 million people—55 percent of the voting age population¹—cast their ballots for a Presidential candidate on election day 1992. President Clinton won 43 percent of the popular vote, then-President Bush received 37.5 percent, and independent candidate Ross Perot, almost 19 percent.

Andre Marrou, the Libertarian Party nominee, was the fourth-highest vote getter, collecting almost 300,000 votes (.28 percent of total votes). Nineteen other Presidential candidates were on the general election ballot in at least one state. Among them was Lenora Fulani, the New Alliance Party nominee, who received 73,708 votes (.07 percent). John Hagelin, the Natural Law Party nominee, won 39,163 votes (.04 percent).

Federal Elections 1992 tabulates the election returns for the U.S. Presidential, Senatorial and Congressional elections held November 3, 1992. The publication also lists the results for the 1992 Presidential primaries² and for the special elections held November 3 (California Senate, New York 8th district and North Carolina 1st district).

For each race, the publication lists the candidates on the ballot and any write-in candidates, their party affiliation, and the percentage and number of votes they received. The figures were provided by state election officials and reflect updates through June 24, 1993.

Federal Elections 1992 also lists the state-by-state voting totals for the Presidential primary and general elections.

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¹ According to the Census Bureau estimate for November 1992, the national voting age population was 189,044,000.

² The new publication supersedes 1992 Presidential Primary Election Results issued August 1992.

Publications

(continued from page 5)

Additional information is shown in maps of the United States. For example, a series of maps shows the percentage of popular votes won by the top three Presidential candidates in each state as well as the electoral votes won by candidates Clinton and Bush.

The new publication is the sixth in the series of official results; the first volume covered the 1982 House and Senate elections.

A limited number of copies are available free of charge from the FEC's Public Records Office. Call 800/424-9530 (ask for Public Records) or 202/219-4140. ♦

House and Senate Candidate Committees

Principal campaign committees of House and Senate candidates file a copy of each report and statement with the state in which the candidate seeks (or sought) election.¹ 2 U.S.C. §439(a)(2)(B).

If a campaign includes more than one authorized committee, the principal campaign committee files, with its own report, the reports prepared by the other authorized committees as well as a consolidated report (FEC Form 3Z). 11 CFR 104.3(f). (The consolidated reporting requirement applies both to federal and state filing.)

PACs and Party Committees

PACs and party committees making contributions or expenditures in connection with House and Senate campaigns must file copies of reports and statements with the state in which the candidate seeks (or sought) election.² The committee is required to file only that portion of the report applicable to the candidate in that state (e.g., the Summary Page and the schedule showing the contribution or expenditure). §439(a)(2)(B). ♦

¹ Presidential principal campaign committees file copies of reports and statements with the states in which the committee made expenditures during the reporting period. 11 CFR 108.2.

² PACs and party committees making contributions or expenditures in connection with Presidential candidates file with the states in which the Presidential committee and the donor committee have their headquarters. 11 CFR 108.4.

Advisory Opinions

AO 1993-7

Name of Corporate PAC

The Pacific Power & Light Company Employee PAC, a separate segregated fund, must update its name to include the current name of its connected organization. 2 U.S.C. §432(e)(5); 11 CFR 102.14(c). Pacific Power & Light Co. was the original name of the corporation, but its official name is now PacifiCorp. (The proposed new name, "PacifiCorp Federal Political Action Committee," would be acceptable.)

As the connected organization, PacifiCorp may make administrative changes as it sees fit (i.e., a change in treasurer, assistant treasurer, custodian of records, bylaws and Board of Directors).¹ Date Issued: July 22, 1993; Length: 3 pages. ♦

AO 1993-8

Preemption of State Law Prohibiting Contributions by Incorporated Committees

The Federal Election Campaign Act supersedes Tennessee State law with respect to the state law's prohibition on contributions to federal candidates and transfers of excess campaign funds to party committees by a federal candidate's committee that has incorporated for liability purposes. The Act does not, however, supersede Tennessee law with respect to contributions to nonfederal candidates.

¹ A change in the names of a connected organization and its PAC—as well as a change in committee treasurer, assistant treasurer and custodian of records—must be reported on an amended Statement of Organization (Form 1) or in a letter. 2 U.S.C. §433(c); 11 CFR 102.2(a)(2).

Reports

Filing with the State

In addition to filing with the appropriate federal office, treasurers of political committees must simultaneously file copies of reports with the Secretary of State's office or other designated state office.

A list of state filing offices is available from the Commission. Call 800/424-9530 or 202/219-3420.

State filing requirements are described below.

New Indiana State Filing Office

Starting October 1, political committees required to file copies of their reports in Indiana will file with the State Election Board rather than with the Secretary of State's office. The new address and phone number are:

Indiana State Election Board
302 West Washington Street,
Room E032
Indianapolis, IN 46204
317/232-3939

Congressman John J. Duncan, Jr. (TN, 2nd CD) proposed to transfer excess campaign funds¹ from his old committee to a new campaign committee, incorporated under 11 CFR 114.12(a). That provision permits a political committee to incorporate for liability purposes only and not be treated as a corporation subject to the Act's prohibitions. The new committee would use the excess funds to make contributions to party committees and candidates.

Tennessee law, however, prohibits corporations doing business within the state from using their funds "for the purposes of aiding in either the election or defeat...of any candidate," federal or nonfederal, "or in any way contributing to the campaign fund of any political party." Tennessee Code Annotated §2-19-132(a). Moreover, Tennessee law treats political committees incorporated under section 114.12(a) the same as other corporations (with an exception for certain contributions by national party committees). T.C.A. §2-19-132(b).

The Act states that its provisions and the rules prescribed thereunder "supersede and preempt any provision of State law with respect to election to Federal office." 2 U.S.C. §453. The legislative history explains that the Act "occupies the field" in the area of contributions and expenditures by federal candidates and committees.² Therefore, with respect to contributions to federal candidates, federal law clearly supersedes Tennessee law.

The Act and FEC regulations also provide that excess campaign funds may be transferred to any national, state or local committee and may be used for "any other lawful purpose."

¹ The funds would qualify as excess campaign funds assuming the Congressman had determined that they were in excess of any amount necessary to defray his campaign expenditures. 11 CFR 113.1(e); see also AO 1990-2.

² See also 11 CFR 108.7, which reflects the legislative history.

2 U.S.C. §439a; 11 CFR 113.2. Because the federal provisions explicitly permit the transfer of excess funds to party committees, regardless of whether they are federal committees under the Act, Tennessee law is superseded in this respect as well.

Federal law does not, however, preempt Tennessee law with respect to contributions to nonfederal candidates. The excess fund provisions permit such contributions only if otherwise lawful, and they would not be lawful under the Tennessee Code.

The broad coverage of the Tennessee law could be read as prohibiting the incorporated committee from conducting campaign activity on behalf of the Congressman, but federal law would again take precedence.

Date Issued: July 22, 1993; Length: 5 pages. ♦

AO 1993-10 Use of Excess Campaign Funds

Antonio J. Colorado, an unsuccessful 1992 candidate for Resident Commissioner of Puerto Rico, has proposed using his committee's excess campaign funds for the three activities listed below, all of which are permissible because they do not constitute personal use of excess campaign funds and are not otherwise unlawful. 2 U.S.C. §439a.

1. Mr. Colorado may use excess campaign funds to conduct a public opinion survey in preparation for his 1994 campaign for Governor of Puerto Rico. Previous advisory opinions have stated that the use of excess campaign funds for future federal or nonfederal elections does not constitute personal use. AOs 1986-5 and 1980-113.

2. Similarly, Mr. Colorado may transfer the excess funds to a committee formed to support his election as president of the Popular Democratic Party. The above advisory opinions suggest that this proposal would not

result in a personal or an unlawful use of excess campaign funds under §439a.¹

3. Finally, he may transfer the funds to a nonprofit corporation he plans to form. (The corporation, which will campaign for the retention of Puerto Rico's Commonwealth status, will not be subject to U.S. tax law because its operations will be restricted to Puerto Rico.) This proposed use of excess funds is permissible under the "any other lawful purpose" clause of §439a because it will not confer any financial benefit on Mr. Colorado, who has asserted that he will not receive compensation except for the reimbursement of ordinary and necessary expenses. See AO 1986-39.

Any Puerto Rican law applicable to the proposed activities (such as a law governing the amount of the transfers or their disclosure in the recipient's reports) would not be preempted by the Federal Election Campaign Act or FEC regulations. See AOs 1986-39 and 1986-5.

Date Issued: July 22, 1993; Length: 5 pages. ♦

Advisory Opinion Requests

The requests for advisory opinions (AORs) listed below are available for review and comment in the FEC's Public Records Office.

AOR 1993-16

Sales force employees as solicitable executive/administrative personnel. (Blue Cross of California; August 11, 1993; 11 pages) ♦

¹ Moreover, a transfer of excess campaign funds to a committee organized to elect an individual to an "office in a political organization" is not considered a personal use of excess campaign funds under the Internal Revenue Code. See 26 §527(d) and (e)(1)-(2); see also IRS Reg. 1.527-5(c)(1).

Regulations

(continued from page 2)

FEC Seeks Comments on Public Funding Regulations for Presidential Nominating Conventions

The Commission is seeking comments on proposed changes to the regulations governing publicly funded Presidential nominating conventions. The revisions to 11 CFR Part 9008 would address several issues that have arisen during past election cycles and would make the convention rules more consistent with the requirements for publicly funded candidates. The rules would also be reorganized to make them easier to follow.

The Notice of Proposed Rulemaking was published in the Federal Register on August 12 (58 FR 43046). Comments must be in writing and are due September 17. They should be sent to Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW, Washington, DC 20463. The comments will be made available for public review in the FEC's Public Records Office.

Some of the major provisions of the draft rules, and some of the questions raised for comment, are highlighted below.

Convention Committees

In-Kind Donations from Businesses. Among the changes proposed in this area are the following:

- The rules would incorporate the Commission's decision in AO 1988-25 (use of GM cars) by allowing businesses to provide free products and services to convention committees if the donations conform to the company's usual business practice.
- The proposed rules would require committees to retain documentation demonstrating that a vendor discount or donation was provided in the ordinary course of business. The agency asks for comments on whether this requirement should be

restricted to donations and discounts above a certain value and whether certain categories of vendors should be exempted.

- The rules would clarify the distinctions between the different types of businesses that are permitted to make donations and discounts ("retail," "local" and "local retail").

Disclosure. To provide more timely disclosure of a convention committee's start-up activity, the revised regulations would require a committee to begin filing reports earlier. Additionally, convention committees would have to file a statement of net outstanding convention expenses in October of the election year. The Commission asks whether convention committees should also be required to:

- Attach to their reports copies of their contracts with the host committee and the convention city; and
- Report the value of in-kind discounts and donations from vendors.

Legal and Accounting Expenses. The proposed rules would clarify that payments made by the national party committee for convention-related legal and accounting expenses count against the convention committee's expenditure limit. Comments are sought on whether the regulations should exempt from the spending limit expenses incurred solely to comply with the federal campaign law.

Penalties. There would be no change to the current rule under which funds used to pay FEC-imposed civil penalties are subject to the prohibitions on contributions. The agency asks whether the funds should be subject to the contribution limits as well.

Recordkeeping. Revised provisions would describe the records that convention committees would have to provide during the audit process. Records submitted on computer disks or other magnetic media would have to conform to formatting standards.

Host Committees and Convention Cities

Significant changes that would affect host committees and convention cities are listed below.

- The proposed rules would require host committees to begin filing reports earlier.
- The rules would amend the reporting provisions so that reporting deadlines and itemization thresholds for host committees would parallel those that apply to other political committees.
- While continuing to allow host committees to accept donations from businesses as long as the donation was "proportionate to the commercial return reasonably expected," the proposed rules would no longer apply that standard to donations to the convention city. The Commission welcomes suggestions on whether the standard ("proportionate...expected" language) should be further explained.
- The rules would permit convention cities to pay for nominating convention expenses from municipal funds that satisfied the conditions set forth in AOs 1983-29 and 1982-27.
- Finally, the rules would require convention cities to report information on convention expenses. The Commission seeks comments on whether cities should also be required to report the sources of the donations they receive for convention activity.

Impact of Civil Rights Act on Delegate Selection

Is the delegate selection process of a federally funded nominating convention subject to the Civil Rights Act of 1964, which prohibits discrimination "on the ground of race, color, or national origin...under any program or activity receiving federal financial assistance"? A federal district court recently ruled "yes" and ordered the FEC to write regulations prohibiting discrimination in the selection of

convention delegates.¹ The FEC appealed the decision to the D.C. Circuit where the case is currently pending (No. 92-5214).

In the interim, the FEC welcomes comments on what impact, if any, the Civil Rights Act has on federally funded nominating conventions. However, the possible promulgation of regulations will await the court's decision. ♦

Compliance

MUR 3385 Presidential Campaign Overbills Media for Travel

In MUR 3385, a publicly funded Presidential campaign paid a \$10,000 civil penalty for overcharging the media \$133,819 in travel costs. Under the terms of the conciliation agreement, the campaign also had to refund the overpayment.

In determining the travel cost for an individual passenger, a publicly funded campaign divides the total cost of the transportation and related services by the number of individuals to whom the services are provided.

The committee in MUR 3385 undercounted the number of passengers on a campaign airplane by failing to include the Secret Service personnel on the flight. This resulted in a higher pro rata cost and the \$133,819 overcharge.

The Commission found that the campaign failed to follow the prescribed method for calculating the cost of media travel in violation of 11 CFR 9004.6. ♦

MURs Released to the Public

Listed below are FEC enforcement cases (Matters Under Review or MURs) recently released for public review. The list is based on the FEC press releases of July 26 and August 9 and 23, 1993. Files on closed MURs are available for review in the Public Records Office.

MUR 3143

Respondents: (a) Dukakis for President, Robert A. Farmer, treasurer (MA); (b) Dukakis/Bentsen Committee, Edward Pliner, treasurer (MA); (c) David Walters (OK); (d) The Walters Company (OK); (e) Friends of David Walters (OK); (f) GSMI, Inc. (OK)

Complainant: Clinton Kay, chairman, Oklahoma Republican Party

Subject: Advances; rent

Disposition: (a) \$1,250 civil penalty; (b) \$750 civil penalty; (c) probable cause to believe but took no further action (advances); no probable cause (rent); (d)-(f) reason to believe but took no further action

MUR 3159

Respondents: (a) Nevada Democratic State Committee, Debbie Johnson, treasurer; (b) Friends for Miller, Michael W. Kern, treasurer (NV); et al. (c)-(f)

Complainant: Kenneth Sawyer, chairman, Nevada Republican Party
Subject: In-kind corporate contributions

Disposition: (a) \$1,550 civil penalty; (b) reason to believe but took no further action (sent admonishment letter); (c)-(f) took no action

MUR 3309

Respondents: (a) Dole for President Committee, James L. Hagen, treasurer (KS); (b) Campaign America, Judith F. Taggart, treasurer (DC); (c) Becon Construction Company, Inc. (NC); (d) Owen and Associates (NJ); (e) Contran, Harold C. Simmons, president (TX); (f) Longlines Limited (IA); (g) Matthew N. Clapp, Jr. (WA); (h) Tele-Communications, Inc.

PAC, Gary K. Bracken, treasurer (CO); (i) Browning-Ferris Industries (DC); (j) Hartford Insurance Group PAC, Roger J. Mageau, treasurer (CT); (k) Altman Brothers (PA); (l) Lydia Fried (MD); (m) John W. King (MA); (n) 16 other respondents
Complainant: FEC initiated (Presidential audit)

Subject: Excessive contributions; excessive expenditures in Iowa and New Hampshire; corporate contributions; failure to pay in advance for use of corporate aircraft; failure to refund or obtain redesignations or refunds of excessive contributions within time limits; failure to disclose activities of delegate committees

Disposition: (a) \$100,000 civil penalty; (b) \$12,000 civil penalty; (c) \$2,850 civil penalty; (d) \$2,000 civil penalty; (e) \$1,200 civil penalty; (f) \$950 civil penalty; (g)-(h) \$750 civil penalty; (i) \$600 civil penalty; (j)-(l) \$500; (m) \$375 civil penalty; (n) reason to believe but took no further action

MUR 3379

Respondents: Tom Christo for U.S. Senate, Inc., Jon Howell, treasurer (NH)

Complainant: FEC initiated
Subject: Excessive contributions
Disposition: Probable cause to believe but took no further action

MUR 3703

Respondents: Don Payne for Congress, Craig A. Stanley, treasurer (NJ)
Complainant: Alfred D. Palermo (NJ)

Subject: Failure to file copies of reports with state filing office; failure to file reports on time
Disposition: Reason to believe but took no further action

MUR 3713

Respondents (all in PA): (a) League of Women Voters of Pennsylvania; (b) Pittsburgh Post-Gazette; et al. (c)-(f)

Complainant: William D. White (PA)

(continued on page 10)

¹ Freedom Republicans Inc., et al., v. Federal Election Commission, 788 F. Supp. 600, 601 (D.D.C. 1992).

Compliance

(continued from page 9)

Subject: In-kind contribution

Disposition: (a)-(f) No reason to believe

MUR 3761

Respondents: Re-Elect Marilyn Lloyd to Congress Committee, Joel D. Susman, treasurer (TN)

Complainant: FEC initiated

Subject: Failure to file 48-hour notices on last-minute contributions

Disposition: \$6,000 civil penalty

MUR 3765

Respondents: Committee to Elect Michael Pratt, Jackie Daughtry, treasurer (GA)

Complainant: FEC initiated

Subject: Failure to file report on time

Disposition: Reason to believe but took no further action

MUR 3768

Respondents: Rowland for Congress Re-Election Committee, Ernest F. Jones, Jr., treasurer (GA)

Complainant: FEC initiated

Subject: Failure to file 48-hour notices on last-minute contributions

Disposition: \$3,999 civil penalty

MUR 3782

Respondents (all in NE): (a) Milder for Congress Exploratory Committee, Ed Fogarty, treasurer; (b) C.W. Durham; (c) Barbara Vopnford

Complainant: FEC initiated

Subject: Prohibited and excessive contributions

Disposition: (a)-(c) Reason to believe but took no further action (sent admonishment letters) ♦

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Michigan Special Election

Michigan will hold a special primary election on November 2 and a special general election on December 7 to fill the 3rd Congressional District seat of the late Congressman Paul Henry.

Reporting dates for the elections will be published in the October issue.

Statistics

Number of PACs Drops by 170

At the start of July 1993, the number of federally registered PACs totaled 4,025, a decrease of 120 PACs since December 1992. The FEC tallies the number of registered PACs twice a year.

The number of PACs does not necessarily track the level of PAC financial activity, since many registered PACs have little or no activity. For example, according to reports filed by PACs during the 1991-92 election cycle, over 35 percent did not make any contributions to candidates, while 19 percent did not make any disbursements at all.

For statistics on semiannual PAC counts taken since 1975, order the FEC press release of August 2. Call 800/424-9530 (ask for Public Records) or 202/219-4140.

PAC Category	Number of PACs July 1993	Net Loss ¹ Since December 1992
Corporate	1,715	- 20
Nonconnected	1,011	- 134
Trade/Membership/Health	767	- 3
Labor	338	- 9
Corporation without Capital Stock	139	- 3
Cooperative	55	- 1
Total	4,025	- 170

¹ For example, the net loss of 20 corporate PACs means that the number of terminated PACs exceeded the number of registered PACs by 20.

(See article on page 4.)



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