

# Record

February 1996

Federal Election Commission

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## Maryland Special Election

Committees involved in Maryland's March 5 special primary election must file a pre-primary report on February 22 and any required 24- and 48-hour notices. The March *Record* will contain filing dates for the April 16 special general election to fill the House seat vacated by Kweisi Mfume.

## Reports

### New Law Changes Point of Entry for House Candidates

House candidates should mail their future campaign finance reports, including pre-primary reports and 48-hour notices,<sup>1</sup> to:

Federal Election Commission  
Washington, D.C. 20463

This point-of-entry change came about as a result of Public Law 104-79, signed by President Clinton on December 28, 1995. This law officially changed the point-of-entry for campaign disclosure reports filed by House candidates. Whereas such reports were previously filed with the Clerk of the House, the new law requires House candidates to file with the FEC.<sup>2</sup> Public Law 104-79 does not change the point-of-entry for personal financial disclosure

*(continued on page 2)*

<sup>1</sup> House committees may fax 48-hour notices to the FEC at 202/219-0174. Note that 48-hour notices are the only FEC documents that may be faxed. All other FEC reports and notices must carry the committee treasurer's original signature; therefore, they may not be faxed.

<sup>2</sup> This point-of-entry change also applies to FEC reports filed by political committees that support only House candidates.

## Regulations

### MCFL Rules on Corporate/Labor Activity Before Congress

On December 8, 1995, the FEC transmitted to Congress its revisions to rules governing the political activities of labor and corporate organizations. Generally, corporations and labor organizations are prohibited from using their general treasury monies to make contributions or expenditures in connection with federal elections. 2 U.S.C. §441b. The new rules clarify the exceptions to this prohibition. These exceptions permit corporations and labor organizations, to a limited degree, to utilize their resources and to make communications in connection with federal elections. The new rules stem from the Supreme Court ruling in *FEC v. Massachusetts Citizens for Life*.<sup>1</sup>

The new rules will be discussed in detail in a *Record* supplement that will appear in the near future; for now, a brief description of the new rules follows:

- Corporations and labor organizations are prohibited from making expenditures for communications to the general public that expressly advocate the election or defeat of a clearly identified federal candidate. The

*(continued on page 2)*

<sup>1</sup> See page 4 of the February 1987 *Record* for a summary of this decision.

## Reports

(continued from page 1)

statements filed under the Ethics in Government Act; House candidates continue to file this information with the Clerk of the House.

This change is expected to provide easier and quicker public access to House campaign information.

The public will still be able to access House candidates' FEC reports at the Records and Registration Office of the Clerk of the House. Initially, this office will offer microfilm copies of the reports, but it hopes to later provide the public with access to a computerized digital image of the report via a telecommunications link to the FEC's database.

In the future, it is hoped that the states will also establish telecommunication links with the FEC, so that they will be able to retrieve computerized digital images of FEC reports. When this happens, FEC

filers may be freed of the requirement to file duplicates of their reports with state offices. This is not yet a reality, however. No state has such a telecommunications link with the FEC presently.

It should be noted that Public Law 104-79 does not affect the point-of-entry for campaign reports filed by Senate candidates; they continue to file with the Secretary of the Senate. ♦

## FEC Authorized to Develop Electronic Filing System

On December 28, 1995, electronic filing came one step closer to being realized. Public Law 104-79, signed by President Clinton on that day, authorizes the FEC to establish the technical and regulatory framework to enable political committees to file reports on computer disk or through other electronic means.

Electronic filing will not be available until 1997, at the earliest. Committees are therefore still required to disclose their campaign activity on paper reports. Paper reports can not be faxed because an original signature must be on the report. Forty-eight-hour notices are the only notices that may be faxed. Once electronic filing becomes a reality, committees that would prefer to submit electronic rather than paper reports would be able to do so. Public Law 104-79 authorizes the FEC to develop alternative methods of verifying reports in lieu of signatures.

The *Record* will update readers on the progress of electronic filing. ♦

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## Regulations

(continued from page 1)

express advocacy standard replaces the partisan/nonpartisan standards at 11 CFR 114.3 and 114.4.

- Provisions at 11 CFR 110.13, 114.3, 114.4 have been revised and updated, and 114.13 has been added. These provisions apply to: candidate debates and appearances; distributing voting and registration information; and conducting registration and get-out-the-vote drives.
- New provisions have been added at 11 CFR 110.12, 114.1, 114.2 and 114.4 to define "restricted class" and to address: candidate appearances at colleges and universities; candidate endorsements; and activities that facilitate the making of contributions to candidates or political committees other than the sponsor's PAC.
- New language added at 11 CFR 114.2 through 114.4 addresses the question of when coordination between a candidate and a corporation or labor organization causes an activity to become a prohibited contribution.

These revisions represent the second part of the MCFL rulemaking. An Announcement of Effective Date will be published in the Federal Register after Congress has had 30 legislative days to review these revisions. The *Record* will notify readers when this happens.

The first part of the MCFL rulemaking contained definitions of "express advocacy" and "qualified nonprofit corporations"<sup>2</sup> (60 FR

<sup>2</sup> The "express advocacy" rules are being challenged in *Maine Right to Life v. FEC* (page 3 of the January 1996 Record). This case also challenges the revised voting records and voter guide provisions at 114.4(c)(4) and 114.4(c)(5). The "qualified nonprofit corporation" rules are being challenged in *Minnesota Citizens Concerned for Life v. FEC* (U.S. District Court for the District of Minnesota, 3-95-1147).

**Federal Election Commission**  
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800/424-9530  
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35292, July 6, 1995). Those rules took effect on October 5, 1995 (60 FR 52069, October 5, 1995) and were summarized in the August 1995 *Record*.

Copies of the Federal Register notices of the final rules for both parts of the MCFL rulemaking may be obtained by calling the FEC at 800/424-9530 or through the FEC's automated Flashfax system: dial 202/501-3413 and request document 229 for part one and document 230 for part two. ♦

## Public Funding

### Initial Entitlements for '96 Presidential Candidates Total \$37 Million

On January 1, the FEC sent the U.S. Treasury matching fund certifications totaling \$37,353,967 for the ten eligible 1996 Presidential candidates. The accompanying chart lists each candidate's entitlement. It should be noted that each candidate will likely receive a payment of about 60 percent of his entitlement due to the Presidential fund's cash flow shortfall (see page 13 of the January 1996 *Record*).

To be eligible to receive public funding, a candidate must submit documentation to the FEC showing campaign receipts in excess of \$5,000 in matchable contributions in each of at least 20 states. Only contributions received from individuals, and only up to \$250 of a contributor's total, are matchable.

Candidates accepting public funding must abide by spending limits and use funds for campaign-related expenses only. All publicly funded campaigns are audited by the FEC.

The Presidential Public Funding Program is financed by taxpayers

participating in the voluntary \$3 "check off" found on all U.S. federal income tax forms. ♦

### Initial Entitlements for 1996 Set New High

The 1996 total of \$37 million set a new high for initial entitlements. The chart below compares this total with the totals for past Presidential election years, going back to 1976, the very first year of the Presidential Public Funding Program. The number of candidates receiving a portion of each year's total is noted in parenthesis.

Year/ Candidates	Total Initial Entitlements
1996 (10)	\$37,353,967
1992 (8)	\$ 6,372,788
1988 (12)	\$28,748,261
1984 (6)	\$ 7,771,960
1980 (3)	\$ 1,944,055
1976 (11)	\$ 1,880,502

### Initial Entitlements: '96 Publicly Funded Presidential Candidates

Bob Dole (R)	\$9,265,290
Bill Clinton (D)	\$9,014,644
Phil Gramm (R)	\$6,653,918
Pat Buchanan (R)	\$3,977,007
Lamar Alexander (R)	\$3,226,450
Richard Lugar (R)	\$2,275,051
Pete Wilson (R)*	\$1,591,393
Arlen Specter (R)*	\$ 988,975
Lyndon LaRouche (D)	\$ 261,235
John Hagelin (NLP)	\$ 100,000

*\* Although these candidates have already dropped out of the 1996 Presidential race, they are entitled to receive the amount of public funding noted in the chart. These monies may be used to retire outstanding campaign debts or for any other campaign-related purpose. Any leftover public funds must be returned to the U.S. Treasury.*

### Natural Law Party's Dr. Hagelin Declared Eligible For Matching Funds

On December 22, Dr. John S. Hagelin of the Natural Law Party became the tenth 1996 Presidential candidate to become eligible to receive public matching funds, joining Governor Lamar Alexander, Mr. Patrick Buchanan, President Bill Clinton, Senator Robert Dole, Senator Phil Gramm, Mr. Lyndon LaRouche, Senator Richard Lugar, Senator Arlen Specter and Governor Pete Wilson. The FEC has certified initial payments for these ten candidates (see the table on page 3).

Once Presidential candidates establish eligibility for matching funds, they may submit additional contributions for matching fund consideration on a monthly basis. ♦

## Advisory Opinions

### AO 1995-41 Preemption of State Disclosure Requirements

Maloney for Congress, the principal campaign committee of Congresswoman Carolyn Maloney, is not obligated to report its federal activity in accordance with the laws of New York state.

A New York state law mandates that all candidates for public office must, for every poll they conduct, disclose the sample size, the wording and the full results of the poll. 9 NYCRR §6201.2. The New York Board of Elections has taken the position that this reporting requirement applies to federal candidates as well as to other candidates. The Federal Election Campaign Act (the Act), however, preempts state law with respect to activity undertaken

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## Advisory Opinions

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in connection with a federal election. 2 U.S.C. §453. Maloney for Congress, being a federal campaign, is thus only subject to the disclosure requirements contained in the Act. 2 U.S.C. §434(b). New York may not impose additional reporting requirements on activity undertaken in connection with a federal election.

Date Issued: December 7, 1995;  
Length: 4 pages. ♦

### AO 1995-42 Using Campaign Funds to Pay Child-Care Expenses

Congressman Jim McCrery of Louisiana's 5th district may, while at a campaign event with his wife, pay child-care expenses for his infant son with campaign funds. Doing so does not constitute a personal use of campaign funds.

Congressman McCrery travels extensively as part of his 1996 reelection effort. These trips often include overnight stays. His wife is a vital part of his campaign team and so accompanies him to campaign events. These events (e.g. receptions, press conferences and finance meetings) are inappropriate for their 20-month-old son.<sup>1</sup> The McCrerys, therefore, occasionally incur expenses for the care of their child while they are away at a campaign event.

Campaign funds may not be converted to personal use. 2 U.S.C. §439a. Personal use is defined at 11 CFR 113.1(g) as the use of campaign funds to pay for an expense that would exist irrespective of the candidate's campaign or duties as a federal officeholder.

<sup>1</sup> This advisory opinion assumes that some of these campaign events will be in the Washington, D.C., area as well as in Congressman McCrery's home district.

The child-care expenses in this instance are not irrespective of the campaign; they are a direct result of the McCrerys attendance at campaign-related events. The Commission concluded that campaign funds could pay for child care "in the limited circumstances" presented in the advisory opinion request.

Date Issued: January 11, 1996;  
Length: 3 pages. ♦

### Advisory Opinion Requests

Advisory opinion requests are available for review and comment in the Public Records Office.

#### AOR 1995-47

Use of campaign funds to attend national party convention (Congressman Robert A. Underwood; December 21, 1995; 1 page plus 15-page attachment)

#### AOR 1995-48

Preemption of Georgia state law that forbids candidates from receiving contributions while Georgia legislature is in session (Day for Senate; December 26, 1995; 2 pages)

#### AOR 1995-49

Minor party committee's status as state party committee (Natural Law Party of Texas; December 29, 1995; 2 pages plus 10-page attachment) ♦

### Alternative Disposition of Advisory Opinion Requests

#### AOR 1995-37

The Commission closed this AOR without issuing an opinion because the issues it raises are undergoing judicial review. *U.S. Chamber of Commerce v. FEC* (page 2, January 1996 Record). The National Association of Realtors had submitted this request seeking clarification on FEC regulations defining "member." 11 CFR 114.1(e)(2). ♦

## Audits

### Friends of Sherrod Brown Audit Report

An FEC audit of the Friends of Sherrod Brown committee (f.k.a. Brown for Congress), the 1994 principal campaign committee of Sherrod Campbell Brown, Democratic candidate for U.S. Representative from Ohio's 13th District, found that the committee:

- Understated receipts by \$21,505 and overstated disbursements by \$908. These two misstatements along with two computational errors caused the committee's reported ending cash-on-hand total to be understated by \$16,913. In response to the FEC's audit, the committee filed amended reports correcting these misstatements. 2 U.S.C. §434(b)(1), (2) and (4).
- Received \$4,550 in apparent excessive contributions from nine individuals. The committee did refund \$1,500 of this total, but the refund was made after the 60-day period allowed by 11 CFR 103.3(b)(3). In response to the FEC's audit, the committee submitted documentation that it was attempting to refund the outstanding \$3,050 balance. 2 U.S.C. 441a(a)(1)(A).
- Failed to file 48-hour notices for 16 PAC contributions totaling \$24,500 received within 20 days of the primary election. 2 U.S.C. 434(a)(6).
- Failed to deposit \$94,192 in contributions within 10 days of receipt, as required by 11 CFR 103.3(a).

This audit was conducted pursuant to 2 U.S.C. §438(b), which authorizes the Commission to conduct audits of any political committee that files reports that fail to meet the threshold level of compliance set by the Commission. Subsequent to a final audit report, the FEC may choose to pursue unresolved issues in an enforcement matter. ♦

## Reports

(continued from page 2)

### Special Election: California's 37th District

California has scheduled a special general election for March 26, 1996. This election is being held to fill the U.S. House seat vacated by Congressman Walter Tucker of the 37th district. Under California law, this is a nonpartisan election open to anyone who qualifies as a candidate; no primary elections precede this special general election. A candidate must garner a majority of the vote to win the special general election. If the special general election does not yield a winner, a runoff will be held on May 21, 1996, among the top vote getters—the top vote getter of each qualified political party and any qualifying independent candidates.

The reporting requirements for committees involved with these special elections are outlined in the accompanying table. Additionally, this article provides information on contribution and coordinated party expenditure limits, and committee transfers.

If you have any questions about special election issues after reading this article, call the FEC at 800/424-9530 or 202/219-3420.

#### Reporting by Candidate Committees

Candidate committees are required to register and to file financial disclosure reports with the FEC once their campaign activity exceeds \$5,000 in either contributions or expenditures. 2 U.S.C. §431(2). See the *Campaign Guide for Congressional Candidates and Committees*.

Once the \$5,000 threshold is reached, principal campaign committees of candidates seeking to win this special election must file the appropriate reports as shown in the accompanying table.

#### *Pre- and post-election reports.*

All participants in the special general election must file a pre-general election report.

A post-general election report is required of all special general participants only if the special runoff is not held.

The April Quarterly report is waived for all post-general report filers. All others must file an April Quarterly report.

Pre- and post-runoff election reports are required of all special runoff participants.

*Forty-eight-hour notices.* Principal campaign committees must file 48-hour notices on contributions of \$1,000 or more received between the 20th day and 48 hours before the date of any election in which the candidate participates. The notice must be received by the FEC and California's Secretary of State within 48 hours of the campaign's receipt of the contribution. 2 U.S.C. §434(a)(6)(A); 11 CFR 104.5(f).

This requirement applies to all contributions of \$1,000 or more, including: monetary and in-kind contributions; loans (other than bank loans); guarantees and endorsements of bank loans; and contributions from the candidate, loans from the candidate and endorsements of bank loans made by the candidate. 2 U.S.C. §431(8)(A); 11 CFR 100.7(a).

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

#### Reporting by Party Committees and PACs

*Quarterly filers.* Party committees and PACs filing on a quarterly (rather than monthly) basis are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the California special election by the close-of-books date shown in the reporting table. 11 CFR 104.5(c)(1)(ii) and (h).

*Monthly filers.* PACs filing on a monthly basis are not required to file pre- and post-special election reports but may have to file 24-hour reports if they make independent expenditures, as explained below. See 2 U.S.C. §434(a)(9); 11 CFR 104.5(h)(2).

#### Twenty-Four-Hour Reports on Independent Expenditures

All PACs and persons making independent expenditures may have to file 24-hour reports. This report is required if the committee or person makes independent expenditures aggregating \$1,000 or more between the 20th day and 24 hours before the date of an election.

The report must be filed within 24 hours after the expenditure is made. For more information, see 11 CFR 104.4(b) and (c) and 104.5(g). See also "Where to File" for special filing requirements.

#### Where to File

*Filing with the FEC.* Principal candidate campaign committees active in this special election file reports and 48-hour notices with the FEC. Public Law 104-79 and 11 CFR 105.1 and 105.4.

Noncandidate committees active in this special election file reports, including twenty-four-hour reports on independent expenditures, with the FEC. 11 CFR 104.4(c)(3).

Addresses and further filing instructions are provided on the back of Form 3 and Form 3X.

*Filing with state authorities.* Copies of all reports and notices filed with the FEC, including 48-hour notices and 24-hour reports, must simultaneously be filed with the California Secretary of State: 916/653-6224. 2 U.S.C. §439(a)(1) and (a)(2)(B); 11 CFR 108.5.

Party committees and PACs that are active in these special elections must also file copies of their FEC reports with California's Secretary of State, but they need only file the

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**Reports**

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portions of their reports applicable to candidates running in this California special election (e.g., the Summary Page and the schedule showing the contribution or expenditure). 2 U.S.C. §439(a)(2)(B).

**Contribution Limits and Transfers**

*Contribution limits.* There is a separate contribution limit for each election in which a candidate participates (general, runoff). 11 CFR 110.1(j)(1) and 110.2(i)(1).

*Monies left over from a previous federal campaign.* Candidates with leftover monies from a previous campaign for federal office may transfer the leftover monies to their special election campaign provided they have fulfilled all of the past campaign's obligations. Such monies may be transferred without redesignations from contributors. Contributions transferred from a past campaign do not count against the contributor's limits for the special election.

*Simultaneous campaigns.* Candidates simultaneously active in this special election and in a regularly scheduled 1996 election for some other federal office must maintain separate campaign committees. These committees may not transfer contributions from one campaign to the other without first ending one of the campaigns and then obtaining redesignations from the contributors. Redesignated contributions count against the contributor's limit for the election to which they were transferred.

A candidate simultaneously active in this special election and in the regularly scheduled 1996 election for the same office may use the same campaign committee for both efforts. Special election contributions do not count against a contributor's limits for the regularly scheduled elections. Monies may be transferred from the special election

campaign to the other campaign if redesignations from contributors are obtained or if the monies represent leftover funds from the special election campaign.

*Prohibition on transfers from nonfederal campaigns.* Campaigns of candidates participating in special elections should note that transfers from a candidate's nonfederal campaign to his or her federal campaign are prohibited. 11 CFR 110.3(d).

**Coordinated Party Expenditure Limits**

The national committee of a political party and the party's state committees may make limited coordinated party expenditures in

connection with the general election campaign of the party's candidate. 2 U.S.C. §441a(d). The state committee's spending limit is separate from the national committee's limit. 11 CFR 110.7(b)(1).

Coordinated party expenditure limits for the California House special elections are not yet available because the latest government shutdown has delayed the calculations of the voting age population (VAP) and the cost-of-living adjustment (COLA) for 1996. Party committees, however, should note that, based on 1995 VAP and COLA figures, the limit would be \$30,060; the 1996 adjustments should only increase this limit. ♦

**Reporting Dates for Special Election, California's 37th District: March 26 General (with Runoff May 21, if Necessary) \***

	Close of Books **	Reg./Cert. Mailing Date ***	Filing Date
<b>Pre-General</b>	March 6	March 11	March 14
<b>Post-General</b> †	April 15	April 25	April 25
<b>April Quarterly</b> ‡	March 31	April 15	April 15
<b>Pre-Runoff</b> ‡	May 1	May 6	May 9
<b>Post-Runoff</b> ‡	June 10	June 20	June 20

\* California does not hold primary elections during special election contests. All candidates for this House seat will compete in the special general election on March 26. A candidate must garner a majority of the vote to win the general election. If a single candidate fails to do so, a runoff election among the top vote getters—the top vote getter from each qualified political party and any qualifying independent candidates—will be held on May 21, 1996.

\*\* The close of books is the end of the reporting period. The period begins with the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered and, if applicable, before the individual became a candidate.

\*\*\* Reports sent by registered or certified mail are considered to be filed on time if they are postmarked by this date.

† Committees that participate in the special general should file this post-general report only if there is not a special runoff. The April Quarterly report is waived for post-general report filers.

‡ April Quarterly reports are required of all committees except post-general report filers (see above). Additionally, committees participating in the runoff election should file pre- and post-runoff reports.

## 800 Line

### Presidential Nominating Conventions: Permissible Corporate/Labor Activity

Corporations and labor organizations are generally prohibited from making contributions or expenditures in connection with a federal election. 2 U.S.C. §441b. There are exceptions to this ban, however. One exception enables commercial vendors and local corporate and labor organizations to engage in various activities in connection with a Presidential nominating convention held in their city. This exception presumes that local organizations and commercial vendors are motivated by civic and commercial purposes rather than by election-influencing objectives.

Additionally, corporate and labor PACs may make disbursements in connection with a nominating convention.

Two types of committees are typically involved with the planning and organization of a Presidential nominating convention:

- A convention committee is established by a national party committee to oversee the day-to-day operations of the party's nominating convention.
- A host committee is a local, non-profit organization, such as a civic organization or chamber of commerce, that represents a state or city with respect to the convention, and that has as its principal objective the encouragement of commerce in, and the promotion of a favorable image of, the convention city.

Aside from the exceptions delineated below, national party committees accepting full public funding for their nominating convention may not accept private contributions from any source to defray convention-related expenses. The Republican and Democratic national parties have both accepted

full public funding for their conventions since 1976.

### Commercial Vendors

*Discounts to Convention Committee.* Commercial vendors are entities that sell certain goods and services in their normal course of business. They may provide these goods and services to the convention committee at a discount if this arrangement is done in the ordinary course of business. The ordinary course of business is either (1) an established practice of the vendor to provide such discounts to nonpolitical clients, or (2) consistent with an established practice of the vendor's trade or industry. Permissible discounts include standard volume discounts and reduced rates for corporate, governmental or preferred customers. 11 CFR 9008.9(a). Vendors may also provide items of de minimis value, such as samples, coupons, maps and pens, at nominal or no cost, to be distributed to convention attendees. The above activities need not be reported. 11 CFR 9008.9(c).

*Official Provider Arrangements.* Commercial vendors also may, in the ordinary course of business, provide goods and services in exchange for promotional consideration. The value of these goods and services may not exceed the commercial benefit reasonably expected to be derived from the promotional opportunity that the convention represents.

Promotional consideration might include, for instance, an arrangement in which goods and services are provided at a discount or for free to the convention committee in exchange for official-provider status. The convention committee must disclose in detail any promotional arrangements with commercial vendors in its FEC reports. 11 CFR 9008.9(b). AO 1988-25.

*Other Organizations.* Under the same terms described above, commercial vendors may provide goods and services for convention uses to government agencies,

municipal corporations and the host committee. 11 CFR 9008.9, 9008.52(b) and 9008.53(a).

### Local Businesses, Labor Organizations and Other Organizations

*Host Committees.* Any individual or any local business, local labor organization or other local organization may donate funds or make in-kind donations to a host committee to defray certain convention-related expenses. A business, labor organization or other organization is considered local if it has offices or facilities in the metropolitan area, or if its volume of business or activity outside the metropolitan area would be directly affected by the presence of the convention in that city. Defrayable expenses include costs incurred for: promotion of the city as the convention site, welcoming convention attendees, providing shopping guides or other de minimis promotional items to attendees, administration of the host committee, use of a convention center and services related to the center, local transportation, law enforcement, central reservation services and hotel accommodations. Defrayable expenses do not include costs for administration of the convention committee or national party, such as overhead or employee salaries.

*Municipal Funds.* Local businesses, labor organizations and other organizations may also donate funds or make in-kind donations to a municipal fund established by local government agencies or municipal corporations to defray the same types of expenses as listed above. However, the fund must be intended to promote the city and attract political and nonpolitical conventions to the city generally, and not established solely to provide services to the nominating convention. In addition, donations to the municipal fund cannot be earmarked in any way or intended for any particular

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convention, event or activity. AOs 1982-27 and 1983-29.

**Banks.** Banks are not considered local organizations, and therefore may not make donations to host committees or municipal funds. However, credit unions and subsidiaries of banks that are not banks themselves may make such donations, provided they have a local office in the host city and can prove their revenues are sufficient to cover the amount of the donations without relying on funds derived from a bank. 11 CFR 9008.52(c)(1); AOs 1995-31 and 1995-32.

**Reporting.** The host committee must disclose in its FEC reports all receipts and disbursements detailed in this section. 11 CFR 9008.51-9008.53.

### Hospitality Suites and Receptions

Based on AO 1983-23, under limited circumstances, a corporation or labor organization may sponsor a convention hospitality suite or a reception for representatives of the corporation or labor organization, convention delegates, party officials, federal and state elected officials and the press. Payments made by the corporation to sponsor these events constitute neither contributions nor expenditures,

provided the corporation makes no attempt to influence the outcome of the nominating convention, and the events will be used neither to solicit contributions to, nor to advocate the election or defeat of, any federal candidate. Additionally, these events can not serve the purpose of defraying any delegate's subsistence expenses while attending the convention, and the corporation must exercise full control over these events.

### Corporate and Labor PACs

Federally registered corporate and labor PACs (a.k.a. separate segregated funds) may make disbursements for any of the permissible activities described above. These disbursements do not count against the PAC's contribution limits for individual candidates or the national party committee, but PACs are nonetheless required to disclose them in their FEC reports.

Additionally, corporate and labor PACs may contribute funds for the activities listed below.

**Delegate Selection.** PACs may contribute an unlimited amount to individual convention delegates, but their contributions to delegate committees are limited to \$5,000 per year. These contributions are reportable by the PAC. If a delegate committee is affiliated with a Presidential primary candidate's authorized committee, a PAC has only one \$5,000 contribution limit for both of them. 11 CFR 110.14.

**Convention Committee Support.** As noted above, PACs may not contribute to federally funded convention committees. However, if public funds are insufficient to cover a convention's full entitlement amount, or if the national party committee elects to receive less than its full share, a PAC may contribute funds up to its contribution limit for a national party: \$15,000 per year for multicandidate PACs, \$20,000 per year for non-multicandidate PACs. 11 CFR 9008.6.

**Compliance Fund.** PACs may also contribute to the convention committee's separate legal and accounting compliance fund. Contributions to this fund count against a PAC's contribution limit to the national party committee. 11 CFR 9008.8(b)(4).

### Questions?

For further information on permissible activity relating to Presidential nominating conventions, call the FEC, toll free, at 800/424-9530. ♦

### Payments for Ballot Access

Payments made by a candidate to a party committee to pay ballot-access fees are exempt from the definition of "contribution." The forwarding of collected ballot-access fees by a party committee to another party committee or to a state election authority is exempt from the definition of "expenditure." 2 U.S.C. §§431(8)(B)(xiii) and 431(9)(B)(x).

These exemptions are narrowly tailored. They apply only to ballot-access fee payments; they do not extend to funds collected or expended for a petition drive or to challenge an opponent's ballot petition. See AOs 1994-5, 1980-57 and 1975-53. They also apply only to the specific transactions between the particular entities they address. They do not apply to payments made by a party or any other entity to, or on behalf of, candidates to pay ballot-access fees; such payments are contributions, subject to the limits at 2 U.S.C. §441a(a) and the prohibitions at 2 U.S.C. §441b. For instance, the payment of a ballot-access fee by a corporation on behalf of a candidate constitutes a prohibited corporate contribution.

These ballot-access fee exemptions have practical considerations

### Federal Register

Federal Register notices are available from the FEC's Public Records Office.

#### 1995-24

11 CFR 110: Communication Disclaimer Requirements, Announcement of Effective Date (60 FR 65515, December 20, 1995)

#### 1996-1

Filing Dates for California Special Election, 37th District (61 FR 1933, January 24, 1996)



for different types of committees. These considerations are discussed below, by committee type.

### Congressional Candidates

Candidate committees should report ballot-access fee payments as part of their "Operating Expenditures" total on line 17 of the Detailed Summary Page, FEC form 3. If the payment is more than \$200, it should also be itemized on Schedule B.

### Presidential Candidates

Ballot-access fee payments made by publicly funded Presidential candidates do not count against their state expenditure limits.

### Party Committees

A party committee's receipt of a ballot-access fee payment from a candidate or another party committee does not constitute a receipt of a contribution. Such receipts should be reported as follows:

- If from a candidate, report as "Other Federal Receipts" on line 17 of the Detailed Summary Page. Also itemize on Schedule A if more than \$200.
- If from a party committee, report as "Transfers From Affiliated/ Other Party Committees" on line 12 of the Detailed Summary Page. Also itemize on Schedule A regardless of amount.

Additionally, should the recipient committee transfer the ballot-access fee payments to another party committee or to state election authorities, the transferring committee is not considered to have made an expenditure. The transferring committee should report such transfers as follows:

- If to a party committee, report under "Transfers To Affiliated/ Other Party Committees" on line 22 of the Detailed Summary Page. Also itemize on Schedule B regardless of amount.

- If to state election authorities, report under "Other Disbursements" on line 29 of the Detailed Summary Page. Also itemize on Schedule B if more than \$200.

Party committees should be aware that funds they provide to a candidate to pay his or her ballot-access fees constitute contributions from the party and are subject to the party committee's contribution limit for the candidate. See MUR 1446. ♦

## Court Cases

### Stockman v. FEC

U.S. Congressman Steven Stockman of Texas's 9th district and two of his campaign committees ask the court to dismiss MUR 3847 and to enjoin the FEC from investigating this matter further.

Plaintiffs allege that the complainant in MUR 3847 and/or the FEC breached the confidentiality of this enforcement matter, which is guaranteed at 2 U.S.C. §437g(a)(12)(A) and (B), and 11 CFR 111.21(a). Newspaper reporters have cited the complainant and the FEC as sources in articles discussing the complaint.

Plaintiffs also allege that the FEC has failed to investigate this matter expeditiously (MUR 3847 was opened in December 1993) and has failed to give them the required notice concerning failure to file reports. 11 CFR 111.8(c).

U.S. District Court, Eastern District of Texas, Beaumont Division, No. 1:95CV1049, November 28, 1995. ♦

## Publications

### Statistical Final Reports for '94 Cycle Now Available; New Internet Access to Data

Reports on financial activity for election cycle 1994 are now available from the FEC. These reports contain statistical data on federal campaign financial activity from January 1, 1993, through December 31, 1994. These are the final, official FEC numbers for election cycle 1994. For the first time, this data is also available via the Internet.

The reports on financial activity come in five volumes:

- Senate and House candidates;
- Party and Nonparty, Part I (summary tables, national party committees);
- Party and Nonparty, Part II (state and local party committees);
- Party and Nonparty, Part III (corporate and labor PACs); and
- Party and Nonparty, Part IV (nonconnected PACs).

Each volume costs \$10 and can be ordered from the Public Records Office: 800/424-9530 or 202/219-4140, room 129 at the FEC building, 999 E Street, NW, Washington, D.C., 20463. Mainframe computer tapes of the five-volume set are also available from the Public Records Office for \$50.

Additionally, these statistics are available via the Internet. Access FTP.FEC.GOV for a directory of what is available. Look at the file called Readme.txt in the FEC directory for a description of the available files. Files may be downloaded at no charge using the GET command in  
(continued on page 10)

## Publications

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FTP (File Transfer Protocol). The user will receive the downloaded information as fixed length data files that can in turn be loaded into database software, allowing the user to sort and search. ♦

## Explanation and Justifications for FEC Regulations: 1975–Present

Attorneys, accountants and others who regularly work with federal election law may subscribe to the FEC's compilation of Explanation and Justifications (E&Js) for FEC regulations. A useful reference tool, E&Js explain the origin and intent of new and revised regulations submitted by the FEC to Congress.

Designed as a loose-leaf binder insert, the E&J compilation contains the following:

- E&Js for all current regulations, as well as for older regulations that have been revised or deleted;
- E&Js for rules that were never effective, along with the text of such proposed regulations;
- A citation index identifying all E&Js applicable to each regulation citation;
- A subject index to help locate topics addressed by more than one E&J;
- A conversion table showing the widespread changes in FEC regulations resulting from the 1979 amendments to the Federal Election Campaign Act; and
- An appendix that lists previous citations for current regulations.

The FEC automatically mails updates to the E&J compilation to subscribers when the FEC promulgates new or revised regulations. To order the volume, which costs \$35.00, and get on the subscriber list for future updates, contact the FEC's Public Records Office at 202/219-4140 or 800/424-9530 (press 3).

Current subscribers to the E&J compilation who wish to report a name/address change should call the FEC's Information Division at 202/219-3420 or 800/424-9530 (press 1). ♦

## Compliance

### MURs Released to the Public

Listed below are summaries of FEC enforcement cases (Matters Under Review or MURs) recently released for public review. This listing is based on the FEC press release of December 20, but it does not include 40 MURs in which the Commission took no action. Files on closed MURs are available for review in the Public Records Office.

#### MUR 3188/Pre-MUR 228/3046

**Respondents:** (a) Emerald Homes, Inc., and Phillip J. Polich, as its president and as an individual (AZ); (b) Curtis J. Henderson (CA); (c) Neil Anzalone, et al. (CA); (d) DeConcini '88 Committee, Lynda S. Schmitz, treasurer (AZ); (e) Eugene L. Baker, et al. (AZ) and (TX)

**Complainants:** Richard R. Robertson, Investigations Editor, The Arizona Republic (AZ) [3046]; sua sponte [Pre-MUR 228]

**Subject:** Corporate contributions; contributions in the names of others  
**Disposition:** (a-b) Reason to believe, but took no further action; (c) reason to believe, but took no further action (contributions in the names of others); (d) no reason to believe; (e) no reason to believe (contributions in the names of others)

#### MUR 3801

**Respondents:** (a) Sharon Pratt Kelly Committee, and treasurer (DC); (b) Royal Embassy of Saudi Arabia (DC); (c) Samir Darwich (DC)

**Complainant:** Dorothy A. Brizill (DC)

**Subject:** Contribution by foreign national

**Disposition:** (a) \$1,500 civil penalty; (b-c) reason to believe, but took no further action; sent admonishment letters

#### MUR 4088

**Respondent:** Susan E. Johnson (CT)

**Complainant:** Richard E. Ulbricht (CT)

**Subject:** Failure to register timely

**Disposition:** No reason to believe

#### MUR 4218

**Respondent:** Rangel for Congress Committee, Richard A. Brown, treasurer (NY)

**Complainant:** FEC initiated (RAD)  
**Subject:** Failure to file 48-hour reports; failure to accurately report receipt date of contributions  
**Disposition:** \$7,500 civil penalty; committee to file amended report

#### MUR 4234

**Respondent:** West Virginia State Democratic Executive Committee; Marie Prezioso, treasurer (WV)  
**Complainant:** FEC initiated (RAD)  
**Subject:** Failure to accurately report receipts and disbursements; failure to file disclosure reports timely  
**Disposition:** \$10,000 civil penalty

#### MUR 4237

**Respondent:** Mehiel for Congress '94, Stuart Wadler, treasurer (NY)  
**Complainant:** FEC initiated (RAD)  
**Subject:** Failure to file 48-hour reports (loans from candidate totalling \$52,000)  
**Disposition:** \$6,400 civil penalty ♦

## Index

The first number in each citation refers to the “number” (month) of the 1995 *Record* issue in which the article appeared. The second number, following the colon, indicates the page number in that issue. For example, “1:4” means that the article is in the January issue on page 4.

### Advisory Opinions

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### Court Cases

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 – Chamber of Commerce of the U.S.A., et al., 1:2  
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 – Stockman, 2:9

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### 800 Line

Ballot access payments, 2:8  
 Conventions, permissible corporate and labor activity, 2:7

### Need FEC Material in a Hurry?

Use the FEC’s Flashfax service to obtain FEC material fast. It operates 24 hours a day, 7 days a week. Over 300 FEC documents—reporting forms, brochures, FEC regulations—can be faxed almost immediately.

Use a touch tone phone to dial **202/501-3413** and follow the instructions. To order a complete menu of Flashfax documents, enter document number 411 at the prompt.

## 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.

### Other Subscribers

Record subscribers who are not registered political committees should include the following information when requesting a change of address:

- Subscription number (located on the upper left corner of the mailing label);
- Subscriber's name;
- Old address; and
- New address.

Subscribers (other than political committees) may correct their addresses by phone as well as by mail.

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